

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

[LB127 LB161 LB296 LB570 LB681]

The Committee on Revenue met at 1:00 p.m. on Wednesday, March 11, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB681, LB161, LB127, LB296, and LB570. 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. []

SENATOR CORNETT: (Recorder malfunction)...be joining us Senator Cap Dierks from Ewing. To his left is Senator Greg Adams from York; Senator Hadley from Kearney, research analyst is Bill Lock; and committee clerk, Erma James. To my far right is Senator Utter from Hastings; Senator Loudon from Ellsworth will be joining us, as will Senator White and Friend from Omaha. On my right will be legal counsel, Shannon Anderson. Our pages today are Rebecca Armstrong and Elsie Cook. Before we begin the hearing today, I please advise everyone to turn off their cell phones or turn them to vibrate. The sign-in sheets for testifiers on the tables by both doors 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 to testify. When you come up to testify hand your testifier sheet in to the committee clerk. There are also clipboards in the back of the room if you wish to sign in but do not wish to testify but wish to have your support or opposition included in the official record. We will follow the agenda posted on the door today. The introducer or representative followed by proponents, opponents and neutral testimony. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state your name and spell it for the record. If you have handouts, please bring 10 copies for the committee and staff. If you only have the original, we will make copies. Please give the handouts to the pages to circulate. With that, Senator Flood, you are recognized to open on LB681. [LB681]

SENATOR FLOOD: Thank you, Chairperson Cornett, members of the Revenue Committee. My name is Mike Flood, F-l-o-o-d. I represent Madison County in the Legislature which includes the city of Norfolk. I am pleased to have this opportunity to testify in support of LB681. I introduced this bill at the request of the Governor in accordance with our legislative rules, which allow for a bill to be introduced beyond the first ten days of our legislative session. LB681 would create a new refund procedure to repay taxpayers any real or personal property taxes, any occupation taxes, or any assessments that have been declared unconstitutional by a final court judgment or order. Any taxpayer who paid a tax that is later challenged in court and declared to be unconstitutional on or after January 1, 2009, could receive a refund of that tax without having to file a formal claim to obtain repayment of the tax funds. Under the bill, a county treasurer would issue a refund to the taxpayer in the county where the tax was originally paid. The refund would be due for the year that any tax is declared unconstitutional and for prior years back to the year in which the lawsuit raised the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

constitutional issue was initiated. The remedy provided by LB681 would be supplemental to the refund mechanism that is already provided under current law. And I would cite Nebraska Revised Statute Section 77-1735. The refunds provided by LB681 would be made in the manner currently set forth in Section 77-1736.06 of state law. The need for this legislation was brought to light when the Nebraska Supreme Court ruled last month that the property tax authorized by the 2007 enactment of LB701 was unconstitutional. While a reconsideration request is currently pending in that case, the Supreme Court's final decision is expected to be issued soon. There is also pending litigation that challenges the occupation tax authorized by LB701. The property tax and occupation tax provisions were created to expand the water management options already available to the natural resource districts under LB962, landmark water legislation enacted in 2004. With that, I would like to thank the committee for its consideration of LB681. I'd be happy to answer any questions and I would also be happy to waive my closing. [LB681]

SENATOR CORNETT: Thank you, Speaker Flood. Questions from the committee? Seeing none, thank you. [LB681]

SENATOR FLOOD: May I be excused? [LB681]

SENATOR CORNETT: You may be. (Laugh) With that, we will open the hearing for proponents. I am limiting testimony to three minutes on this bill. Thank you. Senator Christensen, you may begin. [LB681]

SENATOR CHRISTENSEN: Thank you, Chairman and members of Revenue. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District and I'm here to testify in favor of LB681. I believe LB681, introduced by Speaker Flood on behalf of Governor Heineman, is a bill that rightly addresses a philosophical position and ideal that good government has an obligation through the law to treat its taxpayers with fundamental fairness. Therefore, when government has taxed a taxpayer and then the tax is adjudged unconstitutional our laws should have a fundamental fair mechanism by which taxes paid during the litigation of such tax can be returned to the taxpayer in a consistent and equitable manner. In my opinion as a taxpayer, this is the only right thing to do. It is obvious that the issue came to light during the recent litigation challenge the constitutionality of the property tax levied in the Republican Natural Resources Districts. When I looked into the current law during the litigation, it became...I became convinced that if the state lost the state needed a remedy...additional remedy for providing the taxpayers with a refund in a consistent and equitable way for this kind of scenario. I told my constituents that I would work to get a law in place that would provide a means for everyone to get their money back now in the current situation, and all similar situations in the future. I am thankful that the Governor and the Speaker decided to address this issue with LB681, to provide good, sound state policy that creates a consistent and equitable mechanism to refund taxes, not just for those affected in my district, but also

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

for similar situations on into the future. It is a state policy that will be good for the citizens of this state, which I strongly support. I'd like to mention that I have a conflict of interest and have signed a conflict of interest form. I encourage you to advance LB681 to General File and thank you for your consideration. Be glad to try and answer any questions. [LB681]

SENATOR CORNETT: Thank you, Senator Christensen. Any questions from the committee? Senator White. [LB681]

SENATOR WHITE: Senator Christensen, I appreciate this bill and I do intend to support it. But I have a concern. We are going to pay the people who have been taxed the court's say unconstitutionally back, but how is the state of Nebraska going to be paid back for the monies it advanced to the NRD in this matter? [LB681]

SENATOR CHRISTENSEN: In LB701, the occupation is the other part of the tax that was in there that is still viable and can be used to pay back the state of Nebraska. [LB681]

SENATOR WHITE: How much money does that raise and, more importantly, how long will it take to pay the millions of dollars back to the state of Nebraska? [LB681]

SENATOR CHRISTENSEN: Well, the occupation tax is up to \$10. So if they applied it all that would be \$12 million. But it was applied on a different basis, according to district and need. And...but they probably would come real close to being able to pay it back immediately as soon as the litigation ends. [LB681]

SENATOR WHITE: Okay. [LB681]

SENATOR CHRISTENSEN: I think they probably have real close to that amount. [LB681]

SENATOR WHITE: Thank you. [LB681]

SENATOR CORNETT: Seeing no further questions, thank you. [LB681]

SENATOR CHRISTENSEN: Thank you. [LB681]

SENATOR CORNETT: Next proponent. [LB681]

MIKE CLEMENTS: (Exhibit 1) Good afternoon. Senator Cornett, members of the Revenue Committee, my name is Mike Clements, that's M-i-k-e C-l-e-m-e-n-t-s. I'm the general manager of the Lower Republican Natural Resources District in Alma, Nebraska, and I'm here today to testify in support of LB681 on behalf of our board of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

directors. In 2007, the Legislature passed LB701, which was intended to give the NRDs in the Republican River Basin tools to work towards increased river flows and sustainability of the Republican River. In June of that year, the Lower, Middle, and Upper Republican NRDs purchased 19,500 acre feet of surface water from the Frenchman Cambridge, Frenchman Valley, and Riverside Irrigation Districts at a price of \$8,551,000. The water was purchased to help offset part of the water deficit that Nebraska had accumulated the preceding three years. Keep in mind the first year for the accounting process, as set forth in the settlement agreement, was 2004, which was the height of one of the most severe droughts on record. The cost to our NRD was approximately \$2.5 million. As a result of LB701, we had two taxes available. We could use up to 10 cents on the levy and up to \$10 per acre. We chose to use 4.7 cents on the levy, that generated about \$674,000. We picked up the balance with the occupation tax. As bonds were about to be issued to pay for the purchase of the water, a group calling themselves "the Friends of the River" filed suit in district court contesting the constitutionality of the taxing authority granted in LB701 as it pertains to the levy. Later a second suit was filed contesting the occupation tax. Ultimately, the state Supreme Court determined that the property tax levy in LB701 was unconstitutional use of a property tax for a state purpose. The second lawsuit is currently pending in district court. That brings us to today. We have collected a property tax under a law that has been declared unconstitutional. Because of the time frame to determine the constitutionality of the statute, most if not all of the taxpayers paid the tax without protest. Thus, the money should be paid back to the taxpayer and there is no legal ability for the NRD to return the money without this legislation. And although we respectfully disagree with the ruling of the Supreme Court, we also strongly believe that all property taxes collected through the unconstitutional taxing authority should be refunded as soon as possible. LB681 as drafted would allow any taxpayer to recover a tax paid when the tax is eventually declared unconstitutional by the Supreme Court. It would apply not just to the taxpayers in the Republic River Basin, but it would apply in any venue across the state where tax is ultimately not allowed by constitution. For these reasons, we urge the committee to act swiftly in support of LB681. Thank you for giving me this opportunity to speak. And I would be glad to answer any questions. [LB681]

SENATOR CORNETT: Seeing no questions from the committee, thank you. [LB681]

MIKE CLEMENTS: Thank you. [LB681]

SENATOR CORNETT: Next proponent. Opponents. Neutral capacity. [LB681]

LARRY DIX: Senator Cornett and members of the committee, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials here today in a neutral capacity on LB681. Let me begin by...yesterday, we had a one and one-half hour conference call with our county assessors and treasurers in the 13 affected counties. And I will try to reduce what we covered in the hour and a half to three

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

minutes in this testimony. NACO is certainly supportive of refunding the taxes to those that have paid an unconstitutional tax. And once we move beyond that, that's where we start to have a little bit of concern. Beyond the policy question now we get down to the county's perspective from the process of how we distribute that money. Our first preference would be that we would handle this as a credit in future years. There is some instances where that has been handled, where there have been clerical errors on levies before. And it has been handled in future years where the levy for that political subdivision has been reduced in order to make up the difference. That's a much cleaner process than if we go through a tax refund and let me explain to you why. When we get into a tax refund process at this point in time we're in uncharted waters when we talk about tax refunding of this magnitude. As most as we can find, since 1975 was the last time we had anything even close to this, and it was a vocational technical college that was of this size and magnitude. When we as county officials look at refunds, it is a manual check process. And when I say manual check, it's a handwritten check. It is not a computer program in any of the 13 counties, there is no software there to produce these checks. So each of these checks will be handwritten. And it isn't just the process of writing the checks. We also have to go back, verify, correct the collection file, correct the billing file, we have to go back and correct the certified assessment records of the assessor. And as many of you know, all the software in the counties are set up to collect taxes in two equal halves. Once we go through this process and we start to pull out the portion of the NRD levy that was unconstitutional we no longer have two equal halves. We have a situation where in the computer system we may have some folks who have paid the first half but not the second half, so we have to identify those. And we also have the situation technically inside the computer of a certified assessment from the assessor to the treasurer of the amount. Here's where it gets a little more confusing. In the situation where I am a taxpayer and I have a property, I have 100 percent homestead exemption, where do we write the check to? We need to know that in this bill because I, as the taxpayer, have paid no tax. There has not been a penny of my tax paid. So we have to understand where that goes. Secondly, when...in 2007, and we believe 2007 is the only year that this particular tax was assessed. And I certainly would stand to be corrected if that's not the case. But secondly, in 2007 we had something called property tax relief. And so the property tax relief that was sent by the state to each individual taxpayer, it was a reduction on their tax statement. And everybody has seen that, everybody knows what I'm talking about. As you will note, part of that property tax then is distributed back to every taxing entity that has a levy component on a tax statement. So some of that property tax dollars was actually distributed back to each of the NRDs, each of the ESUs, the counties, the cities, so on and so forth. So we also have to make the calculation to figure out how much of that tax credit was refunded on an individual taxpayers basis. When I look as an individual taxpayer I'm going to see my statement and it's going to say, okay, I paid taxes of X number of dollars to the NRD. And when I get a refund check I'm going to expect that that amount matches what I paid to the NRD, but when in effect it will not because of the property tax relief program because we have to factor that in and deduct that out because that was paid by the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

state of Nebraska. That was not paid by the taxpayer. So you can start to see where this gets a little bit confusing. Now let me throw in tax sales certificates. If these properties have been sold with a tax sales certificate, which some of them have, in Red Willow County they had 111 of them, the taxpayer who owns the property did not pay the tax but it was a company or an individual that paid the tax in lieu of that taxpayer. Our question is, does the money go back to the taxpayer, does it go back to the tax sales certificate holder? So as you can see, this gets somewhat complicated. We are estimating there could be 50,000 parcels that are impacted by this. We understand that this bill allows us to lump some of those tax payments together but still 50,000 parcels, we're going to have an envelope, we're going to have a stamp, we're going to have man hours to go through and do it, we're going to have somebody handwrite this many checks. Another thing with the tax refund, we are going to have some folks who will receive a check that's going to say, you get a penny back I can guarantee you because this is such a small levy amount somebody who owns a vacant lot in Harlan County that has a \$500 assessed value on it will get about a penny back. Now we haven't gone down the path of saying do we look at a de minimus level or not. We believe that every taxpayer because of an unconstitutional tax every taxpayer should get refunded their money. But you can imagine we are going to get questions from a taxpayer that says, do you mean to tell me you went through the process, stamp, envelope, time and you sent me a penny. A number of those checks will never get cashed, we know that, we've seen that before in other taxpaying processes that you've gone through. We estimate somewhere in the area, it could be over \$200,000 of cost to the counties and the counties do not have any of this budgeted, there's no question about it. We would say that if this money by the NRDs has been placed in interest bearing accounts that some of the interest above and beyond what they need to send back to the counties in the form to be refunded could be used to offset the costs of administering...of the administration of this process. I know I'm out of time. I'll ask the committee to give us the latitude to work through any and all of these processes if we can. [LB681]

SENATOR CORNETT: Senator White. [LB681]

SENATOR WHITE: Mr. Dix, I appreciate your testimony. I have a number of concerns about the bill but I support its intent. First of all, with regard to your question about who do you pay back, that's pretty clear in the bill. It says, "it shall be repaid and refunded in the county where originally paid to the person paying such tax." Not the person or the holder of the certificate, the person that paid it. So the bill is clear on that. But it doesn't say who pays it back. Nowhere in here is it identified that the entity that received the funds shall cut the check and pay it back. It leaves that silent. I think it's assumed. But I've gone through the bill a couple of times, so in the case of the NRDs we're dealing with, out of whose bank account do these sums come from? Seems to me a fairly important provision in the law. [LB681]

LARRY DIX: And I think that's a very important statement that is made because we

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

made the assumption that it would probably fall on the backs of the county. But it may not, it may fall on the backs of the NRD to refund that money. [LB681]

SENATOR WHITE: Well, it seems to me, I don't know what the committee is going to want or what Senator Christensen intended. But I would think it's the entity...the taxing entities that took receipt of the money are the ones who ought to have to refund it. But perhaps that's an open question. The other questions I have, you said that the counties would prefer credits. Correct? You have to understand this bill is written not just for this situation but any unconstitutional tax is the intent. So if you have a sales tax, how the heck are you ever going to give people credit for sales tax? Similarly, income tax, incomes can vary from year to year. Do you have a recommendation? And even in a tax credit, if you have a person who, as you stated, is 100 percent homestead exemption, how will they ever recoup the unconstitutional tax they paid? [LB681]

LARRY DIX: We don't know. [LB681]

SENATOR WHITE: Okay. So do you agree... [LB681]

LARRY DIX: We don't know that. [LB681]

SENATOR WHITE: ...there are real profound problems with credits? [LB681]

LARRY DIX: Well, in the events of a credit, you know, there are pros and cons to the credit. And, man, I can get into a lot of details of it. The credit, you can go down the path of saying you own it today, you sold it to me, the credit comes to the owner of record. I've got to go back and find you because you owned it at the time. [LB681]

SENATOR WHITE: Well, the bill as written says the person that pays the tax gets the money back. [LB681]

LARRY DIX: Right. And the... [LB681]

SENATOR WHITE: Your credit would change that whole concept, do you agree? [LB681]

LARRY DIX: And we...we agree. And I would tell you that the way the bill reads, if you read it as the person who pays the tax, if you have a mortgage on your house you could argue that the bank paid the tax. They are the ones that submitted the check. So do we submit the check back to the bank? [LB681]

SENATOR WHITE: So it's the person that paid the tax. [LB681]

LARRY DIX: And... [LB681]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR WHITE: So whoever paid the tax, you pay them. [LB681]

LARRY DIX: And I would tell you.... [LB681]

SENATOR WHITE: The bank may or may not have a fiduciary duty to pass it back. [LB681]

LARRY DIX: I understand that. The counties do not record who pays the tax. We record that the tax was paid. If I were to go to the county treasurers office and I were to pay the taxes on my mother's property... [LB681]

SENATOR WHITE: So the best you can do is the record owner. [LB681]

LARRY DIX: The best we can do is record owner, absolutely. [LB681]

SENATOR WHITE: Would you...and that becomes a separate issue. Let's talk about would you...would the county support an idea of a de minimus payment not necessary under \$10 or whatever amount was picked, that any amounts under that, unless the taxpayer comes forward and affirmatively requests refund, need not be contacted, need not be refunded? [LB681]

LARRY DIX: We would support that. We would not want to be on record as saying we think that, you know, these folks that, because their tax amount was so low, they weren't...they didn't deserve the refund. But I think we're going down the same path. We would certainly support from an administrative point of view a de minimum tax amount so that we were not issuing the checks for 1 and 2 cents. [LB681]

SENATOR WHITE: You missed the point. They would have to ask for it. [LB681]

LARRY DIX: Okay. [LB681]

SENATOR WHITE: This presumes it's automatically sent back without request or demand. But at a de minimum amount similar to about the cost of administration of it would you guys accept that you would not cut checks for such people, unless they made a demand for a return of the same? [LB681]

LARRY DIX: I think we can support that. [LB681]

SENATOR WHITE: Thank you. Thank you, Madam Chair. [LB681]

SENATOR CORNETT: Senator Utter. [LB681]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR UTTER: Thank you, Senator Cornett. Thank you, Mr. Dix. But can you tell me who's holding this money today? [LB681]

LARRY DIX: It is my belief and from our county treasurers when we collected the money, as with any other collection process, within 30 days we have to forward that onto the taxing entity of which levied that tax. So it is my belief that the NRDs hold the money today. [LB681]

SENATOR UTTER: They are actually holding the money in some type of escrow account or a trust account. Is that correct? [LB681]

LARRY DIX: You would want to ask an NRD. I can tell you from our point of view we have sent the check to the NRD. What they have done with the money I do not know. [LB681]

SENATOR UTTER: So the homestead exemption question that you raised, those folks did not pay a tax did they? [LB681]

LARRY DIX: Those folks did not pay the tax. The state reimbursed... [LB681]

SENATOR UTTER: So how could we assume that they are going to receive a refund of a tax they did not pay? [LB681]

LARRY DIX: I don't think we can. I think in those instances, 100 percent refund, the counties would have to cut a check to the state of Nebraska. The state of Nebraska is the one who has made whole the homestead, the 100 percent homestead exemption. [LB681]

SENATOR UTTER: To your knowledge, do the NRDs have a list of some type of the people that paid the tax and how much they paid? [LB681]

LARRY DIX: I think early in the process the NRDs have a list that they would have submitted to the counties that would have said, here are the taxpayers in our NRDs. Which the counties have the same records. This sort of goes back to the debate on LB701. You know, once we get involved in it, de facto the county sort of becomes in the middle of it, whether we want to be in the middle of it or not because we're in the process of tax collection. And so I think the county would have a list that said, here are the people who paid the tax. If the NRDs have that same list I'm not sure. [LB681]

SENATOR UTTER: So any... [LB681]

LARRY DIX: We could provide it to them. [LB681]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR UTTER: Any NRD then, as a matter of practicality, may be holding the money that was transferred to them from several counties then. [LB681]

LARRY DIX: That's correct. [LB681]

SENATOR UTTER: Well, it seems to me like there has got to be some simple way to do this. But I'm kind of reading from you that you don't think there's a simple way to do this. [LB681]

LARRY DIX: (Exhibit 2) If we go down the refund process there's no simple way. If we go down the credit process there is a simple way. And if we do go down the refund process, and I do have here some suggested amendments to give us more latitude in time. Because I think under what's made reference in this bill, it talks about a normal refund. When one taxpayer comes up and says, hey, my value was too high and you over assessed me, refund me. And it gives everybody latitude and guidelines. We're going to have to ask for...from the committee to extend those deadlines. One of the things that was suggested by one of the county treasurers is if we could at least extend it beyond the next tax billing cycle, it would be possible to include checks within the next tax statement and cut down on postage. I mean everybody is looking to work through this solution together. We just think from a county's, our exposure is, you know, probably a quarter of a million dollars easily. That's a conservative estimate on what we would have to hire to get this process through the refund process. [LB681]

SENATOR UTTER: Looking at the refund process, are there potential inequities there? A piece...I understand, and of course you mentioned earlier that it's really the property that you have to look...the current holder of the property. On a refund process why then that money would be refunded to the current holder of the property, too, not necessarily the people that paid the tax. [LB681]

LARRY DIX: Yeah. All that we have on record is really property of owner. We have a number of situations in a lot of the agricultural area what...this is predominantly agricultural, we'll have agreements within families that each family member, you know, different family members will cut a check. And so they'll bring four checks into the county treasurer for the four family members' halves. And we don't keep track of who the four people were that paid that. We would have no way to send that back to the taxpayer who paid that. We just don't have...the information simply is not there, it is only owner of record. [LB681]

SENATOR UTTER: The refund that you're talking about does that come back, it would be paid in full and in one year's time? [LB681]

LARRY DIX: If we'd go through the refund process, they could be paid back in full if the counties would get the money back from the NRDs. Because keep in mind, right now

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

the county...we don't have that money. We don't have any money to refund. The only potential money we could ever have to refund are people who have not yet today paid their 2007 tax and they come in at this point in time and pay it. But that's such a small amount, we would never have enough to process any refunds. [LB681]

SENATOR UTTER: Going the credit route how long does it take to get the money back? [LB681]

LARRY DIX: One year, it shows up in the next year's tax statement. And then the other thing that you throw into the mix are car line, there's car line taxes and there's in lieu of taxes, prorate taxes, and those are all factored into that formula also. So it's fairly complex. [LB681]

SENATOR CORNETT: Senator Hadley. [LB681]

SENATOR HADLEY: Thank you, Senator Cornett. Mr. Dix, a term I've learned recently in the Legislature is unintended consequences. Do you see any more global unintended consequences from this law that a year from now or two years from now we might say, why in the world did we pass this law? [LB681]

LARRY DIX: Yeah. [LB681]

SENATOR HADLEY: I feel for the...and I understand we have to do something. But I just don't want two years from now something else happening and we're writing millions of dollars of checks. [LB681]

LARRY DIX: Well, nor do we. We view this as...really as a...it's a one-time deal. We can't find anything in the history since 1975 that we've even come close to giving this type of a refund. Even the 3-R refunds that happens somewhere in the 80s weren't anywhere close probably to this. And so we view this...and in fact, our amendment actually takes it outside of the context of the current law and we make it so it references more closely to what we're dealing with today. And that's...I'll hand this out for the committee and you can hand it out at any point in time. But it's something we would like, you know, the committee at least to consider because we think it does identify it and says, it's a one-time deal. You know, I mean when can anybody remember the last time a tax was declared unconstitutional, certainly nobody here. And I don't think until I came in today there was anybody that could tell me that it happened in the vocational technical colleges in 1975. So... [LB681]

SENATOR HADLEY: But wasn't there a fear that caused this law in the first place that we might have a tax ruled unconstitutional and suddenly we're... [LB681]

LARRY DIX: There was. And I think we probably have to address those probably as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

they come up because they probably will not be the same set of circumstances in the future. It's probably going to be something different, something that has a slightly different twist to it. But... [LB681]

SENATOR HADLEY: Okay. Thank you. [LB681]

LARRY DIX: We would certainly rather go down the credit, if at all possible. [LB681]

SENATOR HADLEY: Thank you. [LB681]

SENATOR CORNETT: Seeing no further questions, thank you. [LB681]

LARRY DIX: Thanks. [LB681]

SENATOR CORNETT: Is there anyone else to testify in a neutral capacity? [LB681]

DAN SMITH: (Exhibit 3) Senator Cornett, members of the Revenue Committee, my name is Dan Smith, D-a-n S-m-i-t-h, and I'm the manager of the Middle Republican Natural Resources District. This testimony is offered in a neutral position with regard to LB681. We are fully supportive of the basic premise here included in this proposal in that all taxpayers should have their taxes refunded, whether they protest it or not. But there are some finer details, most of which Mr. Dix just articulated to you, that we feel should be resolved in addition to this proposal. This legislation provides for the repayment of taxes that have been judged unconstitutional. The closest current language in an existing statute in this situation is 77-1735 for an illegal tax which involves a written claim for a refund and then a suit of the county board if that refund is not made. Case law there indicates that if a taxpayer has not complied with the 30 days in making his claim and has paid the tax, then he or she is not allowed to complain at a later date and is not allowed to recover those taxes that were illegally imposed; 1735 is an illegal tax and it's one that's levied for an unauthorized purpose or as a result of fraudulent conduct on the part of the taxing officials, which we don't feel that language applies at all. But by applying the language in LB681 for a tax that is declared unconstitutional then this refund can be made to all taxpayers and not just to the ones who protested. Recently, a tax was levied for an authorized purpose without fraudulent conduct involved and then later declared unconstitutional. The supplemental language of LB681 overrides the process set up in 1735 for this type of a situation and allows the property tax to be refunded as defined in 1736.06 to function as it was set up. And I thank you for the opportunity to testify. Certainly answer your questions, if there are any. [LB681]

SENATOR CORNETT: Thank you. Are there questions from the committee? Seeing none, thank you. [LB681]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

DAN SMITH: Thank you. [LB681]

SENATOR CORNETT: Next testifier in a neutral capacity. [LB681]

DAVID COOKSON: Madam Chairman, members of the committee, my name is David Cookson, C-o-o-k-s-o-n. I'm the chief deputy attorney general. I appear in a neutral capacity to address some of the concerns that have been raised here today by members of the committee with regards to some of the questions. First, I would...although Senator White is not here, I wanted to address the issue about repayment under LB1094 which was a bill the Legislature passed, I believe, two years ago in which the state provided money to the NRDs to complete contracts that had been entered into and then there was an agreement to repay. LB681 does not repeal, abrogate or change that obligation to repay in any form or fashion, nor does it change the memorandum of understanding between the NRDs and the Department of Natural Resources. That issue is an issue for another day when it becomes ripe to address timing and the methodology of repayment and all of those issues. So this bill does not in anyway abrogate or repeal that obligation. Second, the...we are,...we being the Governor's Office, Attorney General's Office, put the bill together in a means to address this fundamental principle that if a tax is unconstitutional it should be repaid. We however, like Senator Hadley, were very concerned, however, about exposing neither the state or political subdivisions to huge tax bills based on a lengthy period of time a tax is in place before it's declared unconstitutional. That was one of the concerns that led to the repeal of a similar provision in 1992. At that time there were a number of tax cases pending and there was a lot of fear that some taxes that have been in place for 20 years were going to get repealed. And then how would the state or the local subdivisions possibly pay all of that back? It would bankrupt school districts, other political subdivisions and ultimately the state. The way this bill was crafted the meter on repayment doesn't start to run until the tax is challenged. So everybody knows once a lawsuit is filed in challenging the tax on constitutional basis that the meter is running and can take appropriate action to protect their political subdivision or state from having...getting in a situation where they have to do that. But as Larry said and as we investigated thoroughly ourselves, we weren't able to find an instance where a tax, prior to this one, was held unconstitutional. We don't believe that this one was unconstitutional, that's why we filed a motion for a rehearing. We believe the court ignored its own rationale and test it set forth in the vocational college cases that were mentioned earlier and we've asked them to reconsider and hopefully they will take that up. So we also wanted to make sure we addressed that concern specifically in LB681 so that the meter starts to run when the lawsuit is filed. It doesn't go back all the way to when a tax may have been adopted. So that keeps us from that unintended consequence. And I believe that addresses the questions that have been raised to us. And I'm happy to answer any other questions you may have. [LB681]

SENATOR CORNETT: Senator Hadley. [LB681]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR HADLEY: Mr. Cookson, what happens if we start the refund process, whichever one...whether we use credits or whatever and the Supreme Court does reverse itself? [LB681]

DAVID COOKSON: Well, what would happen is this will take...it won't...the process won't start until...they deny our motion for rehearing on the property tax. [LB681]

SENATOR HADLEY: Until the final... [LB681]

DAVID COOKSON: ...until they deny our motion for rehearing on the property tax. [LB681]

SENATOR HADLEY: Okay. And that would end...if they were to deny it,... [LB681]

DAVID COOKSON: Then... [LB681]

SENATOR HADLEY: ...then we've exhausted all of our legal... [LB681]

DAVID COOKSON: Yes. [LB681]

SENATOR HADLEY: ...rights. [LB681]

DAVID COOKSON: We've gone as far as we can go and then this process would start. [LB681]

SENATOR HADLEY: Okay. I just was concerned that we would somehow get caught in a reverse... [LB681]

DAVID COOKSON: No, no. We wouldn't start this process...if they decided to take it back on rehearing this would be there in case it's needed. And frankly, it may be needed elsewhere beyond...this is not just about this particular group of people who paid a tax. [LB681]

SENATOR HADLEY: Okay. [LB681]

DAVID COOKSON: Because it's...it...that situation illuminated a bigger principle that people who paid a tax that's declared unconstitutional don't get their money back necessarily. And that was...had been a fundamental principle of Nebraska law and we believe needed to be a fundamental principle again. [LB681]

SENATOR CORNETT: Senator Loudon. [LB681]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR LOUDEN: Yeah, thank you, Senator Cornett. In some of this preceding testimony today, Dave, they said the water was purchased to help offset part of a water deficit that Nebraska accumulated the preceding three years. And, I guess, that's what the argument was in court. When that water was bought that wasn't what it was purchased for. It was purchased so they didn't have to lower their pumping restrictions down in some of those irrigated areas. Is that correct? [LB681]

DAVID COOKSON: It could be viewed as both. It could be viewed as in essence when you're offsetting, which is the way it was described, you're offsetting other uses, which in this case would be groundwater use or could have been surface water use. So, yes, it was used to do that. And it's also...the primary reason that the NRDs came to the Legislature for was to have this mechanism to use so that they didn't have to adopt additional regulations in water-short years, it could be as drastic as shutting off a number of wells and shutting down surface water users in the basin during a water-short year. That was the primary focus. There's two ways to regulate water, you either...or to manage your water. You either regulate it or you purchase other water to make up for whatever water you're using. [LB681]

SENATOR LOUDEN: But they could have regulated and wouldn't have had to spend \$8.5 million. [LB681]

DAVID COOKSON: At the time they did this they didn't have the regulations...the ability to regulate within the time frame that was needed within that year. They can do it now going forward if it's necessary going into another water-short year. The regulations they have in place now are sufficient for average to wet conditions [LB681]

SENATOR LOUDEN: Some of those regulations weren't in place previous to... [LB681]

DAVID COOKSON: The first...the only NRD prior to 2005, I believe, that had regulations was the Upper Republican. That was the only one in the state that had any pumping restrictions. In 2004-2005, the Middle Republican and the Lower Republican began the process, mandated by statute to go through the process to adopt regulations. [LB681]

SENATOR LOUDEN: You're telling me then they weren't fully appropriated until, what, 2004. So they weren't fully appropriated down there? [LB681]

DAVID COOKSON: There was no such concept as fully appropriated until LB962 was passed, which I believe was 2004. [LB681]

SENATOR LOUDEN: Um-hum. Okay, thank you. [LB681]

DAVID COOKSON: Yeah. [LB681]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR CORNETT: Senator Utter. [LB681]

SENATOR UTTER: Thank you, Senator Cornett. Mr. Cookson, do you have any feelings as far as the Attorney General's Office is concerned about the concerns that Mr. Dix raised with regard to the payment method, the refund method or the credit method and then with regard to who this money eventually would flow back to under either method? [LB681]

DAVID COOKSON: We are supportive of trying to help the counties do this in the most efficient and effective way with the least amount of disturbance to their otherwise normal operations. And that's why we didn't, in this bill...we referenced what was the existing, working with the Governor's Office, we referenced, and the Speaker, what was the existing mechanism for refunding knowing... [LB681]

SENATOR UTTER: So you don't see a problem with using the credit method, is that what you're saying? [LB681]

DAVID COOKSON: We're supportive of whatever method works best. So, yes, we don't have a problem with either way, as long as it can be done for the counties in a way that's effective and efficient. We certainly don't...we want to...they're going to have a burden one way or the other. We want to try to make it as least burdensome as possible... [LB681]

SENATOR UTTER: Thank you. [LB681]

DAVID COOKSON: ...on all parties involved. [LB681]

SENATOR CORNETT: Seeing no further questions, thank you, Mr. Cookson. [LB681]

DAVID COOKSON: Thanks. [LB681]

SENATOR CORNETT: Is there anyone else to testify in a neutral capacity? That closes the hearing on LB681. Senator Pahls, you are recognized to open on LB161. [LB681]

SENATOR PAHLS: (Exhibits 4-8) Nice lunch hour, right? Good afternoon. My name is Rich Pahls, P-a-h-l-s. I represent District 31 which is actually is the Millard of Omaha. I'm having the pages hand around several pieces of information, a couple more newspaper articles, and a couple others are more detailed comments that are points of information because I knew probably a number of you would be needing to go elsewhere today. Last year this committee advanced my sales tax holiday bill. But we ran out of time before we could take it up for debate. My bill gives you an opportunity to test the waters to see how a sales tax holiday would work in Nebraska. I believe this is a no-risk test. Every year on the first week in August, right at the peak of back to school

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

sales, Council Bluffs retailers take a big cut out of Nebraska sales tax receipts. I have been in Council Bluffs on this weekend. I've witnessed the parking lots full of a number of Nebraska license plates. Our sales tax and our retailers are actually taking a hit. I did talk to a store, a Target store in the Omaha area and they said their sales were reduced on that date as compared to the Target in Iowa. In Iowa it is a record sales date. My bill puts Omaha retailers in charge of bringing those dollars back to Omaha and puts the sales tax receipts back into our coffers. If we are looking for a no-pain way of increasing our receipts, this bill offers some help. Unfortunately, we do not have any really solid statistics to back up these statements, but by our talking to the departments in Iowa and in Missouri, they do see an increase, but they do not have the exact records, nor do we have records of how much we have lost. But let me tell you about the bill. LB161 enacts the Business Provided Sales Tax Holiday Act. The bill allows Nebraska retailers to provide a sales tax holiday on the very first week in August 2009 and 2010. Under the bill, the sales tax will not be collected from the consumer. It will be absorbed by any Nebraska retailer who decides to participate. By that it means this is optional. The state will not suffer any negative sales tax receipts. And if we like it after two years, we can repeal the sunset, if not, we can just let it go away but we will not lose any tax revenue. Now under our current law every retailer who collects sales tax on taxable sales must abide by these three requirements: the sales tax shall be collected by the retailer from the consumer; number two, it is unlawful for the retailer to advertise that the tax will be assumed or absorbed by any retailer; and the sales tax shall be displayed separately from the price of the article. Those are the three requirements by law. LB161 makes an exception to those three requirements. The exception is allowed on the first Friday, Saturday and Sunday in August. Under this bill Nebraska retailers may, (1) decline to collect taxes from the consumer, in other words the consumer will not be required to pay the tax; advertise its sales tax or tax-free and the retailer will absorb and combine the tax and the price. Under the bill the retailer is required to submit the taxes that would otherwise be due to the state. So in other words, the taxes must be collected by...or paid for by the retailer. LB161 puts the retailer in control of the holiday. The bill is optional. Again, I'm saying that retailers decide whether to participate and the retailers decide which taxable products will be eligible. The bill will sunset after August of '10, unless the Legislature would extend it. Every other state with a sales tax holiday has one or both of the following features--they have a dollar cap on the value or volume of the products that qualify. And on some of the sheets I gave you it shows you what some of the states do, and they have specific items that qualify. Again under this bill, everything is acceptable. Most states have both limits on their sales tax holidays sales, including Missouri and Iowa. With this bill Nebraska would have the broadest sales tax holiday, no dollar limit or volume of products on no specific items, they all will qualify. I believe this bill would more than equal the playing field between the states that surround us. And again, if you do read some of the news, those articles you can see that in Iowa this is their second biggest sales day after the day after Thanksgiving. And I did not solicit anybody to be a proponent, so I do not expect any proponents. I don't really expect an awful lot of opposition to this particular bill. [LB161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Senator Pahls. You waive closing? [LB161]

SENATOR PAHLS: I'll waive closing. [LB161]

SENATOR CORNETT: First proponent, please. [LB161]

SENATOR DIERKS: Any proponents for LB161? Is there anyone in opposition to LB161? [LB161]

RON SEDLACEK: Thank you, Senator Dierks, members of the Revenue Committee. For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce and also been authorized to sign in and to testify on behalf of the Nebraska Retail Federation in opposition to LB161. Last year, this was a concept that was introduced. And consistent with our position, we opposed that legislation as well, although the state Chamber does not have a position on sales tax holidays as an association. I would mention that the Retail Federation does, however, their position is in favor of a, what I would call a more traditional sales tax holiday that is used in other states as opposed to this alternative. Our concern and particularly from the state Chamber's side of the issue is how this actually is somewhat of a state sanctioned license for potential deception, for setting up potential conflicts with truth in advertising regulations by offering to the public that this is a sales free holiday when in fact that might violate other regulations in which that is a conduct that is prohibited. And that it invites situations of what I might call bait and switch type tactics, offering deep discount plus sales tax-free on limited items that are in the store may or may not be in the store at the time. So it kind of gives an exception, essentially, for a few days for our basic advertising rules that we adopt in the first place to protect consumers. And in that regard, that is our rationale for opposing the bill. We certainly thank Senator Pahls for entertaining the idea of how to address, so to speak, the competition in other states. And in regard to sales tax holidays, we just don't believe that this is the appropriate manner in which to do so. If the state of Nebraska wishes to pursue that policy we would suggest that they look at a real sales tax holiday type of legislation as opposed to this. With that, I'll conclude my testimony. [LB161]

SENATOR CORNETT: Thank you, Mr. Sedlacek. Questions from the committee? Senator Utter, I mean, pardon me, Senator Hadley...Louden, I'll get it right yet. (Laughter) [LB161]

SENATOR LOUDEN: Even now. [LB161]

SENATOR CORNETT: Yeah, we're even. [LB161]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR LOUDEN: With this sales tax the sales tax is still paid, isn't it? [LB161]

RON SEDLACEK: That is correct. [LB161]

SENATOR LOUDEN: In Iowa do they...is the sales tax still paid? [LB161]

RON SEDLACEK: No it is not. [LB161]

SENATOR LOUDEN: They plumb discount the sales tax. [LB161]

RON SEDLACEK: It's a...what a number of states do is they carve out specific items such as let's say school supplies or clothes for youth or whatever it might be, books and so forth and just essentially allow for a one, two, three day tax exemption. [LB161]

SENATOR LOUDEN: Okay. And this would be...then if you do that then it would...there would be no point in making a special trip just to buy something to say...to do the sales tax. Because in our towns out there you have your back to school sales and they put a lower price on everything, so you literally pay less sales tax. I guess, I kind of wonder if this is just a mindset or if this actually works that much as the Omaha World-Herald article that they gave us, works out. Does anybody know for sure? [LB161]

RON SEDLACEK: I don't know. It's a...I just think that it...consistent with our policies that it essentially could be a license for some deceptive activity. You know, certainly there's the psychological factor in pricing. And there may be an item sales tax-free, but is the discount any better than if you had a regular sale with perhaps even a deeper discount nonetheless. [LB161]

SENATOR LOUDEN: Okay, thank you. [LB161]

SENATOR CORNETT: Senator Hadley. [LB161]

SENATOR HADLEY: Senator Cornett. Thank you, Mr. Sedlacek. Quick question. I would think this...the way this bill is written that this could be a logistical nightmare for some of the stores to reprogram computers and cash registers and, you know, because they have to keep track of it because they have to pay it. But they don't get...they don't tell the customer what the sales tax is because the customer doesn't have to pay it. I just wondered if you had any comments on...or has there been any thoughts of how you really do this in a real life situation. [LB161]

RON SEDLACEK: Well, and that is part of the problem. And as I say, again it just kind of leads to what is going to be considered somewhat deceptive. And it's not intentional, I don't believe, on the part of the introducer in that regard. But let's assume for a moment that you advertise a product that is subject currently to sales tax in Nebraska as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

tax-free. And this is your line of products that will be tax-free that you've chosen because the bill allows for the retailer the option to choose which items will be tax free. Go to the registry, they either have to reprogram, which would be expensive in itself, and then figure out later on or devise a program to figure out how that sales tax is going to be remitted. If you don't do that, the customer gets the receipt which has the item number and the sales tax tacked on, saying, well, we'll pay the sales tax at this...it just causes problems. And I think it probably in that sense even can exacerbate the situation and just cause bad feelings on the part of the customers. [LB161]

SENATOR HADLEY: Okay. Thank you. [LB161]

SENATOR CORNETT: Seeing no further questions, thank you. Next opponent. [LB161]

KATHY SIEFKEN: Senator Cornett and members of the committee, my name is Kathy Siefken, Kathy with a K, S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association. We have not gone on record in the past on any of these sales tax holiday bills as being in support or in opposition simply because it doesn't give us a lot of heartburn either way. But since the bill got out of committee last year, my members wanted me to come forward this year and let you know that we are opposed to this concept and especially this bill. The reasons for that are because, number one, if we want to run a 7 percent sale we can do that, and it doesn't mess up the software, you can just do it and anybody across the state can do it as Senator Hadley mentioned. So this bill in particular puts the burden on the back of the retailer. And so the retailers would be paying for this experiment. And the most important reason why we are opposed to this legislation is because when I talked to my counterparts in Missouri and in Iowa, there is no doubt that the sale of taxable goods when there is a sales tax holiday does increase. And the net result is people have budgets. And those budgets include food dollars. And the grocery stores in those states have told us that what you see is consumers spending money on nonfood items. And then you will see foodbanks and food pantries use increase immediately around those time periods. So for that reason, we are opposed to the legislation. If you have any questions, I'd be happy to answer. [LB161]

SENATOR CORNETT: Seeing none, thank you. [LB161]

KATHY SIEFKEN: Thank you. [LB161]

SENATOR CORNETT: Next opponent. Is there anyone here to testify in a neutral capacity? [LB161]

JACK CHELOHA: Good afternoon, Senator Cornett, members of the Revenue Committee. My name is Jack Cheloha, that's J-a-c-k, last name is spelled C-h-e-l-o-h-a. I'm a registered lobbyist for the city of Omaha. I want to testify neutrally on LB161. We

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

appreciate Senator Pahls efforts to try to make the bill, if you will, revenue neutral for not only state government but for local governments that have a local option sales tax. As I've testified before this committee before, the city of Omaha is very reliant on their local option sales tax. We raise anywhere between \$110 million to \$120 million a year from that, it's about 40 percent of our General Fund budget. And so especially now when times are tough we have to watch it even more closely. But yet at the same time we're very cognizant of the border bleeding when Iowa does have their school tax-free holiday. And so there is a concern about our residents, you know, shopping across the river in Council Bluffs or wherever to try and save their sales tax. And whether or not we actually lose sales to that, we don't have any data on that right now. But overall, we are concerned that if we did offer a true sales tax holiday where the sales tax was given up, per se, we do think that we would lose revenue. So on one hand we're concerned about border bleeding, but yet we're concerned about loss of revenue. This bill would not provide any loss of revenue, so therefore we're neutral on it. Any questions? [LB161]

SENATOR CORNETT: Senator Hadley. [LB161]

SENATOR HADLEY: Thank you, Senator Cornett. Jack, just...do you have any idea what kind of theory or philosophy behind tax-free holiday? Is there an underlying philosophy that... [LB161]

JACK CHELOHA: I think there is. And as I've been to this issue and heard it before at this committee level, because these bills have been introduced before, maybe Senator Avery, with the next bill, will tell us about it because he's studied it very directly. But I think the public looks at it. And anytime that they think that they can get a product without paying a tax on it, I think that's appealing to them. And just based on the media coverage in the Omaha Metro area of these sales tax holidays, I think that it generates excitement and enthusiasm. And I think you're onto something there, I think there is a mindset of the public regarding these. So... [LB161]

SENATOR HADLEY: Okay. [LB161]

SENATOR CORNETT: Seeing no further questions, thank you, Jack. [LB161]

JACK CHELOHA: Okay, thank you. [LB161]

SENATOR CORNETT: Is there anyone else to testify in a neutral capacity? That closes the hearing on LB161. Senator Avery, you are recognized to open on LB127. [LB161]

SENATOR AVERY: Good afternoon, Madam Chair, members of the committee. My name is Bill Avery, A-v-e-r-y. I represent District 28 here in Lincoln. This is the third time that I have brought this bill before this committee. I used this in my campaign in '06, it was very popular. And the idea came to me at a time when I was visiting my mother in

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

North Carolina and happened to be there on the weekend that they have their annual sales tax holiday for back to school shopping. Wildly popular. The stores are crowded, it's the biggest shopping day of the year for the retailers. My wife loaded up suitcases with back to school items for my son. They have about the same sales tax rate as we do, I think about 7 percent. What we found was that it's not just the 7 percent that you save. I probably wouldn't walk across the street for a 7 percent sale. But Senator Hadley asked a question about, to the previous testifier, that really it was a very good question because what it does it gets at the psychological impact of not having to pay that sales tax. It's an opportunity for the taxpayer to say this is my day, this is my day when I don't have to be subject to those what most people think are oppressive taxes. Now what happens as well, and I witnessed this since that day that we were there, been back a couple of times since then and witnessed the same thing. The retailers will have a storewide sale, 30 percent off, 40 percent off, 50 percent off in addition to the sales tax holiday. And it's a tremendous thing for consumers. This is a time when the consumer is particular hard-pressed, you all are. We know what that is about. This is a way of helping families at a time of the year when young families in particular are faced with some of the largest expenditures of the year, probably more than Christmas even because these are items the family needs, they need these items. And the kids have to have them. So what I'm suggesting here is that we amend the Nebraska Revenue Act of 1967 to include exemptions for school supplies with a sales price of \$100 or less per item, clothing with a sales price of \$100 or less per item, and computers and peripherals but not software, because that can include games and that kind of stuff, but computers and peripherals with a sales price of \$1,500 or less. My intention is that this sales tax would apply to the school year and run from Friday, the first week in August, starting in 2010, through Sunday of that first week. And it would continue annually thereafter. This is...this would put us in head-to-head competition with Iowa. And the border bleed that the previous testifier talked about we could end that or at least we could put a dent in it. And it also adds an extra day. Iowa's is Friday and Saturday. What we would do is Friday, Saturday and Sunday, and we would get a lot of Iowa people, I suspect, on Sunday. There is in this bill, too, a provision that would exempt college textbooks. College textbooks are a growing expense for students. I can remember a number of times when I was at the university and I assigned textbooks that I had no idea what they would cost the students. Then I went over to the book store and I saw what the price tag was and I stopped the order. They were outrageous. Right now we have about 96,000 college students in this state and each student averages, averages spending \$856 a year on those books. Senator Hadley, you know what I'm talking about. You do, too, Senator Adams. This is a lot of money for a college student. They...many of them are working part-time to make ends meet as it is and stay in school. Under this bill, including the textbooks, students would save an average of about \$60. Not a lot of money but it helps. That provision in the bill would, as I read the bill it would run for the full year. That's expensive. I talked to the Fiscal Office. If we were to drop that it would shave off about \$2.5 million from the fiscal note. And I'd like to address the fiscal note a little bit. In Missouri they've had this sales tax holiday for a number of years. And they have...they

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

did a study to find out what is the fiscal impact. And they weren't guessing at it. The Fiscal Office has to guess at it, they don't really know what the impact would be. Their study showed that there was a net increase in sales tax revenue to the state of Missouri, not a lot but a net increase. Why is that? Because people get in the stores and they purchase the tax-free items, but they also purchase other items that are not on the tax-free list. So that in the end the retailers earn a bit more and they have to pay taxes on those items, and the state benefits from that. So I am not sure what it will cost the state to do this. My guess is it might not cost anything but it would be a benefit to the families. The...if you are looking at a way to save from the fiscal note, you might want to take the sales tax holiday on textbooks for college students and fold that into the list of things that are exempted on that weekend. That's not entirely desirable by college students, but it would be better than what they have now. The items that are on the list for exemption include a number of things that students need. I'm not going to go over that in detail, you have that before you. I would say though that now is the time to start doing something to help working families who are increasingly strapped in these hard times. This is a way of offering some modest help for them and I think at modest cost or perhaps no cost to the state of Nebraska. I know that Senator Pahls had a bill that you just heard. I believe what his bill does is allow the retailers to pay the sales tax and advertise a sales tax holiday. Right now you can't do that in Nebraska law. I would ask you to combine these bills, combine these bills so that a retailer that does not have something on the back to school list that's exempted in this bill could advertise that we are participating in the back to school sales tax holiday, we'll pay the sales tax for you. That's what some states do, and that gives everybody a chance to participate. It would be easy to combine the two. With that, I'll stop and take any questions you may have. [LB127]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Senator Avery. [LB127]

SENATOR AVERY: All right, thank you. I may not be able to stay because I've got another hearing. [LB127]

SENATOR CORNETT: Okay. [LB127]

SENATOR AVERY: Thank you. [LB127]

SENATOR CORNETT: First proponent. [LB127]

JIM OTTO: Senator Cornett, members of the committee, my name is Jim Otto, that's O-t-t-o. I am a registered lobbyist for the Nebraska Retail Federation and wanted to come in and express the support of the Nebraska Retail Federation for LB127 and our appreciation to Senator Avery for continuing this effort. Senator Avery has pretty much covered all of the reasons for it. My counterparts in different states tell me that it is the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

next thing to Christmas or the next thing to...it is a huge...it has generated a huge event as far as a weekend of shopping. One thing I do want, you know, as you look at the fiscal note, and Senator Avery brought up that people buy things that are not tax exempt. And that would make up for some of the sales tax that is lost and how do you judge that. And it's very difficult to do. I would say the one thing that my members tell me that I found as a surprise is that once you lose a sale day, for example, you would think during Christmas that people are going to buy the same amount of merchandise because they've already picked out what they're going to buy for this relative, that friend. They know what they're going to buy for Christmas. So you would think that if there is a terrible weather day during the Christmas holiday shopping season that that wouldn't make any difference in the total season because people would just buy those items a different day. But my members swear that they never make up that snow day. Those items just somehow aren't purchased and they never make up that snow day. So one of the...the point I'm making is that many people might say, well, whatever they were going to buy and they bought that was taxable, they would have bought anyway. And so the fact that they came out on a sales tax holiday doesn't really make any difference because they would have purchased those items anyway. But my members tell me that simply is not true, you would lose those sales. So with that, we just want to express our support. [LB127]

SENATOR CORNETT: Senator Utter. [LB127]

SENATOR UTTER: Thank you, Senator Cornett. Mr. Otto, if this weekend sales tax holiday happens on the same weekend, I'm sure that we would do that, if we're going to stop the border bleed thing, has to happen on the same weekend that Iowa does theirs and Missouri does theirs. It appears to me like what we're doing is neutralizing. And maybe the argument that we're going to make enough more sales because we have attracted a bunch of Iowans to Nebraska to buy their stuff or stop Nebraskans from going to Iowa to buy their school supplies, and then they're going to buy other things that are taxable but are going to make this revenue neutral. I think that weakens that argument somewhat, do you think or not? [LB127]

JIM OTTO: I think that's true on the border. But we would have to remember, in other words, I think you're correct. On the border we would stop, there really would be no reason for a Nebraskan to go over to Iowa and take advantage of Iowa's sales tax holiday because it would be here in Nebraska anyway. And I think that is a valid point for the border. But we have to remember that this is all across the state of Nebraska, would encourage people in Kearney, Grand Island, Norfolk that aren't even close to the border to go out and shop that weekend and buy those items that weekend and this is the...so it isn't just...it is a concern about border bleed. But it would be a statewide incentive to get out and shop that weekend and purchase items that weekend. So I think that's correct on the border. [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR CORNETT: Senator Louden. [LB127]

SENATOR LOUDEN: Yes, thank you. Well, then you're telling me, Jim, you're not expecting a snow day that last weekend in August? (Laugh) [LB127]

JIM OTTO: I'm hoping not. (Laughter) [LB127]

SENATOR LOUDEN: That was what your testimony, that you'd get a snow day and everything was lost, so.... [LB127]

JIM OTTO: No, I was tying that to the fact that if you don't go out...in other words people buy the same amount...you would think they buy the same amount, my analogy probably wasn't very good. But you would think that people buy the same amount for Christmas whether it snowed two days during that Christmas shopping season or not, but they don't. They somehow buy more the more they're out shopping. So my point was that the same thing might be true for people thinking that the items that were purchased on the sales tax holiday weekend would have been purchased anyway on a different weekend. My members just tell me for the most part that's not true. So my snow analogy is probably a little bit of a stretch. [LB127]

SENATOR LOUDEN: What they are doing now in most of these places is, you know, you got these back to school sales and there's a 10 and 20 percent discount. You don't think that makes that much difference? [LB127]

JIM OTTO: I think it does help. But once again back to Senator Avery's point that really if the merchant pays the sales tax that's really a 7 percent discount in Lincoln and Omaha. A 7 percent sale is laughed at by customers. I mean it has to be 25, 30, 40 percent sale before you really get customers out. So, yes, retailers are doing those things but there is something psychological about not paying the tax. [LB127]

SENATOR LOUDEN: Okay, thank you. [LB127]

SENATOR CORNETT: Senator Hadley. [LB127]

SENATOR HADLEY: Do you think the people that you represent, the retailers and (inaudible) that you represent, would there be a problem implementing this because, you know, you've got to determine that the item is under \$100, you got to determine whether or not the item, you know, applies, you got to make sure the item is not...that the person is not going to use the item in a trade or business. It seems like there's a lot written in here. And I'm thinking of a Wal-Mart or Target or somebody like that trying to figure out which items they should exempt from tax, which items they shouldn't exempt from tax. Do you think this would be an easy bill to... [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

JIM OTTO: Very good point, Senator. It is a matter of discussion among different retailers because it does require reprogramming the computers for specific items, specific prices, specific dates. And so what it really comes down to is if you've got a store on...I mean as far as when we're talking about, Senator Utter's point about border bleed, if you have a store on both sides, in both Nebraska and Iowa during that time, you may or may not be as for this as if you only have one store and that is in Nebraska. So what it really comes down to is more of our smaller retailers are in favor of the sales tax holiday and not...and some larger retailers aren't...are just kind of ambivalent about it. But it's more of a smaller retailer that we have that is really in support of the... [LB127]

SENATOR HADLEY: My second either statement or question, I wonder if this in a perfect world whether it would be better to give a credit of tax or something like that to people who have children in school or college so that, you know, they don't have to...I'm just thinking that, you know, maybe some people that particular weekend, they don't get paid until the next week. Or, you know, I mean, they're out of the state that weekend or whatever. And if we're going to do it, if we really wanted to help the people with the...if we really wanted to help the middle class or lower class with the tax burden, it might be better to do it through a tax credit or something such as that rather than a reduction in the sales tax. [LB127]

JIM OTTO: Well, that certainly is something to be considered. Obviously, the motivation of my members is to get more people out shopping. And so I completely understand what you're saying,... [LB127]

SENATOR HADLEY: Right. [LB127]

JIM OTTO: ...but the reason they're behind it is because of... [LB127]

SENATOR HADLEY: That's right, you get more people buying that weekend. [LB127]

JIM OTTO: Yeah. [LB127]

SENATOR HADLEY: Okay. [LB127]

SENATOR CORNETT: Thank you. [LB127]

JIM OTTO: Thank you. [LB127]

SENATOR CORNETT: Next proponent. [LB127]

SARAH FECH: Madam Chair, members of the committee, my name is Sarah Fech, S-a-r-a-h F-e-c-h, and I'm here today in my capacity as chairwoman for the Government Liaison Committee and the Association of Students at the University of

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

Nebraska-Lincoln. My committee works in two ways. First, we serve the student body by educating our peers on issues of political importance, and second we speak to elected officials on the local, state and national levels to ensure that a student voice is heard and considered in matters that affect us and allowing tax-free textbooks is one such issue. So today I will touch on two key points. First, the rising burden on students to pay for higher education; and second, the economic impact of LB127 on the state of Nebraska. A number of figures reflect the fact that cost of higher education is becoming increasingly prohibitive to students. Senator Avery mentioned that the average student pays \$856 per year on textbooks. One of my committee members this semester alone spent \$829 on his books and they're for regular freshman introductory courses, such as history, communications and political science. Science courses which require consistently more costly books than those for the humanities were not on his list. And he is taking the standard 15 credit hours. Gary informed me that he will, from now on, purchase all of his textbooks online. And he is not alone. Up to 7 percent of students purchase all of their textbooks online. And 45 percent report that they have purchased at least one textbook online. A few other figures might be of interest to this committee. The cost of textbooks has increased at a rate of four times the rate of inflation since 1994, 62 percent; 43 percent of students opt to not buy at least one book, to not buy it all just to save money. And the average student would save, as Senator Avery said, \$60 a year. Which Senator Avery said that that doesn't seem like a lot of money. But I can say that as a college student \$60 will buy me 30 gallons of gas, 28 loads of laundry in the dorms, or a 13-week, 7 day subscription to the Lincoln Journal Star, or go toward rent. Secondly, with regard to the fiscal impact this will have on Nebraska I see that the fiscal note on the bill includes a significant loss of tax revenue. Senator Avery also talked about that. But as mentioned earlier, many students are moving to buying their textbooks online and that entails a loss of revenue for Nebraska businesses which are hurting in this economy. This bill is very similar to a tax break for students. I can almost guarantee you that students will take that extra \$60 and put it into groceries, and rent, and other necessary expenditures. And Nebraska businesses will again profit from that extra spending money. I believe it will cause students to (laugh) go out and spend that money. I know that if this passes I, personally, will wait to buy the next laptop that I need, even though I'm leaving the state to go to law school. So, finally, we're doing our part to lower the cost of textbooks for students. Our Student Senate worked in partnership with the University Bookstore to communicate with professors about which books they were planning on using for the upcoming semester, which allows that buyback option at the end of the semester, which puts textbook money back in student's pockets. So our student government is committed to lowering the cost of higher education. And we hope that you will consider how to do the same for our state's college students by advancing this very important bill. Thank you. [LB127]

SENATOR CORNETT: Thank you. Questions from the committee? Seeing none, thank you. Next proponent. Are there any opponents? [LB127]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

JACK CHELOHA: Senator Cornett, members of the Revenue Committee, my name is Jack Cheloha. Last name is spelled C-h-e-l-o-h-a. I'm a registered lobbyist for the city of Omaha. I want to testify in opposition to LB127. First of all, let me say we sympathize with Senator Avery and we appreciate the fact that he brings this bill and he's giving it a third try this year. But I'm strictly here just because of the loss of revenue. If you look at the fiscal note, it estimates that the local subdivision loss would be about \$1.5 million. Anytime we see that for local governments, Omaha's share of local sales tax is typically anywhere from 33 to 40 percent. If it is 40 percent, Omaha would lose about \$600,000 in revenue. And that's a lot of police officers, that's a lot of library hours, that's a lot of swimming pool hours, etcetera. And strictly because of the financial impact we are opposed to the bill. And that's our only reason. So do you have any questions? [LB127]

SENATOR CORNETT: Seeing none from the committee, thank you, Mr. Cheloha. [LB127]

JACK CHELOHA: Thank you. [LB127]

SENATOR CORNETT: Next opponent. Is there anyone here in a neutral capacity? That closes the hearing on LB127. And we'll open the hearing on LB296. [LB127]

JESSICA WATSON: Good afternoon. My name is Jessica Watson. That's J-e-s-s-i-c-a W-a-t-s-o-n. I'm a legislative aide to State Senator Annette Dubas. She represents the 34th Legislative District. LB296 expands the reciprocal exemption to all purchases of tangible personal property or services in Nebraska by another state or their political subdivision provided the other state provides a similar reciprocal exemption to Nebraska. Iowa has a limited reciprocal exemption, so most services would be taxable still in Nebraska when purchased by an Iowa political subdivision. South Dakota does not limit its reciprocal exemption, so all purchases by South Dakota's political subdivisions would be exempt. Currently, another state or political subdivision may purchase industrial machinery and equipment, including repair parts exempt from sales and use tax in Nebraska if the state or political subdivision provides a reciprocal sales and use tax exemption on purchases made by the state of Nebraska or its political subdivisions. For example, the Iowa Department of Roads has a road grader repaired by a Nebraska retailer. The Nebraska retailer bills the Iowa Department of Roads. Because the repair parts for industrial machinery qualify as industrial machinery and Iowa has a reciprocal exemption for all tangible personal property, the amount charged by the Nebraska retailer for the repair parts would not be subject to sales tax. However, the Nebraska sales tax exemption is specifically limited to industrial machinery and equipment. This legislation would simply expand that definition. There will be testifiers behind me who will hopefully answer any questions that you have. [LB296]

SENATOR CORNETT: Thank you. First proponent. [LB296]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

MARK OTHMER: Senator Cornett, members of the Revenue Committee, my name is Mark Othmer, that's M-a-r-k, last name O-t-h-m-e-r. I'm the Nebraska field director for the Iowa-Nebraska Equipment Dealers Associations. I come before you today to testify in favor of LB296 and hopefully provide a little bit of historical context to what's actually going on here and how we actually became involved in the situation. The original reciprocity bill that we're talking about was passed, I believe, in 2003. It was the result of an issue where a Nebraska retailer was audited by the Nebraska Department of Revenue. And during that audit it was determined that this retailer had sold some industrial equipment and repair parts to an Iowa tax exempt organization under Iowa law. Since the sale actually took place in the state of Nebraska, the transaction took place in the state of Nebraska, it was determined that retailer should have collected Nebraska sales tax. And it was a rather large sum, so that's why they called us and asked us to get involved in it. We visited with the Department of Revenue. It was at that time that we discovered that the state of Iowa had this reciprocity law on the books that basically said if you provide our tax exempt entities the sales tax exemption, we'll provide your tax exempt entities the sales tax exemption. So I believe it was LB168 that we put into place in 2003 that addressed the situation specifically for the industrial equipment and repair parts. Now this past summer, unfortunately there was an Iowa retailer that was being audited by the Iowa Department of Revenue. And they ran across the same situation with them where the Iowa retailer had sold a piece of industrial equipment to a Nebraska sales tax exempt entity and failed to collect any sales tax. And it was deemed that the transaction took place on Iowa...in the Iowa state area. And they demanded that sales tax be paid. And, of course, the retailer objected because they were aware of the work that we had done five years ago and said, you know, we have this reciprocity agreement. The Iowa Department of Revenue then came back and said, you know what, the Nebraska law is defined too narrowly because it is only specifically saying, industrial equipment and repair parts, so we're going to deny your objection and you still owe us the sales tax. So at that point we asked the Iowa Department of Revenue what we had to do to get ourselves squared up with them so we could actually have this reciprocity agreement. And it was at their suggestion that we change our law to the tangible personal property rather than just industrial equipment and repair parts. If we make this change it will allow once again sales tax exempt entities in the opposite states to go across state lines to make their purchases and still maintain their sales tax exempt status. I know the Department of Revenue...or there's been some problems trying to figure out what there might be as far as a fiscal note on this. I would maintain that the fiscal note is almost zero just for the fact that in the last five years we've been operating under the premise that this sales tax exemption reciprocity is there. And the major purchases of industrial equipment and repair parts have been made tax-free. Now there obviously will be some other products that will fall, if we make this change, will come underneath the auspice of the law. But I really think that unless it's a major, major sizeable purchase, hundreds of thousands of dollars, I don't think these people are going to be going out of state to make the purchases. With that, I would end my testimony and encourage you to move this onto the floor of the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

Legislature and answer any questions that you might have. [LB296]

SENATOR CORNETT: Senator Adams. [LB296]

SENATOR ADAMS: Thank you, Senator Cornett. So if I understand correctly, this bill would expand beyond equipment, machine equipment and repair parts to other tangible property. But it applies just to political subdivisions... [LB296]

MARK OTHMER: Correct. [LB296]

SENATOR ADAMS: ...with tax exempt status. [LB296]

MARK OTHMER: Right. And it would just be as far as sales tax would be concerned, not any other taxes. [LB296]

SENATOR ADAMS: Okay, so I think I understand your logic in terms of the fiscal note. If we haven't been...we've been doing this already, reciprocating on the machinery equipment. But now let me give you a hypothetical and make sure I'm thinking right. So now I am, I don't know, state of Nebraska Department of Roads or I'm Douglas County and I don't want to purchase machinery parts, I want to go out and buy traffic signaling devices, barricades, cones, signaling devices. And there's a place over in Iowa that's got that. So I'm a tax exempt entity as a county or the state, I go over there, they reciprocate. Now if that starts to happen we are going to have a fixed (inaudible). [LB296]

MARK OTHMER: No because it would be the Iowa Department of Revenue that would be collecting the sales tax on that issue, not the Nebraska Department of Revenue. [LB296]

SENATOR ADAMS: Right. [LB296]

MARK OTHMER: Because the sale would be taking place in Iowa. [LB296]

SENATOR ADAMS: Right, but coming the other way. [LB296]

MARK OTHMER: Correct, coming the other way, if an Iowa subdivision, tax exempt subdivision came to Nebraska, why, that... [LB296]

SENATOR ADAMS: I'm trying to figure out where the new fiscal note may be. I mean, if we're looking at just what we're doing right now, I can understand the zero. I'm just trying to speculate ahead when we expand the definition of where we might go. [LB296]

MARK OTHMER: Yeah and I can't disagree... [LB296]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR ADAMS: And that's a tough one. [LB296]

MARK OTHMER: Yeah, I can't disagree with you. And I think that's why the Department of Revenue has had the problem with it too. I maintain that unless it's a sizeable purchase, people are going to stay home and buy it. [LB296]

SENATOR ADAMS: Like traffic equipment that a political subdivision may buy. [LB296]

MARK OTHMER: Well, I would think more of a dollar amount rather than a type of equipment. I mean, if it was \$1,000 or \$50,000 maybe they're still going to stay home. [LB296]

SENATOR ADAMS: Um-hum. [LB296]

MARK OTHMER: But when it gets into dozers, road graders and that sort of thing, that's when they might start shopping in other states to look for a better deal. [LB296]

SENATOR ADAMS: I got you. [LB296]

SENATOR CORNETT: Senator Hadley. [LB296]

SENATOR HADLEY: Probably something I should know, if we sell something to the United States government is that considered sales tax exempt? [LB296]

MARK OTHMER: You tell me if they're sales tax exempt. I don't know. [LB296]

SENATOR HADLEY: I don't know either because it seems to me if we're charging... [LB296]

MARK OTHMER: My guess is that they are because, I mean, it would just make sense. If it's a tax supported entity, why would you tax a tax supported entity. [LB296]

SENATOR HADLEY: But to an extent we're doing that now, aren't we? I mean... [LB296]

MARK OTHMER: Yes, we are. [LB296]

SENATOR HADLEY: I mean I guess I'm trying to (inaudible). [LB296]

MARK OTHMER: (Laugh) That's what we're trying to cure. [LB296]

SENATOR HADLEY: Yeah, to me if it's a consistent argument,... [LB296]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

MARK OTHMER: Yes. [LB296]

SENATOR HADLEY: ...you would use the same argument whether you're selling to the United States government or whether you're selling to Pottawattamie County, you're... [LB296]

MARK OTHMER: Yeah, we're basically trying to take care of that situation to where we are taxing a tax run entity. [LB296]

SENATOR CORNETT: Senator Utter. [LB296]

SENATOR UTTER: The fiscal note mentions lodging tax [LB296]

MARK OTHMER: Um-hum. [LB296]

SENATOR UTTER: And what would happen with regard to university athletic teams, for example, going one way or coming the other way and whether or not that would be covered or not or has to be covered. Would that same thing also apply to sales tax on meals that you buy in a restaurant, those type of things that would be paid for by some governmental entity for an official that was traveling? Seems to me like if you...it depends on how far you take it. But if you take it that far it becomes very complicated. [LB296]

MARK OTHMER: Well, I would assume, and that's a dangerous word, but I would assume that you're correct. So if the University of Iowa came over to play the University of Nebraska or whatever and they were eating dinner over here, they'd eat dinner sales tax exempt. But you have to remember that means the reciprocity agreement, we're going to get that same courtesy when we go to Iowa and play the University of Iowa. [LB296]

SENATOR CORNETT: Seeing no further questions, thank you. [LB296]

MARK OTHMER: Thank you. [LB296]

SENATOR CORNETT: Next proponent. Are there any opponents? Neutral capacity? That closes the hearing on LB296. [LB296]

SENATOR NORDQUIST: Thank you, Madam Chair and members of the committee. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t, and I represent District 7 in Omaha. Today I bring before you LB570, which will remove sales and use tax on the gross receipt from the sale of museum memberships. This legislation is aimed at addressing underfunding of creative, visual, and performing arts in Nebraska and to make the state more

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

competitive in these areas. Several of our neighboring states have...either exempt membership fees or admissions or both for nonprofit art organizations. This bill would exempt admissions...this bill would not exempt admission tickets. So any revenue would be captured from people outside the state coming in that are just buying a one-day admission ticket as opposed to a membership. This bill defines "museum" as an institution operated by a nonprofit corporation or public agency primarily for educational, scientific, historic preservation, or aesthetic purposes which borrows, cares for, exhibits, studies, archives, or catalogs property, or studies and presents visual or live performing arts. The definition of museum includes but is not limited to historical society, historical sites or landmarks, parks, monuments, libraries, zoos, and community or professional theaters with live performances. I think this is imperative that we support the arts properly so that our state will become a more attractive, cultural destination. Cultural tourism is one of our fastest growing industries and yet our community theaters and museums and other attractions are struggling. These institutions are vital to the growth and culture of our state. Museums and theaters stimulate local economy, provide entertainment, and serve as a source of community pride. Now as a member of the Appropriations Committee and given the tough economic times our country is in, I'm well aware of the caution we must take when we proceed. However, I do truly believe that supporting a bill like this would be a step forward for Nebraska's communities and our state's economy. Offering this exemption will allow these institutions to make strategic investments, increasing their ability to enhance the venue which will draw more people from around the country to our state and to our communities. Not only will it increase the revenue from tourism to our state, but it will bring cultural awareness and expose many more people to the arts. This legislation before you represents an important step in enhancing our partnership with our communities. And I hope you will give LB570 your full consideration. Thank you. [LB570]

SENATOR DIERKS: Questions for Jeremy? Senator White. [LB570]

SENATOR WHITE: Where is Senator Landis this year and his acting friends that come in and... [LB570]

SENATOR NORDQUIST: (Laugh) Yeah, we really do miss him. For those of you that are new, this bill has come a couple of times. My predecessor, Senator Synowiecki, introduced it, and Senator Landis did bring some interesting characters down in the past. [LB570]

SENATOR WHITE: Harry Truman, I think, came down and talked to us once at the Capitol. [LB570]

SENATOR NORDQUIST: Yeah, that's right. Harry Truman testified last time this bill was introduced. So thank you. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR DIERKS: Other questions for Jeremy? Thanks, Jeremy. [LB570]

SENATOR NORDQUIST: Thanks. [LB570]

SENATOR DIERKS: First proponent. [LB570]

NATALIE PEETZ: (Exhibit 9) Mr. Chairman, members of the committee, my name is Natalie Peetz, P-e-e-t-z, registered lobbyist for the Omaha Henry Doorly Zoo and I'm here testifying in support of LB570 today. And I want to thank Senator Nordquist for bringing this issue forward. As Senator White alluded to, this is not the first time this issue has been before the committee. And unfortunately, if Harry Truman can't get this done, I don't know who can. (Laugh) But I do just want to leave you with a couple of thoughts. And I know you've had a long day, so my testimony is going to be really short. Dr. Lee Simmons, who runs the Henry Doorly Zoo had hoped to be here today. And unfortunately, his schedule changed, so he asked me to submit his testimony into the record. Please take a look at it. It says in a nutshell what, I think, I would like to leave with you as you discuss the very difficult tax issues before you. The question that comes up is can we afford to give away anymore tax revenue to our state. Tourism is the third largest industry in our state and we spend very little investing in it. I think every one of you has some wonderful venues in your districts. And if we could find more dollars to invest in these, whether it's your local community theater, your museum, whatever it may be, we can grow more revenue for our state. The zoo is the biggest economic generator. It's the number one tourist attraction for Nebraska. It attracts over 1.3 million visitors each year. A study done in 2007, estimated that the economic impact annually on Nebraska to be \$75 million. So it's huge. If you give us more resources we can do more, we can bring in more revenue. For every dollar we invest in tourism we get \$3 back. Help us do that. There are a couple bills in Appropriations today, there was another one a couple of weeks ago, how do we find one-time funding to attract more wonderful events to our state, whether it be the 2010 National Olympics that are going to be held in Lincoln, Nebraska, or the U.S. Swim Trials, or a golf event. If we could set aside a fund, and perhaps we should talk about using current tax dollars to do that. And maybe it's the admissions tax that you set aside to attract these type of events which bring new taxpayers into our state. You're going to see a huge benefit and a huge revenue increase to our state. With that, we want to continue this discussion. Again, we want to thank Senator Nordquist for this. We want to be a partner to figure out how we come up with a plan for tourism in the state. We know, at least from the zoo's perspective, that we can grow more revenue. We're very lucky to have some fabulous private investors who have invested millions into the zoo. And you're going to see some more fabulous things happen in the next two years. Help us do more. And this is a first step. Museum memberships really sustain a lot of wonderful venues which speak to the quality of life attracting people here, keeping them here and bringing new people to the state. So with that, I'd be happy to answer any questions. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

SENATOR CORNETT: Seeing none, thank you. [LB570]

NATALIE PEETZ: Thank you. [LB570]

SENATOR CORNETT: Next proponent. Opponents? Neutral? That closes the hearing on LB570. [LB570]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
March 11, 2009

Disposition of Bills:

LB127 - Indefinitely postponed.
LB161 - Indefinitely postponed.
LB296 - Indefinitely postponed.
LB570 - Indefinitely postponed.
LB681 - Indefinitely postponed.

Chairperson

Committee Clerk