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Revenue Committee
January 18, 2012

[LB725 LB727]

The Committee on Revenue met at 1:30 p.m. on Wednesday, January 18, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB725 and LB727. Senators present: Abbie Cornett, Chairperson; LeRoy Loudon, Vice Chairperson; Greg Adams; Lydia Brasch; Deb Fischer; Galen Hadley; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to Revenue. I am Senator Cornett from Bellevue. To my left is Senator Loudon from Ellsworth; Senator Fischer; Senator Greg Adams from...Senator Fischer from Valentine; Senator Greg Adams from York will be joining us. On my far right is Senator Schumacher, who will be joining us from Columbus, and to his left is the newest member of the committee, Senator Brasch, from Bancroft. To her left will be Senator Pete Pirsch from Omaha and Senator Galen Hadley from Kearney. The research analysts are Steve Moore to my right, and Bill Lock will not be joining us today. Matt Rathje is committee clerk, and our pages are Michael Killingsworth and Matt McNally. We have new pages this year. Before we begin the hearings today, could I please advise everyone to turn their cell phones and pagers to either the off or vibrate position while in the hearing rooms. There are sign-in sheets for testifiers on the tables by both doors and need to be completed prior to testifying. If you are testifying on more than one bill, a sheet needs to be submitted for each bill. Please print and complete the form prior to coming up. When you come up to testify, please hand the sheet to the committee clerk. There are also clipboards in the back of the room to sign if you do not wish to testify but would like to indicate either your support or opposition to a bill. These sheets will be included in the record. We will follow the agenda posted at the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will be allowed 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 ten copies for the committee and staff. If you only have the original, we will make copies and give handouts to the pages to circulate to the committee. With that, we will begin today's hearing. Senator Loudon.

SENATOR LOUDON: Okay, thank you, Senator Cornett. With that, you may proceed, Senator Cornett, with LB725. [LB725]

SENATOR CORNETT: Good afternoon, members of the Revenue Committee. My name is Abbie Cornett, C-o-r-n-e-t-t, representing the 45th Legislative District. I am appearing here today as introducer of LB725, which is the annual bill designed to update references in all Nebraska statutes to the most recent version of the federal Internal Revenue Code, except as provided by: (1) Article VIII, Section 1B of the Nebraska Constitution which states, "When an income tax is adopted by the Legislature, the Legislature may adopt an income tax law based upon the laws of the United

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States."; (2) The statute sections listed in Section 1 of the bill that govern Nebraska's income tax, and the statute section listed in Section 1 of the bill that governs Nebraska business tax incentive programs. For purpose of LB725, the most recent version of the Internal Revenue Code would be the version in existence on the effective date of the bill, which contains an E clause. February 23, 2011, is the applicable date under the current statutes. The Nebraska statutes needs to be updated to coordinate with changes made by Congress to the Internal Revenue Code since that date. For the newer members of the committee, this is a bill that we have every year that updates us and puts us into compliance with federal tax law. I'd be happy to answer any questions. [LB725]

SENATOR LOUDEN: Questions of Senator Cornett? Seeing none, thank you. First proponent, then, for LB725. Any opponents? Anyone in the neutral? Do you wish to close, Senator Cornett? Senator Cornett waives closing. So with that, we will move on to LB727. Senator Cornett is the introducer. [LB725]

SENATOR CORNETT: Good afternoon, members of the committee. Again, my name is Abbie Cornett, C-o-r-n-e-t-t, representing the 45th Legislative District. I have introduced LB727 on behalf of the Nebraska Department of Revenue. LB727 is the department's annual omnibus tax administration and enforcement bill. Many of the bill's provisions are technical in nature, and a representative of the Department of Revenue is here today to testify about the bill and to answer any questions you may have about it. I will tell you about the bill's main provisions. As a cost-savings measure, it eliminates the requirement that the Department of Revenue use certified mail and registered mail for many types of mailings, including mailings of notice of proposed deficiency assessment. The department can use first-class mail instead. Additionally, the bill changes the due date for the filing of motor fuel tax returns and the motor fuel transportation information returns from the 25th to the 20th of the month following the prior reporting period. It also changes the due date for paying the petroleum release remedial action fee from the 25th to the 20th of the calendar month following the month prior period to which it relates. I don't know if...well, we have two new members since that time, but we had a bill in regards to sales tax remittance last year that moved the date back from the 25th to the 20th. This will bring those sections into compliance with the laws that we have already passed. LB727 eliminates certain motor fuel tax collection commissions if a notice of proposed deficiency assessment has become a final assessment. Tax Commissioner Ewald can explain that a little more clearly to you. LB727 changes the source of data required to be used to update the department's calculation of wholesale price of gasoline. Specifically, it requires an average wholesale price of gasoline to be determined using data available from the Nebraska State Energy Office. Under the current law, the department is required to use data available from the Energy Information Administration of the U.S. Department of Energy. LB727 changes the due date for the department to update its biennial Tax Burden Study to December 1, 2013, and every two years thereafter. LB727 clarifies the sales tax exemption for sales of

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prepared food by parent or student organizations at elementary or secondary schools. Specifically, the bill adds new language stating this exemption does not apply to sales by an institution of higher education at any facility or function which is open to the public, and it strikes current statutory language stating that the exemption shall not apply to sales at any facility or function which is open to the general public, except the concession sales by elementary and secondary schools, public or private, shall be exempt. LB727 outright repeals Nebraska Revised Statute Section 66-737, which currently requires the Department of Revenue to appoint a committee to oversee operations of the Motor Fuel Trust Fund created by Nebraska Revenue Statute Section 66-733. Finally, the provisions of LB727 have various operative dates as set forth by Section 48 of the bill and contains an E clause. Thank you. The Department of Revenue will be happy to answer questions in regards to the necessity of these changes. [LB727]

SENATOR LOUDEN: Any questions then for Senator Cornett? Seeing none, thank you. And the first proponent. [LB727]

DOUG EWALD: (Exhibits 1 and 2) Vice Chair Loudon, members of the Revenue Committee, my name is Doug Ewald, E-w-a-l-d, Tax Commissioner of the Nebraska Department of Revenue. I appear before you today as a proponent of LB727. A copy of my testimony is being handed out there. Senator Cornett did a nice job of outlining what's in the bill, summarizing. And I guess I'd like to walk through. Basically, there's seven provisions here that I would like to walk through. With respect to certified mailing requirements, we send out approximately 25,000 notices and other documents by certified or registered mail. This costs the department approximately \$117,000 annually, and it also doesn't include the substantial amount of time it takes to prepare a certified mailing by our staff personnel. LB727 would eliminate the requirement that the department send notices by certified or registered mail. We'll still likely send a limited amount of those certified mails out for tax stamps, cigarette tax stamps, mechanical amusement devices and those type of things, but we'd no longer send it for audit assessments and those type of things, basically, and so it would be a cost savings for us. And we have realized some savings to date where we could. Prior years' changes to the statutes have allowed us to not have to mail certified, and when that came into law we took that opportunity to reduce mailings in the past, so that's some savings we have achieved. I must apologize, the length of this bill is about 90 pages. And 60 of it, specifically, I think relates to this provision because there are certified mailing requirements in quite a few provisions within the current law. So that's 60 of your 90 pages of the bill, actually. With respect to motor fuels, the Cash Bond Fund Committee, LB727 would eliminate the Cash Bond Fund Committee. The Tax Commissioner would assume the oversight authority of the cash bond. As background, this committee was formed in 1995, and since the year 2000 the committee has actually met three times is all, or it had need to meet three times. And the cash...the trust fund was created to prevent a loss to the state for motor fuel taxes and interests that are not paid. And the three times we've had transferred some money and we've actually been able to collect

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at different times. But the infrequency of the meetings basically tell us that there's not a necessity for a formal committee with respect to that. What happens, the committee meets and the department would make a recommendation to the committee. And they've always gone with the department's recommendation, just because we're a little bit closer to the data. And in many cases we've transferred money. And to give you a good example, in May of 2003, there was \$392,000 transferred to the Highway Trust Fund because somebody hadn't paid or multiple people hadn't paid. In June of 2006, July 2008, and January 2009, a total of \$10,000 was repaid to the cash bond fund, so we recouped some money through some collection measures. And then in April of 2010 through June of 2010, \$44,000 was net transferred to Highway Trust Fund, so we're talking some fairly small dollars. Our goal here is to make sure the trust fund remains solvent but they receive what they're supposed to receive based on who should have paid into the fund. The next item with respect to motor fuels commissions, basically this eliminates all commissions when we go out and do an audit and we find that you are deficient. So basically, the department goes out there, finds an audit deficiency, and because that is a payment to the state for motor fuel, technically the statute today, the law says that we have to pay you a percentage of that as a commission, although we're the one that did all the work with respect to finding an error or underreporting from that perspective. So this particular change to the tune of about \$10,000 annually is all. But basically it says that the state will not pay a commission to a producer, supplier, distributor, wholesaler, or importer when we go out there and do an audit and find that you have an underpayment to the state. The next item under motor fuels is the tax return due dates. LB727 changes the date for motor fuel tax returns from the 25th to the 20th of the month following the reporting period to match the reporting deadlines for sales tax. As Senator Cornett mentioned, last year we changed the sales tax due date and remittance date from the 25th of the month to the 20th of the month. There is a small amount of interest that went along with that increase in the acceleration of the due date and this would probably do the same thing, or would do the same thing with respect to roads funding and kind of match the industry practice. As a point of reference, what we're talking about here, the population we're talking about anyway, is approximately 400 filers on a monthly basis would be impacted by this particular change. Last year when we changed sales tax, we had approximately a little over 93,000 filers were impacted by that particular change in due date. And for all practical purposes, most of the people or a good portion of those that file a motor fuel return are already filing a sales tax return as well. The wholesale gas tax calculation, the calculation has been historically based on information provided by the Energy Information Administration of the U.S. Department of Energy, and they no longer publish that information. Senator Fischer, if you would remember back into LB846 in 2008, we changed the wholesale tax calculation, effective, basically, July 1, 2009. That information is no longer available. I think your office was able to point us in the direction of the Nebraska Energy Office and Ethanol Board, and this would be a replacement for that particular piece of information that we reference when we calculate or recalculate the wholesale gasoline tax on a semiannual basis. And we did, and went back and kind

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of did a recalculation using the one, the new Web site, which is our Nebraska Department of Energy, versus the U.S. Department of Energy. And on average over this period, you're talking about a one-tenth of one cent difference if you mirror that from 2009 forward, looking at the rolling average of a six-month moving average of the data, so it's not that significant. We need to have something to refer to, obviously, with respect to this calculation, and this is something that fits our need. The next item is our Tax Burden Study due date; and the Tax Burden Study created by the Legislature is a way to periodically review Nebraska tax policy. Every four years, the department studies the impact of taxes on different economic sectors in Nebraska and the overall impact of those taxes on the Nebraska economy. The Legislature then evaluates whether a change in tax policy is warranted. The latest study was published in 2010. What this change would do is it basically would move the due date of the report from odd to even number of years (sic). This allows us to reallocate staff for purposes of conducting other studies: Estimate of Market Value of Taxable Commercial and Agricultural Machinery in Nebraska Excluding the Railroad Industry; Estimate of Market Value of Taxable Commercial and Agricultural Machinery in Nebraska Excluding the Air Transportation. So there's a number of studies we do and this one just happens to align today with when all the other studies are taking place. So what we propose is moving this from an odd year to an even year (sic), and instead of doing it every four years, we're going to do it every two years. And we think by doing it every two years, we think it will take less time to refresh that study every two years as opposed to doing it on a four-year rotation. And the last item here is the sales tax exemption for schools. And basically, in a nutshell here, we have two statutes, and one basically is a subset of another one. So 77-2704 exempts sales of food by certain school-related parent or student organizations at an elementary or secondary school event unless the event is open to the public. However, we have another statute here that basically says that sale of food by parent booster clubs, parent-teacher organizations, parent-teacher-student organizations, or school-operated stores are exempt, regardless of whether the sale is open to the general public or not. So that one basically, all organizations, it doesn't matter whether it's for the public or private. And basically we're going to strike the one and take the bigger pie here, basically, to show the exemption. And that's the way we've been administering it, is the bigger piece, the bigger pie here as opposed to the subset. And with respect to that, I would...that concludes my formal remarks and I'd be happy to answer any questions you might have. [LB727]

SENATOR LOUDEN: Questions for Mr. Ewald? Senator Pirsch. [LB727]

SENATOR PIRSCH: With respect to eliminating the Cash Bond Fund Committee, is that, you just might say, is that a big savings or is it just mostly for streamlining? [LB727]

DOUG EWALD: No, that's the streamlined. And today, we honestly struggle a little bit to get members to serve on that. It's not as a meet real frequently from that standpoint, so I don't know that there's any technical or hard savings associated with that, but I think

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it's something we think that we can do on a periodic basis. Obviously, three meetings since 2000 doesn't justify maybe having a formal committee to serve. [LB727]

SENATOR PIRSCH: And you're going to two years, just to kind of flip onto a new bullet point. [LB727]

DOUG EWALD: Um-hum. [LB727]

SENATOR PIRSCH: You're changing the due date for the Tax Burden Study, which was four years on....I'm sorry, even years, right? And now you're going to odd and going every two years. Is there an extra cost that will be experienced going to a two-year cycle as opposed to four? [LB727]

DOUG EWALD: We don't think there's an extra cost. And actually, this is probably more of a recognition that today we're doing more with less in our research area. We've had a reduction in staff. It enables us to spread that work out as opposed to piling it all in one year. Spread it out and refresh it every two years. We think that it might be actually a little bit more efficient from that perspective. [LB727]

SENATOR PIRSCH: Okay. And finally, clarifying just what you said with respect to the last bullet point, the sales tax exemption for sales of prepared food. You said that there was two statutes, one of which says as long as it wasn't open to the public. But then there was a more specific, narrow listing of particular exemptions, right, including parent-teacher conferences or something. Which one wins out in the...? [LB727]

DOUG EWALD: Well, the one that wins out is the broader one, that basically all... [LB727]

SENATOR PIRSCH: Broader exemption or broader tax? [LB727]

DOUG EWALD: Well, broader exemption. [LB727]

SENATOR PIRSCH: Broader exemption, okay. [LB727]

DOUG EWALD: Exactly, because we have...that's the way we're treating it today. And whether it's a sale that is open to the public or not, that doesn't matter. And there's far more organizations doing this as opposed to just parent or student. One statute said parent or student. This says parent booster clubs, parent-teacher organizations, parent-teacher-students. So it kind of runs the gamut with respect to that. [LB727]

SENATOR PIRSCH: Sounds pretty reasonable. Thank you. [LB727]

SENATOR LOUDEN: Senator Hadley. [LB727]

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SENATOR HADLEY: Senator Louden, thank you. Mr. Ewald, thank you for coming. Just for my own information, could you walk through how the reporting is done for the motor fuels tax return? Is it done electronically? Do we require electronic fund transfer? Is it by check, or how does it work? [LB727]

DOUG EWALD: Right, great question. And actually, our motor fuel tax return was probably the first return to go fully electronic in the year 2000 to encourage taxpayers to e-file. They kind of got that group on board. So all that information, the return is filed electronically. The funds come in electronically, from that perspective, so that's due today by the 25th of the month. And another point with respect to that is we went back for the last six months, and historically, or at least for the last six months, 65-70 percent of taxpayers file their returns by the 20th today, so they're already filing. They may not be remitting, obviously, but they are filing a good portion of them by the 20th today. [LB727]

SENATOR HADLEY: And just to follow up on that and...I read there is a connection of the Highway Trust Fund. That's where the savings on this...the interest and the savings would go to the Highway Trust Fund. [LB727]

DOUG EWALD: Correct, correct. There's some to the Highway Trust Fund, the Aircraft Fuel Fund, some in the Petroleum Remedial Action Collection Fund as well, and that's basically the additional interest that will be earned over a year based on collecting those dollars five days earlier. [LB727]

SENATOR HADLEY: Okay, thank you. [LB727]

SENATOR LOUDEN: Further questions? Senator Fischer. [LB727]

SENATOR FISCHER: Thank you, Senator Louden. Thank you, Mr. Ewald, for being here today. We had a bill yesterday that I introduced on behalf of the Department of Motor Vehicles in the Transportation and Telecommunications Committee, and it dealt with the certified mail requirements. And there was opposition to that bill by the bar association. I don't know if they are here today to oppose this part of your bill that Senator Cornett introduced on your behalf. Can you tell me how many pieces of certified mail are returned to the department that aren't delivered? [LB727]

DOUG EWALD: Yeah, that's...we think today, only for us...I did hear a little bit of the testimony yesterday. But for us, only, you know, 5-10 percent are actually returned without a signature for us, so we have a better compliance rate than the Department of Motor Vehicles. I don't know why, but, you know, if it's your driver's license, that's pretty important. I think you'd want to... [LB727]

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SENATOR FISCHER: I assume it's because people know they're losing their driver's license when they get it from the Department of Motor Vehicles. [LB727]

DOUG EWALD: Well, that could be. Yes, that's probably the reason. [LB727]

SENATOR FISCHER: But specifically, what would these pieces deal with? In your testimony you talked about a number that you've already changed on your own that aren't in statute, so what pieces do you still send out by certified mail? [LB727]

DOUG EWALD: Well, we send audit assessments out by certified mail. That's going to be a big bulk of that savings; I think 3,000 notices with respect to that. We have levy notices, there's about a little less than 11,000 levy notices when you haven't paid and we're going to send you a notice that we've already sent you three letters, well, now we're going to send you the serious one that we're going to levy your account, something along those lines, basically. So those are probably the two biggest pieces. And, you know, the certified mailing costs are anywhere from, we'd say, \$5.59 to \$2.80. Plus, if you want a return receipt, that's another \$2.30, so it adds up in a hurry when... [LB727]

SENATOR FISCHER: Do you think that people and businesses will still be able to receive these notices if it goes by first-class mail? Do you have any concerns about that? [LB727]

DOUG EWALD: We don't have any concerns and we've talked to some people. I've talked to a few people in the business community, and there is not any real concerns with respect to the mail getting to them or them opening the mail. [LB727]

SENATOR FISCHER: Okay, thank you. [LB727]

SENATOR LOUDEN: Senator Schumacher. [LB727]

SENATOR SCHUMACHER: Thank you for your testimony today, and direct information is very, very valuable to us. These particular items that are on this list, somebody at some time in history must have figured they were pretty important because they took the time to say "by certified mail" in the statutes when they were passed. Can you envision any way that some redundancy could be built into the system at low cost? Licensees, various things get various mail from the department on a fairly regular basis, some of which is no more than a pamphlet, and the envelope looks just the same as one that might say we've caught you in a no-no and, you know, you've got 30 days to respond or you're going to have a problem. It looks like the same envelope. If it has a certified sticker on it, it gets instant respect and your hands get all sweaty when you get it. If, on the other hand it looks like something else, it may not get that type of attention. And with the slipperiness of the slippery slope that the postal service is on, there are

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times in reality in which an important piece of mail ends up in Columbus, Ohio, or it just ends up in the bottom of a postage sack for three months until somebody uses that same sack again. Is it possible that a licensee or a business could say, you know, please, if you're going to mail us something, that it not be mailed certified, please also e-mail it to this particular address so there's a chance of some redundancy. And would that be a hassle? [LB727]

DOUG EWALD: That's a good question. I don't know how big of a hassle it would be. These people, with respect to certified filings, will have received already two to three letters from us already. We don't today, like the monthly, the sales tax returns, we don't send those returns out electronically to anyone. I mean, we send them a...they go out electronically, they go on our Web site. We don't send them paper anymore to file those returns on a monthly basis. So there is very little, if any, information that comes from the department that's, I'll say, informational in nature with respect to like an information guide or something along those lines, other than when we were actually changing the filing date last year on sales tax. So they would have...we keep copies of all the communications that would have went to a taxpayer. So I can look up A, B, C, and say, okay, here's the prior three letters we sent on such and such dates. We do have that. E-mails, I mean if they send you...I mean, it would be somewhat of a hassle. We'd have to, from a confidentiality standpoint, we'd have to verify that, okay, this is your e-mail and you're the only person entitled to receive that communication, something along those lines. Then we'd have to have some sort of tracking mechanism internally to say, okay, this person, we're going to send these out electronically and these ones don't, from that perspective. And the thing is, everybody's going to be a little different. I'm not...I may have a form letter, but I'm filling in the blank specific to your particular account, I guess, with respect to that. So it's tough to answer, I guess. [LB727]

SENATOR SCHUMACHER: I mean, can you envision any alternative mechanism, a fail-safe mechanism? Let's just say a pickle card operator has done a no-no. And typically, the department will send out a letter saying on such and such a day the inspection division caught the pickle card dispenser in XYZ location to be in disrepair, and we're hereby either doing a suspension or a license fine of some description, unless you scream and holler within so many days. And I think those things happen. If that mail didn't get through because...and there's no evidence that it gets through because we've done away with the certified mail requirement, should we build in some safety net that upon filing of an affidavit there's a time extension or a repeat notice or something? I mean, I... [LB727]

DOUG EWALD: Well, with respect to...or, for example, with respect to collections, if somebody is indebted to the state, they will receive, you know, two or three notices; but they will also receive phone calls from our collection agents. So they will pick up the phone and reach out to them and let them know that, okay, we sent you...and we can...and then we'll document that in our case management system with respect to that

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particular account. This letter was sent on such and such date; I had a follow-up phone call with so-and-so, this is what they told me. So there is a direct communication and dialogue outside of the postal mailing with respect to a good portion of these accounts, I guess. [LB727]

SENATOR SCHUMACHER: Thank you. [LB727]

DOUG EWALD: Um-hum. [LB727]

SENATOR LOUDEN: Senator Brasch. [LB727]

SENATOR BRASCH: Thank you, Senator Louden, and thank you, Mr. Ewald. My question is, you mentioned there were already other areas that did not require certified mail that at one point was certified mail? Was that correct? You went from certified to regular mail. [LB727]

DOUG EWALD: Right. [LB727]

SENATOR BRASCH: Did you find there was less compliance or response in changing? Was it successful? Would that be...? [LB727]

DOUG EWALD: I mean, we're probably not, I'm going to say, as equally as successful, because, you know, if we're only getting 5-10 percent of certified returned to us, it's not...that's not a huge portion, and it's not a huge number to probably gauge one way or another with respect to that. It's not like DMV, I heard maybe 60-some percent of it being returned, from that perspective. [LB727]

SENATOR BRASCH: So it's already been tried and shown to be as successful. [LB727]

DOUG EWALD: It appears to be, yeah, successful so far. [LB727]

SENATOR BRASCH: All right, thank you, Mr. Ewald. [LB727]

SENATOR LOUDEN: Senator Hadley. [LB727]

SENATOR HADLEY: Thank you, Senator Louden. Just to follow up a little on the certified mail. In Transportation yesterday, we asked a number of questions of Beverly Neth. And one of the questions I asked was that from a legal standpoint, and she was able to cite case law where basically the courts have held that sending by regular mail is, from a legal standpoint, is as appropriate as sending a certified letter, at least from the DMV standpoint, and I would guess... [LB727]

DOUG EWALD: That's my understanding, and that case law would be applicable to us

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as well. [LB727]

SENATOR HADLEY: Okay. The second thing, and this is just a...I got a chance to sign up for your e-mails that you send out... [LB727]

DOUG EWALD: Oh, sure. [LB727]

SENATOR HADLEY: ...and I was going to encourage the rest of the committee. Those are really, to me, very helpful because they update a lot of the information on the revenues and such as that. So I want to commend you for... [LB727]

DOUG EWALD: Right, well, yeah, thank you. You can sign up. And anytime we push a news release or information guide or something is updated out there, we will push it to anyone automatically, and it links to our Web site and it's really pretty slick. [LB727]

SENATOR HADLEY: It really is a good... [LB727]

DOUG EWALD: Yeah, it's been very, very well-received by our CPAs and our practitioners out there. [LB727]

SENATOR HADLEY: One of the things you might want to do is just compliment the Revenue Committee every now and then in those e-mails. It might help. [LB727]

DOUG EWALD: (Laugh) Okay. [LB727]

SENATOR LOUDEN: Questions? I have one or two, Director Ewald. While we're on this certified mail, what does it cost to send a certified letter? [LB727]

DOUG EWALD: Certified mail costs anywhere from \$2.85 to \$5.59, plus \$2.30 if you want a return receipt requested. And that's in addition to the \$0.44 stamp you have to put on top of it today. [LB727]

SENATOR LOUDEN: Okay, and that was one of my other questions. Can you just send a regular mail with that request to return receipt on there? It doesn't have to be certified to get that receipt, does it? [LB727]

DOUG EWALD: Yes, it does. [LB727]

SENATOR LOUDEN: Okay. And do you think it would be...would you be...and as Senator Hadley mentioned even yesterday about the legality of it, you don't think there would be any problems with that or anything? [LB727]

DOUG EWALD: I think we're okay. And then we have a couple court cases right on

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point with respect to that, that were applicable to us, as I said. So I think we're comfortable with that. [LB727]

SENATOR LOUDEN: Okay. Now my last question is, of course, the hard one. And that's that exemption of sales by an institution and of some of that. Now, starting in the middle of the summer, I was getting people stopping and asking me about this sales tax on their local, I guess their local YMCA, and all those people like that, that haven't paid sales tax. And all of a sudden they found out that they had to pay sales tax. Does this just set this in stone about who's going to pay it? Or is this going to be another bill that we have to address that with? [LB727]

DOUG EWALD: Well, we already had two competing provisions here, I guess, if you will, and one was broader than the other one. So someone could say, well, I fall under the broader one. We said, yeah, we couldn't argue with you from that perspective. So that's...from that perspective, that was how it was being administered. [LB727]

SENATOR LOUDEN: Okay, and this language you put in there just mostly states who is going to be exempted from the sales tax at the present time. [LB727]

DOUG EWALD: That's correct, and basically it will strike the narrower section and leave the broader section of the law intact. [LB727]

SENATOR LOUDEN: Okay, and then leave it for another day for us to face the music on the other part... [LB727]

DOUG EWALD: Well, I don't... [LB727]

SENATOR LOUDEN: ...about these other... [LB727]

DOUG EWALD: I hope not. [LB727]

SENATOR LOUDEN: Okay, thank you. Any other questions for Director Ewald? Seeing none, thank you. [LB727]

DOUG EWALD: Thank you. [LB727]

SENATOR LOUDEN: Any other proponents? Any opponents to LB727? [LB727]

JOHN DILSAVER: Good afternoon. I'm John Dilsaver, and the spelling on the name is J-o-h-n D-i-l-s-a-v-e-r. I represent Rite Way Oil and Gas Company, Omaha, Nebraska, as the chief financial officer. Also I am a board member of the Nebraska Petroleum Marketers and president-elect. We're...you know, we're...understand where the department is coming from. We work closely with them every month, you know, filing

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electronically on the motor fuels. So, you know, I'd sort of term it as a soft opponent. You know, we understand that most of us are filing by the 20th. Most of that is related to that we have been filing electronically for so many years, and we were, you know, sort of on board with doing that; the software is in place, everything is in place. And so we certainly understand that it's not a problem to file by that due date for the majority of the marketers. Especially the large marketers are probably more computerized than most. But a lot of those 400 filers are probably some fairly small marketers, too, that I'm sure are doing everything manually. You know, the five days, the difference in the payment, most of us were filing before the 20th. We're one of those companies that is able to file it before the 20th. I think most of it's...you know, file by the 20th because it's electronic and then we would remit payment on the 25th, you know, not knowing that that was going to hurt us in the, you know, going forward. But it's just, you know, the extra five days for a marketer. In Rite Way's business, and we're by no means one of the, you know, largest marketers in the state, but we're remitting approximately \$500,000 to \$600,000 a month. And so when you're working with an extra five days of those funds coming out, you know, you could potentially, you know, see where the increase...if you've got a line of credit in your business and sort of how that can impact cash flow, so. And a lot of the smaller marketers, probably those 400 filers, a large number of them, I'd say 350, are probably fairly small. And, you know, I can't speak for them, but, you know potentially that extra five days is a big difference to them, so. That's really, you know, other than that we, you know, the department is very good to work with, filing electronically. The communication between the department has been always very good and I think I've never heard anything different from anybody in our industry as to, you know, they're a good partner to work with. So that's the end of my formal comments. If there's any questions, I'd certainly... [LB727]

SENATOR LOUDEN: Questions for John? Senator Hadley. [LB727]

SENATOR HADLEY: Thank you, Senator Louden. John, just for my own information, how are bad debts handled on fuel sales? Because you could get one, right? I mean, you could get a check that bounces and... [LB727]

JOHN DILSAVER: Sure. [LB727]

SENATOR HADLEY: ...you can't find the person... [LB727]

JOHN DILSAVER: Sure, sure. [LB727]

SENATOR HADLEY: ...and such as that. Does the state allow you to get a refund of the taxes or is that...? [LB727]

JOHN DILSAVER: Well, you know, fortunately in my business, you know, in our...you know, with our customers, I haven't run into that... [LB727]

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SENATOR HADLEY: Okay. [LB727]

JOHN DILSAVER: ...where, you know, because it's...we remit the payment based upon the purchase. And if we extend credit to an individual and they happen not to pay us, I guess I'd have to...I mean, I don't want to answer it without knowing for sure. I think... [LB727]

SENATOR HADLEY: Okay. Okay, I mean, I was just curious because... [LB727]

JOHN DILSAVER: I thought there was a, you know, and maybe Doug would be able to answer that, but I don't... [LB727]

SENATOR HADLEY: Okay. [LB727]

JOHN DILSAVER: I guess I don't want to say without knowing specifically... [LB727]

SENATOR HADLEY: Okay, and I was... [LB727]

JOHN DILSAVER: I just haven't experienced it myself... [LB727]

SENATOR HADLEY: ...I was just curious as to how bad debts fit into that. [LB727]

JOHN DILSAVER: ...if there's a way for us to recoup that. I thought there... [LB727]

SENATOR HADLEY: Okay. [LB727]

JOHN DILSAVER: I think there is. [LB727]

SENATOR HADLEY: Okay, thank you. [LB727]

SENATOR LOUDEN: Other questions for John? Seeing none, thank you for your testimony. [LB727]

JOHN DILSAVER: Okay, thank you. [LB727]

SENATOR LOUDEN: Next opponent? And then we will go to neutral testimony. Anyone in the neutral? Seeing none, then, Senator Cornett, do you wish to close? [LB727]

SENATOR CORNETT: Yes, thank you, committee. First, I'd like to address Senator Louden when you were talking about the sales tax exemption for the YMCA. Yes, that will be a separate bill that is coming. This bill that is part of the department bill does more to clarify, from what I understand, PTA sales on the premises. Like if the PTA sells

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a bag of potato chips, that that isn't sales tax; there isn't a requirement for sales tax on that, and is harmonizing between two sections of statute that are currently in existence. In regards to my comments on the changing of the date from the 25th to the 20th, we have already required last year all of our other sales tax to be changed from the 25th to the 20th. It came out of this committee and was passed on the floor. The thing I would remind the committee to remember is this is the state's money. We are moving it back from the 25th to the 20th as a harmonizing provision with what we've already passed for other people. With that, I'd be happy to answer any questions. [LB727]

SENATOR LOUDEN: Questions for Senator Cornett? Senator Fischer. [LB727]

SENATOR FISCHER: Thank you, Senator Louden. Senator Cornett, if I remember correctly, when we moved that date back, Senator Pankonin expressed some concerns, I believe, with individuals who may have issues in doing that. Have you heard from any individuals at all or any businesses that expressed concerns about moving that back? [LB727]

SENATOR CORNETT: I have not heard a word. [LB727]

SENATOR FISCHER: Thank you. [LB727]

SENATOR LOUDEN: Okay, other questions for Senator Cornett? Seeing none, thank you. And this will end our hearing on LB727 and we'll end the hearings for today, and then we will go into Executive Session. [LB727]

SENATOR FISCHER: I move we go into Exec. [LB727]

SENATOR HADLEY: Second. [LB727]

SENATOR LOUDEN: So moved and seconded. [LB727]