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Revenue Committee
January 24, 2008

[LB710 LB814 LB893 LB964 LB965 LB985]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 24, 2008, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB710, LB814, LB893, LB985, LB965, and LB964. Senators present: Ray Janssen, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Carroll Burling; Abbie Cornett; Chris Langemeier; Don Preister; Ron Raikes; and Tom White. Senators absent: None. []

SENATOR JANSSEN: Good afternoon, Ladies and Gentlemen, welcome to the Revenue Committee hearing this afternoon. For the record, my name is Ray Janssen, Chair of the committee. The committee members that are here with us today are Senator Carroll Burling from Kenesaw; Senator Preister is not here yet; Senator Cornett is not here yet; to my immediate left, Senator Cap Dierks from Ewing, he is Vice Chair of the committee; Senator Ron Raikes right next to George over here from Lincoln; Senator Langemeier is from Schuyler; Senator White isn't here yet. All right. Our pages for the day are Sarah Filcher and Tim Freburg. I would remind you to please turn off your cell phones and pagers while you're in the committee. I know you hear this at every committee you're at, but it is rather disruptive. Sign-in sheets are back in the corner and you can...no, they aren't. All right, yeah, they're back by the doors, both doors. Make sure you have them complete if you're wishing to testify today. If you are testifying on more than one bill, you need to submit a form for each of those bills. When you come up to testify, give your sheet, your testifier's sheet to Erma down on the corner, don't leave it laying on the table, put it in that little box right there. All right, we'll follow the agenda as posted on the door and the introducer or representative will present the bill followed by the proponents, then the opponents, and then the neutral. As you begin to give your statement, state your name and spell it for the record. If you have handouts, we need at least 10 copies; if you only have one original, the pages will get the rest for you. I think I omitted Bill Lock, research counsel, and Erma James is the committee clerk. With that, we will begin the hearings today. Senator Pahls is going to tell us all about LB710, require notice of sale of real property by a land reutilization authority. Welcome, Senator Pahls. []

SENATOR PAHLS: (Exhibit 1) Thank you, Chairman Janssen, I appreciate the opportunity to speak in front of this committee. My part of this will be very brief because I have a constituent who will tell you the real story. I introduced this bill on behalf of a constituent of mine who is here today to testify. I will briefly explain the bill and then let him tell you a story. LB710 requires a land utilization authority to notify the adjacent landowners prior to selling a piece of property. The notice has to be in writing and mailed to the owner, on record 45 days prior to offering the property for sale. The cost of providing this notice will on average pay for itself through increased interest in the property being sold. The cost is actually very minimal. By notifying the adjacent landowners, we increase the public's involvement in a problem that affects the whole

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community, selling property that has not been generating its fair share of revenue. And I know you have received a letter from the Land Reutilization Commission director and I'd like to just comment on that on the closing. But right now I would like to turn this over to my constituent to tell you his story. [LB710]

SENATOR JANSSEN: Any questions? I don't see any, Rich. All right, you're going to stick around and close? [LB710]

SENATOR PAHLS: Yes, I will stick around. [LB710]

SENATOR JANSSEN: All right, okay. Thank you. We'll take proponents first, those wishing to testify in favor of the bill. [LB710]

JAMES STEELE, JR: (Exhibit 2) Yes, Senators, my name is James J. Steele, S-t-e-e-l-e, Jr., and I reside at 2305 South 168th Street in Omaha, Nebraska. And our situation kind of started back in 1979, we purchased a piece of property, and at the time of the purchase the property was to be 200 feet deep and it had a 33-foot right of way on 168th Street. Prior to our closing, we were notified that they were going to take the strip of land 17 feet wide to bring the right of way up to 50 feet for the widening of the street, eventual right of way for the widening of the street. We were then...over the years, we were notified many times about trimming the trees, we had boulders out next to the street, they made us move them, Omaha Public Power District would come out and have us sign permission slips to trim the trees. And everyone always thought...we were also kind of put in a position we had to negotiate with Alegent Hospital on the widening of the street...and everybody thought that we owned this strip of land including us. In approximately February of 2005 when it first came up that they were going to maybe go ahead and take right of way for widening the street, we discovered that this piece of land had in fact been sold. Rather than dividing the original acreage into three lots, it was divided into four lots and a strip across the three lots and the entire front fronting the road was then sold to another party by the Land Reutilization Commission. And in pursuing this, I started in, I got ahold of a number of different agencies and everybody assured me that...I originally would call and talk to one of the agencies about what had transpired and it was like the Register of Deeds or the Omaha Planning Department, Douglas County offices. And each one of them would tell me on the initial phone call it was outrageous that this piece of land had been taken and sold to another party. However, on the return phone calls, everybody would tell me it was...this transaction was completely legal. And I never really guess I questioned the legality of it, I questioned whether it was right that it was available to be sold to somebody in the beginning since it was taken through the condemnation at the time we bought the land. And in support of this bill, had...well, maybe go on just a little further with my notes here. That another thing that happened with this land that concerns me as a taxpayer was the land was sold by the Reutilization Commission for \$200, the city of Omaha bought it back earlier this year for \$15,000. And two other things happened during that period of

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time: One when we originally bought the land, we were in Douglas County and at that time no one has any idea, they can't find any record why this wasn't processed and taken over by Douglas County; secondly, when the city of Omaha then annexed this piece of land, again the Land Reutilization Commission according to Tom Blair from the Omaha Planning Department should have notified the city that that land was available and it should have passed to the city at no cost. And kind of based on this, it would seem like that originally if they had this notification requirement in there, this 45-day notification requirement, that none of this would have ever transpired. We would have been made aware that that land was available, I'm sure that myself and the other two owners that are adjacent to this property would have probably purchased it at that time or at least we would have had the opportunity to decline the purchase of the land. To maintain it, I sprinklered it, every time the trees were trimmed it cost us \$300 or \$400 to have somebody come back out then and clean up. All the power district does is take the tops off the trees, we would have to pay to clean them up. We've replaced concrete, sod, and a number of things over the years, maintained the property, and then come to find out, it would be 25 years after we bought it and we find out we never owned the land, or we also found out the city of Omaha had never taken it. We did go through a number of meetings and I really don't have any problem with the legal procedure that it went through, that's the way the things worked at the time, however, I really encourage this LB710, particularly in the notification area. I would strongly recommend that the 45-day notification part of it, and that we...be kind of based on at that conclusion of our meetings with the right of way and the city of Omaha attorney's law offices, when it was determined that all of this procedure had been done legally, that we were to receive a letter dated August 14 of last year, which gave us 30 days notice to appeal it. And in the letter was actually mailed to us on September 24 and that was only after I had called down to find out what the outcome of the meeting was. They did indicate that we would...if we wanted to appeal it, we had to do it very quickly because there would be a very short period of time. And kind of based on that, I originally thought, well, 45 days seem like a long time, but if you're going to get a letter a month after the appeal period ran out, I think maybe the 45 days would be very adequate and a very good way to be notified, so. And that kind of concludes everything I had on this, so. Thank you. [LB710]

SENATOR JANSSEN: Thank you. Are there any questions? Senator Dierks. [LB710]

SENATOR DIERKS: I just need a definition of Land Reutilization Commission. Who are they and what do they do? [LB710]

JAMES STEELE, JR: They were appointed by the State Legislature to dispose of taxable land, and I know it's Douglas County, but I'm not sure if it's in any other counties. And basically it was to get land that had gone into delinquent...delinquent on taxes and they would assume that piece of land and sell it to investors. Kind of on the notification why I promote the notification so much is that seems to be kind of a closed group of people. They get a mailing and as an adjacent landowner, we never had any

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idea that it had been sold probably 10, 15 years before we even were aware of it, so.
[LB710]

SENATOR DIERKS: Thank you. [LB710]

JAMES STEELE, JR: Thank you. [LB710]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, J.J., for being here. [LB710]

JAMES STEELE, JR: Thank you. [LB710]

SENATOR JANSSEN: Next proponent, please. Is there any more proponents? Seeing none, are there any opponents? Seeing none, anyone in a neutral capacity? Senator Pahls. [LB710]

SENATOR PAHLS: Thank you. I will make this brief. Just to give you an idea about the commission, I have somewhat of a definition. The commission is composed of at least three, not more than seven members, depending on the number of political subdivisions in the county who request a representation. There is at least one member appointed by the county, one appointed by the largest city in the county, and one appointed by the largest school district. So that's how that commission operates. And the concern that I have is, you notice that the person who's made this investment made a pretty good return on his dollar. The concern that I have is simply is if my land is adjacent to what is going to be sold, I should know about that. I notice a question in the letter, they question the 45-day period. They said that he could do it in 10 days. Well, by listening to Mr. Steele, you can see that there could be some issues if you make it too short. I don't know if 45 days is the answer, but we do need to let the people know. And also, if you read the letter, this individual who is in charge, or this director, did start this concept that I'm trying to get across today, a year ago. And then he did outline the positive results to that. So I think he did a fine job with it. This needs to be done and I think if we...if we probably really investigate more of these things going on, we would be surprised, because I started doing a little bit of this, and I found out there were some properties that were being obtained in some very unique areas in the city of Omaha. Because the one area right now that they're really developing is the Ak-Sar-Ben area where the old Ak-Sar-Ben. And there's a, it was a trailer court, there's a piece of land in there and I don't know if somebody has picked that up, and I'm sure that that was probably picked up maybe without the people who owned the property around them knowing that. Because if that had been me, I would have bought that property because that's going to be a choice piece of land in the future with the city developing that way. I thank you.
[LB710]

SENATOR JANSSEN: Thank you. All right, that ends the hearing on LB710. We'll move

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on to Senator Raikes with LB814. Senator Preister has also joined us. [LB710]

SENATOR RAIKES: (Exhibit 3) Senator Janssen, members of the Revenue Committee, Ron Raikes, District 25. That would be the "Prevailing District," as contrasted to District 23, for example, which would be the "Two Votes Short District," or District 33, which would be the "Cloture District." Here to introduce LB814. LB814 makes changes regarding notification and payment of delinquent taxes. The bill requires counties to provide notification of delinquency on the first half of property taxes no later than May 15 in counties with more than 100,000 residents and June 15 in all other counties. The bill also requires an owner of property that becomes subject to sale to satisfy delinquent tax obligations, that is the tax sales certificate process, to be notified prior to such sale at their last known address. Finally, the bill requires each county to pass a resolution to allow for partial payment of current and delinquent property taxes. Counties are currently permitted but not required to accept partial payment. I offer this because I think it promotes good citizen/government interaction. It seems reasonable to me that if a taxpayer is delinquent on their taxes, they ought to be notified of such within a reasonable amount of time. As it stands now, a taxpayer who is delinquent on the first half of taxes is not required to receive notice until he or she receives a statement for next year's taxes in December. That being the case, a taxpayer in Douglas, Lancaster, or Sarpy County would go more than eight months before receiving notice of delinquency and taxpayers in other counties would go more than seven months. At a statutorily required rate of 14 percent, a substantial amount of interest can accrue within that time frame. The bill does nothing to stop the accrual of that interest, it simply requires that taxpayers be notified so that they are aware of the situation. It should also be noted that the cost to the county of sending delinquency notices is accounted for in this measure. The bill requires counties to charge a \$1 fee to the taxpayer to account for the cost of sending the notice. With regard to the requirement for acceptance of partial payments, it doesn't seem reasonable to me that a county refuse to accept partial payment and then subject the amount that would have been paid to a high interest rate. It seems that if a person is able to make part of the payment to avoid paying interest on the whole amount, that payment ought to be accepted. Even in the for-profit business world, the party owing or borrowing money is often given the opportunity to buy down the principal to avoid paying additional interest. Ironically, not all counties extend this same courtesy to their taxpayers. In short, I feel that county officials as public servants ought to work with citizens to a greater extent in the area of delinquent taxes or oversight by a taxpayer. I do need to offer an amendment. Section 3 of the bill provides for notice...the notice requirement for delinquency on the first half of taxes due on real property other than cabin, trailers, and manufactured and mobile homes. The section references September 1 as the date by which any taxes and interest would need to be paid before the property would be sold to satisfy delinquent tax obligation. That change was inadvertent. Currently, section 77-1801 allows until the first Monday in March to pay taxes on real property before that property becomes subject to the tax sale certificate process. The amendment that I'm offering here simply changes the September 1 date in

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the green copy of the bill to the first Monday in March to maintain the consistency with current process. So, with that, I will close. [LB814]

SENATOR JANSSEN: Thank you, Senator Raikes. Any questions? Senator Langemeier. [LB814]

SENATOR LANGEMEIER: I'm going to ask one question, it's not quite related to your bill. Do you think that 14 percent is still an adequate number? [LB814]

SENATOR RAIKES: Adequate from the sense of covering the cost... [LB814]

SENATOR LANGEMEIER: Too high, too low? I mean, we set it in statute, it's... [LB814]

SENATOR RAIKES: It's a good question, Senator, and I don't...do you know how long that's been in statute? [LB814]

SENATOR LANGEMEIER: No, I was just wondering that. How was it ever picked at that point? I mean, I... [LB814]

SENATOR RAIKES: I assumed it was an above the market rate because the intention is to encourage people not to borrow money from the county treasurer, so clearly most people are going to have a better borrowing option than to borrow it from the county. You know, I'll take this opportunity to relate an experience and I've fouled up on paying my taxes a number of different ways, probably. I mean, there have been times when...I'll just put it this way, that the notice of delinquency one month after the due date would have been a surprise to me and a valuable notice. I had simply let it slip. There was another time, I can remember fairly recently, it was the second half property tax statement, and I sent the check, I didn't make the Lincoln Post Office until 8:00 and I think they close at 7:00. The county treasurer in the county involved had a firm, hard date that it had to be by September 1. So we had a holiday weekend, I guess it was Labor Day weekend, so by the time they got back to work, got the check, figured out that I was delinquent by a day, packaged it up, sent the check back to me, along with a notice that if I paid it by the 20th or something, this would be my penalty and interest. Well, if I calculated the penalty and interest that I was going to be charged as a percent of the amount owed and for one day late, the interest rate was like 175 percent on an annual basis. So it becomes, I think...well, certainly not a friendly sign to a taxpayer. Now, I understand the opposite, that we don't want to go into borrowing money and so on. The argument has often been made that, oh, gosh, this is extra bookwork and all this sort of thing, I think is less and less a serious argument as time goes by. And in fact, I think, as George mentioned in his write-up, that there is a provision which allows...or Bill...provision that allows them to contract out the escrow service if you will, if that turns out to be a better deal. [LB814]

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SENATOR JANSSEN: Any other questions? I don't see any, Ron. We'll take proponents. Is there anyone that wants to side in with Senator Raikes? There we have one. [LB814]

SENATOR RAIKES: I wouldn't put it that way. (Laughter) [LB814]

PHILLIP EULER: I'll side with Senator Raikes any day. [LB814]

SENATOR LANGEMEIER: This is the first time you've had a proponent follow you, isn't it? (Laughter) [LB814]

SENATOR JANSSEN: Yeah. (Laughs) [LB814]

SENATOR LANGEMEIER: We might ask him again if he's really a proponent. [LB814]

PHILLIP EULER: I am for this bill, is that what you're after? [LB814]

SENATOR JANSSEN: That's what I'm asking. [LB814]

SENATOR LANGEMEIER: Yes, yes. It's a first. [LB814]

PHILLIP EULER: (Exhibit 4) I'm going to give you a handout. My name is Phillip Euler, I reside at 5520 Grouse Place here in Lincoln. [LB814]

SENATOR JANSSEN: Would you spell your last name, please? [LB814]

PHILLIP EULER: The last name is spelled E-u-l-e-r. [LB814]

SENATOR JANSSEN: Okay. [LB814]

PHILLIP EULER: And if you're of German descent, you might pronounce it "Oiler" (phonetic). I've been called that by many professors. I'm here to testify in favor of LB814 because I screwed up. I didn't know I was in good company with Senator Raikes, but I didn't pay my taxes for property that my wife and I own in Cass County. I thought that it was arranged to be paid through a bill-paying service, but it fell through the crack and I went merrily along my way and arranged to have the 2006 taxes paid. And my bill-paying people came back to me and said, you know, we got your check back in the mail, Cass County wouldn't accept it, you probably ought to call them and find out what's going on. And so I did and I talked to the county treasurer and he informed me that I had been notified in my taxes for the current year. And I said, really? And I went and looked at that and by golly, as you will see in my letter when you get this, right there in the middle, it says, "Attention: Is someone else paying your taxes? Read paragraph one on the reverse side." Well, no one else...well, maybe somebody else was paying

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my taxes, but I knew, I thought I knew who it was. I didn't read the next line that says, "Back taxes and interest due for 2005." I filed it away and...after I had arranged for them to pay the taxes. I spent several phone conversations with Cass County Treasurer and he said he was doing what the law required him to do, he didn't have to send me any kind of a notice other than the one that was a year late. And so I took my concerns to Senator Raikes's office and I want to thank the senator and his staff for taking this issue on because I think the bill that has been drafted is needed and would have prevented me from paying over \$500 in interest and penalties for a bill that I was certainly capable of paying and wanted to pay on time. As my letter says, I don't know what other collection agency would not be alarmed when an account that had been paying on time for 20 years all of a sudden didn't pay their taxes. Why wouldn't they pick up the phone, drop me a postcard saying, hey, did something happen, what happened to you guys, you were good people, paying all the time, and now all of a sudden, you haven't? But the treasurer told me he didn't have to do that and I thought it was just good business practice. And to add insult to injury, the check that I did send, had my bill-paying people send to them, they of course sent back and that cost me another \$25 or some amount of money before I got the right amount and got it paid. And so, my concern is, you know, for people like me, but I'm thinking about...my father-in-law just died and I know he took care of all the finances for my mother-in-law. If for some reason some other person in that situation, their taxes fell through the crack, they may be ill-prepared to pay several hundred dollar penalty because they didn't know that their taxes hadn't been paid because someone else had been taking care of it. I don't want to go on any longer. I think Senator Raikes explained the bill and what as I understand now is only a 'you may want to do these things' has now firmed it up and said that the county treasurers will send notice, take partial payment, and so forth. At that, I will close my comments and answer any questions if you have them. [LB814]

SENATOR JANSSEN: Any questions? I don't see any. Thank you, Mr. Euler for being here. [LB814]

PHILLIP EULER: Okay. Thank you very much. Thank you for your time. [LB814]

SENATOR JANSSEN: Any other proponents? Any other proponents? Any opponents? [LB814]

JANET SUMINSKI: Good afternoon. My name is Janet Suminski, S-u-m-i-n-s-k-i, I am the Valley County Treasurer, located at Ord, Nebraska, and I'm also a member of the NACO board, so I am here to take their position as opposing this bill. I would first like to address the partial payments. Most of our partial payments...I think every office has tried somewhat. People do not stay consistent with a regular payment. They will give you \$100 one month, show up two months later with \$50, and of course a story, and so they would like their interest reduced and that and we can't do that. Your interest keeps going on the taxes. We usually try to encourage them to open a bank account and get a

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little interest there. It has been brought to us that Douglas County has implemented this with their banks. The people can pay through a savings account and the banks work with them to say, how much are you delinquent? How much do we need to take monthly until we get you caught up? And so that's out there. It looks like a very good solution because they will get interest on their account and then the bank will contact us and say, we now have enough to pay those taxes. So we are looking at that strongly. We just heard about this option in December that Douglas County had implemented, so many of the county treasurers are looking at that and contacting their banks to see if a solution can be worked out. Your other partial payments do not follow the real estate. They're credited back to the payer, which can cause a problem if people leave, die, or whatever, they don't know that money is sitting there. I had a boyfriend/girlfriend situation who broke up, the house was sold, and they both wanted the money back. I had to figure out who exactly made which payment and how much and then refund that. Another instance is in Sarpy County. There was several partial payments account that opened up fraud for the treasurer and Attorney General Breslow, I believe he was the attorney general...no, correct me. Breslow was the... [LB814]

GEORGE KILPATRICK: He was the auditor. [LB814]

JANET SUMINSKI: Auditor, there we go. He was the state auditor and he said partial payments are a bad sample to use because they don't reduce your interest, people just don't stay consistent with them. There was a letter sent by Sue Gieschen, who is the Keith County Treasurer to Senator Erdman, in which she said that their county has gone forward trying to work with the public taking the partial payments. They have set up contracts, it goes through the county attorney, they must make timely payments. If they default, which the majority of them do, I will no longer accept the payments. She said she has several accounts and only one person has made timely payments. Therefore, we oppose partial payments. And most of your partial payment people are already delinquent and so they're just not gaining much, usually. Fourteen percent interest and that was brought up, 14 percent interest seems to be workable, yet we may want to get into that later. But right now I...it's been 14 percent as long as I can remember. I've been in the office since 1993 and I think it's, so it's I think it's been around for quite a while. Are there any questions on the partial payments that I could answer? [LB814]

SENATOR JANSSEN: Senator Langemeier. [LB814]

SENATOR LANGEMEIER: Thank you, Chairman Janssen. I have one quick question. I don't know that you're going to...anybody calculates this, but in your county, what percent of your property tax payments are paid by individuals versus paid by lending institutions that have mortgages on them? Do you have any idea? [LB814]

JANET SUMINSKI: We have a large percentage of escrows and mortgages. One third. [LB814]

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SENATOR LANGEMEIER: One third actual owner pay? [LB814]

JANET SUMINSKI: Come through the mortgage companies, yeah, or... [LB814]

SENATOR LANGEMEIER: Or one third come through the mortgage companies? [LB814]

JANET SUMINSKI: Come through the mortgage companies. [LB814]

SENATOR LANGEMEIER: So two thirds are individual pay? [LB814]

JANET SUMINSKI: Yeah, two thirds probably pay. Most of those, your two thirds, very rural area are your farmers. [LB814]

SENATOR LANGEMEIER: Land. [LB814]

JANET SUMINSKI: And they would never use a partial payment. Most...a large majority of my farmers pay in December for the tax write-off. [LB814]

SENATOR LANGEMEIER: Um-hum. Okay. Thank you. [LB814]

JANET SUMINSKI: So, yeah, no. And that is another reason that there is a large percentage of people that do have a mortgage. Of course, that number keeps climbing and there's tax services out there that simply do this, one is out of Colorado, that has a large majority of our taxes and they handle it for the mortgage companies. That is their business and they send us printouts and we send them back the information, we get the timely payments, and that seems to be a growing thing. [LB814]

SENATOR LANGEMEIER: Okay. Thank you. [LB814]

JANET SUMINSKI: Um-hum. [LB814]

SENATOR JANSSEN: Any other questions? Seeing none, thank you for being...oh. [LB814]

JANET SUMINSKI: I have...I would like to go on about the delinquent property notices, then. [LB814]

SENATOR JANSSEN: Oh. [LB814]

JANET SUMINSKI: That was just...covered the partial payments because we had... [LB814]

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SENATOR JANSSEN: Oh, okay. All right. [LB814]

JANET SUMINSKI: Sorry. (Laughs) [LB814]

SENATOR JANSSEN: All right, okay. Okay. [LB814]

JANET SUMINSKI: Okay. First of all, page 3 changes the delinquent personal property notice deadline would be 5-15 and 6-15 depending on metropolitan counties. Currently, your personal property gets quite a few notices. If it's delinquent, the first half notice must be sent between May 1 and September 1, so we follow through on that. That gives us a large window, but that seems to be quite workable. I just don't think that part of the bill is necessary. We've got a delinquent date in there that we've got to send a notice. We send the notice out, then a 20-day notice is sent prior to a distress warrant, the distress warrant is the issuance to the sheriff for collection. So they get that notice. You also get a notice of course, like you said, on your tax statement. The sheriff, once he gets a distress warrant, he notifies people, I would guess a minimum of three times trying to collect that. So your personal property notices are pretty much covered for delinquency, so I don't feel like a change of date is needed on that at all. Page 4, section 3 requires a delinquent notice for real estate, and of course that is a lot of cost to the county to send out notices. I have a county with 6,000 parcels. I send out quite a few notices just on my own because it's easier. It cuts down a lot of different bookwork and things. I know the large counties may have a problem getting out all their notices. I send out probably three different delinquent notices and out of 6,000 parcels I probably send 300 letters. Keith County, who also wrote, she said that her postage that she has within her budget right now is \$10,000. I can't tell you how many parcels she has or what her delinquency rate is, but it would be a great cost to the counties to have to cover those real estate notices. I send a notice in January and I was...I sent out an e-mail to all my treasurers and I was really quite pleased with how many do give a notice. I know that doesn't apply to probably Senator Raikes's county, (laughs). But I send a notice in January simply so my advertising list is cut down because advertising is expensive and if it goes to advertising, then I'll probably have a tax sale on it, tax sale is time and money also. And so if I send them a little reminder, that does help. Then we go through...being a small county we have great advantage of knowing who just plain forgot. You can simply look and know, whoops, they must be in Arizona (laughs). You get a notice...your tax statements, of course, you're probably all familiar with, come around the 1st of December. So therefore, you get that notice. We usually ask...if somebody is having trouble, he mentioned his father-in-law is deceased, sometimes we have our people that aren't used to taking care of their bills, we say, please put a sticky note on your calendar. My reminder for my people is when school gets out your taxes are due, and when school starts your taxes are due. I also publish a notice in our local paper and I have previously advertised on the radio to try to catch people. We try our hardest to get the reminders out there one way or another. Then page 5, section 2

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doesn't give us much of a timeline defiance for the notice that when it must go out. It refers probably to when the tax sale is, but that would have to be defined. And I think that's all I have. Are there... [LB814]

SENATOR JANSSEN: All right. Do you...you don't have another section here, do you? [LB814]

JANET SUMINSKI: I don't. I don't. (Laughs) [LB814]

SENATOR JANSSEN: Okay, all right. All right. Now are there any questions? All right, I don't see any. Thank you. [LB814]

JANET SUMINSKI: Um-hum, thank you. [LB814]

SENATOR JANSSEN: Any other opponents? Opponents? Anybody in a neutral capacity? [LB814]

ROBERT J. HALLSTROM: (Exhibit 5) Senator Janssen, members of the committee, my name is Robert J. Hallstrom, I appear before you today in a neutral capacity as a registered lobbyist for the Nebraska Bankers Association. There's presently an amendment being passed around that I had visited with Senator Raikes about earlier; I've also at least talked preliminarily with County Officials. And basically what we're looking at on page 5 of the bill, it's already been testified today that lenders directly provide an assist to county officials in terms of the collection of property taxes because of the large amount of escrows that they have in connection with their mortgage loans. But as you'll see in the bill that follows that Senator Langemeier is bringing today, a lot of times with regard to tax sale certificate procedures, we do not get any notice in advance, sometimes even in advance of the foreclosure sale decree being entered that our borrowers are delinquent in their taxes. They can have a loan that is performing perfectly well, no reason to question anything, but lo and behold, the taxes haven't been paid, a tax sale certificate has been issued, and the consequences that flow therefrom. What our amendment would do would just be to add in section 4, subparagraph (2) on page 5 that in addition to providing the owner of the real property that notice to provide an encumbrance of record against the real estate with that same type of notice and perhaps the lender can provide yet another assist to the county officials at that point to try and get the taxes paid before they go through the complete tax sale certificate process. That's all I have. [LB814]

SENATOR JANSSEN: Any questions? I don't see any, Bob. [LB814]

ROBERT J. HALLSTROM: Thank you, Senator. [LB814]

SENATOR JANSSEN: Thank you. Okay, anyone else in a neutral? Seeing none,

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Senator Raikes to close. [LB814]

SENATOR RAIKES: I will quickly, Senator. What I would say is this, I think we've come a ways. I can remember...this is not the first time this sort of an issue has come up and the testimony we got passed, I remembered, was, well, if you're a good citizen, you will pay taxes on time and if you don't you will humbly beg forgiveness and so on and so forth. And I think the attitude now is different. In fact, the person that...the county official that spoke sounded as though she did, in fact, go out of her way to try to accommodate people as best possible. I think that's simply good practice and for us to require in statute that that sort of good practice happen is only logical to me. In terms of the cost, we have tried to compensate \$1 per notice required and that would be charged to the delinquent taxpayer, which I don't think anybody would object to. I would also remind you, as you already know, that 1 percent of everything that is collected is a fee paid to the county treasurer so that there is money there from the collection of taxes that is for use by the county officials. Thank you. [LB814]

SENATOR JANSSEN: Thank you. All right, that ends the hearing on LB814 and Senator Langemeier has LB893, change provisions relating to tax deeds and foreclosures. Senator Langemeier. [LB814]

SENATOR LANGEMEIER: Thank you, Chairman Janssen and members of the committee. As you've heard a lot about collecting taxes in the early stages, this deals with the tax certificates. Once the taxes have not been paid and they've been purchased by another individual and I'll...hoping to collect the 14 percent interest. LB893 deals with the three-year provision. After three years, you're supposed to take your tax certificate and provide for a sale of that tax certificate into the public. We had a recent court case that dealt with that exact sale. Upon the sale of the tax certificate after that three years, it turns out, due to the court ruling, that a lender's lien-hold position is then removed or terminated off that property upon the sale of that tax certificate. So what LB893 does is requires a notification of the person selling or putting that property up for that tax certificate sale in three years to notify any lenders that would have a secured interest in that property that they are going to go up on the tax sale. It does not maintain their lien position, which the lenders would probably like, but it just asks that they be notified. Otherwise, they don't have the opportunity, these properties go up on these sales and they may be in a different county where the main bank is located or not see it in the paper, and their lien is wiped off and they have no opportunity to go to the sale and buy the property back themselves to preserve their lien. And so that in a nutshell is what LB893 does, it requires notification to the lienholders that they are going to go up for the tax certificate final sale, or sheriff sale they call it. That is conclusion. [LB893]

SENATOR JANSSEN: All right. [LB893]

SENATOR LANGEMEIER: Any questions? [LB893]

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SENATOR JANSSEN: Chris, do any lenders do that now on their own? Notify? [LB893]

SENATOR LANGEMEIER: It's not the lenders, it's...for an example, if I don't pay my taxes and it goes up, the county treasurer puts them up for a tax sale, you come in and buy my taxes... [LB893]

SENATOR JANSSEN: Um-hum. [LB893]

SENATOR LANGEMEIER: ...and you collect my taxes and 14 percent interest for three years. After three years, you have to do something, you can't just own my taxes forever. So you're forced to go to what they call a tax certificate sale with the sheriff. Anyway, you have to sell those. But when...what the court case said is when you go and sell them, the lien...let's say Bank X has, I owe them \$200,000 on my house. [LB893]

SENATOR JANSSEN: Um-hum. [LB893]

SENATOR LANGEMEIER: Well, after three years when that sale goes, my lien of \$200,000 disappears, too. And if Senator Raikes were to buy my property on your sale of my tax lien, he would get the house free and clear. So what we're asking is before you'd put that property up for sale, please notify Bank X that you're going to do it so then they could come in and say, ooh, we don't want to lose our \$200,000 lien and let Senator Raikes own the property. They would like to be notified so they could come in and have an opportunity to buy those back. [LB893]

SENATOR JANSSEN: You mean the lenders, the banks haven't done anything about this before? [LB893]

SENATOR LANGEMEIER: Well, they don't know that these sales are coming. [LB893]

SENATOR JANSSEN: Well, I'm certain that... [LB893]

SENATOR LANGEMEIER: So you'd notify, you put the advertisement of the sale in the county in which the property resides, typically the largest newspaper in that county. So if I'm a lender in Colfax County and I made a loan on a property in Boone County and I don't happen to get the Boone County biggest paper at the bank that I can review it, I may not know that the taxes are delinquent. Because the individual could be in making his payments on a regular basis and have no reason to not suspect that he's paying these taxes and it goes on to that sale level and then it finally comes to this next final sale. We're asking that we be notified at least that the sale is going to happen. [LB893]

SENATOR JANSSEN: Okay. Any other questions? No, I don't see any. [LB893]

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SENATOR LANGEMEIER: Thank you, Senator. [LB893]

SENATOR JANSSEN: Thank you, Chris. Proponents, please. [LB893]

ROBERT J. HALLSTROM: (Exhibits 6, 7) Senator Janssen, members of the committee, my name is Robert J. Hallstrom, I appear before you today as a registered lobbyist for the Nebraska Bankers Association in support of LB893. H-a-l-l-s-t-r-o-m. Senator Langemeier had gone through a bit of the process with regard to tax sale certificates; I'd like to go into just a little bit more detail. My written testimony walks you through the process. I won't spend quite that much time, but essentially every March 1 when real estate taxes are delinquent and unpaid, the county treasurers across the state go to sell property for lack of payment of taxes. Once they do that, a tax sale certificate is issued to an individual who may advance the payment of taxes through this process so that the county has the benefit of having the taxes paid, an individual now has a tax sale certificate, and as we've talked in the earlier hearing and also here at this hearing today, that investor, if you will, gets 14 percent interest until those taxes are redeemed or paid off along with that 14 percent interest uptick to the investor. If no one steps forward and pays that amount of taxes plus the statutory interest of 14 percent, the holder of the tax sale certificate after a three-year period has essentially two options. One is they can go to request a treasurer's tax deed. Under that procedure, they are required to give notification to both the owner of the property, I think it's three months before they go in to apply for the treasurers tax deed of the amount of taxes that were paid, the real property to which it's affected, and so forth. So that a lender under that circumstance could have some notice that their borrower has not paid the taxes and that there could be adverse consequences associated with either not getting the borrower to step forward or stepping forward on behalf of that borrower by advancing the payment of the taxes and the statutory interest. The other option is that either once you get the treasurers tax deed or on the face of the tax sale certificate itself, you can bring a foreclosure proceeding. That foreclosure proceeding by statute is required to be conducted in the same fashion as a real estate mortgage foreclosure, except as Senator Langemeier suggested, there's one big difference; that has to do with due process and fair play from our perspective. And what it is is that the Supreme Court through a series of rulings and some of them are way back from the 1940s right after this legislation was adopted, have basically said that even if you don't include a lienholder or a party in interest as a party to that proceeding by providing service and bringing them into the action when you get your foreclosure decree, that lienhold interest is extinguished. Now, what the court has said is it has said that the lienholder may have some equitable right of redemption, but that has not been defined by the court. It's questionable as to exactly how a lender would go through and realize on that equitable right of redemption. We think a better solution is what we have proposed under LB893 and that is simply to say, like any other real estate mortgage foreclosure, the tax sale certificate holder should check the record, determine who has an interest in the property, the owner, other taxholders and lienholders and bring them in, serve them,

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make them a party to the process, and let them protect their interest in that particular fashion. Now, one other thing I do want to talk about, I've talked with Mr. Dix from the County Officials. They had originally expressed some concerns over the language on page 3 that talks about, "Any person entitled to redeem real property." They thought that that was perhaps a bit broad. I would note that already an existing law under subsection (2), and I have also advised them of this, it's the same language that's in existing law, "Any person entitled to redeem real property," and in checking further in the statutes under chapter 77...I think it's 1824 of the statutes...it does provide that the owner and occupant or a lienholder or other party in interest are the only parties that have a right to come in and redeem the taxes. So I think that does narrow down what they were concerned about. I also have passed out a letter of support from Ms. Camille Hawk with the Fitzgerald Schorr law firm in Omaha. She is a creditor's rights attorney, practices in foreclosure law area, and has had a lot of experience in this area with creditors who have not been made a party to lawsuits and is familiar with the Supreme Court cases that I've addressed in my written testimony that have brought us here today to request your consideration, favorable consideration of LB983. Be happy to address any questions. [LB893]

SENATOR JANSSEN: Questions? Seeing none, thank you, Bob. [LB893]

ROBERT J. HALLSTROM: Thank you. [LB893]

SENATOR JANSSEN: Any other proponents? Any opponents? Anyone in a neutral capacity? Seeing none, Senator Langemeier? He waives closing. That ends the hearing on LB893. Who's next here...LB893, Raikes, Langemeier, Arnie Stuthman. Is he here? Is Senator Stuthman here? There's Stuthman to introduce LB985. Welcome. [LB893]

SENATOR STUTHMAN: (Exhibit 8) Good afternoon, Senator Janssen 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, and I am here with LB985. LB985 is a bill that we wanted to make some changes for the county assessors and for the County Officials. The personal property tax returns must be filed on or before May 1 of each year. This is what is currently in place. Valuation added to the personal property tax returns after May 1, but on or before July 31, is assessed a penalty of 10 percent on the tax due, on the value that's added to your personal property tax return. Valuation added after August 1 is subject to a 25 percent penalty of the value added. LB985 proposes moving the August 1 time line for implementing the 10 percent penalty to June 1, moving in closer. The goal of this bill is to encourage timely filing of personal property taxes by making the higher penalty take effect sooner, and the higher penalty is the 25 percent penalty. Because all real estate, all real and personal property valuations must be certified to taxing entities by August 20, delays in filing complete personal tax property tax schedules can affect the budgets proposed by taxing entities. We do have an amendment for this bill and I will explain the amendment. And also I would like to also note that there is a county assessor here that

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will testify after me and give some of the explanations if there is any technical questions. This amendment would change the May 31 date to June 30, on page 2, in line 22. What this does is it changes it from what is currently in place in my bill from the 31st for the 10 percent of filing date to the 10 percent tax to June 30 and change the month of June to July on page 3, line 2. What we're trying to do is making the timespan shorter on these penalties. Instead of a 90-day time frame for the 10 percent, we're taking it down to a 60-day, and then moving the August 1 one where the 25 percent penalty goes, we're moving that to August 1...no, to July 1. We're changing it to move it up closer. And this will give the county assessors an opportunity to hopefully get their true valuation of what's on the property to these entities for taxing purposes, which is due by August 20. And like I had said, there is a county assessor here that will answer the technical questions that I possibly will not be able to do. [LB985]

SENATOR JANSSEN: Senator Raikes. [LB985]

SENATOR RAIKES: Senator, had you thought about adding a year prison term in case you don't get it in on time? (Laughter) [LB985]

SENATOR STUTHMAN: There is a very good possibility that that could be amended into it. [LB985]

SENATOR RAIKES: Okay, thank you. [LB985]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, Arnie. We'll take proponents first. [LB985]

DAN PITTMAN: Good afternoon. My name is Dan Pittman, P-i-t-t-m-a-n. I'm the Sarpy County Assessor located in Papillion, Nebraska. I'm a member of the NACO board and I want to speak in favor of LB985 with the amendments as the senator had suggested. I believe the senator covered it very well as to why we want to move the dates up: In order to get our abstract or get our final values filed on time so that they are the true reported values that reflect what is actually taxable in our different jurisdictions. [LB985]

SENATOR JANSSEN: Is that it? [LB985]

DAN PITTMAN: That's basically my comments. If you have any questions... [LB985]

SENATOR JANSSEN: Okay, all right. Chris. [LB985]

SENATOR LANGEMEIER: Thank you, Chairman Janssen. Thank you for coming in. And so...I'll try and summarize as best I can...you want to change the July date to May 31 and the August 1 to June 1? [LB985]

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DAN PITTMAN: That's correct. [LB985]

SENATOR LANGEMEIER: Two dates. [LB985]

DAN PITTMAN: Well... [LB985]

GEORGE KILPATRICK: Well, two months. [LB985]

SENATOR LANGEMEIER: Well, two date changes, though. [LB985]

DAN PITTMAN: Two dates, yeah. Yeah. [LB985]

SENATOR LANGEMEIER: Yeah, okay. I don't get that off the bill. [LB985]

SENATOR JANSSEN: Any other questions? Ron. [LB985]

SENATOR RAIKES: And I would assume that you would not be interested in any more notification or any other accommodation of the taxpayer to... [LB985]

DAN PITTMAN: I could speak on behalf of what we do in Sarpy County. [LB985]

SENATOR RAIKES: Okay. [LB985]

DAN PITTMAN: Of course, our goal as assessors is to get this value reported, try to get it on time and get it reported accurately, so everything we do is pushing toward that. Sarpy County makes a number of phone calls to people. The first step is actually sending out a preprinted form for the taxpayers who have reported the year before so they already have that form in front of them. And then I believe Lancaster County even has it online where they can go online and pick that form off. So that's a convenience to the taxpayer. And we do make several phone calls encouraging the taxpayer who has filed the year before to please get that filed to avoid the penalties. So we do accommodate them in that fashion. [LB985]

SENATOR RAIKES: Although you would, I take it, as an organization, oppose making that a part of the statute so that a county had to do that. To do the accommodations that you mentioned. [LB985]

DAN PITTMAN: I don't believe I would be in favor of anything further than what the bill says. [LB985]

SENATOR RAIKES: Okay. Thank you. [LB985]

SENATOR JANSSEN: Any other questions? Seeing none, thank you. Any other

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proponents? Seeing none, any opponents? Opponents? [LB985]

SCOTT GAINES: Good afternoon, my name is Scott Gaines, G-a-i-n-e-s, I'm the Deputy Lancaster County Assessor, Register of Deeds. And we're testifying in opposition to LB985 for a couple reasons. First of all, it's important to remember that the current statutes do not allow any extension of time for filing, even for good cause. May 1 is it and anything filed after May 1 is subject to a penalty automatically. There's no authority for the county board to waive or reduce a penalty, again, even for good cause. So there's a mandatory penalty that can't be reduced in place right now, beginning May 1. In our experience, late filers typically fall into one of two categories. The first one is, I forgot, I forgot to pay the taxes, forgot to file my return. The second one is, my accountant hasn't done my books yet or corporate is slow in getting information I need and unable to file the return. What I believe is that those reminders that we issue to the taxpayers, this shrinks that window of time considerably from a three-month period that we have now until the penalty escalates to as the bill is drafted one month, or the amendment would make it two months. Our goal, like Dan said, is to get the people to file and file timely. If they don't file timely, we want them to file as soon as they can; and there's some incentive now to get it done before the penalty escalates and we can give them that reminder. My fear is that if you shrink that window of time, that gives us less time to provide that friendly reminder that enables them to comply without a harsher penalty. So, I think it's very taxpayer unfriendly to do what we need and I honestly think we're trying to fix something that hasn't been broke for the last eight, nine years since we've had this structure in place. [LB985]

SENATOR JANSSEN: Okay. Any questions? Seeing none, thank you. [LB985]

SCOTT GAINES: Thank you. [LB985]

SENATOR JANSSEN: Any other opponents? [LB985]

BILL PETERS: Mr. Chairman, members of the committee, my name is Bill Peters and I'm appearing in opposition on behalf of myself. I have no particular client interest because my clients get it done in time most of the time. I don't know if you're in prison or first-born would even satisfy some of the counties. I think it's an excellent subject to be dealing with and the Lancaster County Office has pointed out two items, that...the two weaknesses we have in our present system: No allowable extensions for whatever the reason; no waiver of penalty. No distinction between a late filer and a nonfiler. You know, a nonfiler is the one who the assessor has to go out and maybe the sheriff helps find him. Why not be that you're the same just as a citizen that's late for whatever reason? The other thing is with the no waiver provision, I think one should look at the two-tier penalty we have. Now, Mr. Gaines put a positive spin on the two-tier penalty, that it encourages you to get it done before the penalty goes higher, from 10 to 25. That is if you know about it (laughs). But secondly, the problem I see from the other side,

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being more representing the paranoid taxpayers, the assessor can pick and choose how they're going to nail you. First, these...is coming at a busy time of the year for assessors, getting notices out, boards of equalization, and everything that go along with that. So there are maybe a legitimate reason the assessor can't get to looking at the personal property return until after the 1st of August. So because of that, because they're busy doing other things, the taxpayer gets to pay an extra 15 percent penalty. Or maybe the personalities have entered, that obnoxious taxpayer, and the assessor just waits till they can nail him with 25 percent. So the two-tier penalties are not accomplishing any matter either. And I maintain since there's no waiver, so I would certainly be opposed to this. Secondly, I believe the matter is addressed except for the two-tier penalties, perhaps more comprehensively and reasonably in a bill that you'll hear later today. And that would conclude my testimony. [LB985]

SENATOR JANSSEN: Any questions of Bill? Seeing none, thank you, Bill. [LB985]

BILL PETERS: Thank you. [LB985]

SENATOR JANSSEN: Any other opponents? Anyone in a neutral capacity? Senator Stuthman to close. [LB985]

SENATOR STUTHMAN: Thank you, Senator Janssen. In closing, the thing that I personally am concerned with in some of the opposition that has been stated, I don't think there's been enough thought taken as far as the new value added to a personal property tax statement when that comes into effect as far as the value added to schools, municipalities, counties, or anything like that. If it isn't available at that August 20 deadline, in my opinion, that will be another year later when that value would be added to the value of your county, to the value of the school district. So that is a concern, you know. Yes, they're all due May 1, that's one thing about it. But, you know, hopefully we're trying to move this up so that we can get a real number on August 20 as to what the valuation is in that county. Thank you. [LB985]

SENATOR JANSSEN: Senator Langemeier has a question. [LB985]

SENATOR LANGEMEIER: Can I ask one question? [LB985]

SENATOR STUTHMAN: Yes. [LB985]

SENATOR LANGEMEIER: Thank you for your testimony. When they brought to you this bill, do you have any idea what the percentage is that isn't getting filed by May 1? I mean, is this 10 percent of the personal property in the state or 5 percent or 60 or...do we have any ideas? [LB985]

SENATOR STUTHMAN: All I can relate to as to when I was serving on the county

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board, it wouldn't have been maybe 2, 3, 5 percent. It was a small, small amount. But when you're talking, you know, a lot of dollars, it does add up and it should be added to the valuation of the county when it is really a value of the county. [LB985]

SENATOR LANGEMEIER: Thank you. [LB985]

SENATOR JANSSEN: Okay. Don't see any other questions. Thank you, Arnie. [LB985]

SENATOR STUTHMAN: Thank you, yeah. [LB985]

SENATOR JANSSEN: That ends the hearing on LB985. We will go to LB965. George, committee counsel, will introduce a bill. [LB985]

GEORGE KILPATRICK: Thank you, Chairman Janssen and members of the committee, my name is George Kilpatrick, introducing LB965 for the Revenue Committee. As we discovered yesterday, these are bills that are brought to us by the various departments, we introduce them as committee bills. And generally I've made a perfunctory sort of introduction and then allowed the...yesterday the Tax Commissioner and today different parties to talk about the details. I'm going to vary from that a little bit because I guess this is somewhat different in the way that it was constructed. It does consist of a couple of things that were requested specifically by the Property Tax Administrator for purpose of enhancing and helping in her enforcement or their enforcement of the property tax statutes in this state. A couple of things they asked for is a redo of the Form 521's to allow them to be done electronically rather than being forced to be produced in quadruplicate. There is also an aspect about repealing a couple of ...outright a requirement that currently exists, the county assessors have to report exempt government-owned property every four years. And a change in the date for certifying that tax incentive personal property, in other words, manufacturing machinery, food processing machinery, or certain types of aircrafts or certain types of computer servers that are exempt from tax as part of an economic development incentive, that that date be made earlier from August 10 to August 1. There is also an aspect that involves the personal property, kind of like with the bill we just heard about, that inserts and clarifies...inserts the word "tangible personal property" in a bunch of places where quite often the statutes just say, "personal property" or "taxable property" or something like that and trying to make all of that more complete and more uniform to say, "taxable tangible personal property." But there is another aspect that we have traded back drafts back and forth in doing this bill several times that I want to tell you a little bit about because I guess I was more involved in how those things got developed than would be the case with a normal committee bill. And what that has to do with is a couple of issues regarding personal property. One is, there is some confusion that's existed for some time about how and under what procedures property tax refunds are to be done because there's a couple of statutes...neither necessarily covers the whole field, at least specifically. And what we've done in the past or what taxpayers have done in the past is

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sort of pick one or the other that seems to fashion the complaint more than what it was in the past and made it work. And one of the things that probably could have been fixed in 1992 when we went to net book value for personal property was the fact that sometimes the Internal Revenue Service through their audit procedure changes somebody's personal property tax return. And when they do that, that affects that personal property tax return, they affect their depreciation schedule, which in turn affects their personal property tax schedule. And if that occurs, we have a requirement that they are to report that within 90 days that that has been amended and that there is a new return filed. And having done that, sometimes that's higher, sometimes that's lower. Or sometimes it's higher in some years and lower in other years because, of course, it will all even out eventually. And so sometimes there's refunds involved, and under what section are those refunds to be paid? And how are they supposed to be issued? So what this does among other things is it breaks refunds for property taxes down into two groups: One is a group that's some sort of correction, the situation I just mentioned, somebody discovers an error, a mathematical miscalculation, omitted property, whatever. But there is a change, there is a change that the taxpayer reports. And under that, this statute now says, all of those go into one particular section that happens to be 17-3401...77-1734.01 or something like that (laughs). It doesn't make any difference, I guess, but under that circumstance, those have to be done within three years. In order to get them you file a claim with the county board and the assessor or treasurer or depending upon who it is is supposed to verify that that information is correct, that the returns have been filed or whatever, and then the refund shall be paid. Incidentally, the current statute says, it may be paid, without much clarification as what happens if the county board chooses not to. So that's that way of dealing with those sorts of refunds. The other situation occurs with regard to centrally assessed property that might be changed by the state, because that's who's assessing it, or successful appeals. Somebody goes to TERC, somebody goes to the court of appeals and they win, that goes through 17-3606...that number I do happen to remember...and there is no claim and there's no further review by the county board. And those refunds are simply paid by the county treasurer, calculated and distributed among the local governments and paid, at least under this version of things. And what it does is it takes the field of types of refunds that might be paid and tries to fit them into one or two of those groups. The amendments, possible amendments you see at the bottom of the front page of the summary continue to do some of that. Again this has been kind of a work in progress over the last month between my drafts and Ruth's and some other interested parties that hopefully is generally speaking understood by those who may testify later. And again, that says that in the case of an amended return, that's to go into that first section that I described and then a little bit of cleanup. The other issue that occurs is it makes...what this bill does is it makes the deadline for protesting a personal property tax return later, it makes it more similar to the real estate return. This situation happens, not often, but it can happen now because the personal property tax return is due on May 1, no later, and that is the deadline for protesting whatever that is. Because they're...we don't necessarily recognize that there are protests on personal property

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because it's net book value, it's an accounting sort of calculation as opposed to a subjective opinion of value like a real estate valuation is. That is the deadline that we've had in the statute for a number of years about protesting the value. There have been instances where there becomes a dispute over whether a particular piece of property is real or personal and if there is such a dispute, you don't get notice of your real estate value until June 1. Meanwhile, you're too late to protest the personal value if indeed it's being counted twice. So, that's a couple of specific issues that are dealt with that we've sort of worked out and tried to see if that works, all of that being sort of loaded into what would otherwise be a more benign or neutral Department of Revenue bill dealing with property tax. So, if there are any questions, I'll be happy to answer them, especially on those two points. [LB965]

SENATOR JANSSEN: Questions? Chris. [LB965]

SENATOR LANGEMEIER: I do have a question, thank you, Chairman Janssen and George. So you're telling me in this committee bill, so-called committee bill... [LB965]

GEORGE KILPATRICK: Um-hum. [LB965]

SENATOR LANGEMEIER: ...we have a number of things the Department of Revenue wanted, as well as a lobbying group put their own bills in there? You said Larry...Ruth had a draft of something or... [LB965]

GEORGE KILPATRICK: No, Larry Ruth wasn't involved. It was between TERC and the Property Tax Administrator and me. [LB965]

SENATOR LANGEMEIER: Okay. [LB965]

GEORGE KILPATRICK: In the terms of negotiating how this was supposed to come out. [LB965]

SENATOR LANGEMEIER: Okay. Thank you for the clarification. [LB965]

SENATOR JANSSEN: I don't see any other questions, George. Any proponents? Okay. [LB965]

RUTH SORENSEN: (Exhibit 9) Good afternoon, Chairman Janssen and members of the Revenue Committee. My name is Ruth Sorensen and I am the Property Tax Administrator for the state of Nebraska. I appear before you today in support of LB965. George Kilpatrick covered most all of the highlights of the bill, so I will shorten the testimony that I've just handed out to you not to be redundant. There are many provisions in this bill like George just indicated and...but the main crux of the first section of this bill is to remove the multiple copy requirement of the Form 521, which is the real

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estate transfer statement. This form is required to be filed with every real estate transaction in the state of Nebraska and we are asking that this multipart requirement be removed from statute. By allowing us to remove that multipart requirement, we will be able to have this form provided on our web site so that users can access that electronically and complete it and bring it with them much easier than coming into an office to get a multipart form. We want to keep the form but we want to remove the statutory requirement of the distribution. I believe that NACO is in agreement with this, I have talked with them, and if any issues were to arise down the road, we will work with NACO to assure that any information they need they will be provided and...but we would want to still eliminate that multipart requirement. The rest of...most of the bill was covered by Mr. Kilpatrick in that just covering the refund statutes and making the time to protest the personal property the same as real property for ease of the property owners and the state of Nebraska. The other item that I just want to touch on briefly would be sections 18 and 19 of the bill. It just briefly quickly changes the date that the Tax Commissioner is required to determine the eligibility of personal property exemption under the Employment and Investment Growth Act, which is commonly referred to as 775P, and the Nebraska Advantage Act. And that date is going to be changed from August 10 to August 1, and the reason why we're proposing that change is to allow the county assessors more time to certify the county taxable valuations and growth value to our division by August 20 of each year. With that, that will sum up most of the bill. I will take any questions that you may have that may have been raised by Mr. Kilpatrick or any of my testimony. [LB965]

SENATOR JANSSEN: Any questions? I don't see any. Thank you very much. [LB965]

RUTH SORENSEN: Thank you. [LB965]

SENATOR JANSSEN: Any other proponents? [LB965]

LARRY DIX: Senator Janssen, members of the committee, for the record, my name is Larry Dix, spelled D-i-x, I'm the executive director of the Nebraska Association of County Officials, testifying today in support of LB965. The only comment that I want to make, and certainly Ruth Sorensen commented on it, we had a pretty good discussion on the 521's in the fact that we're reducing that form and so we're reducing a piece of paper that physically moves from a register of deeds to an assessor's office. And historically there's been a copy, the register of deeds have had their copy and a separate copy goes down to the assessor's office. And after discussion, we said we certainly are supportive of trying to reduce these multiple-part forms. I mean, that's...we believe only good government to try to do that, and we too would also pledge that, you know, if there is an issue that comes up with that, we'll work with property tax to try to handle it. But that's really the only things that I have heard from some of our folks. There are a few folks that love to have that paper in hand that they can touch it, and so it's going to be a little bit of a change out there for our folks. But I think we're willing to try to

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work through that, so I just wanted to make sure that the committee was aware of that, but certainly we support LB965. [LB965]

SENATOR JANSSEN: Any questions? Seeing none, thank you, Larry, for being with us today. [LB965]

LARRY DIX: Thanks. [LB965]

SENATOR JANSSEN: Any other proponents? Any opponents? Anyone in a neutral capacity? That ends the hearing on LB965 and George, you want to close on that and then open on LB964. [LB965]

GEORGE KILPATRICK: Oh, I'm not going to close. [LB965]

SENATOR JANSSEN: Not going to close, okay. You can if you want to. Yes. [LB965]

GEORGE KILPATRICK: Thank you, Chairman Janssen, members of the committee. I am George Kilpatrick, introducing LB964 for the committee and then back more to the pattern of yesterday. This is the request from the Tax Equalization and Review Commission. What they had asked to have done to the statutes for this year, it's short and it has been some in the past and the chairman of the TERC, William Warnes, is here to testify about the bill. And unless there's specific questions for me, I'll let him do that. [LB964]

SENATOR JANSSEN: Any questions? Let him do it. [LB964]

WILLIAM WARNES: (Exhibit 10) Thank you, Chairman Janssen and members of the Revenue Committee. My name is Bill Warnes. This is the first time that I have appeared before the Revenue Committee and I appear as the chairman of the Tax Equalization and Review Commission. I was confirmed approximately two years ago and was vice chairman over the last two years. The four items that we have presented in LB964 can be broken down as two regarding items of substance of sorts with the business of TERC and the taxpayer and issues that we deal with. Just so you know, when we have hearings, and I'm normally the presiding hearing officer now or I do share those responsibilities with one other attorney, if we see an issue that is unclear and it makes it very difficult for us to follow the law as we would like to think it is, then I think we have a burden to try to clarify that if we can. And so two issues that we have before you in this bill are to do that. The other two relate to...you know, it's another duty, I didn't know there was going to be so much related to this other duty...it has to do with personnel matters. And there's a couple personnel matters that we want to get clear and they relate to how the statutes were originally set up, and what we think we're doing is clarifying things. So I prepared a memo. In my mind, it would be helpful to me if I had the bill you had to review, and I have broken it down by the same sections that the bill

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addresses these issues. And if I could, I'll just comment on each of these sections and if you would like to ask questions after each section or if you'd like to wait until the end for me to try to respond, however you'd like to do that. First, with respect to section 1, this is a matter that relates to when there hasn't been proper notice given to a taxpayer regarding special value. What we've noticed in TERC is that, okay, there's a statute that relates to this, but it's unclear whether it is just simply to petition, to get special value, and/or that subject plus, what is the value for special value? If you look at how it's worded in there, maybe a person could interpret it to include both, but I think you could interpret it that it doesn't. So we are trying to clear that up to make it clear that there are two issues that a taxpayer who has not been given proper notice would have involved before TERC: First, whether the special value status itself applies; and secondly, what is the value for special value? Now, that's the first and that relates to section 77-1345.01. The second section...and these jump around, but I still wanted to stay section by section...has to do with a personnel matter. Section 77-5004 has a lot of statutes that relate to commissioners with TERC, but I don't know that that was correct from the beginning, whether it was intended, it's not...I really don't know. All I know is that what we have proposed is that we would keep those statutes that relate to commissioners. And I guess you could kind of look at it like we hit part of the State Personnel System in the sense of vacation and sick leave and the state insurance plans, but we're not in the State Personnel System otherwise. And that is in summary what we're doing by removing some of the statutes but leaving some of them in associated with the commissioners. The third section...and by the way, the first section and what was dealt with there in substance and the third section, really I haven't seen affect very many taxpayers. But when it does affect the taxpayers, it's very important for them not to have had a hearing both on whether special value applies and how much the value is is similar in importance to section 3, which is...when you have statewide equalization, you know, we're dealing with all 93 counties. Now, if a county wants to appeal statewide equalization for their county, courts like to have what is called a "complete record." A complete record for statewide equalization is 93 counties. That's a voluminous record. There's been one instance in where a county appealed, it was Douglas County in 2001, and they ran into the issue of, do they have to provide to the court of appeals, Supreme Court, all 93 counties for the transcript, or could they...and you could call it either a...have a restricted record or you could call it selective record. "Selective record" might be the more technically correct term, but I think of it as a restricted record. It's not the complete record, in other words. Well, this statute is designed to make that possible if requested...and typically I would think the county would request it...and the way it's worded now, it's ambiguous. You may find it interesting that the court of appeals decided to let Douglas County have a restricted record in that case, but to make it clear that it can be done, this section applies to that. And then the section 4, there is a...under section 81-1316, there's a statement that all personnel are part of the State Personnel System except for, and they list certain agencies, certain groupings of personnel. They do not list TERC; however, TERC in practicality with the personnel people have always been considered to be excepted. In

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other words, our people, our personnel staff, we have five and four commissioners, are at-will, they're considered at-will. Now, that's the way it has been assumed and treated, but we've noticed recently that we don't have that exception in there and so we're suggesting if that is, in fact, the way we are set up that we should have it clear by statute. Now, those are the four sections and my shortening of what they are intended to do. I'm happy to answer any questions you may have. [LB964]

SENATOR JANSSEN: Any questions? I don't see any. [LB964]

WILLIAM WARNES: That's almost too easy. [LB964]

SENATOR JANSSEN: Yeah. [LB964]

WILLIAM WARNES: I bet I don't always get it that easy. All right, thank you. [LB964]

SENATOR JANSSEN: Thank you, Bill. Any other proponents? Anyone else wishing to speak to LB964? Seeing none. Any opponents? Anyone in a neutral capacity? That ends the hearing on LB964 and the hearings for the day. That's it. Thank you. [LB964]

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Disposition of Bills:

LB710 - Advanced to General File.
LB814 - Advanced to General File, as amended.
LB893 - Advanced to General File.
LB964 - Held in committee.
LB965 - Advanced to General File, as amended.
LB985 - Indefinitely postponed.

Chairperson

Committee Clerk