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Revenue Committee
March 25, 2009

[LB294 LB308 LB380 LB474]

The Committee on Revenue met at 1:30 p.m. on Wednesday, March 25, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB308, LB294, LB380, and LB474. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; LeRoy Loudon; Dennis Utter; and Tom White. Senators absent: Mike Friend. [LB308]

SENATOR CORNETT: Good afternoon, and welcome to Revenue Committee. I am Senator Abbie Cornett from Bellevue; to my left will be joining us Senator Dierks from Ewing; to his left is Senator Greg Adams from York; Senator Hadley from Kearney; legal counsel Shannon Anderson; and Erma James is committee clerk. On the far right is Senator Dennis Utter from Hastings; Senator LeRoy Loudon from Ellsworth; Senator Tom White will be joining us today; and Senator Friend is excused. To my immediate right is Bill Lock, research analyst. Our pages are, I believe, Rebecca Armstrong and Elsie Cook--I can't see (laugh). Before we begin hearings today, I would ask everyone to please turn their cell phones either to off or to vibrate. The sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up. When you come up to testify, hand your sheet to the committee clerk. There are also clipboards in the back of the room to sign in if you do not wish to testify but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door today. The introducer or representative will present the bill, followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed the opportunity for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies for committee and staff. If you do not have handouts, the pages can make copies for you. With that we will begin the hearings for the day and Senator Heidemann, you are recognized to open on LB308. [LB308]

SENATOR HEIDEMANN: Tough group (laugh). [LB308]

SENATOR CORNETT: I was going to say, so much for following the agenda. Anyway...(laugh). [LB308]

SENATOR HEIDEMANN: Senator Cornett, members of the Revenue Committee. My name is Senator Lavon Heidemann, spelled H-e-i-d-e-m-a-n-n, representing District 1 in southeast Nebraska. I'm here today to introduce LB308. LB308 restores property tax levy authority to fire protection districts by repealing the requirement that county board approve the levy of the fire districts within the county boundaries. In 1996, LB1114 was passed by the Legislature. It placed levy limits on seven categories of local governments and required all other political subdivisions to be allocated taxing authority

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by either the cities or the counties. Since fire districts were authorized to be created by county boards, counties were responsible for allocating levy authority to rural and suburban fire districts. Counties are authorized, but not required, to allocate up to 15 cents of levy authority to the miscellaneous political subdivisions under their jurisdiction. Their decision is based on local priorities. However, any funds that a county allocates to the miscellaneous political subdivisions are subtracted from the county's own capacity to pay for county services. Therefore, rather than cut their county's own operation, a county could use the entire 45 cents of levy authority to fund its own operations, deciding not to allocate any levy authority to the miscellaneous political subdivisions. Consequently, some counties have completely eliminated a taxing request of fire districts. Emergency fire protection services and emergency medical services are absolutely necessary in each and every part of the state. If counties refuse to provide fire districts any levy authority, fire districts must go to the citizens, asking them to support a vote to allocate levy authority to fire protection districts. If a vote is taken at a primary, general, or special election, the levy authority is affected for five years. And in lieu of an election, a vote can be taken at a town hall meeting. However, the levy authority is only effective for one year under this alternative. When a fire district is forced to go to a vote, either at an election or a town hall meeting, the burden for promoting the levy approval falls on the volunteer department serving in the county. Volunteers trying to juggle their full-time job and the hours devoted to responding to emergencies, as well as participating in training, must now also conduct informational meetings, go door-to-door to solicit support, place ads in the local newspapers, etcetera, in an effort to educate citizens on the reasons why the vote is essential to continue with emergency fire suppression and emergency medical services. Additionally, the fire district must pay for the election. In 2002, Perkins County Commissioners determined that the county would need to retain its entire levy amounts to fund the county's operations. The Grant Suburban Fire Board decided to conduct an election to establish a maximum levy for the fire protection district for five years. Each individual member of the volunteer department contributed an average of 13 hours in an attempt to educate the citizens of their fire districts in this crucial need. At least six other counties are in similar situations. If a fire district is forced to go to the vote of the people, fire districts are capped at a levy of 10.5 cents for operations, as set forth in their budget. LB308 would give fire districts the ability to levy their own taxing requirements but without having to repeatedly go to a vote of the people. Furthermore, fire districts would no longer have to depend on counties to allocate part of their levy authority to them for such critical services for their residents. If there are any questions, I can try to answer them. However, Jerry Stillmock, who represents the state volunteer firefighters, will be testifying and will probably be better able to respond to questions regarding the specifics of the bill. With that I will try to answer any questions that you might have. [LB308]

SENATOR CORNETT: Thank you, Senator Heidemann. Questions from the committee? Senator Loudon. [LB308]

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SENATOR LOUDEN: Yes, thank you, Senator Cornett. Senator Heidemann, then what is this...all this does then is sets it up so they don't have to have a levy override election? Is that what this primarily does? [LB308]

SENATOR HEIDEMANN: It puts it outside the levy. [LB308]

SENATOR LOUDEN: Okay, and it's still capped at 10.5 cents whether they have a sinking fund or anything; that's all they can possibly levy? Is that in the bill? [LB308]

SENATOR HEIDEMANN: I'd have to look into that a little bit more. [LB308]

SENATOR LOUDEN: Okay. The reason I ask I couldn't see for sure in there if that's the way it was. Okay, thank you. [LB308]

SENATOR CORNETT: Senator Hadley. [LB308]

SENATOR HADLEY: Well, this is more of a statement. We just had a terrible grass fire out in the Kearney area and I want to congratulate, again, the volunteer fire departments of the state for what they do for our people. Because the Kearney, Gibbon, and the volunteer fire departments stopped a grass fire from turning into a real disaster out there. And again, I think the volunteer fire departments are really super parts of our state. [LB308]

SENATOR HEIDEMANN: I appreciate that. I'm a volunteer firefighter. There are a lot of people in this state go to great lengths of their own time to help out and to volunteer. I don't know what you're going to do with this bill but if nothing else, it needs to bring up some kind of discussion about how fire departments are funded and see if we can get any kind of dialog going about what we can do to help certain fire districts and counties that are up to their levy authority, if nothing else. [LB308]

SENATOR CORNETT: Further questions from the committee? Seeing none. Thank you, Senator Heidemann. Are you waiving closing? [LB308]

SENATOR HEIDEMANN: I will waive closing; I have to go to Appropriations. Thank you very much for hearing this bill. [LB308]

SENATOR CORNETT: Thank you. First proponent. [LB308]

JACK ANDERSEN: (Exhibit 1) Senator Cornett, members of the Revenue Committee, thank you for hearing my testimony today. My name is Jack Andersen, A-n-d-e-r-s-e-n. I am the chairman of the board for Sheridan County Commissioners. I have with me a copy of action passed out at our Monday...of a motion...excuse me, let me start all over:

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a copy of action passed by our board Monday, which is being passed out, and which I would like to read into the record. And then I didn't keep a copy for myself. I'm getting off to a real good start here. Dated March 23, 2009, the following action was taken at our board meeting on March 23, 2009. Commissioner Krotz moves that Sheridan County Board of Commissioners go on record in support of LB308. We support the intent of the bill to transfer levy authority to the elected officials of the various fire districts as a means of strengthening support for these vital services. Commissioner Kling seconded the motion. With a roll call vote, it passed unanimously. And that wasn't an exact reading, but you are aware of that. The remainder of my testimony contains my personal thoughts and beliefs, though I feel it represents the opinion of the full board of Sheridan County Commissioners. Containing over 2,400 square miles, Sheridan County is the fourth largest county in Nebraska and is predominantly rangeland. Fire protection is provided by four rural fire districts based in Sheridan County, and two others based in adjoining county. The rural fire districts in Sheridan County are completely staffed by volunteers and do a great job when called upon. All four of our rural fire districts have gone to a vote of the people to obtain levy authority beyond a limit placed on them by the county board due to the 50 cent constitutional limit. They were not asking for a lot; just more than we had left to give. Rushville Rural Fire District first placed the issue on the ballot in 2004; Heart of the Hills Fire District in 2006; Hay Springs Rural and Gordon Rural were on the ballot in 2008; and Rushville Rural Fire was on the ballot again in 2008 asking for a continuance of their levy authority. The public voted overwhelmingly in favor of the question in every instance. All six of the fire districts charged with protecting property in our county are currently operating with a levy of less than 4.5 cents, even though four of them have been forced to spend money for an election to do so. Two of the Sheridan County based districts are levying less than the two based in adjoining counties that have not been forced to place the issue on their ballot as yet. Rural fire districts often contain property in adjoining counties, and in many cases do not contain all the land in any one county. They are currently under the levy limit of the county containing the majority of the district, and the limit cannot be exceeded in any tax district within that county. It may be exceeded in a county with less land in the district. As a county board we are often asked, why can't you just cut a little of the road budget, the General Fund, or the jail budget and let the fire district have it? They're not asking for that much. Let's say a one-cent levy represents \$5,000 to the fire district. While I like to think that we do not allow a spare \$5,000 in all the budgets combined, we probably could cut that much if we really had to. The problem being one cent may represent about \$50,000 in the road budget or other General Fund budget. The argument has been made that levy authority should only be granted where those in charge are elected officials. I don't agree with that or don't disagree with that, however, Statute 35-506 requires that fire districts have an elected board and annual elections shall be held. 35-506 (2): the board shall reorganize itself annually. Election of directors of existing districts shall be held by registered voters present at the annual meeting provided for in Section 35-507 which is held in the calendar year during which the terms of the directors are scheduled to expire. Granted, annual meetings are often not well attended

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and elections are determined by those interested enough to show up. That's pretty much true of all elections in our country, including the elections that placed our present board of commissioners in office. Prior to the fire districts asking to exceed the levy, we had the authority to limit their funding, though a good many of the votes cast for us as commissioners were from within the limits of our towns and not a part of the rural fire districts where their funding is collected and their services needed. Today I'm asking that you support LB308 which will give levy authority to those chosen to provide this much-needed service. Thank you for hearing my testimony. Are there any questions? [LB308]

SENATOR WHITE: Any questions from the committee? Yes, LeRoy. [LB308]

SENATOR LOUDEN: Yeah, well, thanks for coming down this far, Jack, for your testimony. If this would pass, the 10 cents, do you think they would be more inclined to spend a little bit more money than when they have to go to this levy override election? [LB308]

JACK ANDERSEN: I don't think so, and besides the 10.5 cents that's under this bill which, by the way, my understanding is that it's total is 10.5 cents--I had to read it several times to get that, but it's 10.5 cents. It says that three different times but it still appears to be a 10.5 cent total levy. They have not had a bit of a problem going to the public to get funding that's needed. And what my feeling is that while, as I mentioned in my testimony, that the elections that are held are not well attended. If they get too far out of line, I suspect that those elections will be attended and the public still has the option of voting in somebody else if they feel that the current board is running rampant. [LB308]

SENATOR LOUDEN: When they have elections now though, they've only asked for like about 5 cents or so, don't they? Don't they have to state how much they're asking for? Or do they just vote to override the levy? [LB308]

JACK ANDERSEN: You're correct. I think the election in Hay Springs that went to the vote of the public I think asked for 3.5 cents; I believe Rushville was 4.5 cents. Gordon, I believe, was 4 and Heart of the Hills I'm thinking was 5. But now don't quote those figures. But the fact that they didn't ask for more doesn't mean that they would ask for more if it was available. [LB308]

SENATOR LOUDEN: Okay, well I was just curious whether this would be a blank check or not for up to 10, 10.5 cents that's what... [LB308]

JACK ANDERSEN: Well, there are also, excuse me, Senator, they're also restricted by the 2.5 and 3.5 percent formulas other government entities are. They can only raise their levy by 2.5 or by a vote of the majority of the board, 3.5, since over the levy the

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year before so even if they wanted to go more to exceed that limit they'd have to still go to a vote of the public. [LB308]

SENATOR LOUDEN: Okay, thank you. [LB308]

SENATOR WHITE: Any other questions? Seeing none, thank you for coming in and testifying, sir. [LB308]

JACK ANDERSEN: Well, thank you and I apologize for...boy, this is the worst I've been ever. (Laughter) [LB308]

SENATOR WHITE: I know the feeling. Next proponent, please. [LB308]

JERRY STILMOCK: Thank you Senator White, members of the committee. My name is Jerry Stilmock, J-e-r-r-y; Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska State Volunteer Firefighters Association in support of LB308. I, of course, want to thank Senator Heidemann for giving us this opportunity to bring the bill to you, recognizing the support that several counties in the state need. First, I'd like to share with you three different areas, please. The first area is the number of counties that are facing this problem that I've been able to, at least, research and find. There are nine of them. Those nine counties range anywhere in levies from maybe as low as 42 cents up to--the worst is in Deuel County: 4.9999. They are up against the wall, and that's just the county levy itself. That includes none of the miscellaneous subdivisions beneath the county. Those nine counties are literally forcing those fire districts, and thinking in terms of...those fire districts are supported by volunteer firefighters--men and ladies throughout the state volunteering their time. But the counties, because they are up against that levy limit, they force the fire districts out, basically to raise their own money. And the way that occurs, of course, is through one of two means. Either a town hall meeting and the vote, I'm assuming, passes and that levy authority then is good for one year. The other means is through an election at a ballot at a regular polling place through a regular election, and should that vote be successful it is good for five years. As those with the Legislature in 1996 under the guidance, then, of Senator Warner, and then Senator Wickersham carried on after that, and of course others, I recall Senator Wickersham's words were that he felt that this mechanism in order for fire districts to have to go through a county in order to get levy authority was going to be...it was going to work because of the necessity, the dire necessity, to make sure you have the necessities of life throughout the state for providing fire services and rescue services. I do not believe that as he sat there back in 1996 and led the charge for this particular mechanism to take place, that he thought fire districts would be placed outside of the county's levying power, outside of their levying ability. The reason for the two different election procedures was so that if the citizenry was not satisfied, that take a fire district; the fire district and the county in the example, I'd like to share with you, the county said okay, fire district, you get 1.5 cents, that's it. You get 1.5 cents. The whole reason for

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the election, whether under the town hall or the regular election system was set up so that the people in that district could override what the county placed upon that fire district. It was a higher authority. The people were the higher authority so that that levy, the necessities of the fire district would be recognized. If the people felt that 1.5 cents was not sufficient then let's take it to the people and let the people decide. What we have are nine counties that are sending out a zero. It's not that the people disagree that the amount should be more and therefore take it to the election process, we're skipping that whole part of government and it's going right to the vote of the people. Senator Heidemann in introductory remarks and the gentleman before me shared with you that who's out doing this? It's the volunteers that have to put in time to train. And if they're on the EMT side of life, those men and ladies throughout the state as volunteers, as paid anybody in the classification that wants to go out and be an EMT, they have to go out and take about 140-160 hours of training before they can be an EMT; before they can go out and be an Emergency Medical Technician. Then we load upon them, at the state level, we load upon them because of the passage of this previous legislation, we load upon them the responsibility not only to protect the citizenry and the property in their areas, but also to go out and basically run a campaign to support a very essential part of what had been and what continues to be a very important part of state government. The one piece...I had an opportunity to visit with several of the county clerks, not only last year but again revisiting them this year to find out where they're at now. The numbers Senator Heidemann testified to, seven, that number is nine...nine different counties that are faced with this problem. They literally pushed the fire districts out, as I said earlier. A lady in Chappell, Nebraska...there was no time last year--the fire district is a unique group, senators, in that they don't necessarily affiliate with NACO and the County Association, fire districts do not necessarily associate with the volunteer firefighters because we are more with the labor side than the individuals, the men and ladies, so fire districts are somewhat out there are their own. But the fire district did not get any levy authority last year; they were too late for an election. So picture this: in Chappell, Nebraska, the Chappell Fire District is out there in 2008 without any levy authority. I venture that they had to go out and borrow funds so that they can pay that back as the levy comes into place this year, as they go to an election. The manpower going out and campaigning for an election is the biggest part, but the other part that individuals shared with me is the cost to run an election. If they tie it into a primary or a general election, depending on the county of course, it's going to vary somewhere between \$500 and \$1,200 I'm told. If they have to go out and run a special election, the highest cap on that might be \$5,000. Of course that's just the cost--I want to be clear--that's the cost, it's not campaigning and out there and advertising because as those people know, they are unable to do that. And so that money is being used. One of the statements that has been tendered by those that don't share the philosophy that fire districts should have their own dedicated fire levy, or tax levy--pardon me--is that it will be an increase on property taxes. And that's certainly what nobody wants at this juncture in where we're at. But an increase in property taxes, it's already happening in these nine counties. These nine counties that have already bumped the lid off the 50

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cents. They've took a stand as to where they're at; they cannot afford any more, and so they push it out to the fire districts to do on their own. For the reasons that I've stated, I'd ask your support in advancing LB308, Senators. Thank you. [LB308]

SENATOR WHITE: Any questions for Jerry? Yes, Senator Utter. [LB308]

SENATOR UTTER: Thank you, Jerry, for coming to testify. Are all of the rural areas of the state, are all of the areas of the state that do not have a paid fire department, are they covered by a fire district? [LB308]

JERRY STILMOCK: To the best of my knowledge, yes, Senator. There were some gaps that were recognized back in the late 1996-98 time period and there was a time frame set by this Legislature to recognize there were gaps in coverages and the Legislature told the county boards thou shalt have all areas included. And I believe that has been carried out, sir. [LB308]

SENATOR UTTER: And in all instances they'd carry out their elections that are held similar as to what was described earlier? [LB308]

JERRY STILMOCK: Yes, sir. [LB308]

SENATOR UTTER: Can you tell me what the magic of the 10.5 cents is? [LB308]

JERRY STILMOCK: Historic? I don't know how, in the early years of the fire district statutes, 10.5 cents was ever set; I don't. [LB308]

SENATOR UTTER: It doesn't...are there a lot of fire districts, do you know, that their limit is at the 10.5 cent level or do you know? [LB308]

JERRY STILMOCK: The only one that I know of is the Millard Fire District that's right at 10.5 cents. And I have not been able to come to understand why. Millard Fire District merged and was absorbed by the city of Omaha and typically when that happens my understanding, Senator, is that that fire district then no longer has the ability to continue and levy a tax. But that would be the one that I'm aware of, Senator, is the Millard area, sir. [LB308]

SENATOR UTTER: You're comfortable, then, in representing the people that you represent that 10.5 cents is kind of a necessary figure in this bill? [LB308]

JERRY STILMOCK: We've had...that's a difficult question for me to ask, realizing that I have a client out there that has requested, at least, that the 10.5 cents...quite honestly, one argument that I would tender is that the fire districts are a very conservative group. Primarily, throughout the state, they have been very conservative. And if their levies are

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at the 2 and 3 and 4 cents...and I'd venture to say, given the fact that there's 450 fire districts, I cannot tell you as I sit here what the average levy might be. But they're conservative. But yet, their request was to restore to what the law was in pre-'96 and that's what beckons to the 10.5 cent, sir. [LB308]

SENATOR UTTER: Thank you for your testimony. [LB308]

JERRY STILMOCK: Yes sir, thank you. [LB308]

SENATOR WHITE: Yes, Senator Hadley. [LB308]

SENATOR HADLEY: Thank you. Jerry, just so I can understand this in my own mind...is it possible for a county that is not above and not hitting at the 50 cent, you know, that is not up against that, to make use of this to effectively increase property taxes by having the fire districts levy the 10.5 cents and then the county has additional funds available for their use because they've been using the money for the fire districts already? [LB308]

JERRY STILMOCK: I suppose that's possible in a growth situation, yes, Senator. [LB308]

SENATOR HADLEY: Okay. I understand the ones that are up against the limit, the lid, but I guess I worry a little about the counties that aren't up against it that this might be a way of shifting...of increasing property taxes by having the fire district go out for the 10.5 cents and then the county has--whatever they were paying the fire district they have for themselves now. [LB308]

JERRY STILMOCK: I've tried to listen closely to your question while yet formulating in my mind a hypothetical if that county, including the miscellaneous districts to which they collect, or allocate for is a better word, and let's assume that's 34 cents. And 2 cents of that was going to the fire district or districts. So the bill passed; 34 becomes 32 for the county. [LB308]

SENATOR HADLEY: Okay. [LB308]

JERRY STILMOCK: I guess arguably the county could say okay, well, we were at 34 including the fire districts, we're going to knock off two because LB308 passed, became law; there's 2 cents that opened up and by golly, we've been waiting to do something so we're going to stay at 34. [LB308]

SENATOR HADLEY: Okay. I suppose it could. I just wanted to be sure how this worked, but I guess I do empathize with the counties that are up against the lid and the last thing we want to do is to hurt the...at least in my impression, to hurt fire protection because

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we have a lid. [LB308]

JERRY STILMOCK: You know, I'm refraining from joining in a conversation with you, Senator Hadley, but there's two things that come to mind and you have other bills after me. Your comment about Kearney, Minden, Gordon: those people took time off of work, I mean, they chose to. It's like you all become senators--you chose to come down here at 12 grand a year. You knew what it was going in. And those people know what it is going in. They know. But that was a daytime call--those winds, whatever they were, the interstate was a mess and yet the men and ladies, the volunteers...and it wasn't...well, you know it's a community thing, it's a local thing. By golly, that's I-80. And thank you for your earlier comment in recognition of that, Senator. The other piece that I was reminded of is the county up in north central part of the state, Rock County, Bassett's the county seat: they throw in the added ingredient of they have a county hospital that they're trying to finance in the midst of their budget. And I was like, what? How can you do that? And I don't deal with the medical side of hospitals and a county having its own hospital, but that added a completely new mix to the ingredients of what I was able to gather from these fire districts, Senator. [LB308]

SENATOR WHITE: Yes, Senator Louden. [LB308]

SENATOR LOUDEN: Yeah, thank you for your testimony, Jerry. It's quite extensive, I must admit. How much of this cost to these fire districts is, you might say, is mandates from the state? I lived along a railroad track all my life and I fought prairie fires ever since I was big enough to swing a sack, and then we started using...we got fire trucks. When the talk about Heart of the Hills--I was there when it was formed. When we took those fire trucks out we just got on there and we had our Levi jackets and leather gloves and we fought fire. Nowadays, I have a fire truck at the ranch but we can't get on that thing and drive it and do anything unless we have this coat--supposed to have boots and pants which nobody bothers to put them on--your hat and mask and all that to go fight the same fire that as a kid I fought with a wet gunny sack. That was all mandated by somebody that we had to do that or else we were terribly liable if we moved that truck, you know, an inch. What kind of cost is...all of a sudden our fire districts are needing the money and how much of that has been mandated by the state or whoever...is there some other way some of that should be paid for? [LB308]

JERRY STILMOCK: The first part is when I hear a comment that I've been extensive it's usually time for me to step down, Senators, so. (Laughter) I'll be courteous and try to be brief. The mandatory items other than the logical fuel, equipment--I mean, equipment is another whole category. It was reported in the Lincoln paper about two or three weeks ago that one of the rural districts just on the edge of Lincoln was having a problem with the administration of that fire district versus the manpower because the manpower did not feel safe going out in an old truck and the administration, in its conservative nature, was of the frame of mind well, maybe it's not a new truck, maybe it's refurbish the truck.

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And there were odds there. So equipment, and making sure that it's safe and it's functional--not only to the men and ladies serving but also, as importantly, the recipients of that service. The item is mandated of course is workers compensation coverage for volunteers. The Legislature saw fit that the services offered by volunteers that that is an expense that the... [LB308]

SENATOR LOUDEN: And that would be an unfunded mandate in there because the Legislature didn't offer to pay for any of that workmen's comp. [LB308]

JERRY STILMOCK: No, no, and thank goodness at least there's the component of worker's compensation in to help out when there is an injury or worse, a loss of someone's life. I don't know that I can go any further than...I mean, certainly, as our society has grown so have regulations and systems for what is safe and how to respond to a fire, let alone a wildfire that is different than, of course, a structural fire, but I think in Nebraska--especially in rural settings--those men and ladies out there just do the best with what they have without a severe number of mandates. They're doggone happy just to have somebody, if it's in the town of Kenesaw, that they have somebody to respond to a fire to make sure that safety is as close, given the distances of travel as it is in your district, Senator, that people can feel safe to live there. We don't want people leaving. [LB308]

SENATOR LOUDEN: Okay, thank you. [LB308]

JERRY STILMOCK: Yes, sir. [LB308]

SENATOR WHITE: Yes, Senator Adams. [LB308]

SENATOR ADAMS: Thank you, Senator White. Jerry, remind me again, these fire districts that we're talking about, politically. How many on the board? How often are they elected? Compliance with open meetings laws? Can you tell me about that? [LB308]

JERRY STILMOCK: Yes, Senator. Statutorily, five on each board. The elections, by statute, are not held at primarily a regular election time when the other polling is taking place, the other elections are taking place for most of the other political subdivisions in the state, so it happens at an annual meeting. And the...some fire districts meet monthly. I think it depends on the activity within that district. Most frequently would be on a monthly basis and there are probably some who meet semi-annually or on a quarterly basis, Senator. It's no different than picking a smaller community in your area--that village is having problems with people showing up on the ballot and there's only two that are going to carry over, there's three open seats, and how do people get elected if they didn't choose to run in that particular area of Otoe or Talmage or Dunbar or whatever it is in Otoe County. They're write-in people. I think that same thing happens in the fire districts in the sense that, to be very blunt, of some say, well, fire

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districts, they're really not having elections because the people that were in it just show up at these regular meetings in June, the annual meeting, and they have an election and the same five people get elected over and over again--that's the election process. In some, those that are more active, it's not unusual to fill the fire hall with the trucks out on the street and the assembly area filled with people ready to cast their vote. That's pretty much two extremes, Senator Adams. [LB308]

SENATOR WHITE: Seeing no further questions, thank you, Jerry. [LB308]

JERRY STILMOCK: Thank you, Senators. Appreciate it. [LB308]

SENATOR WHITE: Next proponent, please. [LB308]

GARY KRUMLAND: Senator White, members of the committee, my name is Gary Krumland. It's G-a-r-y K-r-u-m-l-a-n-d. I'm representing the League of Nebraska Municipalities in support of LB308. Our interests in this bill is that cities and villages across the state work closely with rural and suburban fire districts to provide fire protection both within the corporate limits of the city and outside of the city. They have all sorts of arrangements, mutual aid agreements, joint departments, and work with the volunteer departments, so we do think fire protection is one of the basic public services that local governments can give, and we do think it's important that fire districts have their own levy authority to do that. Just kind of in response to some questions and to follow up with what Mr. Andersen said, local governments including fire districts, are under two separate restrictions on their ability to raise tax money. LB308 talks about the property tax levy, and all governments are under a levy limit the amount that they can raise through property tax. But there's also, as you know, a budget restriction so that they're limited even if they have authority to raise property taxes under the levy limit, they may not be able to because the budget restriction and that only allows an increase of 2.5 percent a year plus if a super majority of the body does it, you can go additional 1 percent. So even if LB308 does free up additional levy authority for either the county or for the fire district, they would still be limited by the budget lid, so they would be limited on the amount that they could raise. Be happy to answer any questions. [LB308]

SENATOR WHITE: Yes, Senator Adams. [LB308]

SENATOR ADAMS: Thank you, Senator White. So Gary, following along those same lines, do fire districts have the statutory ability to issue bonds, and are those bonds exempt from the lid? [LB308]

GARY KRUMLAND: Bonds are exempt from the lid. I'm not familiar enough with the rural fire district statutes to know whether they can issue bonds or not. [LB308]

SENATOR ADAMS: Can they enter into lease purchase agreements? [LB308]

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GARY KRUMLAND: I'm assuming they can. Lease purchase agreements are not exempt from the lid unless they were entered into, I think before 1998. [LB308]

SENATOR ADAMS: I guess what I'm thinking, I understand what you're saying on the levy as well as the budget authority, but it would seem like in a rural fire district, their biggest expense, obviously, the capital expenses and equipment, and if those things are exempt from the lid and borrowing and bonding in some fashion, then... [LB308]

GARY KRUMLAND: Um-hum. Yeah, well, capital...well, two things. One is capital equipment right now is not an exemption under the lid, just capital improvements relating to the real property. But those fire districts would have that authority to do that now if it was outside the levy limits so. [LB308]

SENATOR ADAMS: Okay. [LB308]

SENATOR WHITE: Yes, Senator Hadley. [LB308]

SENATOR HADLEY: Thank you. Gary, just not knowing a lot about this, I use the city of Kearney as an example. It has its volunteer fire department, and I know they have an agreement with the rural ones. Would the city ever have any problems with running up against a lid in funding their portion of the volunteer fire department? [LB308]

GARY KRUMLAND: Yeah, I mean, this is a separate issue than this, but yeah. Cities also are under a levy limit and a budget lid. And I think the levy limit for cities is 45 cents, and I think half the cities and villages out there are right at that. So they are restricted in the amount of property tax they can raise. [LB308]

SENATOR HADLEY: And do the cities contribute toward the fire districts also? [LB308]

GARY KRUMLAND: There are probably as many different kinds of agreements as there are cities and fire districts, but they have joint agreements that they work together and share equipment or share buildings or mutual aid where they respond to each other's calls. [LB308]

SENATOR HADLEY: Okay. I guess the reason I was asking the question whether we're solving a problem for the counties, and whether any cities have the... [LB308]

GARY KRUMLAND: Well, I don't know that this would hurt cities, but it doesn't address their problems specifically. [LB308]

SENATOR WHITE: Thank you, Gary. Next proponent. Any opponents? Any neutral testimony? Seeing none, that closes the hearing on LB308, and we will now turn to

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LB294. Senator Campbell. [LB308]

SENATOR CAMPBELL: Thank you, Senator White, members of the committee. I am Kathy Campbell, senator from District 25, and it is my pleasure to open on LB294. It is a particular pleasure, because I brought this bill forward on behalf of Lancaster County which is, obviously, my home county and my home county board. So we are going to be very mindful of the senators' time today in the sense that we'll be very short. I will open on the bill, and then we will have the budget and fiscal officer from Lancaster County here to answer all your questions, and that will be the sum testimony of the proponents. The bill itself, LB294, lengthens the time that a county board may levy a tax to pay off bonds for capital projects. The bill amends Statute 23-120(3)(b) by changing the current tenure limit to 20 years. That statute deals with several other items which we are not making any changes to. The cities have had, over a long period of time, the ability to bond over 20 years and, at this point, the counties are looking at this. This is obviously one of the most opportune times in which, if the interest rates stay low, to do this, and so we decided to bring it forward. Senator White, I will turn it over to the fiscal officer, and I will waive closing on the bill, and unless the senators have any comments or questions, I'll go back to the exec session in Health and Human Services. [LB294]

SENATOR WHITE: I see no question. Well, I'm sorry, Senator Hadley will not let you escape. [LB294]

SENATOR HADLEY: Well, I'm sorry. I have 38 questions, but in deference to time, I will waive all of them. Thank you. (Laughter) [LB294]

SENATOR CAMPBELL: I figured Senator Hadley would just have one short question. That was his line in Transportation, Senator White, you need to know, so I apologize for that bit of humor here. [LB294]

SENATOR WHITE: Thank you, Senator Campbell. Next proponent. [LB294]

DENNIS MEYER: Good afternoon, Senator White and members of the Revenue Committee. My name is Dennis Meyer, D-e-n-n-i-s M-e-y-e-r. And as Kathy mentioned, I am the budget and fiscal director for Lancaster County. LB294 really kind of came about as Lancaster County has been working its way through the start of building of a new jail. You know, when you look at this statute, you start looking at what it really says the county board should do, and it gets into constructing, equipping, it starts getting into jail, courthouses, and other county buildings. So when you start looking at that, you start looking at some bigger type of projects that are out there. You know, over the years, that ten-year limit really hasn't maybe come into play a whole lot. But when we started taking a look at the jail, and we started, you know, the first price tag that came out to us was \$80 million, and you start taking a look at ten years versus the 5.2 cents, depending on interest rates, it almost becomes impossible to fund a project like that. So

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when we take a look at this, we look at construction costs and what's happened with them over the years, that ten years starts coming into play. The other item that I kind of just want to address is talking about the useful life of the buildings. You know, when you build a jail, when you build a courthouse, or maybe any other type of building, most likely that useful life for that building, I would assume most people are hoping it's longer than a ten-year period. So, you know, we're hoping the jail, you know, will at least be 20 years. We'd hope that a courthouse would at least be 20 years. We kind of take a look at that, and we think about, you know, who should pay for that project. Should it be the taxpayers that are here for those lucky ten years that we're going to levy for that, or should that levy possibly be spread out over the useful life, so that really, for that useful life, the taxpayers are paying for it at that point in time. When we talk about moving from 10 to 20 years, you know, we also start getting into the costs, property taxes, and things like that. You know, I will remind you that the counties do have their constitutional limit of 50 cents, so for really bonds that are not voted on, the counties, you know, are really one of the few that is still stuck within that 50 cents. So whether it's being paid on a 10-year or a 20-year, it's still within that constitutional levy limit. You know, we do have the other limits, but as Senator Adams mentioned, most of the lids and stuff, any types of bonds, tend to be outside of it, so it really wouldn't become a factor there. So the main driving thing would still be the constitutional limit. With that, I'll just kind of end my testimony and answer any types of questions you might have. [LB294]

SENATOR WHITE: Interest rates right now, are they at decades' low rates? [LB294]

DENNIS MEYER: That's a good question, because as you're going through there, and you know, as the market...I mean, the market has fluctuated, you know, all over the place, so it almost becomes, Senator White, the date you ask that question. You know, the rates did drop. Have they kind of climbed back a little bit? They have, so it just kind of depends really right now just on the whole market out there. [LB294]

SENATOR WHITE: Let me be more blunt on the question. One of the things I read in economic tea leaf reading is that they're prognosticating that we will see low interest rates for a while. Then because of the amount of money being spent on the stimulus package, we'll see a spike of inflation, and then we'll see a long period of inflationary pressure with higher interest rates. And one of the recommendations they make to people is to try to tie into long-term, lower interest money now or in the next year or two. Is that a concern, and is this a tool that could be helpful to the counties to do that? [LB294]

DENNIS MEYER: Well, I think it could be. I mean, you know, the other thing that comes into play is, you know, when you start talking about property tax. You know, and if you can lock into those good interest rates, there's no doubt an advantage to that. But when you also start talking about property tax and property tax increases, if you think about...if you're sitting on a county board, and you're looking at a property tax increase of almost

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5.2 cents, that almost could become, you know, in certain counties that could almost become a 20 percent increase. So, you know, not only, you know, can you lock in for some better interest rates, it also gives you the ability to really spread that property tax out over a longer period. [LB294]

SENATOR WHITE: Okay, thank you. [LB294]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB294]

DENNIS MEYER: Okay, thanks. [LB294]

JON EDWARDS: Good afternoon, Senators. My name is Jon Edwards, J-o-n E-d-w-a-r-d-s. I'm with Nebraska Association of County Officials. We are here today in support of LB294, and I won't take any unnecessary part of your time, just other than to lodge our support for this bill. And I think you've heard some of the technical testimony earlier, so I'll just conclude my testimony with that. [LB294]

SENATOR CORNETT: Questions from the committee? [LB294]

SENATOR HADLEY: Just...since it's Kathy Campbell's bill, one quick question. If you have...if a county has existing bonds out, could they refinance, and use the 20-year now? [LB294]

JON EDWARDS: I think that...as I would read it, I think that only would apply to a new project going forth. That would be my understanding of it. [LB294]

SENATOR HADLEY: Okay. I was just curious as to whether they take advantage of existing. [LB294]

SENATOR CORNETT: Any further questions? Seeing none, thank you. [LB294]

JON EDWARDS: Thanks. [LB294]

SENATOR CORNETT: Further proponents? Are there opponents? Neutral? Senator Campbell has waived closing. That closes the hearing on LB294. Senator Rogert, you are finally recognized to open. Sorry about that confusion earlier. [LB294]

SENATOR ROGERT: (Exhibit 2) Good afternoon, Chairwoman Cornett, and the members of the Revenue Committee. I'm glad to be here today. I'm Kent Rogert. I represent the 16th Legislative District, northeast Nebraska, here today to introduce LB380, the bill that seeks to compensate Thurston County due to a lack of funding caused to the partial retrocessions of the Omaha and Winnebago Tribes in the past.

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LB380 establishes through an emergency clause and increases the acreages to 50,000 acres of land held in trust eligible for reimbursement to narrow it solely to that county of Thurston County. It sets a \$3.70 per acre basis that would accommodate the financial needs of Thurston County due to funds that were not given to them since 1986. LB380 attempts to reinstate funds that were taken away from Thurston County in 1986 when the county lost state aid due to the second of two retrocessions being the Omaha Tribe, and LR37 of 1969 which was a partial criminal retrocession including an exception for traffic violations, and one to the Winnebago Tribe which is LR57 in 1986, which was also a partial criminal retroaction. It was perhaps overlooked that this was not a comprehensive retroaction in 1969 since the county is still providing law enforcement for traffic violations to the Omaha Tribe. And in addition to that the county still needing to provide general law enforcement on the reservations regardless of the two partial retrocessions, although this is a facet that can't be resolved except via federal legislation. I handed out to you the statute to which I referred to a couple of times. Give you somewhat of a time line, in 1953 Public Law 280 was enacted which turned all criminal jurisdiction over on the tribal ends to the state government. In 1957 the following statute that I passed out to you, 23-362, was passed in Nebraska to provide financial assistance to eligible counties for the aided burden...added burden of law enforcement resulting from subsequent withdrawal of federal, of the federal law enforcement which included feeding of Indian prisoners held in county jails. Then in 1974 it was changed for law enforcement and rehabilitation and in '76 it was changed again for all jail operations. Until 1974 payments were made with expense vouchers from counties to the Department of Administrative Services and from '74 to '79 automatic payments were based upon the assessed value of land in trust to each county and then in '83 it had been a fixed dollar amount up to \$76,000 a year. There are 56,000 acres being held in trust to either of the tribes on Thurston County, all of which are held harmless from taxes that would go to counties or the schools and it comes up to somewhat over today's value of a little over \$200,000 a year. What we're seeking to do today is reinstate that statute in one way or another. This just provides another way of doing that. The county still provides lots of services on all those grounds and they're missing out on the tax dollars that would help them fund those operations. It is of...my opinion and several others, attorneys included, that the Crime Commission is misinterpreting that statute that I passed out to you and then therefore, not funding that provision. It seems to me that if the county needs to provide maintenance, law enforcement, and other services to the entire county, that it should be compensated for doing so and if not from taxes on those grounds held in trust, then most likely through the state. There's going to be some folks coming behind me to testify that will have a lot of facts and figures and experiences on what's been done in the past. I would answer any questions you guys might have, but I'll let most of those go back to the ones who are going to testify behind me. [LB380]

SENATOR CORNETT: Questions from the committee? Senator Loudon. [LB380]

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SENATOR LOUDEN: Yes, the way I understand this, that they...Thurston County felt that they were entitled to \$101,000 for the last several years and they've never received that. Is that correct? [LB380]

SENATOR ROBERT: That's correct, since '86. [LB380]

SENATOR LOUDEN: Well, then...and by doing this, this would literally start to set up a system somewhere or another where they could receive some of that according to what's in statutes. Now, was it...what we have here that the Bureau of Indian Affairs took over some of the law enforcement. Did they do that on the Thurston reservation, or Thurston County, or what? Who does law enforcement up there? [LB380]

SENATOR ROBERT: Well, sometimes it rises into question in certain areas. The...for traffic violations through most areas, the county takes care of that or the state patrol or whoever happens to be working through there. There are cross deputization agreements somewhat in place for some of those things. A lot of the civil crimes and some criminal crimes are taken care of through the tribal system on those of native blood only. So anybody that would be, have any...that would be nonnative on those areas would actually have to be covered under the county or the state. [LB380]

SENATOR LOUDEN: Well, the one I'm more familiar with like up at Pine Ridge and see that the local Indian Nation police or else the FBI and there's no county involved in there. Of course, there aren't any counties on the reservation and that's what I'm wondering, does the FBI take care of any major crimes up there, investigations, or does the sheriff's office have to do it? [LB380]

SENATOR ROBERT: It's usually a joint effort. It's usually a joint effort. If there's a major investigation that would involve natives then the FBI would come in and help with the local native police. If it's nonnative, then it has to be taken care of by the county. [LB380]

SENATOR LOUDEN: I see. Okay. Thank you. [LB380]

SENATOR CORNETT: Senator Utter. [LB380]

SENATOR UTTER: Thank you, Senator Cornett. Senator Robert, can you just help me a little, the...is there a question at all as to whether this should be a federal obligation or a state obligation? [LB380]

SENATOR ROBERT: Well, I suppose you could say there is a question. Whenever we ask for help from the feds we don't usually even get an appointment, so that has been the thing. Obviously, anything that deals with the Bureau of Indian Affairs is part of the Department of Interior, but once again this is...it's in the county in the state of Nebraska

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and the roads that we maintain and we travel with our cruisers are in the county and we travel over them with state, basically county paid for stuff. So if the federal government won't give us money for it, then somebody might have to. [LB380]

SENATOR UTTER: But even the state has very little control over what the Bureau of Indian Affairs or the.. [LB380]

SENATOR ROBERT: Zero. [LB380]

SENATOR UTTER: What they do and... [LB380]

SENATOR ROBERT: Absolutely. [LB380]

SENATOR UTTER: ...and what they will do. So that prompts my question as to where this responsibility really lies. [LB380]

SENATOR ROBERT: Well, I think...well, that is very true. I think those would maintain that when we...that the Legislature probably created this gap somewhere back many years ago by allowing some portion of the law enforcement to go back to the tribe and some not and it creates confusion and if oftentimes creates double, you know, double enforcement going on which means that both parties are still paying for it. But in reality, we're losing the taxes on 56,000 acres of ground in the county and it's causing a major budget crunch for them. [LB380]

SENATOR UTTER: Thank you. [LB380]

SENATOR CORNETT: Senator Hadley. [LB380]

SENATOR HADLEY: Senator Rogert, thank you for being here. And maybe somebody else can answer this, but how is the \$3.70 arrived at and how was the fact that it has to be over 50,000? [LB380]

SENATOR ROBERT: Well, we used the 50,000 basically to narrow it to this county only. And then I'll tell you that, basically, what \$3.70 is about what the county would be getting today if they were getting the taxes on it, yeah. [LB380]

SENATOR HADLEY: If they were...if they were...okay. That's fine. [LB380]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Senator Rogert. [LB380]

SENATOR ROBERT: Yeah, I'm going to be in and out. I've got another bill out, so if I'm not around I'll waive closing. [LB380]

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SENATOR CORNETT: Waive closing? [LB380]

SENATOR ROBERT: Yeah. [LB380]

SENATOR CORNETT: Okay, wonderful. First proponent. [LB380]

TAMMY MAUL-BODLAK: (Exhibit 3) Good afternoon, I'm Tammy Maul-Bodlak, T-a-m-m-y M-a-u-l-B-o-d-l-a-k. I'm the current Thurston County Attorney and I've worked in the Thurston County Attorney's office for the last nine years. Within the confines of our county we have not one but two Indian reservations. And years ago, the Nebraska Legislature determined that the burden thrusts on our local enforcement with the passage of Public Law 280, deserved the counties be reimbursed for those additional burdens that were placed on us. Public Law 280 returned jurisdiction over Native Americans to the state, and for years Thurston County received funds from the Nebraska State Legislature for those services that we were providing. Payment stopped with the retrocession of the Winnebago Reservation in the mid 1980s. However, after that time Thurston County still retained criminal jurisdiction to prosecute Native Americans for driving offenses on the Omaha reservation. So although we're not receiving funding, we're still providing law enforcement services as well as other services to citizens of our county. In 2007, roughly 60 percent of the criminal offenses charged in the Thurston County Court were against Native Americans and obviously, the time associated with reviewing police reports, document preparation, hearing preparation, and court appearances is a substantial part of my office's overall caseload. [LB380]

SENATOR CORNETT: Ma'am, I'm sorry, we've got people in the back that are unable to hear you. Could you bring the mike closer? [LB380]

TAMMY MAUL-BODLAK: Closer? [LB380]

SENATOR CORNETT: Yes. And speak up a little bit. Thank you. [LB380]

TAMMY MAUL-BODLAK: Is that better? Obviously, my office spends a great deal of time preparing documents, reviewing things, and preparing for trial when 60 percent of our caseload is involving Native Americans. In addition, the county shoulders the burden of paying for court appointed attorneys for any indigent defendants who are associated with those cases. My office also handles child support for Thurston County, Nebraska, and so I'm providing child support services to both Native Americans and non-Native American residents of the county. So the county is undertaking our responsibility to provide law enforcement services as well as other services to all residents of the county without the funding that the Legislature previously determined that we were entitled to, and without the ability to supplement our income with the tax

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base that other counties are able to use because we're not able to tax lands that are currently being held in trust by either tribe. Accordingly, I'm asking that you support this bill so that we're able to continue to provide those services to the residents of our county. I've also submitted to you a letter on behalf of the Village of Pender that the Village Board asked that I bring forth for you today. They are supporting this bill as well because obviously, if Thurston County is receiving funding to provide law enforcement services and other services to the residents of the county, the citizens of the Village of Pender will benefit as well. And I'm happy to answer any questions. [LB380]

SENATOR CORNETT: Senator White. [LB380]

SENATOR WHITE: Is the county required to provide enforcement on the reservation property or does it elect to do that? [LB380]

TAMMY MAUL-BODLAK: Well, I mean, it's within our jurisdiction. [LB380]

SENATOR WHITE: Well, I mean, but can the tribe decide to exclude you from the ceded property? I mean, for example, you can't cross into the Pine Ridge area and do law enforcement even if you're a Nebraska county. What's the legal difference that you have both the obligation, if you have the obligation, to provide law enforcement on what is a sovereign nations land? [LB380]

TAMMY MAUL-BODLAK: Well, I mean, we're obligated to provide traffic jurisdiction on the Omaha Reservation. [LB380]

SENATOR WHITE: By what, statute? By a contract with Winnebago? [LB380]

TAMMY MAUL-BODLAK: By the retrocession agreement. [LB380]

SENATOR WHITE: By the retrocession agreement itself requires? [LB380]

TAMMY MAUL-BODLAK: Right. Yeah. [LB380]

SENATOR WHITE: If instead of paying Thurston County, we instead change that statute so you were no longer permitted or allowed to provide those services, would that also be satisfactory? [LB380]

TAMMY MAUL-BODLAK: In my personal opinion? No. [LB380]

SENATOR WHITE: Okay. Well you want...here's the thing. You want the state to subsidize the extension of legal enforcement on what is another sovereign country. With the Indian reservation, you do understand it's a separate sovereign nation under normal... [LB380]

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TAMMY MAUL-BODLAK: I do understand that but they are also citizens of the state of Nebraska. [LB380]

SENATOR WHITE: Not...well, are they? [LB380]

TAMMY MAUL-BODLAK: Of course they are. [LB380]

SENATOR WHITE: Okay. So under the Winnebago terms you're also citizens, but you're also citizens of the tribe. [LB380]

TAMMY MAUL-BODLAK: Some people are, yes. [LB380]

SENATOR WHITE: I mean, I'm trying to get the jurisdiction honestly straightened out. [LB380]

TAMMY MAUL-BODLAK: Right. Some people are. Yes. There are people who are citizens of either the Omaha Tribe or the Winnebago Tribe, but are also citizens of the state of Nebraska. [LB380]

SENATOR WHITE: Or of South Dakota? [LB380]

TAMMY MAUL-BODLAK: Or wherever, sure. [LB380]

SENATOR WHITE: And so under the retrocession we have the right and the obligation to provide law enforcement there, correct? [LB380]

TAMMY MAUL-BODLAK: Correct, because the state didn't retrocede traffic jurisdiction, meaning the state retained that traffic jurisdiction. [LB380]

SENATOR WHITE: Just the traffic. But if there's a murder, is that then the federal government's responsibility because it's on a reservation? [LB380]

TAMMY MAUL-BODLAK: Because it's not a traffic offense, yes. And if it were on the Winnebago Reservation or the Omaha Reservation, yes, that's a major crime. So that would fall within the crimes act. [LB380]

SENATOR WHITE: All right. Can you explain to me why under the Winnebago Reservation the state maintained jurisdiction to enforce traffic laws where we haven't on other reservations. [LB380]

TAMMY MAUL-BODLAK: The Omaha retrocession came before the Winnebago retrocession and so I don't know why they chose not to do a full retrocession with the

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Omahas as they did with the Winnebagos, but I assume it's because the Omahas came first and we were...it was brand new. We were just trying it but I suspect that part of the reason was because the state was concerned about the safety of the residents as far as enforcing driving offenses. [LB380]

SENATOR WHITE: Which is all legitimate. I'm just trying to understand why this reservation is treated differently than other reservations. [LB380]

TAMMY MAUL-BODLAK: Because the retrocessions were just different and I don't have a good explanation as to why they were. They just were. [LB380]

SENATOR WHITE: Okay. Thank you. [LB380]

SENATOR CORNETT: How much of the reservations reside inside the state of Nebraska? How much territory are you talking...because I know a lot of the reservations cross state lines, correct? [LB380]

TAMMY MAUL-BODLAK: Yes. [LB380]

SENATOR CORNETT: How much territorial area are we talking about? [LB380]

TAMMY MAUL-BODLAK: The assessor's office may be able to tell you exactly square footage, but basically... [LB380]

SENATOR CORNETT: And how do we distinguish once...if we're doing traffic enforcement where Nebraska ends and South Dakota begins on the reservation? [LB380]

TAMMY MAUL-BODLAK: We don't border South Dakota. [LB380]

SENATOR CORNETT: This reservation doesn't. Okay, so this is only for reservations... [LB380]

TAMMY MAUL-BODLAK: Within the confines of Thurston County, is all we're concerned about. [LB380]

SENATOR CORNETT: Just in Thurston County, okay. [LB380]

TAMMY MAUL-BODLAK: And on the...the historical boundaries of the Omaha Reservation extended very slightly into bordering counties, but those were historical boundaries. [LB380]

SENATOR CORNETT: And so this would be just those two reservations. [LB380]

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TAMMY MAUL-BODLAK: Winnebago on the north and then Omaha was on the southern... [LB380]

SENATOR CORNETT: Other questions? Okay, thank you. [LB380]

CHRIS KLEINBERG: (Exhibit 4) Good afternoon, ladies and gentlemen. My name is Chris Kleinberg. I'm the Thurston County Sheriff. Do you want me to wait until they pass that out or just go ahead? [LB380]

SENATOR CORNETT: You just need to spell your name. [LB380]

CHRIS KLEINBERG: C-h-r-i-s K-l-e-i-n-b-e-r-g. The state of Nebraska embraces the heritage that comes along with Thurston County. In other words, the two reservations in Thurston County with all the stuff that comes along with that is, is embraced by all the people of the state of Nebraska. I don't see...I don't think I've spoken to anybody that's against what the tribes represent and indigenous people of the United States. I don't think there's anybody in the room that would deny that, first of all. It's shared by all the state. The burden of these lands that are held in trust, as you know, in Thurston County receives no revenue for the land held in trust in the county of Thurston. The responsibility...you know, I think that should be shared by the responsibility of the 1.7 million people in the state of Nebraska, in my opinion. LB380 has the potential to alleviate some of the tension felt in Thurston County due to the lost revenue on trust land. Taxpayers are levied at the highest rate. Although the highest rate allowed, it's still not enough to retain for me, it's law enforcement. By the time a new deputy has been trained to think through the jurisdictional quagmire the state and federal governments have made for us, normal law enforcement jobs pay much more and that's where they go. We train them, they go. I've been there 11 years. We've sent...just in the 11 years I've been there, I know...I'm guessing very liberal when I say 13, at least 13 certified officers through the state academy and they don't...we try to get them to hold to a two-year contract but they're gone right after that. It's a nightmare, jurisdictionally. With the questions you was asking Senator White, it is. It's a complete nightmare because it isn't just this piece of land and this piece of land, it's spread out all over the county. I live on the east side of the county. I've got five areas on the east side of the county, where supposedly is all reservation. My land is state land. My officers respond to backup calls for the tribal officers as they do for us. Never been a problem with the officers on the street. This is all government stuff. It's all state and federal government stuff. What it translates to is a problem for the people that all live in Thurston County no matter if their skin is dark, light, or no matter what their heritage or culture is. I'll try to stick with my paper here because if I get to going I'll...the sheriffs department has four road deputies. I have actual four road deputies in my department that cover traffic in Thurston County. None of these deputies have ever received a dime of overtime. I can't afford to pay them overtime. The deputies do volunteer overtime hours for the people of Thurston

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County on a regular routine basis. I could call my office right now and I guarantee you there's at least two of personnel in there that are not being paid, they're in there doing something. I guarantee it. I'm just guessing that. I hope you don't do it. (Laughter) I've been asked...I've been there for quite a while. I worked under the prior sheriff, Chuck Obermeyer, but I've been asked to cross deputize. My main reason for not wanting to cross deputize is basically funding. I cannot in conscience ask these men to volunteer their time in state court and in tribal court. I can't pay them for that. Most officers, as you know, get paid overtime to testify in court. My guys don't. They do it to make sure their case goes through. I haven't the money to pay them to do that. When the two tribes retroceded, the state told them that this was to save them money, just like what you brought up. This was going to save the taxpayers of Thurston County money. It hasn't. It hasn't saved them money. It has cost money. It costs a lot of money. You know there's a lot of things I can talk about and I would appreciate any questions from you. And I really am...it's a very touchy subject for us because what it has done I have friends on both sides of the aisle, a nonpartisan type thing. I live on the east side of the county and it causes animosity and hatred for everybody and I don't understand why the people of Thurston County have to deal with this when it's our state and federal government that's caused this. I don't think that this would even be at this point had not the state and federal government made it this way. Any questions? (Laugh) [LB380]

SENATOR CORNETT: Actually, could you define the duties of a tribal police...a tribal officer... [LB380]

CHRIS KLEINBERG: I would rather leave that to the tribal police officers to define for you. [LB380]

SENATOR CORNETT: Okay. Is there a legal reason that they are not responsible for traffic enforcement? [LB380]

CHRIS KLEINBERG: There is...they are responsible for traffic enforcement. [LB380]

SENATOR CORNETT: But you are also... [LB380]

CHRIS KLEINBERG: We have concurrent jurisdiction on the Omaha Reservation on all people. Here's my problem, ma'am. I get very hostile when I have to speak of one race or another. I am trained, I'm a law enforcement, and racial matters...your skin color doesn't matter to me. The safety and well-being of... [LB380]

SENATOR CORNETT: Okay, first of all, let me, let me be very clear here. That was not the gist of my question. [LB380]

CHRIS KLEINBERG: Okay. Yeah, I understand that, I know. [LB380]

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SENATOR CORNETT: If you have two separate, a sovereign nation and a county, my question is, is there a reason that the police on the reservation...I mean, are they doing the traffic enforcement, you are allowed to go on to the reservation to do traffic enforcement, is that what you have said? [LB380]

CHRIS KLEINBERG: I think there's a major misunderstanding about...it's not a geographical location of an off reservation. [LB380]

SENATOR CORNETT: No, I know that. It's spotty and you probably have interlocal... [LB380]

CHRIS KLEINBERG: Yes. And it makes it very hard when a state highway goes... [LB380]

SENATOR CORNETT: How do you do interlocal agreements with a federal entity as a county? I mean, how does that work? [LB380]

CHRIS KLEINBERG: It's not easy. That's up to the attorneys. I really don't do interlocal agreements with federal... [LB380]

SENATOR CORNETT: But you are allowed to make traffic stops... [LB380]

CHRIS KLEINBERG: Allowed? [LB380]

SENATOR CORNETT: Okay. If you're talking about jurisdiction, if you're an Omaha police officer you can't make a stop in Lincoln. If you're a state patrol officer you have jurisdiction throughout the state. If you are on an Indian reservation, it's a separate sovereign nation as Senator White has pointed out, how do you have jurisdiction to make a traffic stop? And I'm understanding that there's an agreement here somewhere. I want to know what the parameters of that agreement is. [LB380]

CHRIS KLEINBERG: That is a question I cannot answer. I can answer you professionally from years of service on...in Thurston County. On the Winnebago Reservation we are cross deputized with the BIA. [LB380]

SENATOR CORNETT: So you are cross deputized? [LB380]

CHRIS KLEINBERG: Cross deputized with the BIA. If we make a traffic stop on the BIA on the Winnebago Reservation and it's on an enrolled tribal member, it's going to go through tribal court. If it's on a nontribal member, it goes through state court. [LB380]

SENATOR CORNETT: Fair enough. I get that. [LB380]

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CHRIS KLEINBERG: On the Omaha Reservation, my traffic stops and the sheriff's department goes through state court because it's concurrent jurisdiction, meaning they have the jurisdiction. I've turned over DUI cases to the tribal police and vice versa. We've done that for all the years I've been there. The tribal police handle misdemeanor crimes on tribal people. The federal agencies, which we don't get a lot of support from, handles... [LB380]

SENATOR CORNETT: Handles capital crimes. [LB380]

CHRIS KLEINBERG: Capital crimes when it involves a tribal member, meaning they're... [LB380]

SENATOR CORNETT: So if there is a crime on the reservation that is a capital crime that doesn't involve a tribal member, then it falls on... [LB380]

CHRIS KLEINBERG: Correct. And that's where the whole rub comes in when you speak of reservation, not because it was all broken up so there's farm land and I don't even know what is and isn't. Other than the park areas and things like that, I have to ask one of the tribal guys what is and isn't tribal land and sometimes they don't even know. That's why it's so hard because it's been...it's a quagmire that's came from our governments and we're left to deal with it. For the points of LB380... [LB380]

SENATOR CORNETT: Just one more quick question. Just to make sure I'm clear on this. So basically, it's not based on geographic area who handles it but on whether you are...I mean, it comes into play also, but whether you are a resident of the reservation or nonresident. If you are a nontribal member and it occurs on tribal land... [LB380]

CHRIS KLEINBERG: Yes. More than likely I would handle that. The sheriff's department would handle that, correct. First, it's hunting offenses. The tribal lands, the tribe handles the hunting licenses and hunting offenses but the state does help Mike, if he's got...he can cite them people but he has to take them and they have to go through a state court. Non-Indian people...you can't be prosecuted in a tribal court. So they go through state court and yes, for offenses like that, it's, of course, going to go through state court. One of the deputies will go down and that's where we do work together. That's...we have to do that to keep peace in all of the county. [LB380]

SENATOR CORNETT: But...so you've got three different things you have to look at, where it occurs at, whether you're a tribal member or not, and then what type offense it is. [LB380]

CHRIS KLEINBERG: Correct. [LB380]

SENATOR CORNETT: If it's a DUI you go to tribal court not... [LB380]

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CHRIS KLEINBERG: If you yourself are not a tribal member and I pull you over and you're over the legal limit... [LB380]

SENATOR CORNETT: Then it goes to... [LB380]

CHRIS KLEINBERG: It will go through state court. [LB380]

SENATOR CORNETT: To state court. If you are a tribal member it goes to... [LB380]

CHRIS KLEINBERG: It can go, on the Omaha Reservation, can go through state court or through tribal court. [LB380]

SENATOR CORNETT: Okay. [LB380]

CHRIS KLEINBERG: I understand...and, of course, I understand that it's very, very difficult to understand. Therein lies my hostility towards state and federal government and leaving us with this burden to carry. This will pass with the help of you folks and it will alleviate some of this burden when it comes to law enforcement and... [LB380]

SENATOR CORNETT: It won't, it won't alleviate the jurisdictional issues. It will alleviate the money issue. [LB380]

CHRIS KLEINBERG: Yeah, the jurisdictional issue is something that is going to have to be fought out, fought out, fought out. [LB380]

SENATOR HADLEY: Senator Cornett. Sheriff, maybe you can't answer that but maybe somebody else coming, how will the \$240,500 be used to help solve this problem? [LB380]

CHRIS KLEINBERG: And that's going to be up to the county board of officials, the tribes, whomever, yes. [LB380]

SENATOR HADLEY: I hope that we will have somebody come and answer that question. [LB380]

CHRIS KLEINBERG: Correct. [LB380]

SENATOR HADLEY: Okay. [LB380]

CHRIS KLEINBERG: I would like to think it goes to overtime hours for my deputies. (Laugh) [LB380]

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SENATOR HADLEY: Well, I am a firm believer of people being paid for the work they do. [LB380]

CHRIS KLEINBERG: Yes, sir. [LB380]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB380]

CHRIS KLEINBERG: Thank you very much, ladies and gentlemen. [LB380]

SENATOR CORNETT: Next proponent. [LB380]

VIVIAN HARTWIG: (Exhibits 5 and 6). I've Vivian Hartwig, V-i-v-i-a-n H-a-r-t-w-i-g. I'm the former Thurston County Assessor and I'm presenting documentation, four years, tax loss for Native American exempt lands in Thurston County. For 1998 the loss was \$99,000. In 2005 \$152,130, and 2006, \$153,000. Tax year 2007 was not available. 2008 tax loss is \$192,371. And this is just the land. This does not include buildings of any kind belonging to Native American people on exempt land. And included in this document would be the tax loss for each tax entity. And if you'll look at the year 2009...let me see, 2008, the tax loss for all the taxing entities in the county is 48,993...no that's acres, it is...I guess there isn't a total per taxing entity but that shows per taxing entity the tax loss. Do you have any questions? [LB380]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB380]

SENATOR LOUDEN: Yes. I've got some different figures here. How much tribal land is in Thurston County? [LB380]

VIVIAN HARTWIG: There is approximately 55,000 acres. [LB380]

SENATOR LOUDEN: Okay. And then...well, one of the...on the fiscal note here we have, they have it listed at, what, 65,000 acres, I think. Now, would that 65,000 include some of the residential or business property or something? [LB380]

VIVIAN HARTWIG: Possibly, yes. It depends on the programming of the computer. [LB380]

SENATOR LOUDEN: Because you're talking about 10,000 acres which is a sizable piece and no bigger than Thurston County is, I'm surprised there's that much of a difference in numbers and that's what I was wondering. [LB380]

VIVIAN HARTWIG: Because there would be property in Winnebago and Macy and Walthill of residential property and commercial property. [LB380]

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SENATOR LOUDEN: Okay. And the \$3.70 an acre actually is what you're asking for is sort of in lieu of tax, is that correct? Like you would with school lands or Game and Parks lands or anything like that. [LB380]

VIVIAN HARTWIG: Right. [LB380]

SENATOR LOUDEN: Are there Game and Parks lands in Thurston County? [LB380]

VIVIAN HARTWIG: No. [LB380]

SENATOR LOUDEN: Wildlife management areas? [LB380]

VIVIAN HARTWIG: No. [LB380]

SENATOR LOUDEN: Okay. None whatsoever. [LB380]

VIVIAN HARTWIG: We have a small portion of Corps of Engineer land, that's it. Just a little bit. [LB380]

SENATOR LOUDEN: Okay. Thank you. [LB380]

VIVIAN HARTWIG: You're welcome. [LB380]

SENATOR CORNETT: Senator White. [LB380]

SENATOR WHITE: The land, the 50,000 acres is tribal land, correct? [LB380]

VIVIAN HARTWIG: Tribal land, yes. Also included in that figure is what's called allotment land and that belonged...was allotted to individual Native American people years ago. [LB380]

SENATOR WHITE: Okay. And it's not taxable by the county, correct? [LB380]

VIVIAN HARTWIG: Nontax, that's right. [LB380]

SENATOR WHITE: Does the county provide any services to tribal members on that land with the exception of law enforcement on the highways? [LB380]

VIVIAN HARTWIG: I will let another individual answer that but I'm sure there's fire protection. There's resource district, natural resource district applies to all land in the county. [LB380]

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SENATOR WHITE: Okay, so the NRDs provide services, whatever services they may be. The RFDs do, the rural fire departments. [LB380]

VIVIAN HARTWIG: Yes, they do. Educational service units do. [LB380]

SENATOR WHITE: ESUs do. And so the schools do too but they can't tax land. [LB380]

VIVIAN HARTWIG: Um-hum, yes. No. [LB380]

SENATOR WHITE: But they provide the school services. Okay. Thank you. [LB380]

VIVIAN HARTWIG: You're welcome. [LB380]

SENATOR CORNETT: Next proponent. [LB380]

TERI LAMPLOT: (Exhibits 7 and 8) Good afternoon. Thank you, Senator Cornett, and Senators for hearing me today. I'm Teri Lamplot, T-e-r-i L-a-m-p-l-o-t. I'm the chairman of the Thurston County Board of Supervisors and we are in great need of LB380 passing in Thurston County. In hearing the other testimony and the questions, I want to take this opportunity to clear up for folks that don't live in Thurston County. Number one, Native Americans are full citizens of Thurston County in the state of Nebraska with the full citizenry rights including the use of all county services. They get their license plates, they get any services any of you get here in Lancaster County. [LB380]

SENATOR WHITE: Miss, nobody is denying they're citizens. Okay, let's get that real clear. [LB380]

TERI LAMPLOT: Okay. [LB380]

SENATOR WHITE: But what we do have issues with is, in a normal reservation system we have neither the right nor the obligation to enforce laws or to provide services in areas we don't tax. Okay. This is a technical question of the ability to tax coupled with the obligation to provide services over that same jurisdiction. So let's give the citizen stuff up and the race stuff. It's really beginning to upset me because nobody is trying to make inquiry about that. What we're trying to make inquiry about is why the law is set up so we provide services in an area where we can't tax. Okay. [LB380]

TERI LAMPLOT: Okay. And I apologize if my comment came off as being a race comment. It certainly was not meant that way. I just...when I hear folks that aren't from the area ask some of the questions that I heard today, it made me think that perhaps there wasn't an understanding that out of the seven board members that serve our board, three of them are Native American. So we're all very much together in living in Thurston County and we all use the same roads, we all use the same services. The

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purpose of LB380 is to help provide services for all people of the counties, of the entire county. If we don't have the revenue necessary we can't provide nice roads. [LB380]

SENATOR WHITE: Again, you're missing the point. The point is, I live in Omaha. Okay? We can't tax Lincoln. We don't tax Lincoln. But we don't police it either. Okay. It's a real fundamental question. How do we end up in a situation in the state where we're providing services where we don't tax. That's...it has nothing to do with people. It has to do with land, taxing, and where you're obligated to provide fire, and where you're obligated to provide police. It has nothing to do with what color people are. They're all citizens. Okay? [LB380]

TERI LAMPLOT: Okay. [LB380]

SENATOR WHITE: Let's just talk about the land. [LB380]

SENATOR CORNETT: I was going to say if you want to break it down to my district, I have one of the largest nontaxable areas in the state being Offutt Air Force Base. It's federal property. They provide their fire services. They provide their own police services. We are just trying to figure out, period, why we are providing services on land we don't tax. That's it. [LB380]

TERI LAMPLOT: I wish I had a map that had the trust land and the nontrust land. Of all of Thurston County, 21 percent of it is nontaxable. That is not in any one certain area. It is like polka dotted throughout the entire county. [LB380]

SENATOR CORNETT: And how...what type of agreements then do you have or we have as a state with the federal government to provide services to those areas? How can we... [LB380]

SENATOR WHITE: Or the tribe? [LB380]

TERI LAMPLOT: We provide services to those citizens because they're citizens...not due to agreements. [LB380]

SENATOR WHITE: Ma'am, I understand what you're saying. They're citizens. We get that. But the city of Lincoln does not provide services to the city of Omaha. Okay? They don't tax. They're separate taxing entities. Has nothing to do with citizenship. It has to do with where you live and whether your land is subject to taxation or not, and if not, what is the history behind this anomaly where we're obligated to provide services in areas where we can't tax. I mean, it's like telling us go provide police service in Hawaii. I mean it's a different legal entity. [LB380]

TERI LAMPLOT: Maybe I can clarify that a little bit in where...the reason why we're

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coming to your committee to ask for the revenue for this is because LR37 that was passed in 1969 was a law that the Legislature passed. And in passing that, they said that the tribe was able to retrocede jurisdiction. And what I'm saying, the jurisdiction was retrocede, but in '69 it was a partial retrocession. And that caused jurisdictional confusion beyond belief. You know, we have two Native American Tribes in Thurston County so when there's a crime committed in Thurston County, just like Senator Cornett had said, it depends on if you're Native American or non-Native American, if you're on trust land or fee land, if you are on the Winnebago Reservation or if you are on the Omaha Reservation and if the cop is a BIA, a Winnebago, it is so confusing. And we're coming to this body today to ask for some financial support because of the confusion that was passed through the Legislature. Had we just left Public Law 280 where it was at, where everyone was under state jurisdiction, we wouldn't have the confusion that we have. [LB380]

SENATOR WHITE: And maybe that's the answer, instead of just giving money is to correct the underlying jurisdictional problem. And that's what we've been trying to drive at through this hearing is, why is the answer just to give money. You don't even know who gets it or what it will be used for. If the question is, there's an underlying problem with how we did a law back in '69 and its caused confusion, and it sounds like potentially unsafe conditions in Thurston County because police and fire don't know who should go where. Then maybe that's where we look at. And that's the frustration at least for myself. I can't speak for other members of the committee. But that's what we're concerned about. [LB380]

TERI LAMPLOT: And the other piece of legislation that I was trying to get introduced for this session was to do a comprehensive study to figure out who has jurisdiction where, based on what, and we weren't able to get that in this year. But I agree, we have...it's a confusing mess. Law enforcement truly is confusing up there. [LB380]

SENATOR CORNETT: Would it be better to go back to what you had prior to the 1960 law? [LB380]

TERI LAMPLOT: In my opinion it would. Every state citizen would be under the same law. [LB380]

SENATOR CORNETT: Then why didn't we bring that bill? [LB380]

TERI LAMPLOT: I don't believe that that is possible for that to happen. The Department of the Interior accepted the retrocession and from my understanding after that happens, there's no turning back. [LB380]

SENATOR WHITE: The Winnebagos and the Omahas are now sovereign nations and we can't just take back what they got, which I get. Maybe the answer, though, is to cede

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more jurisdiction to them, then talk to them about entering into an agreement where the state would provide services or something like that, but at least jurisdiction is clear. [LB380]

TERI LAMPLOT: Well, that would work if we were all in the tribal system, but 80 percent of the land in Thurston County, due to acts of Congress, has been purchased like a hundred years ago by nontribal people. It's just regular state citizens. And in doing what you suggest we do, we are putting state citizens under the jurisdiction or the control of the tribal government in which they have no vote or voice. That is the concern with that. One of the pieces of information I have passed...that I provided in addition to the talking points, which basically break down what the point is of LB380 and where it was derived from, is a proclamation statement that the County Board of Supervisors passed January 26, 2009. And it's pretty straightforward with our need for the funds and our reasons why we think that we are...I hate to use the word entitled, but why we feel justified in getting those funds. I want to point out, of the seven county board members, all but one county board member voted for it, and those county board members represent all people in Thurston County. [LB380]

SENATOR CORNETT: Senator Hadley. [LB380]

SENATOR HADLEY: Thank you, Ms. Lamplot. I was reading your number 6 talking point. What you're saying there is, that LR37 which was passed by our...this Legislature, correct? [LB380]

TERI LAMPLOT: Correct. [LB380]

SENATOR HADLEY: Was only a partial retrocession and the county maintained jurisdiction over traffic and civil offenses involving Native Americans even on tribal land. [LB380]

TERI LAMPLOT: Well, that's confusing and that's the other part of the mess that we have. When LR37 was passed, it actually was passed with no definitions. It said that the jurisdiction would go to the federal government in Indian areas in Thurston County. Indian areas was never defined. Where are the Indian areas? Are they trust land? Are they the 1,800 boundaries from when the reservation originally was? That is part of our problem. Nobody really knows. I mean, the tribal police may have a different view of where the Indian areas are versus the county police versus the U.S. Attorney's Office versus the state patrol. It is a jurisdictional mess. [LB380]

SENATOR HADLEY: My second question then is, how would the \$240,000 or whatever it is, that doesn't solve the problem, the jurisdictional problems does it? [LB380]

TERI LAMPLOT: I will agree throwing money at anything does not solve the problem,

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but you have to understand there are about 30 police officers of all different...you know, from four or five different agencies running around Thurston County. Not one of them is on the same page with what jurisdiction is where. My obligation as a county board chairman is to represent the best interests of the county citizens and the only way I can do that is through my county police department, which we have five total. It's a public safety issue. We need to keep our county police department funded as well as our other county offices for the betterment of all the county citizens. [LB380]

SENATOR HADLEY: And if I read correctly, you are up against the 50 cent. [LB380]

TERI LAMPLOT: We are. [LB380]

SENATOR HADLEY: You have no...there's no wiggle room at that point in time. [LB380]

TERI LAMPLOT: We have been for the last four years. [LB380]

SENATOR HADLEY: You've been up against it for the last... [LB380]

TERI LAMPLOT: We have, but in hearing the prior testimony with the other bill that started out this afternoon, we...the county takes the entire 45 cents but there are 5 cents between the 45 and 50 that the fire districts get. We do not allow the townships to get any of that up to the 45. So the townships...all the townships in Thurston County, if they want to have a levy, they have to have a levy override. And of the 11 there's several that just don't. [LB380]

SENATOR HADLEY: One last question. How would you recommend to this body that we help you with the jurisdictional problems that you're talking about? [LB380]

TERI LAMPLOT: I would recommend, truly what I think needs to happen, is the state needs to conduct...we need to do a full comprehensive study. Where is the federal jurisdiction, where are the tribal areas, who has...you know, when I'm hearing people talk about the sovereign nation, where is the sovereign nation. Eighty percent of the land there is and has been owned by state citizens. And it was done legally and it was done with the blessing of the federal government. The state and the federal government...we have dealt with something that none of the other 92 counties in the state of Nebraska have to deal with. The solution, I think, I would have rather had the legislation for the study, but I'm looking at losing law enforcement because we are losing our...we have no revenue. And I want to keep people safe. I want to be able to keep the roads safe for all people. This benefits everyone. And I want to keep the county safe with having proper law enforcement there. [LB380]

SENATOR CORNETT: Senator White and Senator Hadley, or Utter. Senator White. [LB380]

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SENATOR WHITE: Does the county tax land owned by members of the Winnebago Tribe that are not part of the reservation? [LB380]

TERI LAMPLOT: It depends on what your meaning of the term reservation is. If it is fee land, not trust land, no matter who owns it, it is taxed by the county. Fee land is taxed by the county; trust land is not taxable by the county. [LB380]

SENATOR WHITE: And there's 50,000 acres of trust land? [LB380]

TERI LAMPLOT: There is over 54,000 acres of trust land. [LB380]

SENATOR WHITE: Okay. And that's owned by the tribe itself, is that correct? [LB380]

TERI LAMPLOT: That has the title held...it's done in various ways. Some of them were original allotments by the federal government to tribal members. Some of those parcels were, are owned by individuals and held in trust by the United States and some are purchased by the tribe and the title is held by the United States government. [LB380]

SENATOR WHITE: Okay. And we don't...the county nor the state imposes any taxes on those areas, correct? [LB380]

TERI LAMPLOT: We, by law, cannot. [LB380]

SENATOR WHITE: All right. But we still provide services to all of those. [LB380]

TERI LAMPLOT: We provide services...you know, you can't just look at the land. There's people that may live on that land and they use services, yes. [LB380]

SENATOR WHITE: Ma'am, actually that's how we do it in this country, okay. We don't provide services to Iowa, okay. We don't do that. They're citizens of the country, they're citizens of Iowa, but we have no authority nor obligation to go there and provide services. Normally, that's how it works. Now this is some kind of odd situation that's an anomaly in the law and that's why it's confusing to me, and Senator Cornett was a police officer for years. All right. We deal with the law as it is. This is unusual for us. [LB380]

TERI LAMPLOT: It's unusual for me. You know...okay, just as an example. When our motor grader is going down the highway taking care of the county roads, does he lift his blade, does he have a map with him to see is this mile here trust land and then put his blade back down, well this one is and this one isn't. That's an impossible task and if the county is expected to do that, then we should be asking for more than what we're asking for. Now, it's kind of the same concept with law enforcement. [LB380]

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SENATOR WHITE: Thank you, ma'am. [LB380]

SENATOR CORNETT: Senator Utter was next. [LB380]

SENATOR UTTER: I hate to indicate my ignorance here, but will you define the word retrocession for me? Tell me what that means. [LB380]

TERI LAMPLOT: Okay. Retrocession, in 1953 the United States...the Congress decided that they were going to mandate six states to have jurisdiction over tribal members, Indians. That was their way to try to assimilate tribal members fully into America. That was the intent. Nebraska was one of those mandatory states. Due to that law, all Native American citizens were under the civil and criminal jurisdiction of Nebraska. So no matter if it was a historical reservation or, in Nebraska at one time full state jurisdiction, civil and criminal. No confusion. Everybody is under the same law. Okay. Retrocession was a law that was passed later that allowed the federal government to take that jurisdiction back but that was only able to be accomplished if the Nebraska Legislature said, okay, take the jurisdiction back. The only way that could happen would be for this body right here in 1969, they did it, to say we think it's going to save us money to let the federal government take jurisdiction back over Indians, so Nebraska decided to do it. The only reason, and I have the testimony, I didn't make copies of it. The only reason, the main reason, was because they thought it would save the state of Nebraska \$90,000. That's why they did it. They did not even consider or fathom down the line the jurisdictional mess that it would create. So two reservations, historical reservations went to Thurston County. Omaha did it in 1969, but it was only a partial retrocession. And the Winnebago decided in 1986 that they would retrocede but theirs was a full retrocession, but I understand we still maintain some civil jurisdiction. So we have all these different laws based on, if you're a tribal member or not in Thurston County. [LB380]

SENATOR UTTER: Thank you. [LB380]

TERI LAMPLOT: Sorry, if I didn't clarify a thing. [LB380]

SENATOR CORNETT: Senator Louden. [LB380]

SENATOR LOUDEN: Yes, as I see this, and you can correct me if I'm wrong, and we have tribal lands in the north end of Sheridan County that belongs to the Oglala Sioux that isn't even recorded in the county books. You can't even find a description of that land because it's always been Native American land. So this isn't nothing new. I mean, where I live, we're used to this and as far as your jurisdiction it's a little different, but we have about the same thing. Anyway, the way I understand it, the jurisdiction is one thing and that's another study all together, but LB380 in here was a way to, as I asked the previous testifier, to do something in lieu of taxes and this is what it's all about. Now this

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isn't nothing new in the state of Nebraska. We have what, over two million acres of educational, boards and lands funds that we do in lieu of taxes. The counties get money because that land is in their district or in their county, so they get money. We have Game and Parks, which if it's parks service it isn't taxed but if it's wildlife management, then they have to pay in lieu of tax. This happens all over the state of Nebraska, some million acres or so that we do this. The way I understand this LB380, you pointed out that somewhere in the history here of not that long back, they were supposed to be entitled to \$101,000 a year when they retroceded this. That's never been paid. So now you're asking to either do something about that or your average taxing in Thurston County is about \$3.70 an acre. You're asking for the same amount of money back to fulfill what some of these earlier statutes had in there, is that correct? [LB380]

TERI LAMPLOT: That's correct. Actually, I would have loved to go back and say \$101,000 a year that was a mistake that we didn't receive for the last 23 years. I would have loved to come in here and ask for \$2.3 million. But I know that is insanity. There's no way you would ever go for that. So this is a way to say, look, this statute is still...23-362, is still on the books, was never repealed. It hasn't been implemented in Thurston County for whatever reason for the last 23 years. I know Knox County has received it up until they retroceded fully in just 2006. We came in with LB380 thinking that, you know, this would be a way...we're not asking for back pay or anything. We're just asking for some way to continue to survive in Thurston County. [LB380]

SENATOR LOUDEN: Okay. Now, then if you got the...if that was reinstated that \$101,000 a year from 2009 or whatever forwards, would that be to you, fulfill part of LB380? [LB380]

TERI LAMPLOT: If you chose not to adopt or pass on LB380 and instead decided to keep 23-362 on the books and start allocating funds for that, \$101,000 is better than zero, which is what we have right now. [LB380]

SENATOR LOUDEN: Okay. Thank you. [LB380]

SENATOR CORNETT: Senator Hadley. [LB380]

SENATOR HADLEY: I know you're up against the levy lid. Are you up against a spending lid in Thurston County also? [LB380]

TERI LAMPLOT: As far as, you know, the...what is it, the 2.5 percent that you can spend every year, we pretty much have spent... [LB380]

SENATOR HADLEY: Right, or the increase. [LB380]

TERI LAMPLOT: Yeah, the increase amount that you can increase your budget for, yes.

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[LB380]

SENATOR HADLEY: Are you up against that? [LB380]

TERI LAMPLOT: We are every year. [LB380]

SENATOR HADLEY: Then, if you get \$230,000 or \$240,000 a year, can you spend it? [LB380]

TERI LAMPLOT: We'll try to figure out a way to do that. (Laughter) [LB380]

SENATOR HADLEY: I've not met many county officials that can't. Okay. [LB380]

TERI LAMPLOT: Yeah, I'm sure that we can find some way. [LB380]

SENATOR HADLEY: I would hate to give it to you and then legally you come back and say we don't have a way of legally spending this. [LB380]

SENATOR CORNETT: You can hold it for...in escrow for whatever period of time and then use it, am I correct? [LB380]

TERI LAMPLOT: I think we could probably find somebody with the answer to how we could use that. If there are no other questions in closing, I just want to make clear that some people in Thurston County try to make these issues about race. I am not here to talk about race. The County Sheriff tried to make that clear. We're not here to talk about race and we're not professional lobbyists, okay. This is a financial issue that will benefit all citizens of Thurston County, all citizens. All citizens utilize the benefits of being in the county and we're...this is just to help all citizens of the county and that's all I can say. I encourage the passing of LB380 and if not LB380, at least consider doing whatever is necessary to reinstate the funding for 23-362. [LB380]

SENATOR CORNETT: Senator Louden, I believe you had another question. [LB380]

SENATOR LOUDEN: Yes, I have one other question. And what we have for the fiscal note, they talk about approximately 65,000 acres and your county deal here lists it at 54,000 and some acres or whatever it is. Why is...what's the difference or why is that difference there? [LB380]

TERI LAMPLOT: I think the difference might be there is some reservation land in Burt County and Cuming County or what's deemed reservation and it's possible. Maybe that got thrown into the Thurston County numbers. I not only went to the county assessor for that 54,000, I called BIA and our numbers are the same, so I'm confident that it's 54,000 something. [LB380]

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SENATOR LOUDEN: And then according to LB380 it's got to be 50,000 acres in a county so if there's some land in another county that doesn't count towards this LB380, is that correct? [LB380]

TERI LAMPLOT: No, that was by design because I...yeah. [LB380]

SENATOR LOUDEN: Okay. Then there could be a problem with the fiscal note at \$240,000 and 65,000 acres? [LB380]

TERI LAMPLOT: That's not correct. I'm not sure who prepares those fiscal notes but I'm very confident that the acreages, the 54,000 that I provided, I'm confident that it's about \$201,000 a year right now, is what it would be. [LB380]

SENATOR LOUDEN: Okay. Thank you. [LB380]

SENATOR CORNETT: I'm sorry, could you repeat that fiscal note, or the number you believe it is? [LB380]

TERI LAMPLOT: The fiscal note at the \$3.70 for the 54,000 acres is roughly about \$201,000. [LB380]

SENATOR CORNETT: Thank you. Seeing no further questions, thank you. [LB380]

TERI LAMPLOT: Thank you very much. [LB380]

SENATOR CORNETT: Next proponent. [LB380]

JOEL LAMPLOT: Senator Cornett, and members of the committee, my name is Joel Lamplot, J-o-e-l L-a-m-p-l-o-t. I represent Thurston County Farm Bureau. I'm the president of that organization. I know we've heard a lot of discussion and as far as the Farm Bureau is concerned, it would simply break down to property tax relief. As you've heard in previous testimony, we are up against the lid. I'm also the chairman of our local township and we do do an over levy override. We are fortunate enough to have the voters turn out and approve it so we can have it done on the ballot. We don't have to have a township or a town hall meeting annually. There are some townships that do. And Senator White, I understand the confusion with this, but do you live in Omaha or...? [LB380]

SENATOR WHITE: Omaha. [LB380]

JOEL LAMPLOT: You live in Omaha. Imagine your neighbor two houses down not having to pay tax or consider what you would say in a sovereign area, two houses

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across the street is a separate way. The way I look at it, when Nebraska was formed, we were created by the Enabling Act by the federal government. Nowhere in that Enabling Act did it draw a line around Thurston County or the original Omaha Reservation. The Omaha Reservation was set up about the same time period. It didn't draw a line around the Omaha Reservation. It said all lands within the state of Nebraska are in the state of Nebraska. If you look on to further documentation done by the federal government, the treaties themselves said once the Legislature is formed they are to take action. That never happened. There was a treaty in 1854 the same time as the Nebraska-Kansas Act, and then we had the passage of the Enabling Act or the Enabling Act was shortly after. But to just to give you a history of how we got these separated areas, like if it would be in Omaha, two houses down one way and a house over this way not subject to the same jurisdiction. It was intended to be that way. Everybody was to be under the same jurisdiction. They created the...what it's called the General Allotment Act and it was a way for tribal members to become citizens of the United States. This is back in the 1880s. And the way they approached it is, if we give them an allotment of land and they will keep that land so that the state can't tax it for 25 years, and if they can prove to be responsible and manage this property, then they will have that land converted from a trust patent to a fee patent. So these lands, and also in the statute it says, once it's converted to fee patent, it becomes under the jurisdiction of the state and the state's laws. It's unlike Offutt Air Force Base which is a federal enclave. [LB380]

SENATOR WHITE: But if it's under the jurisdiction of state and the state laws, why isn't it paying property tax? [LB380]

JOEL LAMPLLOT: Because federal law says you can't...it says they do not have to pay. Property tax does not have to be paid by those, for those lands that are held in trust. It's not a federal enclave type of land. [LB380]

SENATOR WHITE: Once it's a fee, is it in trust. It's no longer in trust, it's a fee land. [LB380]

JOEL LAMPLLOT: Right. All fee lands in Thurston County are taxable. [LB380]

SENATOR WHITE: Okay. Well, now we're getting somewhere. So all the tribal members who own lands in fee pay taxes. [LB380]

JOEL LAMPLLOT: Yes. [LB380]

SENATOR WHITE: Okay. Any of those lands included in the 54,000 acres? [LB380]

JOEL LAMPLLOT: No. [LB380]

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SENATOR WHITE: Okay. Those are all lands owned or held by the tribe. [LB380]

JOEL LAMPLOT: No. [LB380]

SENATOR WHITE: These are held in trust by the tribe for members. [LB380]

JOEL LAMPLOT: The Department of Interior or BIA or the federal government holds lands for individual members or their heirs in trust for them. The federal government is the trustee. They hold it and for benefit of that individual member or for the tribe. [LB380]

SENATOR WHITE: Okay. So to the extent that the federal government holds title, we don't tax it. It's not subject to property tax or any other taxes from the state, correct? [LB380]

JOEL LAMPLOT: Correct. [LB380]

SENATOR WHITE: Okay. Why do we provide services to it because normally we wouldn't? [LB380]

JOEL LAMPLOT: Now, you've also... [LB380]

SENATOR WHITE: I mean in the normal circumstance, if it's really exempt from our laws, you don't...the law doesn't make you both provide services, have an obligation to do things, but not have a right to control for tax. It's like...like I said, it's like telling the state of Nebraska to provide services in Iowa. It's unusual, legally. [LB380]

JOEL LAMPLOT: The federal law says that Thurston County or the state cannot tax... [LB380]

SENATOR WHITE: Does the federal law say we should provide legal protection? [LB380]

JOEL LAMPLOT: It doesn't even address that. [LB380]

SENATOR WHITE: Okay. So the feds don't tell us we have to, correct? [LB380]

JOEL LAMPLOT: That's right. [LB380]

SENATOR WHITE: And I can applaud it. I mean, I'm not begrudging anybody services so let's get this straight. But it sounds like Thurston County is voluntarily providing services in areas they're not legally obligated to, is that accurate? [LB380]

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JOEL LAMPLOT: I guess in a sense it would be. You know, it...I guess basically to come down, if you wanted to define it by who holds title to this property or this property, yes, that would be the way. [LB380]

SENATOR WHITE: Unless the Legislature in 1969 said you shall provide road protection, not major crime. Okay, we should provide those services. Other than that, are we obligated, to your knowledge, to provide services to those areas? [LB380]

JOEL LAMPLOT: As far as civil process, say somebody is behind on their child payment. [LB380]

SENATOR WHITE: Yes. [LB380]

JOEL LAMPLOT: And that's administered by the state. They have the right to go onto that tribal property, so to say, and serve that warrant. [LB380]

SENATOR WHITE: Okay. The frustration on my point is, I really think you guys are in the wrong committee. This is a government committee issue to straighten out jurisdiction. Once that's straightened out, certainly the state has an obligation to honor agreements and pay what we agreed to pay. No obligation with that. But we also have an obligation to all taxpayers not to pay money we're not obligated to pay, if that makes sense. We can't just spend money because it, you know, it seems right. [LB380]

JOEL LAMPLOT: Um-hum. But, you know, there's an argument as well as far as, say the Republican River Valley. We live up in northeast Nebraska. We don't use any of that water and are we obligated to pay for some of that problem down there? [LB380]

SENATOR WHITE: We live in Omaha, we don't even farm. (Laughter) [LB380]

JOEL LAMPLOT: Yeah. Exactly. So...you know,... [LB380]

SENATOR CORNETT: Go ahead. Go ahead and finish your thought. [LB380]

JOEL LAMPLOT: No, I'm finished. [LB380]

SENATOR CORNETT: Senator Hadley. [LB380]

SENATOR HADLEY: I'm going back to your analogy about the different houses in Omaha because I think to me that helps me understand your problem maybe a little more. If this tribal, if the federal lands, or you call it the nonfee lands, right, the trust lands... [LB380]

JOEL LAMPLOT: Trust properties. [LB380]

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SENATOR HADLEY: ...if they were neatly bordered so that there was no question about where it was, you could say we're not going to provide services for that area if it was easily definable. [LB380]

JOEL LAMPLOT: I would agree with that, yes. If the 1865 treaty would have been fulfilled to have all the allotted lands to be confined and compact as possible with a definite boundary line, then I don't think we would have these problems. [LB380]

SENATOR HADLEY: I guess I see the problem as I thought the road grader was a great example. Do I lift the blade because I happen to think this is fee land or I'm sorry, trust land, and a mile later I put it down because I think this is fee land now, and I can see the sheriff trying to go down the road chasing a speeder and saying, am I in fee... [LB380]

JOEL LAMPLOT: Right. [LB380]

SENATOR HADLEY: ...property or am I not. And I think that's a terrible position to be put in when you don't really know. It would be like, maybe Omaha where police come to a house and they're trying to figure out whether they have jurisdiction in this house or not, depending on whether it would be fee or trust property. So I guess I'm sympathizing with Thurston in not having some definite boundaries of where you know what to do. [LB380]

JOEL LAMPLOT: I appreciate that. [LB380]

SENATOR CORNETT: Senator Utter, did you have a question? Seeing no further questions, thank you. [LB380]

JOEL LAMPLOT: Thank you. [LB380]

SENATOR CORNETT: Next proponent. Are there any further proponents? We'll move... [LB380]

GAYLE DAHLMAN: (Exhibit 9) I'm Gayle Dahlman, G-a-y-l-e D-a-h-l-m-a-n. I am the 911 communication supervisor for Thurston County and I have worked in the communication division for 23 years. I brought some numbers trying to show that we do still work with the Natives. Like the sheriff said, the police departments work together, and because we don't designate when we take calls what tribe they belong to or whatever, we had to go through and manually go through all of our cases and try and decipher this. As you see, the top number for each year is the total number of calls, the bottom number is tribal. In 2006 we had 43 assaults, 30 of those involved tribal members. Disturbances there was 242, 166 involved tribal members. And domestic disturbances there was 30, 10 involved tribal. Juvenile there was 388, 154 involved

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tribal. I probably don't have to go through all these. You can read them. I apologize for not having them separated because I didn't know I was going to have to give you a copy or should give you a copy. As of this year, the first three months of this year...we didn't do 2008 because we didn't have time to go through all that. There was 16 assaults, all of them involved tribal members. Sixty-three disturbances, 55 involved tribal members. Fourteen domestic disturbances, 14 involved the tribe. One hundred eight juvenile cases, 79 were tribal. Thirty-eight traffic accidents, 12 involved tribal. Our traffic accidents went up, way up the day of the blizzard. Traffic stops, 226, with 125 tribal members, and vandalism 28, with 21 tribal members. I did go through Mutual Aid cases in 2007. That involved if one of our officers had a tribal member detained or something, and had a call in and tribal officer to take the person or whatever, anything involving both, all the departments. There was 710 cases where they worked together. Any questions? [LB380]

SENATOR CORNETT: Who dispatches for the tribal officers? [LB380]

GAYLE DAHLMAN: They each have their own dispatch center. There are three dispatch centers in Thurston County. One 911 center and that's ours for the county. And we send rescue units. I mean, the rescue units get tax money from the whole county, no matter where they're based at. [LB380]

SENATOR CORNETT: You might not be able to answer this question. Are you allowed to enter into interlocal agreements with the tribes? [LB380]

GAYLE DAHLMAN: We don't. [LB380]

SENATOR CORNETT: Could you? [LB380]

GAYLE DAHLMAN: I don't know the answer to that. [LB380]

SENATOR CORNETT: Senator White and Senator Adams. [LB380]

SENATOR WHITE: Ma'am, I'd heard the jurisdiction of various tribes depends on whether a tribal member is involved. I assume that's either as a victim or as a perpetrator, either way. How do you know? You got, I was assaulted. Well, was it a member of the tribe? Well, I don't know, it was just a big guy. So who's got jurisdiction? [LB380]

GAYLE DAHLMAN: Well, you send the nearest officer and then they sort it out as they go along. [LB380]

SENATOR WHITE: So you might end up sending a lot of money investigating a crime never knowing whether or not it's a tribal member, or if it's the right tribal member, or no

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tribal member. [LB380]

GAYLE DAHLMAN: Well, the location makes a difference. Lots of it they can tell from where it was...hopefully, you know, whether committed or... [LB380]

SENATOR WHITE: Well, they can tell where it happened but they can't tell who did it. [LB380]

GAYLE DAHLMAN: Right. [LB380]

SENATOR WHITE: Okay. Thank you. [LB380]

GAYLE DAHLMAN: But we just dispatch the nearest officer as fast as we can, that's what... [LB380]

SENATOR WHITE: Which makes sense. I mean, people's lives are at stake that's what you want to do. [LB380]

GAYLE DAHLMAN: And they have rescue units that are...get tax money and they pick up tribal members, they pick up the white people, whoever is in need. [LB380]

SENATOR WHITE: And everybody generally cooperates with everyone. [LB380]

GAYLE DAHLMAN: Yes, it's just a lack of funds is what we're dealing with. [LB380]

SENATOR WHITE: So is it fair to say then that sometimes Thurston County gets services from the tribes that it doesn't pay for? The tribe is paying that either through its own revenue or from money from the federal government and it provides services to Thurston County that Thurston County doesn't pay for. [LB380]

GAYLE DAHLMAN: Well, they cooperate, yes. This is a cooperative effort, yes. [LB380]

SENATOR WHITE: Okay. [LB380]

SENATOR CORNETT: When...I'm sorry, Senator Adams. Very quickly. When the sheriff that was up said that they were cross deputized, now is it his department or...not cross deputized, but what was the term that he used. [LB380]

GAYLE DAHLMAN: That's cross deputized, yes. That doesn't involve dispatch. [LB380]

SENATOR CORNETT: No, I understand that. Is that his deputies that are allowed to go onto the reservation or the reservation police are allowed to go into areas that are nonreservation. You might...never mind. [LB380]

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GAYLE DAHLMAN: No, you need to ask him that. [LB380]

SENATOR CORNETT: Okay. Senator Adams. [LB380]

SENATOR ADAMS: That's all right. I think my questions been answered over and over again. It's just taken all this time to get to it. The reality here is, it really doesn't matter, the call comes in, who the call came from or who was serviced by the call. [LB380]

GAYLE DAHLMAN: We're going to give them help. [LB380]

SENATOR ADAMS: So segregating the numbers between Native American calls versus non-Native American calls, from what I've heard from you and testimony from other county officials is irrelevant. [LB380]

GAYLE DAHLMAN: Right. That's why I had to sit and go through each case and I could tell by looking at the names and stuff because I've been there forever. [LB380]

SENATOR ADAMS: Right. And all of that aside, put the blinders on, the reality is that Thurston County has probably and properly said we don't care. The call comes in, we're going to deal with it. And the essence of it is, you don't believe you have enough tax dollars given these 54,000 acres that have been exempted to cover this. [LB380]

GAYLE DAHLMAN: Absolutely. We work for low wages, I... [LB380]

SENATOR ADAMS: And if, as one of the last testifiers said, if the reservations or the trust lands were contiguous and compact, and you could stay off of them, so to speak, if you knew exactly where they were, then we'd do that and maybe, not have the same financial issues. [LB380]

GAYLE DAHLMAN: You are looking at, when you say that make it compact, okay, are Natives are they allowed to drive on the highway, any other part of the county? I mean, county roads, it's all one big jigsaw. There's a lot of Caucasians living right around Macy. [LB380]

SENATOR ADAMS: Okay. Thank you. [LB380]

GAYLE DAHLMAN: Thank you. [LB380]

SENATOR CORNETT: Seeing no further questions, are there any further proponents? Can I see a show of hands for the number of proponents that are left? Okay. Thank you. [LB380]

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MIKE MINERT: (Exhibit 10) I will keep it short. My name is Mike, M-i-k-e, Minert, M-i-n-e-r-t, with the Pender Economic Development Corporation. And I don't know if this is the right committee for us either. I just know that the situation that we're in it does create a financial hardship which does create a tax burden which does create a problem for encouraging other businesses, individuals to relocate to Pender and Thurston County. I'm different from a lot of the proponents here as I chose to move to Pender but I was probably naive. I was thinking every town of 1,200 people in Nebraska was created equal and we're not created equal. We have a tax burden that's different than a lot of other towns of 1,200 people. And now I'm under the unenviable situation of trying to encourage other people to move to Pender and to make Pender a better location and to relocate there. And I am very, very proud of Pender and the whole area. And I hope all of you probably are the same of your communities, which is super. And I will support Pender and the area forever. But we are under a tax burden and anything we can do to help that situation, I'm all in favor of, so. [LB380]

SENATOR CORNETT: Seeing no questions from the committee, thank you. [LB380]

MIKE MINERT: Thank you. [LB380]

SENATOR CORNETT: Are there any further proponents? We'll move to opponent testimony. Are there any opponents? [LB380]

DARREN WOLFE: Good afternoon, Senator Cornett. My name is Darren Wolfe. I am the... [LB380]

SENATOR CORNETT: Mr. Wolfe, I know it's an easy name, but could you please spell it for the record? [LB380]

DARREN WOLFE: Okay. Darren, D-a-r-r-e-n, Wolfe, W-o-l-f-e. I am the twice elected representative of District 5 of Thurston County. The district I represent is home to 1,500 state residents. It's also the base of the unincorporated village of Macy. Within this village itself there are 1,100 people that live there. Within this base, within this unincorporated village there is sufficient fee land available for us to incorporate the village if we chose to. I also represent individuals both from the Omaha Tribe, Winnebago Tribe, Sioux Nation, and nonnative individuals. I heard testimony before on this matter regarding, and the comments from the senators on issues of race. Unfortunately, we do have...I do have an issue with the wording on LB380. It does include wording that would be...that the money was appropriated, it would be used for law enforcement county operations. Now with law enforcement, my district has been subject to a policy recently enacted by the county sheriff in denying them personal recognizance bonds based solely on the basis that they reside from my, the village that I represent. Now, he has not been made it public as to why this has been enacted and why it isn't being evenly distributed across the other districts in Thurston County. I was a

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part of a meeting, a community meeting on March 19th when...at which 40 people were present and I asked what were their concerns with LB380. Primarily, the issue would be the law enforcement of reinforcing the law enforcement services of Thurston County, which would be primarily the Thurston County sheriff's office. At present, enhancing the Thurston County sheriff's office with this present policy in place, does not serve the people that I represent fairly or equally. Furthermore, we do not see Thurston County services, Thurston County sheriff's office's services in our district. My stepfather and mother own fee land along with the neighbors that are surrounding them and we do not see services from the Thurston County sheriff's office there. So consequently, that is one of their primary concerns. However, on the issue of county operations, the people that I do represent do get licensing for vehicles and personal property. They also title personal fee land property that they may acquire or so on. And that is an issue that I think should be enhanced to a certain degree because the offices of the county treasurer and the county clerk's office do assist and help the individuals that I represent in my district. The other issue for me as a member of the county board, is that the wording within the LB380 itself does not indicate how the money would be distributed if the Legislature was able to appropriate such funds. Would it be evenly distributed between all the districts in Thurston County. Historically, since I've been on the board, it has not been evenly distributed. And that has been because as some of the individuals that spoke before me indicated, there is trust land and fee land. The tribal governments of the Winnebago Tribe and the Omaha Tribe each receive federal funding to provide services to tribal members or nontribal members that are living on the reservation. And those funds, although limited, are being stretched to help provide services, road maintenance, law enforcement, wildlife and game management, and so forth and so on. Another point that I would like to point out that as a member of the county board also that I have a contention with, is that if we are lacking in services why do we have not try to enter into a local agreements with both the Winnebago Tribe, the Omaha Tribe and their departmental entities to provide services to everybody. [LB380]

SENATOR CORNETT: I don't mean to interrupt you but that was the question that I was going to ask the person earlier, the dispatcher that did not have the answer. Because the tribes are sovereign nations and they are under federal jurisdiction, can they enter into interlocal agreements with counties? [LB380]

DARREN WOLFE: Yes, they can. [LB380]

SENATOR CORNETT: So you could have one 911 dispatch center? [LB380]

DARREN WOLFE: Yes, they can. [LB380]

SENATOR CORNETT: You could have one fire, one fire department? You can cross deputize? There are...all right. [LB380]

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DARREN WOLFE: Yes, they can. They can do that. In fact in Oklahoma, through information we gather from the BIA, the Oklahoma Tribes have cooperative agreements with the cities and villages and provide funds to help maintain their roadway systems, even in the city limits. And there is no boundary, I guess, as they spoke earlier about having it mapped out, because they have a number of their tribal members living in that city or village. And because they can comprise those numbers, the BIA is obligated to help provide services whether it be to the county government or the city government to help fund those, to keep those streets maintained. [LB380]

SENATOR CORNETT: I guess that brings me to the question that other counties around the state and other municipalities inside of counties around the state are entering into these interlocal agreements to save money. [LB380]

DARREN WOLFE: Yes. [LB380]

SENATOR CORNETT: If there is no legal reason why you cannot enter into these interlocal agreements, I assume there are... [LB380]

DARREN WOLFE: Personal reasons why they do not want to enter into these agreements. To...for me personally, I think it's an act of them recognizing the tribal government as being a functional equal government which is capable of providing services just as a county government, or even dare I say, a state government. And that is one of the points of contention that I have with this whole issue. If we were going to come before the Legislature and ask for more money, why didn't we take the next step or the easiest step and approach the tribal governments and say, what can we do together. Would that not have more sealed the deal with making tensions less volatile than they are right now. When we do this, if this is passed, in my opinion, my personal opinion, it's just legislative segregation, in my opinion. Because it further divides the people that I represent which are state citizens and tribal members. And whether they be tribal member of the Omaha Tribe or the Winnebago Tribe or the Sioux Nation or another recognized tribe of the United States, I think that is going to hurt us in this matter. Now, I also, as a member of the county board, have a problem of giving more money to a law enforcement service that until recently, this past year, could not comply with a legislative study requiring racial profiling be recorded. And only until I brought the matter to the forefront, was it being addressed. Now, why wasn't it being addressed when the initiative legislative study started, I have no idea. [LB380]

SENATOR CORNETT: Again, this committee's job is not to look at any of the underlying, maybe, racial issues. [LB380]

DARREN WOLFE: Yes. I'm not trying... [LB380]

SENATOR CORNETT: But...no, no, no, and I understand just as I understood with the

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other testifier. I want to make that very clear though to both sides. But I guess my point is, we expect other counties in this state to make it work by entering into these interlocal agreements to financially aid one another. Douglas County has done it with the city of Omaha. There's examples all over the state of interlocal agreements and to share services to reduce costs, and I don't see why Thurston County hasn't attempted this first before they came to us for money. [LB380]

DARREN WOLFE: Ma'am, Thurston County is capable of doing that if they would just make the effort to come to the table and I believe wholeheartedly that the Winnebago Tribe and the Omaha Tribe would come to the table and discuss these matters because they do recognize that there is a process here that has to be undertaken. However, it's just taking that first step. In the case of the Winnebago Tribe, they're working cooperatively now to modify highway 77 that runs through Winnebago. They're going to be doing some major reconstruction to that area and that's just one example of how they have come together to work with the state to make that area safer and a better looking area of the state of Nebraska. [LB380]

SENATOR CORNETT: Thank you. Senator Hadley. [LB380]

SENATOR HADLEY: Senator Cornett. Mr. Wolfe, thank you for being here. Do you have any knowledge of the tribal law enforcement numbers or, you know, how many officers are involved? [LB380]

DARREN WOLFE: In total right now, the Omaha Tribe probably has roughly around 30 officers including dispatchers, jailers, and so forth. The tribal, the BIA probably has roughly around 20 including communications, and so forth. Walthill, the village of Walthill, probably has around five. The village of Pender probably has about the same number. The county, according to the numbers I've been given, have roughly including detention, communication, have around 21. Now that's a total of 87 law enforcement personnel for a county. [LB380]

SENATOR HADLEY: So I guess, my point of asking is we've heard, at least I have heard, that there has been kind of a burden on the Thurston sheriff's department because of work they do on the tribal lands. But it sounds like there are tribal, a significant number of tribal officers, is that a fair statement? [LB380]

DARREN WOLFE: There is a significant number of tribal officers. However, that burden could be easily relieved if they would enter into a cooperative agreement to provide services to everyone, which I think the tribe, either tribe, is willing to do. Now, for me, as a member of the county board, I think appropriations to the sheriff's department and the subletting departments have been overexaggerated. I think other departments of the county have suffered because the sheriff's department has been reinforced to a degree which doesn't justify the area that they service. Like I said, as I said previously, the

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villages I live in which encompasses nearly 1,100 people does not, never see the sheriff's department in it, never. [LB380]

SENATOR HADLEY: Thank you. [LB380]

SENATOR CORNETT: Further questions from the committee? Seeing none, Mr. Wolfe, thank you. Next opponent. [LB380]

DARREN WOLFE: Thank you. [LB380]

AMEN SHERIDAN: (Exhibit 11) First of all, I'd like to say, good afternoon now, Senator Cornett, and the rest of the Senators. [LB380]

SENATOR CORNETT: Sir, could you pull the mike a little bit closer and speak up. We have difficulty hearing. Thank you. [LB380]

AMEN SHERIDAN: My name is Amen Sheridan, A-m-e-n S-h-e-r-i-d-a-n. I am the current tribal chairman for the Omaha Tribe of Nebraska and Iowa. And today here to oppose, you know, LB380. LB380, you know, amends Nebraska Statute 23-362 and repeals Section 23-362.08. It also includes an emergency clause so that it will be effective immediately upon passage and approved by Governor. While the LB makes some changes in the administrative scheme currently in place, these are not particularly of interest of the Omaha Nation or other Indian Nations. The LB was introduced by Senator Rogert of Blair. So importantly, you know, the LB changes a form of state impact aid to counties in which significant amounts of trust land are located by the Omaha Tribe. You know, I believe that removing some of the requirements that the aid be or for the benefit of the Indian country removing provisions authorizing counties to participate with nonprofit programs in alcohol related programs. And increasing the amount of aid to the \$3.70 per acre in trust in the counties from, you know, \$1,000 maximum total. [LB380]

SENATOR CORNETT: I'm sorry. Again, they're not...it's not loud enough for them to pick up the recording and to hear in the back, so. Sorry about that. [LB380]

AMEN SHERIDAN: Okay. All right. Changings are permitted use from the jail operation and law enforcement to law enforcement and county operations generally. Increasing the amount of trust land needed to qualify for aid from in excess of 2,500 acres to an excess to 50,000 acres. Assuming that there is a Nebraska county which qualifies, it appears that our system earlier directed to benefiting Indians would be changed to increase the money provided by the state, allow use of the money for any county operations without regards to benefit to the native population of the county. This whole idea doesn't seem to make a lot of sense as most of the land location within the reservation boundaries is taxable by the county. I seriously question the factual basis for

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the legislation. It looks like a handout for the Thurston County primary without much basis and fact. The current status exiting all recites that PL280 increase the cost of law enforcement so that state aid is needed. The (inaudible) is removed by the LB. The tribes have police forces that can, do engage in law enforcement and attempts at cross deputizations have been rebuffed. Why should the state aid pay these counties in there, is no evidence of need? I would recommend some of the serious questions be asked about the factual background of LB and that there be equal serious efforts to either kill the LB if the evidence does not support the need for LB or to amend the LB so that a significant portion of the money be dedicated to the benefit of Indians. This would appear to not be revenue neutral as it appears that it would cost the state more than the current aid system. This factor may make some senators hesitate to support it. I am sure that there are significant arguments that can be made of the opposition of this LB as written. So these are some of the, I guess, the opposing, you know, thoughts are here for the Omaha Nation, you know, here against the LB380, you know. I believe that also that the state is receiving stimulus monies extended to law enforcement, hiring jobs. So, you know, we have a few of, I guess, concerns, you know of this LB380. And I believe that, you know, I think that if there was a, you know...allow the process for the Omaha Nation to have the opportunity to visit and to come to the tables and come to some agreement, you know, we as the governing body of the Omaha Nation, you know, are willing and always, you know, we believe in the open door policy of, you know, no matter, you know, what agency or government body we come to and we do address, you know, and try to make it possible so that, you know, we have an opportunity so that within, you know, the Omaha Reservation and as well as the nontribal members, you know, have the opportunity to benefit. And, you know, our governing body, you know, has, you know, the opportunity and, you know, I believe that if Mr. Rogert would have came to us and proposed this in a professional manner, you know, we as well would have probably commented, shared our input and as well, you know. Maybe been able to arrive to an agreement that could be possibly suitable for both, you know, the county as well as the Omaha Reservation. So, you know, these are some of the holding questions, you know, that we have here for LB380, you know. And I appreciate, you know. [LB380]

SENATOR CORNETT: Thank you. Senator Hadley. [LB380]

SENATOR HADLEY: Thank you. Just a quick question so that I can get this straight in my mind. In one of the talking points it did say that on a partial retrocession with the Omaha Tribe and the county maintains jurisdiction over traffic and some offenses involving Native Americans. Does that mean in the Omaha trust lands, your police officers cannot stop somebody for speeding? [LB380]

AMEN SHERIDAN: Yes, they can. [LB380]

SENATOR HADLEY: They can. [LB380]

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AMEN SHERIDAN: They can. [LB380]

SENATOR HADLEY: They can. Okay. So it doesn't have to be a Thurston County official... [LB380]

AMEN SHERIDAN: No, it doesn't. [LB380]

SENATOR HADLEY: ...to stop a person or ticket a person for speeding on tribal lands. [LB380]

AMEN SHERIDAN: No, it doesn't. [LB380]

SENATOR HADLEY: Okay. [LB380]

SENATOR CORNETT: Senator White. [LB380]

SENATOR WHITE: Do your tribal officers sometimes help out Thurston County officers, so your tribe also contributes to their safety? [LB380]

AMEN SHERIDAN: Yes. [LB380]

SENATOR WHITE: Thank you. [LB380]

AMEN SHERIDAN: Our law enforcement, you know, looks after all, you know, any citizen within our Omaha Reservation and to provide the safety for, you know. [LB380]

SENATOR WHITE: Thank you. [LB380]

SENATOR CORNETT: On the reverse side of that, if they pick someone up for an offense that is going to end up going to tribal court, then you take that arrest over, or maybe not the arrest over, but the tribal council then has to pay or bear the expense of that trial? [LB380]

AMEN SHERIDAN: Yes. [LB380]

SENATOR CORNETT: Senator Utter. [LB380]

SENATOR UTTER: Thank you, Mr. Sheridan, for coming to testify. Can you just tell me the last time that you remember that you sat down with the Thurston County officials and the officials from the other tribe and discussed your mutual issues? Do you do that on a regular basis? [LB380]

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AMEN SHERIDAN: No, we don't. I can't recollect when, you know, we have come to, you know, to a consultation with other tribes. [LB380]

SENATOR UTTER: Would that be a good idea? [LB380]

AMEN SHERIDAN: Oh, I believe so. I believe it would result into some good resolutions to some of the issues that are going on within the reservation. [LB380]

SENATOR CORNETT: Do you see any problem...any...do you see any reason why you and Thurston...the reservations and the counties couldn't enter into interlocal agreements for some of these services? [LB380]

AMEN SHERIDAN: Do I see any reason? [LB380]

SENATOR CORNETT: What are the reasons you see they couldn't? [LB380]

AMEN SHERIDAN: I really don't...I really don't, and the question for myself, the answer is that I really don't see any issues that could be...I think a lot of them, you know, we as a governing body, you know, we try to arrive to the best interest within our Omaha Tribe and within the county we are law abiding citizens. [LB380]

SENATOR CORNETT: Senator White. [LB380]

SENATOR WHITE: If we set up an interim study and invited the Omaha Tribe, the Thurston County, the Winnebago Tribe, and perhaps the Bureau of Indian Affairs, I don't know, to sit down and talk about the confusion of jurisdiction of what state laws could be passed to help it, and maybe also encourage interlocal agreements and other issues, would the Omaha Tribe, to your...do you think, I know you can't speak for everybody, do you think it would be willing to participate in that to make sure it's clear and the funding is more fair to everybody? [LB380]

AMEN SHERIDAN: I believe so. I believe so, they would. [LB380]

SENATOR CORNETT: Senator Hadley. [LB380]

SENATOR HADLEY: Mr. Sheridan, just a quick question. Is it the Omaha Tribe that is cross deputized with the Thurston County or is it the Winnebago? [LB380]

AMEN SHERIDAN: It is the Winnebago. [LB380]

SENATOR HADLEY: It is the Winnebago, okay. Would you have a difficulty being cross deputized with the Thurston County sheriff's department? [LB380]

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AMEN SHERIDAN: I don't there would be any difficulty as long as we could come to mutual understandings. [LB380]

SENATOR HADLEY: Okay. I was just curious as to why, you know, one Nation there is one, and another Nation there is not one, I just... [LB380]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you very much. [LB380]

AMEN SHERIDAN: All right. [LB380]

SENATOR CORNETT: Next opponent. [LB380]

RODNEY MORRIS: (Exhibit 12) Good afternoon to each of you at this time here and the ones that are here. My name is Rodney Morris, Rodney, R-o-d-n-e-y, Morris, M-o-r-r-i-s. Currently I serve on the tribal council. I was elected at large from the Omaha people, the Nation. At this time here, I'm just here in part of the taxation. What's going around is coming from the Revenue Department here on taxation, definition of Nebraska Indian Reservations. A Nebraska Indian Reservation includes all land within the original exterior boundary of the reservation. Advice has been requested as to what constitutes a Nebraska Indian Reservation for tax exemption purposes. All land within the original boundaries of any Nebraska Indian Reservation which has not been specifically removed by an act of Congress or Executive Order is part of the Indian Reservation for Nebraska tax purposes regardless of the ownership of the land. In Nebraska, reservations include the Santee Sioux, Omaha, Winnebago, Iowa, and Sac and Fox Indian Reservations. These reservations were established by treaty. And it goes on to the second paragraph, the Omaha Reservation as established by an 1854 treaty is located primarily in the southern half of Thurston County with a few sections in adjacent Burt County and Cuming County, all in northeastern Nebraska. It can be described approximately as follows... The cities, towns, and villages of Pender, Thurston, Winnebago, Macy, Walthill, Rosalie, Santee, and Lindy are located within the boundaries of the Santee Sioux, Omaha, and Winnebago Reservations. The city of Emerson, south of First Street, is also within the Winnebago Reservation. The village of Preston is located within the Sac and Fox Indian Reservation. No cities, towns, or villages are located within the Iowa Indian Reservation. And this was approved by M. Berri Balka, State Tax Commissioner, March 6, 1992. I don't know if this has been amended. I don't know the revenue ruling, 99-92-1 supercedes revenue ruling 99-90-1. And in their...three years back here I had opportunity, privilege to be here in the Governor's mansion. A memo came from Governor Heineman dated July 21, 2005. It was referenced to government, the government relations with the Native American Tribal Governments. The state of Nebraska was established by Congress pursuant to the Constitution of the United States as a sovereign state. The state of Nebraska recognizes that the four federally recognized tribes headquartered in Nebraska, the

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Omaha Tribe, the Ponca Tribe, the Santee Tribe, the Winnebago Tribe, have a unique status that sets them apart from other groups and interests in Nebraska. The status adds the significant dimensions of government to government relations to the manner and quality of state agency, officer, and state...excuse me, staff interaction with the tribes and their components. Today, I'm here because I'm concerned about the taxation, since the Omaha Tribe we have a treaty. And this treaty came about in 1865, March 6, 1865, (14 Stat., 667) ratified February 13, 1866, proclaimed February 15, 1866. Then I'm going to refer on to Article 4 down below, it says, under such rules and regulations as may be prescribed by the Secretary of Interior and they shall be exempt from taxation, levy, sale, forfeiture, until otherwise provided for by Congress. So this will be an act of Congress to tax this trust land, which I'm here today. That's all I'm here about here today. You know our treaties are in place. You have to recognize our treaties. [LB380]

SENATOR DIERKS: Rodney, would you spell your last name for us? [LB380]

RODNEY MORRIS: Morris. M-o-r-r-i-s. Rodney Morris. [LB380]

SENATOR DIERKS: Thank you. Questions for Rodney? Senator Hadley. [LB380]

SENATOR HADLEY: Yes, Mr. Morris, thank you. The last paragraph of this revenue ruling, 99-92-1, it says the cities and towns of villages and then it says, Pender, are within the boundaries of the reservations. But am I correct that the fee land in Pender is being taxed now, is that correct? [LB380]

RODNEY MORRIS: Well, I did talk to my realty officer and we went carefully with these descriptions. We have a map and we went, you know, by the description of what's on...what you have there and it's accurate. [LB380]

SENATOR HADLEY: It is accurate. [LB380]

RODNEY MORRIS: Yes. [LB380]

SENATOR HADLEY: So are you saying that they are not being taxed...the fee lands are being taxed? [LB380]

RODNEY MORRIS: I don't know that. All I'm relating to is trust lands. [LB380]

SENATOR HADLEY: Or trust...I should say. [LB380]

RODNEY MORRIS: Yeah, trust lands. [LB380]

SENATOR HADLEY: And the trust lands are not being taxed, is that correct? [LB380]

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RODNEY MORRIS: To this moment in time, I don't think they are. That's why I'm here. [LB380]

SENATOR HADLEY: Which is, from what I read on this is correct. They shouldn't be. [LB380]

RODNEY MORRIS: Right. They shouldn't be. Yes. According to what was mandated at that time, 1992. And I don't know if the Revenue Department amended this. I don't know that because, you know, I wanted to bring this here, you know, and just to relate it, you know. But that's what I'm here for just on the taxation. [LB380]

SENATOR DIERKS: Any other questions for Mr. Morris? I guess not, thanks so much for coming. [LB380]

RODNEY MORRIS: Thank you. [LB380]

SENATOR CORNETT: Are there any further opponents? [LB380]

VINCENT MERRICK: Good afternoon. My name is Vincent Merrick, Sr., V-i-n-c-e-n-t M-e-r-r-i-c-k. I'm a member of the Omaha Tribe of Nebraska and also a citizen of the state of Nebraska. I have two citizenships here. And all the testimony that's been heard so far, it's been interesting. I agree with Senator White that some of the matters and issues that may be in front of the wrong committee here, such as jurisdiction and so forth. But giving a little background about myself, I am a 33-year career retired law enforcement officer, both with the Bureau of Indian Affairs and Tribal Law Enforcement. I've worked five reservations throughout North Dakota, South Dakota, Minnesota, and Nebraska. I've had the opportunity to work with and in conjunction with many sheriff departments, state officers, offices, and coming back to the jurisdiction of the Omaha Tribe and the state of Nebraska and the confines of the Thurston County and the exterior boundaries of the Omaha Indian Reservation. But before...I like to get windy, excuse me, but moving on I'm kind of...I've written some notes here. And looking at LB380 and there's some Section 23-362. Some items are scratched or there's a line in the wording in some of this language here. And in the very beginning of this section is, "In order to equitably distribute," it's, you know, equitably distribute. And the equality of the distribution of the monies and funds that the Thurston County is asking for. The other one is, I had going down into line 12, which is also scratched. It says, "for the benefit of Indians in any county which has." Why are these scratched? You know, there has never been any consultation with the Omaha Tribe by Senator Rogert or anyone else. And throughout the history in the past ten years, I'm going to say, is the relationship between the county and the tribe has been very soured, and jurisdiction is one of the issues when the retrocession comes up and so forth. And I, as a former law enforcement officer, you know, I feel that, you know, public safety should be the main

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concern, the priority concern on our highways, our state highways, county highways, or within exterior boundaries of the reservation, within the boundaries of the Thurston County. But going back to Public Law 280 in '53, the federal government gave the state jurisdiction, criminal and civil, but in retrocession it only gave partial jurisdiction back to the tribe in the federal government, and where this tribe shares concurrent regulatory jurisdiction in traffic offenses. That creates a problem and has for years. I have 13 years of experience working for my tribe, the Omaha Tribe. I worked from a dispatcher jailer to a sergeant, to a captain of police, to the chief of police. And three...three different sheriff's, friends of mine. The sheriff Harold Obermeyer, he's retired, his son, Chuck Obermeyer, he's retired, and the current sheriff. But all in all, the dilemma that the police have to deal with out there after 5:00 in the evening when everybody goes home and Friday night when everybody goes home, and Saturday and Sunday when they have to respond to calls in that nature. And they wrestle with these...the police out there. The very basic responding police have to wrestle with authority and jurisdiction and so forth, and it's not their role. It's legislation, it's the government's role to identify and interpret legislation law, what may be statute, to give them guidance in the field there. And...but, you know, I'm kind of moving on in my notes here, but the original intent was to provide state impact aid or financial aid to the counties for additional responsibilities to provide services to Indians. This is the original author whoever penned it back in '53 or whenever that happened. But the language here is being fit to today's need and for the loss of tax dollar to trust lands. And then I'll reflect on the chairman's testimony to the removal of the...for the benefit of the Indians from it, striking that. Removing the provision authorizing for the counties to participate with nonprofit programs in alcohol-related programs, etcetera. That says that, you know, at that time of development that perhaps alcohol was a problem, so this is one way of helping the county in dealing with the problem, wherever it may be. But they increased it \$3.70 per acre for the 1,000 maximum total, excluded the jail operations, law enforcement from LB380, but included and changed to have law enforcement and county operations. County operations, what that may be, it's road maintenance, it's whatever, however. Increasing the amount of trust land from 2,500 acres to 5,000 acres or 54,000 acres. And the other, the questions, my question is the...there was never any consultation by various individuals, a variety of individuals, Senator Rogert with the tribes to...okay, what is this for. How is it going to be...these are the questions you're going to be asking why, what, and how is it going to be distributed equitably. That's what we're looking at, I'm looking at. But, you know, over the past few years a movement has developed over the years advocating dissension between the Indian and non-Indian communities and at all levels of our society there. We weren't experiencing that. But...and we have to realize today that today there is an opportunity to consolidate resources for the benefit of all residents of Thurston County. I'm a tribal member. I'm a resident of south Thurston County. I'm a citizen of the state of Nebraska. Why, you know...I think there needs to be some more research and some work, some more consultation on this matter. I'm a taxpayer. When I leave the reservation I go to Walmart. I pay taxes. I go to Hy-Vee, I pay taxes. Today I had lunch coming here. I had lunch, a nice lunch at Village Inn. I pay

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taxes. I'm still a taxpayer. Many of us are. We're just not confining us to one centralized area. But this continued adverse thinking by some, only impacts our communities negatively and progress is slow. Thurston County has history. There can be some progress if only that the minds of the leaders are enjoined in the same effort to improve the quality of life for the whole area, improvements of roads, improvement of the ambulance or school, and policing, etcetera. There's a...I don't want to speak in negatively, but I would be glad to answer any questions in regards to jurisdiction, law enforcement authority, I mean, in Indian country. And furthermore, and last to let you know is, LB161, I believe that was 2001. Is the... it was passed into law and statute, Nebraska statute. But basically it was a process that initiated cross deputization in Winnebago Nebraska with the Winnebago Tribe of Nebraska, and of which I was the chief of police there for nine years and we sat at the table with the state patrol officers and the hierarchy of the state patrol, the Governors office, the BIA, and we came up with the cross deputization plan that worked. It did work and it's still working. And if...to furthermore, to talk about the benefits of it, it provided safe highways throughout the reservation. It also generated revenue for the state of Nebraska and the county. On average we had 14 to 15 officers there, BIA and tribal. And the traffic enforcement enhanced by tenfold. And every month I received the dispositions back from the county courts in regards to the traffic enforcement and the fines and etcetera. And it amounted to about, on the average, about \$7,500 a month that went to the...I mean, that went to the county state coffers. But there's some positives there so. But with that, if there's any questions. [LB380]

SENATOR CORNETT: Senator Hadley. [LB380]

SENATOR HADLEY: I think you answered my question, but you have seen areas and worked in areas that there has been cooperation between law, the different law enforcement groups. [LB380]

VINCENT MERRICK: Yes, I have. Yes, I have. [LB380]

SENATOR HADLEY: For the better...for the good of all people. [LB380]

VINCENT MERRICK: For the good of all people. [LB380]

SENATOR HADLEY: Okay. That was my question. [LB380]

VINCENT MERRICK: If I may add too, I worked in Minnesota where all the tribes are under the Public Law 280 in jurisdiction where the state and county maintains full criminal and civil jurisdiction but shares certain civil regulatory laws with the state tribes. [LB380]

SENATOR CORNETT: Maybe I misheard you, did you say that the jurisdiction issues

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have caused sour feelings? [LB380]

VINCENT MERRICK: Yes, there has been, to some degree. [LB380]

SENATOR CORNETT: That is somewhat opposed to what we heard for proponents testimony that there was no hard feelings. That everyone was trying to work together. [LB380]

VINCENT MERRICK: Well, we all have our constituents we talk to and what not and our perceptions. And I've been retired since April, '07, moved back from Minnesota and saw and know and seen that there are some issues there. And there is a very negative relationship which could be better. [LB380]

SENATOR CORNETT: Now, you worked in four states and I assume a number of different reservations, correct? [LB380]

VINCENT MERRICK: Yes. [LB380]

SENATOR CORNETT: Do you see the jurisdictional issues in Thurston, while being different than other areas, are any more complicated? That they...do you see any reason that these issues couldn't be worked out? [LB380]

VINCENT MERRICK: They could be worked out. And the only thing that complicates the matter is the concurrent civil jurisdiction. I would think if the concurrent civil jurisdiction issue and the Omaha Tribe was to retain retrocede, full civil jurisdiction, then a cross deputization agreement could work. But for...a further pursuit of the matter, the only thing that would probably, what I feel in my experience would be a mutual aid agreement where both agencies, departments, they agree to assist and... [LB380]

SENATOR CORNETT: That was my next question and I've asked this before. Do you, having been in law enforcement, and worked again in a number of different states, see any reason that the tribes and Thurston County can't enter into interlocal agreements? [LB380]

VINCENT MERRICK: They can with the mutual aid. [LB380]

SENATOR CORNETT: With mutual aid, cross deputization. [LB380]

VINCENT MERRICK: Cross deputization is...both have civil jurisdiction so, I mean, why a cross deputization agreement wouldn't... [LB380]

SENATOR CORNETT: Do you see any logical reason to have three dispatchers, three separate dispatching? Other than... [LB380]

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VINCENT MERRICK: Okay. The logical thing is, is what's come before and was mentioned earlier is that the Omaha Tribe is a sovereign nation and... [LB380]

SENATOR CORNETT: But beyond that they could enter into an agreement, correct? [LB380]

VINCENT MERRICK: They could. [LB380]

SENATOR CORNETT: Senator White, did you have a question? [LB380]

SENATOR WHITE: I'm good, thank you. Thank you, sir, most helpful. [LB380]

VINCENT MERRICK: Thank you. [LB380]

SENATOR CORNETT: Thank you very much. [LB380]

VINCENT MERRICK: Thank you for your time. [LB380]

SENATOR CORNETT: Are there any further opponents? [LB380]

WYNEMA MORRIS: Good afternoon, Senators. My name is Wynema Morris, that's W-y-n-e-m-a, last name Morris, M-o-r-r-i-s. I'm here this afternoon as a citizen of the Omaha Tribe of Nebraska and the state of Nebraska and of this United States. As a taxpaying tribal member, I think I'm in the right room here because this is the Revenue Committee. As a taxpayer in that county who owns apparently fee simple land, I do not propose or I do not support throwing additional monies at a problem that as a tribal member I can see that is going to be relatively workable. We've talked about it, and Senator Cornett has asked very pointed questions about what are the reasons that the county and the Omaha Nation cannot come together. There aren't any, insofar as I know. My background is, I've been in tribal government for longer years than I care to remember, but nevertheless I'm semi-retired right now and I do watch my government closely. So I'm very glad and pleased to see that the majority of them are here and that they're earning their pay today. So I would like to see them move forward in resolving this issue in terms of a cross deputization agreement. I was around probably a little bit longer, maybe, than Vince, our last testifier here, with regards to cross deputization with the Omaha Nation and Thurston County. And of course, back in those days people I don't think understood very well that American Indians are nations and governments first and foremost. And so they had a lot of problems to overcome. Despite that, I think that there have been some great strides. And I think that there has been some positive movement in the right direction. Keeping track of what my government does, I understand that there have been at least two meetings in the U.S. Attorney's Office in Omaha, wherein all the parties were invited to come and discuss this situation. Yes, it is

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a jurisdictional quagmire, not created by any one particular entity. But if we wanted to point fingers, I guess we'd have to look at the United States in their great wisdom at that time in thinking that American Indians were rather simplistic, which, of course, has borne out the fact that that is simply not the case. As a result, we today have got to continue to move forward to try to find a workable solution, as I heard one of the proponents say, for all of the citizens in Thurston County. The reason I make a big to-do about being a taxpayer is simply this. Years ago, I needed some assistance. Someone was trying to break into my house. I called, I believe it was 911, or maybe it wasn't, maybe it was just the sheriff's office, and I told them who I was, where I lived, and was immediately told, fine, I will call Macy and get the tribal police there. And as a taxpayer, I had the same reaction as you are, wait a minute, I am paying taxes to Thurston County, I want the nearest police officer as soon as possible. I cannot wait even five minutes. This person is determined to break into my house. There are three women in this house only. So when I look at my tax dollars going to be thrown at a problem that I think requires a lot more work, work that can be achievable, at least certainly I hope so, because this problem has been around for a long, long time, that we can work towards that solution. At the U.S. Attorney's Office, it is also my understanding, Honorable Senators, that the tribal government very openly made an invitation to the representatives from Thurston County to come to the table to begin work on this entire issue. Whether or not that has proceeded from this point forward, I do not know. But I am very interested in as a citizen not only of my own nation but also of our great state here. I would surely like to see us move in that direction rather than just throwing money towards it. The other issues of Public Law 280, the other jurisdiction...the issues of jurisdiction I believe do belong in the governmental committee and I believe that the tribe should probably look into that as well. In fact, I would like to see the tribe move towards more fuller retrocession much in the same manner as the Winnebago Nation has done. Unfortunately, we are not there yet and this isn't the right committee, but I would certainly throw my support behind moving this whole issue forward either with the U.S. Attorney, with county government, state government, the Bureau of Indian Affairs, and anyone else who would be interested in making sure that all citizens who reside in Thurston County are protected. That is all I have, Senators. I'm merely a citizen, very interested in what my government is doing, and this is my statement to you this afternoon. Thank you very much. If you have any questions, I'll do my best to answer. [LB380]

SENATOR CORNETT: I have one question. If we send the money to Thurston County, do you see any reason for them to come to the table and work out the issues between the two tribes and themselves? [LB380]

WYNEMA MORRIS: I think that what will happen if you throw the money at them is that it will simply prolong this issue of coming to the table to hash out the fundamental problems that we have been experiencing. So I think it will just further delay it and we may be having the same discussion next year without any real movement forward. And

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as I said, as a taxpaying citizen, I do not relish the fact that this would happen once again but rather if we have the means and we have the...let me just say it plain, if we have the guts to move forward to come to the table, hash out our differences and come to a really good cross deputization scheme that is satisfactory to everyone, then I do not believe that the tax dollars would be necessary at this point. That's not to say that there are cost of living expenses, etcetera, and that is understandable. Those are, those are things that happen in all governments, but to simply to throw it at this particular issue for that problem, I do not see that as being a solution. Thank you, madam. [LB380]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB380]

WYNEMA MORRIS: Thank you very much. [LB380]

DON WESELY: Senator Cornett, members of the Revenue Committee, my name is Don Wesely, D-o-n W-e-s-e-l-y, representing the Winnebago Tribal Council. Very briefly, the Winnebagos share concerns that you've heard expressed by the Omaha tribe. The Winnebago Tribal Council has looked into the concept of a federal payment of in lieu of taxes and that that is a program that is available that they utilize in some areas. Would be willing to work with Thurston County to try and see if that might be a way to bring in some funding to meet some of the concerns that they have. And so the offer from the Winnebagos is to work with this committee, with Senator Rogert, with Thurston County, and with the Omaha tribe to find a resolution to this, hopefully through an interim study. That's our comments and our offer to work with you. [LB380]

SENATOR CORNETT: Seeing no questions from the committee, thank you. [LB380]

DON WESELY: Thank you. [LB380]

SENATOR CORNETT: Further opponents? [LB380]

STERLING WALKER: I just want to say good afternoon. My name is Sterling Walker, S-t-e-r-l-i-n-g W-a-l-k-e-r. I am the vice chairman of the Omaha tribe and I have some thoughts on LB380. The state is receiving stimulus money intended to boost our law enforcement, hiring and jobs. Why would the state use state funds set forth in LB380 for these purposes when the state, when it can be used for. This LB creates a continued state aid obligation where there isn't any proof of either need or additional benefit. It also seems to have the potential to intensify negativity between Native Americans and the Thurston County residents. As the rationale for the change is not readily apparent and the issue of law enforcement in Indian country and relationships between tribal entities and local governments need to be explored in a better forum, and perhaps some day that will happen and the Omaha Tribal Nation would welcome that discussion. And I'd just like to say, you know, myself too, you know, I'm a veteran of the United States Marine Corps. I served this country. I have a honorable discharge. And I just had some,

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you know, thoughts on this LB380 and I'd just like to say thank you for letting us come down here and testify against this bill. [LB380]

SENATOR CORNETT: Questions from the committee? Did you have further comments? [LB380]

STERLING WALKER: No, no, ma'am. [LB380]

SENATOR CORNETT: Okay. I didn't think so but I wanted to make sure. Thank you, sir. Further opponents? [LB380]

JEFFREY GILPIN: This time, Aho! Umo ho abthi, Ko ze niashi ga abthi. Thixthigazhi abthi. Introducing myself to you. I'm from the Omaha Nation. I'm from the Gonsai (phonetic) people, the Wind Clan people and my Wind Clan name is Licklickashee (phonetic). It means that it never changes and I am on the Omaha Nation Tribal Council. I'm the secretary... [LB380]

SENATOR CORNETT: Sir, sir, sir, I apologize. Just for the record, we need you to spell your name, beyond that everything is... [LB380]

JEFFREY GILPIN: Okay. My English name is Jeffrey, J-e-f-f-r-e-y, Lynn, L-y-n-n, Gilpin, G-i-l-p-i-n, and as I was saying, I'm the Omaha Nation's Tribal Council secretary and in regards to what's taken place here listening to the opponents and proponents for it, we have been working, trying to work with Thurston County, the Sheriff Kleinberg, and Teri Lamplot and try to sit down in, I guess, a peaceful manner and offering our services in regards to resolving racial issues that we're having. That's basically what this amounts to. When I was a youngster, I experienced that and just recently there was some issues that took place in the village of Walthill where one of the police officers was attacked and that's where this is all leading up to. Like I said, you know, it's a racial issue and as it was stated, this does not belong in here. And anyway, I'm just...I oppose this and as the tribal leader, I had to get up here and say something. Maybe it's not exactly what needs to be said, but from another point of view, I am a prayer leader and to me this, the way that they're seeking this revenue is underhanded, it's...I'll just read right down what...LB380 is racially motivated. It contains hatred, animosity, and prejudice towards the Omaha people and it shows signs of deviousness to gain financial benefit for the community of Pender. And if the community of Pender is economically depressed, then they should be using their wisdom and knowledge to improve this situation rather than using this devious tactic to capitalize off the Omaha people and their lands. As you all know, Pender is the county seat like the capital of the state of Nebraska which has the most intellectual, intelligent people in the government. The county seat also is supposed to be comprised of the same intellectual, intelligent people and so what I'm...I didn't finish writing this out, but they should be seeking economic development for their area. And to me, for Senator Rogert to stoop as low as this, to me is shameful and disgraceful

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in his regards as far as I'm concerned. And that's all I have to say. [LB380]

SENATOR CORNETT: I understand you have your opinion there. I doubt knowing Senator Rogert, that was his intention on this. This bill was brought to him, I am sure, by someone and did not understand the feelings that might be involved in it. Since you obviously also have an angst over this bill and possible hard feelings, you are tribal elder, correct, or leader? [LB380]

JEFFREY GILPIN: Yes, yes, I am a prayer leader there. [LB380]

SENATOR CORNETT: Would you be willing to sit down and negotiate with Thurston County in a reasonable manner to come to agreements on interlocal agreements and cross deputization? [LB380]

JEFFREY GILPIN: Yes, I am a part of that. I was one of the individuals that was representing the Omaha Nation down there at U.S. Attorney's Office, Stecher's office there, and several of the other Council members and we were there along with the heads of the state patrol, FBI, those types of individuals. And that's what we're working towards and we extended our hands to them to ask them what we can do to help and make things better in our communities. [LB380]

SENATOR CORNETT: Okay. Thank you very much. Further questions from the committee? Thank you, sir. Are there any further opponents? [LB380]

ANSLEY GRIFFIN: Good afternoon, Honorable Senators. My name is Ansley Griffin, spelled A-n-s-l-e-y, last name G-r-i-f-f-i-n. And I'd like to say that I'm opposed to this LB380 today. I believe that as Senator Cornett had spoken, as well as Senator White, that some resolve can be brought about through careful negotiations. I think this is a little premature. I believe that there is all sorts of ways in which we can find resolve to this economically. So I think this is a little premature today to come to the Revenue Department or the Revenue Committee and propose this. We're not at odds with anybody that I believe...I'd like to work with the county myself as an individual councilman. I'm a former chairman and I believe that...the same that I had to believe last year when I was wanting to do the retrocession. I believe that we can find resolve as individuals and as well as nation to nation. I think that in the future that if we can do these things, that we can find a better way of accomplishing what we need to. And there's a lot of money out there that we can, that we can tap into as separate and separate governments as well as working together. You know it yourself, Senators, that there's money out there that the President has allocated that we can tap into. I think it's a wonderful opportunity right now that we work together and that we try to find resolve. And in the future, Senators, I'd like to, you know, implore Senator Rogert to come to the government of the Omaha Tribe and work with us on a government to government basis, because as a Senator for our district he represents us as well and that I would

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also like to encourage you to not forget that we are a sovereign nation, that we are a nation to nation as recognized by the federal government. And I'd like to say in a positive manner that the Omaha Tribe has never taken arms against the United States government because we weren't that type of a tribe. We've always wanted to negotiate and come to the table. And when we did, we sat down in a peaceful manner. And I think that's why today we've come here today and we speak in that manner. Thank you. [LB380]

SENATOR CORNETT: Senator Utter. [LB380]

SENATOR UTTER: Just one quick question. Are there, are there differences between the tribes or are the tribes, the two tribes, the Omaha and the Winnebago in agreement or are there, is there also communications problems between the two tribes? [LB380]

ANSLEY GRIFFIN: Senator Utter, I'd like to...is that the proper pronunciation? [LB380]

SENATOR UTTER: Yes, sir. [LB380]

ANSLEY GRIFFIN: Okay. I'd like to say that I cannot speak for the Winnebago Tribe, that we also try to work together as tribal nations, government to government. Is it a perfect relationship? No, it isn't. Do we strive for mutual respect and mutual accomplishment of the betterment and the health and welfare of our people? Yes, we do. But just like any other entity, we have our differences, but we're not opposed to working them out. So as any other government, we do have, you know, an open arm and open hand to any government that is wanting to work with us. [LB380]

SENATOR UTTER: Thank you. [LB380]

SENATOR CORNETT: Any further questions from the committee? Seeing none, thank you. [LB380]

ANSLEY GRIFFIN: Thank you, Senator. [LB380]

SENATOR CORNETT: Next opponent. Are there any further opponents? Is there anyone here to testify in the neutral capacity? Seeing none, Senator Rogert, I believe, has waived closing. That closes the hearing on LB380. Senator Stuthman, you are recognized to open on LB474. [LB380]

SENATOR STUTHMAN: (Exhibit 13) Senator Cornett and members of the Revenue Committee, for the record, my name is Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n. I am here to introduce LB474, and I would like to ask the page to pass out an illustration that I would like for you to go over with me. I introduced LB474 on my own. It has to deal with property that is owned by a state or governmental agency, and it is purchased

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mainly for the public use. The issue that I have is a fairness issue. Property that was purchased in this manner, by a city, a school, or a governmental entity. If it rents this property out to a private party, raising a commodity that is in direct competition with other commodities that are raised on similar property that is taxed. In my opinion, this is a fairness issue. The illustration that I'm going to give for you, and I will go over that illustration if each one of you has those parcels. I will go over the first parcel that I have, and I have got these in four parcels. Two parcels are parcels similar. They are in the same vicinity and, matter of fact, they are across the road from each other. The first parcel is an irrigated parcel. It is privately owned and leased, and it produces corn, soybeans, and it's in a school district in the Columbus township, Columbus rural fire district. The tenant is eligible for government subsidy, and the lease agreement is...I have \$220 an acre is what I'm using. I do not know the current lease value of it, but in my opinion, that is immaterial. The total value from the assessor's office on this parcel is \$114,000. You can see the taxes there. The Platte County tax which includes law enforcement, fire district, townships, bookmobile and others, and we have county library, ag society, the school district, ES 7, all of those, they are identified. This comes to a taxes per acre of about \$43. Parcel 2...Parcel 2, I have irrigated ground on, the amount of acres, but there is some dryland included in that. But that really...the value is there from the county assessor. This property is owned by the city of Columbus, and it is leased. These parcels of ground produces corn, soybeans, and is in the Lakeview school district, Columbus township, Columbus rural fire district. The tenant is eligible for government subsidy. Everything just as the property in parcel 1. Total ag land value, the assessed ag land value is \$290,000. Using the tax rates that I have described here, the same that would be on the other parcel, Parcel 1, current tax is zero, because that property is exempt from taxes. Taxes under LB474 would amount to about \$4,250-some dollars. The issue that I have is all of these entities that receive tax money from this property, they're not receiving any. So those dollars that had been generated in years past and in prior years to the purchase of this ground, that total valuation of \$290,000 was taken away from the school district. All of these entities did not receive any more tax from that entity, and I think the only thing that has changed is the title of who owns the property. It is used for identical services. The commodities that are raised on this utilize the roads just as any other commodity, and those taxes are \$32.58 an acre. Now I will use this illustration to start with as an instant why I think that they should be taxed because they are leasing this ground out for \$220 an acre in the vicinity of that. It's close to that. I don't have it identified exactly, because there's some ground that was less than that, and some ground that was higher, but it's in the vicinity. But I'm using that as the same situation as Parcel 1. Those \$220 per acre are paid to the city of Columbus, because they have a lease agreement with a private party, raising a commodity just like the Parcel 1. There's \$32 an acre...\$32.50 an acre that really should be going to the entities in the taxation there, as I stated--the county, the library, the ESU, and everything like that should be getting their rightful tax dollars from that property, because it has been leased out for the \$220 an acre. I have no problem with them leasing that out. I have absolutely no problem with them leasing that out. But I

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think that \$32 an acre should be subtracted from that \$220. And I will illustrate an example in my next situation of what happens in another situation. Okay, we'll go to Parcel 3. Parcel 3 is dryland acres, and it's owned by the Columbus Public Schools. It is leased. Again, it produces corn, soybeans, and is in the city of Columbus, Columbus public school district, Columbus fire district, eligible for government subsidy. This situation is the tenant lease agreement is approximately \$100. But this property, the assessor sends the lessor, the one that is renting the property, a notice of intent to tax. So, the tenant of that property, which the taxes run about \$35 an acre. The tenant pays the taxes, subtracts it from the \$100, and the balance is given to the city of Columbus...not the city of Columbus...the Columbus Public Schools. So they're getting about \$65 an acre which I think is the appropriate way. Now we have Parcel 4 which is another dryland parcel, and this is owned by the Columbus Airport Authority, and that produces wheat, corn, soybeans, and it's in the city of Columbus, Columbus school district, Columbus fire district, eligible for government subsidy. Tenant lease is...I'm not positive on this, but I'm using \$100 per acre. The amount of value of that property to the county, and it still has a value because it's used for ag land purposes. Otherwise, it wouldn't be even on the tax roll; it wouldn't have any value, because other property that isn't taxed, if it doesn't have an ag land value to it, that wouldn't show up. On that property which is \$544,000 of value, it generates absolutely no taxes in the current year, and for several years before. But if it was taxed accordingly to the other parcel which is only a mile away, not even a mile away, same type of soil, everything like that. That property should generate for the entities of the community, \$8,600. I think if it's generating income, it should pay its fair share of the tax dollar. I have no problem with the fact that if it does not have taxes, if they want to leave it and sow it to grass and don't rent it out, perfectly okay. But if they want to lease this ground out and generate some income, I have no problem with that either. But don't take the whole rent check and not pay taxes on that. Another instance that I have brought up, and I serve on the Columbus rural fire board, fire district as a volunteer, we have property in the county that is not in any fire district. That property does not pay a fire tax. But this would be the same situation in this city property. It's not taxed; there's no fire tax on that property. What we have in our rules and regulations is the fact that if we are called there for a fire, we can bill the entity or the property owner for the cost of going there and putting the fire out, because we're not generating any taxes on that. So with that, I think this is a fairness issue, in my opinion. I have no problem with them leasing the ground out, but I think we need to get a portion of that for all of these entities when the private party is raising something that's in direct competition with everything else that's utilizing the roads and the road system, and it's in direct competition with any other commodity. That's the way I feel. I feel that, you know, I don't want to stop them from doing it, but I think it should be under the same thing as the Columbus City Schools where the assessor sends out a letter, a notice of intent to tax. The tenant pays the taxes or the city could pay the taxes, one way or the other, but that comes off of the lease payment. With that, I'll attempt to answer any questions. [LB474]

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SENATOR CORNETT: Questions from the committee? Senator Adams. [LB474]

SENATOR ADAMS: Senator Stuthman (laugh). [LB474]

SENATOR CORNETT: Fooled you there, didn't I? (Laugh) [LB474]

SENATOR ADAMS: Senator Stuthman told me this summer he was going to bring this, and we cordially slapped each other on the shoulder and said and hence, we will do battle. Let me just ask some basic questions of you, and you obviously know where I'm headed, because we've had this discussion. So to begin with, if we were to implement your bill, do you think that that would then encourage political subdivisions just to do nothing with that land, let it sit? Rather than pay the tax on it. [LB474]

SENATOR STUTHMAN: Well, I think if the political subdivision would say, well, we're not going to do anything, and then that would be a business decision of that authority. You know, do they want to mow the weeds, keep the weeds down because the Noxious Weed Control and other people have complained about weeds growing there, and it's unsightly and everything like that, and they would have to maintain it. That would be an expense to them. I think the business decision would be to lease it out, generate some revenue, and pay the tax, because it's a win-win situation. [LB474]

SENATOR ADAMS: I guess what I'm wondering is, if I'm the city of Columbus, I have a tractor and a mower--I could probably go out and cut the weeds down, and not pay the tax. Or I could lease it out to a local farmer and let them grow a crop on it, whatever the lease agreement is, sharecrop, whatever it may be. And put those monies back into...let's say it's Airport Authority, I put it back into the Airport Authority Fund to help reduce the cost of operating the airport or the landfill or whatever it may be. One of the...several things I fear here is, it will encourage political subdivisions just to do nothing with it rather than pay the taxes, just let it sit and go to weeds. [LB474]

SENATOR STUTHMAN: But if they can generate some revenue from it, in addition to paying the taxes, it'd be a smart business decision to do. And because that would be the Weed Control that would maintain it, the tenant would be in charge of maintaining, you know, all the weeds, the mowing and everything like that, he'll be raising a crop on it, but he would be paying to utilize that property for that lease year. And say, I've had the same conversation with local people. They say, well, you know, it's going to cost us, you know, maybe \$30 to mow it or keep it sightly or to take care of the ground would cost them that. And that may be; that may be true. But why wouldn't they...if they have an opportunity to lease that ground out for like here, this \$200 an acre and pay the \$35 or \$40 an acre tax, they're still ahead by \$160 to \$180 an acre plus the fact they don't have to do anything with it. I mean, I can see your point. Somebody says well, let's just...by golly, I'm not going to pay the taxes, but I'm going to let it go, and then I got to hire somebody and I've had many calls of property owners as a county supervisor

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saying, why don't you get on that guy to mow his noxious weeds? And the county can do it and assess the property owner for the mowing of the noxious weeds. [LB474]

SENATOR ADAMS: I'll stop. [LB474]

SENATOR CORNETT: Senator Hadley. [LB474]

SENATOR HADLEY: Senator Cornett, Senator Stuthman, I know you may find this shocking, but I agree with your position (laughter). And I guess I'd liken it to I have worked with nonprofit organizations, you know, hospitals, the university, and such as that, and we spend quite a bit of time at the end of our year developing reports on nonrelated business income; in essence, income that wasn't related to our tax-exempt region, and we turned around and paid taxes on that amount of income, because it didn't relate to what our nonprofit and the university. And I don't know for sure, but I believe the university does this...for example, at UNK where we leased the bookstore and such as that. This is considered nonrelated business income, so it seems to me that this is the same concept that's here. This is income to the governmental entity that is not related to their governmental business. [LB474]

SENATOR STUTHMAN: Yes. But yet, in my opinion, and I can...I know what you're talking about, is that if there's a building and it's got X amount of square feet, and you rent out so many square feet, and that square feet is taxable and there's taxation on those square feet, because you have leased that out to generate income on that other than the nonprofit status portion of it. [LB474]

SENATOR HADLEY: And the person down the street who's in business for profit might rent the same building and has to pay the taxes so I guess I think the entities that are getting jobbed in this are the ones...it's not the city or the governmental agency that's getting the revenue. It's the ones that are not getting the taxes. [LB474]

SENATOR STUTHMAN: Yes, you know, and with my illustration here, you can see which ones we're not receiving money off of that property, and in order for the school district, the county, the ag society, to generate those lost dollars of that valuation, they have to go to you, you, you, and you, and each one has to pay another couple of pennies. [LB474]

SENATOR HADLEY: It is an equity issue. [LB474]

SENATOR STUTHMAN: Yes, in my opinion, it's an equity issue, and I have absolutely no problem with the procedure that they're doing as far as leasing it out. [LB474]

SENATOR HADLEY: I'm agreeing with Senator Stuthman. [LB474]

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SENATOR CORNETT: I'm sorry, Senator White. [LB474]

SENATOR WHITE: Senator Stuthman, aren't there a sizable number of acres that are owned to support schools in the state? [LB474]

SENATOR STUTHMAN: Yes, there's school land. [LB474]

SENATOR WHITE: All right. Now, would the school land under this bill then, start paying taxes? [LB474]

SENATOR STUTHMAN: They already are. [LB474]

SENATOR CORNETT: They already are. [LB474]

SENATOR WHITE: They are. So school land already pays taxes. [LB474]

SENATOR STUTHMAN: Yes, school land, all of those quarter sections are...all the school land in the state of Nebraska is paying personal property tax, real estate tax. [LB474]

SENATOR WHITE: So in a sense, what you're saying is, any land owned by other entities ought to be treated like school land. [LB474]

SENATOR STUTHMAN: Yes. Well, or any land...yes. It'd be the same issue. School land which is owned by the state pays its fair share. There is an assessed value on it; there's a lease agreement on it; there's X amount. And I am not sure who pays it...if the state pays it or if the one that leases the ground pays it. But there is tax assessed on that ground. [LB474]

SENATOR WHITE: Thank you. [LB474]

SENATOR CORNETT: Senator Utter. [LB474]

SENATOR UTTER: Thank you, Senator Cornett. Senator Stuthman, are we just talking about ag land or are we talking about, for example, the University of Nebraska at Kearney that leases a corner of a building out to somebody to provide a cafeteria or space for vending machines, and they get rent from that, that would be the same way? The state of Nebraska that might sublease a piece of property that they own? [LB474]

SENATOR STUTHMAN: Yes, yes. I've had these illustrations because this is the ones that I'm the most familiar about. The same situation could be if a community owns a city hall, some organization that's totally tax exempt, churches--church property that's...that, you know, the parsonage, the teacherage, you know, they're tax-exempt if they're

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utilized for church. But the minute they lease out the parsonage to someone and generates cash rent per month, that property goes back on the tax roll. And in a building, like a situation you're saying, you know, where somebody rents out two or three rooms or rents two or three rooms and maybe has a business there. Those square foot, footage of that portion, where an individual, a private party is generating revenue for making a living on, and is paying a lease to a property owner which would be a city or whoever, an entity, should be paying taxes on that, because that individual, you know, would be in another building owned by a private person and paying taxes. [LB474]

SENATOR UTTER: So how do we handle the occasional rental situation where, let's just say for example, in Hastings we have a city auditorium. [LB474]

SENATOR STUTHMAN: Yeah. [LB474]

SENATOR UTTER: And they lease that out, but it's not leased out every day. It's leased out occasionally, and sometimes it's leased out to nonprofit groups, but they still pay rental. How are we going to calculate how much of it they owe tax on and how much they don't? [LB474]

SENATOR STUTHMAN: That, in my opinion, would be up to the manager of that association to calculate between that person and the assessor as how many days that was leased out, and how many square footage was leased out to, you know, a private party. And then there would be a tax assessed on that property. [LB474]

SENATOR UTTER: Could this get so complicated that in trying to arrive at these figures, could this get so complicated that it isn't worth the time it takes to do that so they just don't do it because it's more bother than it's worth? [LB474]

SENATOR STUTHMAN: I think it would only be as complicated as you wanted to make it. I mean, if you...you would be fined if that building or whatever you're talking about...the board decides that we will lease this out for certain occasions and certain functions, or to a private person, you know, for six months in an office or anything like that, that could be defined between that entity and the county assessor. [LB474]

SENATOR UTTER: Or, for example, a church would lease out...well, lease out is the wrong word, but it'll allow people to use a church hall for a wedding reception and the requirement would be to pay the...what it would cost to clean up afterwards. Is that going to...? [LB474]

SENATOR STUTHMAN: No. In those instances, and I've been very familiar with that, what they do is they lease it out for like a wedding reception or something like that. That really only takes care of, you know, the lighting, the cleaning up the facilities, and a little

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bit more. That really is...that is not leased out to a private party...well, you could say it is a private party, but it's only for, you know, maybe one evening. And those, I don't want to, you know, get into those but. [LB474]

SENATOR UTTER: See, we have dealt here this year with complications over interpretations of issues with the Revenue Department and as to what you include and what you don't include. And this...it looks like maybe without some real clear...without some real clear direction, that this could be subject to some interpretations and have some unintended consequences that we really wouldn't like. And I agree, you know, what what you're...I see what you're saying, but I just wonder, how far you take an issue like this. [LB474]

SENATOR STUTHMAN: Yeah, and I don't, you know, I guess...would you say an organization like the Izaak Walton or something that leases it out, but an Izaak Walton does pay the taxes on that property. I haven't really thought about, you know, just leasing it out for an evening for a wedding reception, you know, but that's an issue that we could deal with. My issue is the fact of dealing with, you know, the bigger, but you got to be concerned about those little things too, you know. It could relate to a large building and you lease part of it out. You don't have any use...the entity has no use for the second floor, so you lease out the second floor for offices. That second floor is taxable. We have the same thing in the hospital. There are certain offices in a hospital that are taxable by square footage. [LB474]

SENATOR UTTER: Thank you. [LB474]

SENATOR STUTHMAN: Okay. [LB474]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Senator Stuthman. [LB474]

SENATOR STUTHMAN: I will stay later on this evening for closing. [LB474]

SENATOR CORNETT: First proponent. [LB474]

SENATOR HADLEY: Can we use the light system if Senator Stuthman comes back again? (Laughter) [LB474]

SENATOR CORNETT: We can just tell him to leave. No. (Laugh) Are there any proponents? First opponent. [LB474]

GARY KRUMLAND: (Exhibit 14) Senator Cornett and members of the committee, my name is Gary Krumland. It's K-r-u-m-l-a-n-d. I'm representing the League of Nebraska Municipalities and appearing in opposition to LB474. I understand what Senator

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Stuthman is trying to get, but I'd like to give a little bit of background on where we got to this position. What I'm handing out is a copy of a provision of the Nebraska Constitution. There's some highlighted language. The yellow highlighted language in yellow was added to the Constitution by the voters in 1998. It was a proposition that was put forward by the Legislature. Prior to that time, if you look at the language in subsection 1 above the yellow highlighting is basically, all property of the state or governmental subdivisions was exempt from taxation. It didn't matter, as long as they owned it, it was exempt. In 1998, a constitutional amendment was provided that said, it's exempt as long as it's used for a public purpose so that if you had a parcel of land, a piece of agricultural land, and it was just owned by a public body, but it wasn't used for a public purpose, under the constitutional amendment, it was taxable, and the governmental entity had to pay taxes. The Legislature then adopted legislation to implement this, and they basically said that public property had to be used for a public purpose to be tax exempt. They also added some language that said that if you lease property and you lease it for less than fair market value, it loses its public purpose. So there's two parts. It had to be for a public purpose, and if it's leased, it had to be leased at fair market value; otherwise, it became taxable. So there was a question, what does that mean, and especially there were several questions regarding a situation...and I will give one example. Right now, if a city provides water to its citizens and has a municipal well, the Health and Human Services Agency has wellhead protection roles that say you need to protect the wellheads so that it's not contaminated. Very often the way a city will do that will be to buy the parcel of land around the well so that somebody is not putting chemicals or something that could pollute the water from the well. So they will purchase the property...rather than just let it lie fallow or go to weed, they will lease it to a farmer, but they will put in conditions on what kind of chemicals can be used, so they have control over how it's protected. And so the question is, is that lease a public purpose or not? This law took effect in 2001, and by 2003 there were five Nebraska Supreme Court cases interpreting this law. And basically, what the court came down to say is that, and I want to read this, to quote it, "The primary or dominant use and not the incidental use is controlling and determining whether property is exempt from taxation." So the situation I gave...the primary purpose of that is to protect the well. The fact that they're leasing it to a farmer to farm is incidental, and so the property is still tax-exempt, and there were other cases similar to that sort of thing. One of the cases, and this kind of gets to what Senator Utter was asking is, there is a case regarding Brown County v. Brown County Ag Society. The Ag Society owned an area that was purchased and used for the county fair. That was a public purpose. They occasionally leased out buildings throughout the year, and there was a question, does that then lose its public purpose status because they lease it out? The court said, no, the purpose of that is a public purpose to have a county fair occasionally leasing out the buildings as incidental use, so it did not lose its public purpose. And then after that, the Department of Revenue I got, at the time, was the Department of Taxation, property tax, and now the Department of Revenue had rules that implemented this policy. So it is the state policy now that if you purchase a property and the overall use is for a public purpose, but you do lease it for an incidental

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use, that is still nontaxable. The concern we have about LB474, it seems to change that. It doesn't look at the overall purpose of the property, and why it's purchased, but just specifically, the lease. So if you have situations like a wellhead protection, like an airport where you need to have property required by the FAA to have property at the end of the runway that can't be used for anything else, and you do lease that just for farming to maintain the property or get a little income, that suddenly makes that property which is, in some cases, required to be handled that way, suddenly taxable. And that raises the cost. It shifts money from one political subdivision to the other, and would require local governments who are in the situation to decide whether it's even worth it to lease it or just to let the property go. So there is some history of this, and I do think the rule is fairly clear. Both the Legislature and the Supreme Court seem to say that if the primary use is for a public purpose, an incidental lease does not make it taxable. And we think that's a good policy, and that's why we have concerns about LB474. I'd be happy to answer any questions. [LB474]

SENATOR CORNETT: Senator Hadley. [LB474]

SENATOR HADLEY: Thank you. Do you have any concerns about the equity of it? You know, the fact that by doing this, certain subdivisions, governmental subdivisions, are losing revenue because it happens to be owned by another governmental subdivision? [LB474]

GARY KRUMLAND: Well, they're losing revenue because it's property used for a public purpose. I mean, the property is not there because of the lease. I mean, if it's a situation where they just own a parcel of ground, and they're leasing it for private use, and the parcel is not purchased for a public purpose, then that is taxable. But in those situations like wellhead protection, airports, landfills, those sort of things, the purpose of purchasing the property is for a public purpose. The lease is just incidental. So that property is not taxable anyway. It just...the question of how you determine the lease that triggers the taxability of the property. [LB474]

SENATOR CORNETT: Seeing no further questions, thank you. Next opponent. [LB474]

SANDI DECKER: Good afternoon, Senators. My name is Sandi Decker, S-a-n-d-i D-e-c-k-e-r, and I am here representing the Nebraska Association of Airport Officials and also the Fairbury Municipal Airport. We wish to express our opposition to LB474. This will adversely affect all of our state airports, but particularly the small general aviation airports. We get most of our revenue from property taxes and farm leases. The land around our runways and taxiways are required by the FAA to have large safety zones that must be free of obstructions. We are also required when we sign federal grant agreements with the FAA to generate as much revenue and money as possible. This safety zone is definitely public use land when it is left unfarmed, but as soon as we use this zone to generate the revenue from farming for it, according to this particular bill,

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it would no longer be for public use. Airports themselves are for public use, and are there to provide hangars and services for the public to have a place for the aircraft, something that they cannot do anywhere else. As a result of this, all hangars and buildings should be considered public use and not to be subject to this property tax. If LB474 were to pass, we would lose revenue that we would have no way to generate except by requesting more property tax revenue. Again, we're opposing LB474. Thank you. [LB474]

SENATOR CORNETT: Senator Dierks. [LB474]

SENATOR DIERKS: Thank you, Sandi. What airport do you serve? Where are you... [LB474]

SANDI DECKER: Fairbury Municipal. [LB474]

SENATOR DIERKS: Fairbury. And how much property are we talking about around Fairbury? [LB474]

SANDI DECKER: We have a total of about 225 acres that are farm leased. It represents roughly \$20,000 of our revenue. [LB474]

SENATOR DIERKS: Thank you. [LB474]

SENATOR CORNETT: I'm sorry, I've been speaking to my research analyst in regards to this bill. There was a Supreme Court decision from York County, correct? [LB474]

SENATOR ADAMS: City of. [LB474]

SENATOR CORNETT: City of, that says that an airport basically by its nature is public use. Do you feel this bill would affect that? [LB474]

SANDI DECKER: Yes, I do, according to what I've just been listening to the senators say. Our farmland which, like I said is, we are required to have all of this land around our runways and taxiways... [LB474]

SENATOR CORNETT: I understand that but... [LB474]

SANDI DECKER: ...so if that were to be... [LB474]

SENATOR CORNETT: ...but would that be incidental use? [LB474]

SANDI DECKER: I don't know. I don't have an answer to that. [LB474]

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SENATOR CORNETT: Further questions from the committee? Seeing none. [LB474]

SANDI DECKER: Thank you. [LB474]

CHARLES CAMPBELL: Good afternoon, Senator Cornett, members of the committee. My name is Charles Campbell, C-h-a-r-l-e-s C-a-m-p-b-e-l-l, and I am the city attorney for the city of York, and was involved in three of the cases that went to the Nebraska Supreme Court back in 2003, involving the predecessor to this statute. The leased property that the city of York had in those three cases, one of those involved land that was acquired as part of the York Municipal Airport. That land surrounded the runways and is on the perimeter of the property was used for a safety zone and a buffer zone as the previous speaker mentioned, which is required by the FAA. One of the cases involved land that was included in our landfill which is jointly owned by the city and the county. That was being used for groundwater monitoring and for eventual expansion of the landfill. As cells would become filled, we would expand then on to additional land that hadn't been acquired. There was also leased land in the third case in the city's industrial park which was acquired and held by the city for the purpose of attracting industry and commercial businesses to the city, but pending the sale of those lots for those purposes, that land was leased out for farming as was the land in the other two cases. The lease of these lands by the city allowed the lands to be maintained. If the city had not done that, the city would have had to hire employees to mow the land, spray for weeds, and pick up trash on the vacant lots. The leasing of properties also allowed revenue to be generated which was put back into funds used to maintain those properties--the industrial park fund, the solid waste landfill fund, and, of course, the airport fund. When you compare the rental revenues with the investment the city had in those properties for their investment and development, it was obvious to the Supreme Court that the rental of the lands for farming was an incidental use of the lands, and that the primary or dominant purpose of the lands was, in the case of the airport, for transportation; in the case of the industrial park, for industrial development; and in the case of the landfill for waste management. In our cases, the county assessor and the County Board of Equalization determined that the properties were not tax exempt, so we appealed those decisions to the Supreme Court which reversed the rulings and determined that the lease of the lands by the city served a public purpose, and, therefore, that they were tax exempt. To answer your question, Senator Cornett, it would appear rather obvious that the purpose of this legislation is to overturn those rulings, and to subject lands such as the lands that we had in those cases to be taxed by changing the standards that now require that the lessee carry out a public purpose. Rather than looking to how the government is using the property, you look to how the lessee or the renter is using the property. The argument will be that the renting of land by a private individual to be farmed does not serve a public purpose even though it does serve a public purpose for the city to maintain that land, the argument is that when someone rents it, they are not then using it for a public purpose. And, therefore, that is no longer tax exempt. I question whether this is good policy. If it is agreed that

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governing maintenance of a particular piece of land serves a public purpose, does it benefit the public to tax a local government for being a good steward of that land by maintaining it, by renting it out, so that it is kept up, and so that it generates revenue. I have another concern about this legislation also. I question whether or not it violates Article VIII, section 2 of the Nebraska Constitution which Mr. Krumland has provided to you. That provides in the highlighted area that the property of the state and its governmental subdivisions shall be exempt from taxation to the extent such property is used by the state or governmental subdivision for public purposes. The Nebraska Supreme Court has declared that the Constitution does not constitute a grant of taxing power to the Legislature, but rather, it limits and restricts the Legislature's taxing power. In contrast to the Constitution which requires a determination of the tax-exempt status of the property by looking to whether it is used by the government entity for a public purpose, this legislation determines whether property is exempt by looking to whether it is used by the lessee for a public purpose. I don't believe the Constitution permits the determination of tax-exempt status of government property to be made based upon the use of property by the renter or lessee or by anyone other than the government itself as this bill does. And to determine how the government is using property, we have always looked to what the primary or dominant use of the property is. This bill, instead, focuses not on the primary use of the property, but, instead, on its incidental use which essentially turns accepted tax policy on its head. We have always looked through a long line of decisions by the Supreme Court to the primary or dominant use of property to determine whether or not it qualifies as tax exempt or not. This does not do that. It instead focuses on the incidental use of property. So I would submit that the bill does not represent good tax policy, and I also believe it violates the Nebraska Constitution by authorizing the taxation of property that would be tax exempt under the Constitution. If there are any questions, I'll be glad to attempt to answer them. [LB474]

SENATOR CORNETT: Senator Hadley. [LB474]

SENATOR HADLEY: Just so I understand this, if I was a wealthy person in love with the city of York, and I had a section of land that I, when I passed away, I was going to donate to the city of York, and that happened, and you decided it would be best to rent it out, because land prices might be depressed or whatever reason. Would that land then be taxable under our current statutes? [LB474]

CHARLES CAMPBELL: If we were simply using it for the purpose of generating money as rental property, then it would be taxable, because it would not be being used for a public purpose. And, in fact, we have had property in the city of York that we have rented out, and have not attempted to claim that has served a public purpose, and we paid the taxes on it. [LB474]

SENATOR HADLEY: So you have paid the taxes in those situations... [LB474]

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CHARLES CAMPBELL: We have. [LB474]

SENATOR HADLEY: ...where it doesn't... [LB474]

CHARLES CAMPBELL: Correct. Yeah, so not all property that's owned by a government entity is going to qualify as being tax exempt. And it did before the constitutional change in '98, but it no longer does. [LB474]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB474]

CHARLES CAMPBELL: Thank you. [LB474]

SENATOR CORNETT: How many further opponents do we have? [LB474]

MIKE MOSER: (Exhibit 15) Thank you, Senator Cornett. Well, first of all, my name is Mike Moser. My last name is spelled M-o-s-e-r. I am the mayor of Columbus, Nebraska. I'm here in opposition to this bill. Normally, Arnie and I are on the same side of almost 99.9 percent of everything that happens, but this is one particular point where opinions diverge a bit. Thank you to Senator Cornett and the members of the committee for allowing me to come testify. I think the history of taxation has been that tax-supported entities didn't tax each other, and I think our founding fathers set it up this way to avoid the kind of disputes like the city of York had with the county. And when all these are supported by the taxpayers, it's a zero sum game. If you increase our costs in our well field by charging us tax, then we're going to have to adjust the rates for our water and sewer. That water and sewer is used by people outside the city of Columbus. It's used in our industrial parks by manufacturers who pay their tax to the out-of-town school district. So when you talk fairness, we're providing water for people who don't pay tax to the city. For that matter, the county courthouse is a block from city hall, and we don't collect any property tax on the county courthouse, and we don't expect to. But we do provide snow removal and maintenance of streets and fire protection and police protection. Of course, they have the sheriff's office there also. But, I mean, there is some reciprocity here, and I think that, you know, this is a practical point of view that one tax-supported agency shouldn't be taxing another tax-supported agency, because in the end, there's more overhead and then plus what disputes you have, you know, you might really drive up the cost. I think the other speakers spoke to the public purpose that is served by our well fields and by our airports. I think even our airport hangars could be under this law, found to be property taxable. And our rental of those hangars is pretty low now, and the tax would be a big impact on that. The water rates' impact wouldn't be quite as large, because the 6,000 or whatever the tax would be when it's divided out by 8,000 meters we have, is not going to be real big difference. But still, it's death by a thousand cuts. Everything that comes along that increases the city's costs causes us problems. And when we can't, you know, make up our expenses, we have to raise

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taxes. And this is not a time, I don't think, to raise taxes. You know, I just don't think that's a good idea, and I'd hate to give Arnie an idea, but...I should say Senator Stuthman...an idea, but on the leasing of the farm ground, if...according to his bill, I think if we were to custom farm that, that might make it tax-free. So...and I know that that would irritate Senator Stuthman, because he doesn't like the government to be in other people's business. But, you know, I'm not advocating that. I just think it shouldn't be taxable, and, you know, I think that tax-supported entities shouldn't tax each other, you know, unless they have to. I don't know if there are any other questions or anything, or if I. [LB474]

SENATOR CORNETT: Seeing none. [LB474]

MIKE MOSER: Thank you. [LB474]

SENATOR CORNETT: Thank you. Next opponent? [LB474]

BILL AUSTIN: Chairman Cornett, members of the Revenue Committee, good afternoon. My name is Bill Austin, B-i-l-l A-u-s-t-i-n. I serve as legal counsel for the Airport Authority of the city of Lincoln. The Airport Authority of the city of Lincoln is opposed to LB474. LB474 is a proposal to change the provision of Section 77-202 of the Statutes relating to exemption of property of the state and its governmental subdivisions from real property taxation. This issue has been much visited in the past, and the crux of the question is the extent to which property owned by a governmental subdivision, but leased to another person, should be subject to real property taxation. LB474 proposes a small but critical change in the wording of the statute, so that one of the criteria for tax exemption is not that the lease is in furtherance of a public purpose, but that the lessee itself is carrying out that public purpose. This language would subject to taxation various properties of governmental subdivisions that are leased out, but the leasing of which continues to further public purposes. For instance, as has been previously testified, agricultural leases of runway protection zones serve the purpose of keeping those zones clear, according to FAA standards, but also avoids the expense of maintaining those zones. However, if the criterion is whether the tenant farmer is carrying out a public purpose, then the tenant farmer probably is not, and these zones necessary to the airport, would be taxed. Likewise, the Airport Authority leases space to fixed-base operators, and to commercial airlines serving our communities. The airport itself is certainly carrying out its public purpose in doing so, but the lessees are not engaged in a public purpose, and we would appear to be, under this bill, attempting to tax commercial airlines and fixed-base operators who are serving the community, providing air service. This language revisits issues that we thought had been resolved in 2003 under the trilogy of cases title, City of York v. York County Board of Equalization. We believe this would create further issues as to whether or not commercial airlines, fixed-base operators, storage hangars, would now be subject to real property tax. We suggest that the last thing we need is one more burden for an airline to consider when

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deciding whether or not to provide service to Lincoln, Nebraska. Finally, you should understand that all of the rents obtained by airport authorities actually offset or eliminate the needs of the airport authorities to levy property taxes for their support of their own activities, especially in light of the fact that we operate under FAA mandates to have self-sustaining rate structures where possible. This would probably require many of the airport authorities to increase their taxes. It is something that the Airport Authority of the city of Lincoln has avoided doing for 21 years. We are opposed to the changes in the statute as set forth in LB474. [LB474]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB474]

BILL AUSTIN: Thank you. [LB474]

SENATOR CORNETT: Are there any more further opponents? Thank you. Senator Stuthman. [LB474]

SENATOR STUTHMAN: Thank you. In closing, some of the comments that I want to make as far as the issues that were brought up are the problems that the people felt that they should be taxed shouldn't...you know, a taxing entity shouldn't tax another entity. I have no problem with that, I have no problem with that. But when they are generating a revenue, and in my situation is a commodity of crops, and a lot of these incidents stated they were renting it out to a farmer. Those individuals were raising a crop...say corn, soybeans, hay or anything like that, that, in my opinion, is in direct competition with my business. No matter how many bushels or anything like that is delivered to the marketplace and it is in direct competition with my business. And I think when a private person is raising something for a profit that is in direct competition with someone else, and that raising of that crop did not generate any tax revenue for the ability to raise that crop and the utilization of the roads to market that crop. They say, you know, incidental use. Mayor Moser said, you know, that they're using that well field ground for incidental use. While I think some of the highest rents paid for that property, in my opinion, is not an incidental use. In that parcel that I had there, I think the lease for the next three years is \$89,000 generated, and I feel that, you know, that the taxing entities should have their right to get some of that tax dollars on that property, because that property is generating a commodity that is raised. Another thing--in my opinion, our commercial airlines, privately owned or publicly owned, if a commercial airline is privately owned, and operates for a profit, I don't see any reason why they should be able to rent a facility to house their commercial airlines rent-free at the cost of the taxpayers. I will try to answer any questions. I feel that this is a fairness issue, and you can take it about as far as you want to, but I think it's a fact of these entities, you know, are not receiving any of the tax dollars from those acres or from that property, and it has to be...those tax dollars have to be generated from all of the other taxpayers in that community. It's not a lot of money, but every penny counts. With that, I'll try to answer

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any questions. [LB474]

SENATOR CORNETT: Senator Dierks. [LB474]

SENATOR DIERKS: Thanks, Arnie. I just...you know, I had a little bit of a thought of a memory. I took flying lessons, oh, a number of years ago and learned how to fly in a Cessna-172, you know, and I soloed, my instructor from O'Neill, Nebraska, had sent me up to Atkinson to do a touch-and-go at the airport. And as I touched down, a 4230 John Deere started to cross the runway right in front of me, go from one side to the other. He was mowing up there. Well, it didn't take long to figure out that the touch was over, and it was time to go (laugh). Anyway, that was quite an experience for a solo flight, you know. I thought you might add that as a postscript to your testimony today (laughter). [LB474]

SENATOR STUTHMAN: Well, I'm kind of glad you brought that up, because that individual is trying to generate a profit on that ground that he leased from the airport that wasn't paying any taxes. [LB474]

SENATOR DIERKS: Well, we about wiped each other out, Arnie (laughter). [LB474]

SENATOR STUTHMAN: Well, I'm sure glad you're still here, though (laughter). [LB474]

SENATOR CORNETT: Seeing no questions from the committee, thank you, Senator Stuthman. [LB474]

SENATOR STUTHMAN: Thank you. I would ask that the committee take a look at this very seriously. It's important to me, and I just think it's a fairness issue. Thank you. [LB474]

SENATOR CORNETT: Gentlemen, I have no intention of exec'ing tonight. [LB474]

SENATOR DIERKS: I move we adjourn. [LB474]

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Disposition of Bills:

LB294 - Placed on General File.

LB308 - Held in committee.

LB380 - Indefinitely postponed.

LB474 - Indefinitely postponed.

Chairperson

Committee Clerk