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Revenue Committee
March 20, 2013

[LB333 LB414 LB558 LB581 LB618]

The Committee on Revenue met at 1:30 p.m. on Wednesday, March 20, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB581, LB333, LB618, LB414, and LB558. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: Charlie Janssen.

SENATOR HADLEY: Welcome to the Revenue Committee. We will get started. I'd like to make an announcement first, a quick announcement. If you're packing, you're in the wrong committee. That's down in...that's in Judiciary if you're packing, okay? If you got a pen and you want to talk today, we're fine to have you here. My name is Senator Galen Hadley from Kearney. I appreciate your coming to the Revenue Committee. To my left is Senator Paul Schumacher from Columbus. Senator Pete Pirsch will be with us from Omaha, Senator Kate Sullivan from Cedar Rapids. On my far right will be Senator Burke Harr from Omaha. Charlie Janssen will be coming, and Beau McCoy, Senator Hansen from North Platte. We're joined by Pete Pirsch from Omaha. To my right is our committee counsel, Mary Jane Egr Edson. Bill Lock is our research analyst. Matt Rathje to my far left is our committee clerk. Pages are Evan Shmeits and Nate Funk, great guys. Those of you know how important it is that the pages help us throughout the day and give us valuable service. Please turn off cell phones or put on vibrate while in the hearing room. The sign-in sheets for testifiers are in the back and look something like this. We'd appreciate it if you'd have them filled out and give them to the...Matt Rathje, the clerk. The reason we do that is that we have to have a good record for the transcript as to who testifies and who doesn't. Please print and complete the form prior to testifying. There are also clipboards in the back room to sign if you do not wish to testify but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or a representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, 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. Give the handouts to the page to circulate to the committee. With that, welcome to the committee and we're going to start with Senator Crawford with LB581. Senator Crawford. [LB581]

SENATOR CRAWFORD: (Exhibit 1) Thank you. Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Sue Crawford, C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I bring LB581 to the committee this afternoon as a small step in a larger commitment by the state of Nebraska to restore balance and fiscal integrity in our relationship with our county governments and local governments more broadly. LB581 restores a commitment made to counties that was reversed in a tough budget time. In 2001 and

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2002, the state approached cities and counties asking for help during a fiscal budget crisis following the post-9/11 economic turndown. These local governments stepped up and shared in the sacrifice of balancing the state's budget. Nebraska's budget picture has improved since then and it's time that our agreements with local governments better reflect the current economic situation. The issue at hand with LB581 though is not just returning to some prior agreement. The issue is fairly compensating counties for the cost of doing business that we asked them to do as arms of the state. Specifically, LB581 restores a .5 percent commission to counties across the state of Nebraska for all motor vehicle sales tax collections over \$3,000 per month. Prior to October 1, 2002, counties received a 2.5 percent commission on the first \$3,000 of motor vehicle sales taxes collected in the county during the previous month as well as a .5 percent commission on tax collections over \$3,000. This .5 percent commission was eliminated as part of a larger budget package during the state budget crisis mentioned earlier. Now counties receive only a commission on the first \$3,000 of sales tax collection a month for these motor vehicle sales. For counties that collect at least \$3,000 of sales tax revenue a month, this comes out to \$75 a month or a little over \$900 a year for collecting this motor vehicle sales tax. The county treasurer collects taxes on motor vehicle sales taxes as part of the motor vehicle registration and titling process. As part of this process, county employees may need to challenge vehicle valuation and track down paperwork from out of state or private sellers. Rich James, the Sarpy County Treasurer, estimates that 10 percent of staff time in his office is devoted to collecting and disbursing motor vehicle sales taxes specifically. Using the 2013 fiscal year budget, this puts the cost of collecting these taxes at just under \$104,000. Currently, the treasurer receives just under \$900 a year in compensation for collecting this motor vehicle tax. LB581 would increase Sarpy County's commission to approximately \$100,000 per year, which better matches the actual cost to the county for collecting this tax. Rich James, the Sarpy County Treasurer, will testify after me and can answer questions about the motor vehicle sales tax process and his cost estimates. So I'll let him answer those questions. If the state under-compensates realtors for the cost of collecting sales taxes, the costs ultimately shift to the consumers at the point of sale. Counties on the other hand, must shift this cost onto the residents in the form of property taxes. This is all the more reason why we should better compensate counties for the work of doing business that we, as a state, asked them to do. Putting this commitment into practice does impact revenues. However, once the revenue impact is considered in the context of the entire roads funding system, the costs seem quite reasonable. And we distributed a sheet for you that lays out different road funding...a road-funding diagram for you that lays out what those numbers look like and where those funds that are in the fiscal note would show up. So the fund...most of the fiscal note impact is not General Fund...is not primarily General Fund impact, it is primarily Highway Cash Fund, State Highway Capital Improvement Fund, and Highway Allocation Funds. So we distributed a diagram to show you what that...what those numbers look like and in terms of, so you can better understand the fiscal impact of the bill. In 2012, motor sales taxes added \$179 million to the Highway Trust Fund.

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Assuming a similar figure in 2013-2014, the revenue loss of over \$787,000 combined to the Highway Cash Fund, State Highway Capital Improvement Fund, and Highway Allocation Fund. So this is the fiscal loss you're seeing in the fiscal note of lost revenues of \$381,000 in Highway Cash Fund and \$405,000 out of the Highway Allocation Fund. If you add that up and assume we're having a revenue loss of over \$787,000 combined in those places, that is still a loss of less than .5 percent in these funds. So it's a small slice out of those funds. It's .4 percent. The fiscal note indicates that cities and counties would lose \$458,000 for roads. The allocation formula divides this evenly. Counties then lose \$229,000 but gain much more than that in fair compensation for the collection of motor vehicle sales taxes. Cities also lose \$229,000 in that first year without compensation, as the bill is drafted. However, this \$229,000 is less than .5 percent, it's .2 percent of the funds that they get from...yeah, .2 percent for the funds that they get from the Highway Allocation Fund. There are 530 cities and villages, so this loss equates to less than \$500 per municipality. This reduction for cities will be more than replaced by over \$4 million that will be coming to cities through new revenue coming from the Highway Allocation Fund with a .25 percent sales tax that goes into effect this summer. This makes 2013-2014 the opportune time to make this adjustment. As we consider any shift in money from the Highway Cash Fund, the counties must also recognize that city and county have about 87,000 miles of roads compared to 9,900 miles of state highway and 480 miles interstate in the state. LB581 restores the .5 percent commission to counties for collecting motor vehicle sales taxes. This restores the commitment to paying counties for the cost of doing business that we ask them to do. Estimates from Sarpy County indicate that the previous commission rate still makes sense as a fair compensation for the current costs of collecting the motor vehicle sales tax. This is the time to make this first step towards renewing commitments to fair compensation to local governments for the cost of doing business. This process of renewal is necessary not only for the sake of the vitality of our local governments but also to reduce pressure on property taxes and make our state a more attractive place to live, raise a family, and grow a business. And with that, I'm happy to take any questions that you have. [LB581]

SENATOR HADLEY: Are there questions for Senator Crawford? Seeing none, thank you, Senator Crawford. [LB581]

SENATOR CRAWFORD: Thank you. [LB581]

SENATOR HADLEY: First proponent? Welcome. [LB581]

RICH JAMES: Thank you, Senator...Senators. Good afternoon. I'm Rich James, R-i-c-h J-a-m-e-s, and I'm the treasurer of Sarpy County here in support of LB581. I would also state that I contacted the treasurers' in Douglas County and Lancaster County and they also support LB581. I'll provide a little bit of testimony and then I'll be happy to answer any questions you might have. About two-thirds of my staff is committed to the titling

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and registration of vehicles in Sarpy County. In the year 2012, we collected approximately \$20 million in sales tax and tire tax, and a total of \$26 million in all other registration fees. So the money that I collect for sales tax amounts to approximately 43 percent of our overall collections in the Motor Vehicle Department. So I suppose that I could argue that we spend 43 percent of our time collecting sales tax, but that would not be accurate. I estimated--looking at my staff and looking at what we do and the detailed process that we have to go through in order to collect sales tax--and I've estimated that roughly 10 percent of my DMV budget, which works out to about \$104,000, is probably a reasonable figure given all the time we spend involved with sales tax and the collection of the sales tax and the processing of the vehicles. A lot of our time is spent dealing with the Nebraska Sales/Use Tax and Tire Fee Statement--that's a Form 6--produced by the Department of Revenue and it's provided by dealers in Nebraska to us to help us collect the sales tax. We're a lot different than Target or Walmart where they read the bar code off of the paper or off of the product you're buying and it adds the sales tax to it. And at the end of the day, it adds it all up and tells them how much they have to send to the Department of Revenue. We have a lot of paperwork, we have to look at it, and all of it has to be entered in the computer by hand. You could all buy the same car and come to register it with me, and because either you didn't live in a city, or you did live in a city, or the deal you worked wasn't the same as the deal...as you seldom see the same deal for the same car, each of those transactions is totally different than the other one when it goes to entering the data in the computer. We have to look over these sales tax forms and make sure they're correct. Sometimes people turn in...trade in two vehicles or more, not with great regularity, but with some regularity. They have to have that data on the Form 6. Sometimes the taxpayers don't show up with the Form 6 and we have to have it or we can't conduct any business with them. So we're on the phone or they're on the phone trying to get it faxed in. Meanwhile, my employee is more or less unusable until we can get that document available to us. Sometimes we have leased vehicles on the form. Leased vehicles are not allowed to be deducted from the price of the vehicle. And so we have to get that off of there and then explain to the customer why they're going to pay sales tax on the full value of the vehicle and not what they thought they were going to pay it on with the discount for the leased vehicle. It's relatively straightforward, the transaction. We enter the data into the computer by hand. When we're dealing with a Nebraska dealer, it's pretty straightforward. When we get out-of-state dealers, they don't have to prepare a Form 6 so we have to basically prepare the Form 6. And we have to look at their bill of sale to determine what they really paid for it. And in some of the states that we get it's a real challenge. What they paid for the vehicle, what they actually got in trade-in, any other discounts that they're entitled to. Then we have to add on additional fees for things like documentary fees. If they had the car undercoated or something, it has to be added on because we have to collect sales tax on basically anything they've done to that car. We get people who buy them out of state and think they don't have to pay sales tax, so then we spend some time explaining to them why we have to. And then they tell us sometimes we're not very honest people because we're charging them sales tax. But

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that's the nature of the business, I guess. We get bills of sales that come in. We have to verify the veracity of the bill of sale. Sometimes we don't think the bill of sale looks exactly kosher, or the car seems like a heck of a bargain, so we try to politely question the taxpayer to find out, you know, well, how come this car is like this? And ultimately it boils down to that we have to follow the Department of Revenue's rules and we more or less become the tax sale police, if you will, trying to verify that things are honest and things are done properly. And once in a while, we have to send the data off to the Department of Revenue because we think it's really, really fishy, but there's nothing we can do to prove otherwise, you know. It'd be nice if we could demand notarized bills of sale, but they don't let us do that. So the Department of Revenue has a 28-page booklet that's entitled "Instructions for County Treasurers" and it outlines the procedures and exemptions that are eligible to be taken on the Form 6. There's a great number of exemptions that get people out of paying sales tax. This is just part of our process of verifying the transaction and how it took place. Sometimes people are selling businesses to other business. There's an exemption for that. But we have to see some documentation showing that this business really is going out of business and selling all their product to another business, which all of this takes time, I guess, is what it boils down to. It's a very time-consuming process. And there's 28 pages of things for us to follow and to look for and to do our job properly. Telephone calls, we get a great number of telephone calls. The price of registering a vehicle is expensive, as you're all aware. People want to know what it's going to cost them to register their new vehicle. And part of that process is telling them how much they're going to owe in sales tax, which means we have to know what...where they live because we've got to know whether they're in a city that's got a sales tax or they're outside the city limits. We have to know what they really paid and, of course, we don't have the paperwork in front of us. So sometimes it's your best guess as to what they really paid for the vehicle or they think they know what their trade difference was but they don't. So return checks, we get people that write us bad checks. I'm sure you can appreciate that that happens, which requires a certain amount of bureaucracy in trying to recoup that money and/or to reverse out the transaction because we weren't paid for the sales tax that we've already transmitted to the state. And basically now we have to get it back by reversing out the transaction because the citizen wouldn't make their check good. And we reverse it out and we give it to the county sheriff. And sometimes the people hurry up and come in and take care of the problem and sometimes we never see them again. Periodically, the county attorney gets committed to chasing down sales tax that hasn't been paid. Sometimes the citizens let us know that their neighbor is doing something funny, registering their car in Oregon or something like that even though they live in Nebraska. And then the county attorney gets involved in the process trying to collect sales tax and/or registration fees for the vehicle. In summary, I've estimated that we spend over \$100,000 in labor and expenses and currently we're reimbursed almost nothing for the privilege. And I'm supporting LB581 simply to restore that fee that we had up until about 2002 back to where it was. [LB581]

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SENATOR HADLEY: Thank you. [LB581]

RICH JAMES: You bet. [LB581]

SENATOR HADLEY: Are there questions? I have a question. Do you know approximately how much this would mean to Sarpy County? [LB581]

RICH JAMES: How much would it mean? [LB581]

SENATOR HADLEY: Yes. [LB581]

RICH JAMES: About \$102,000 except for the fact my fiscal agent tells me we'd lose about \$17,000 in highway allocation if this took place. So the net effect is about \$83,000 to \$85,000 to Sarpy County. [LB581]

SENATOR HADLEY: What do you think the county would do with this \$80-some-odd thousand dollars? [LB581]

RICH JAMES: What would they do with it? [LB581]

SENATOR HADLEY: Yeah. [LB581]

RICH JAMES: I think they would fund their budget with it and maybe attempt to lower their mill levy. [LB581]

SENATOR HADLEY: Okay. So it would probably go in the county general fund or something such as that? [LB581]

RICH JAMES: Well, that's where those fees go, yes, sir. [LB581]

SENATOR HADLEY: Yeah. Yeah. Okay, thank you. Senator Pirsch. [LB581]

SENATOR PIRSCH: So the...what exists right now in collecting 2.5 percent monthly commission on the first \$3,000 aggregate of motor vehicle taxes collected by the county? [LB581]

RICH JAMES: Up to \$3,000. [LB581]

SENATOR PIRSCH: Yeah, up to \$3,000 in the aggregate. [LB581]

RICH JAMES: Yeah. And we obviously collect that much, so it's \$75 for motor vehicles or am I misunderstanding what you're asking me? [LB581]

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SENATOR PIRSCH: No, no. I'm just trying to get a lay of the current land here. [LB581]

RICH JAMES: Yes, sir. [LB581]

SENATOR PIRSCH: So how much does that bring in yearly for you if it's 2.5 percent monthly? [LB581]

RICH JAMES: Seventy-five dollars a month for vehicles, which is \$900 a year. [LB581]

SENATOR PIRSCH: Okay. That's what I thought you said. Okay. Hey, thank you. [LB581]

RICH JAMES: You bet. [LB581]

SENATOR HADLEY: Seeing no other questions, thank you. [LB581]

RICH JAMES: Thank you, Senators. [LB581]

SENATOR HADLEY: Next proponent. [LB581]

LARRY DIX: Good afternoon, Senator Hadley and members of the Revenue Committee. My name is Larry Dix. I am the executive director of the Nebraska Association of County Officials appearing today in support of LB581. A couple of things that I want to just bring up for the committee to just sort of try to lay the land ten years ago. That's really sort of when this started. In 2002, Senator Landis at that time had a bill. And that was when we were starting to go through the financial difficulties that we were in in the state. And initially, his bill eliminated all collection fees. And then Senator Coordsen, through a negotiated effort, came back with an amendment that at least allowed us to get that percentage on the first \$3,000 of taxes. So that's really where that started. And at that point in time, if my memory is right, there was even a sunset on that bill that it would only be eliminated for a short period of time and then it would be reenacted. And then, unfortunately, it was deemed that at the end of that sunset period, we still didn't have enough money at the state, so we extended it or, in essence, just eliminated it. And then in 2009 I think Senator Fulton brought forth a bill that is very similar to another bill we're going to hear that Senator Schumacher has a little bit later. And that...because in the Landis bill, it took it away from all entities that collect sales tax, not just counties. And then in 2009, Senator Fulton had a bill that brought that back for all the entities similar to Senator Schumacher's bill. Then in, I think, last year there was also a bill in front of the Legislature that did something very, very similar to this. But what it did at that point in time back in 2002 is about \$1 million to counties. And that was sort of the estimate at that point in time. And we always look at that and we always say, well, you know, okay. So over the course of that year it's the compilation of things that have happened to counties that start to stack up. It's a million here, it's a few million

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there, it's a \$4 million for jail reimbursement, it's \$5.5 million for state aid, and before long, we're starting to see this compilation. At the same point in time, we're starting to have people say, well, hold it. What are you doing about property taxes? Well, it's simple math. It's the amount of revenue versus the budget. And you make a calculation and if you reduce the revenue, certainly the tax rate is going to have to go up. So this is a step in the direction of putting that money back in place. So that's a little bit of sort of the history of where this all came about. I think the...what Mr. James explained as far as the treasurers, certainly not only Douglas and Lancaster, but I would tell you I could bring 93 treasurers in here, they would all support this. They know the workload that goes into collecting sales tax. And I don't care if you're in Arthur, Nebraska, or if you're in Douglas County, I would tell you that at the end of the month, Arthur County gets \$75, Douglas County gets \$75 for the amount of work that they do on collecting the sales tax. Now that, to me, should raise some eyebrows that something needs to be looked at in this area because the workload is significantly different. And there's a significant benefit to the state of Nebraska for the county treasurers to do the amount of work they're doing to bring in these tax dollars because, primarily, those sales tax dollars are funneling into the state's General Fund. So there's a significant workload, and it is different than going up to a cash register and ring something in and the cash register makes the calculation and collects the money. So we certainly look at this very, very differently than most of the entities that collect sales tax on behalf of the state of Nebraska. We believe there's a partnership there with counties and the state. But we would ask you to take a close look at that partnership and look at the work that's done on behalf of the state by these county treasurers. And I think you'll see it is very, very significant. It...when we look at this particular bill, we realize there is some reduction in the Highway Trust Fund. We knew that back in 2002. At that time, I went back and looked at my notes as to what the gain and the loss was and that...the ratio between the gain and the loss is pretty much the same as what it is today. So we're very, very cognizant of the fact that it does reduce some of the Highway Trust Fund. But the amount of gain to the counties is much more than the loss to the Highway Trust Fund. And so our position has consistently been the years...we opposed it when Senator Landis introduced it, we supported Senator Fulton's bill for the reasons that I just stated, we support what Senator Crawford is doing for the reasons I just stated. And you'll hear me on the next bill probably supporting it for those exact same reasons. So with that, I'll be happy to answer any questions that anybody has. [LB581]

SENATOR HADLEY: Senator Pirsch. [LB581]

SENATOR PIRSCH: Thank you very, Mr. Dix. Could I just ask you to clarify what I thought I heard the previous testifier testify to...was the...that's the Sarpy treasurer. Is...did I hear right? You said that he's spending two-thirds of his staff time devoted to this? [LB581]

LARRY DIX: I don't want to answer, you know, based on what he stated necessarily,

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because I don't know. [LB581]

SENATOR PIRSCH: Let me ask you that. In terms, just general overall... [LB581]

LARRY DIX: Okay. [LB581]

SENATOR PIRSCH: ...statewide, how much of an average...or do you have an understanding, ballpark of how much staff time is devoted to this function? [LB581]

LARRY DIX: Yeah. I would tell you in general terms as you look across the state, there's an amount of time that a county treasurer has to take to collect this tax because it is not simply a calculation when somebody comes forward. The forms have to be verified, as Mr. James said. And you have to verify the amount is accurate, you have to verify trade-in amounts are accurate. Although we hate to think that, occasionally there are some taxpayers that would like to commit fraud in order to save some sales tax. We know we're the front-lines on that. We know that very rarely do at least I hear--you folks on the Revenue Committee may hear it more often--but very rarely of all the hearings I've sat in have I ever heard of another entity that collects sales tax that says that at the point of sale, people are standing there just really having a fit about the amount of sales tax that they're collecting. I would tell you that probably goes on every day in the counties across the state. So if Mr. James has stated that it takes about 10 percent of the time, I would have to concur that that is probably the amount of time that it takes across the state of Nebraska. It's an area where there is some significant staff time dedicated to collecting sales tax for the benefit of the cities and the state of Nebraska. [LB581]

SENATOR PIRSCH: Okay. So possibly 10 percent doesn't sound out of the ballpark of what you're saying? [LB581]

LARRY DIX: I wouldn't think so. [LB581]

SENATOR PIRSCH: Okay. Thank you. [LB581]

SENATOR HADLEY: Senator Hansen. [LB581]

SENATOR HANSEN: Thank you. Thank you. Mr. Dix, did you say that the state pays the sum of \$75 a month to Arthur County for collecting sales tax? [LB581]

LARRY DIX: If Arthur County has enough cars licensed that they would add up to \$3,000 tax... [LB581]

SENATOR HANSEN: You capped it...\$75. [LB581]

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LARRY DIX: ...then Arthur County would receive \$75. Now, of course... [LB581]

SENATOR HANSEN: Same thing...Douglas? [LB581]

LARRY DIX: ...Douglas County is going to hit that cap and Sarpy County and Lancaster. They're probably going to hit that cap within about the first four hours of the month. [LB581]

SENATOR HANSEN: Sounds fair to me. Thank you. [LB581]

SENATOR HADLEY: Mr. Dix, is it common across the country that the counties are involved in collecting the state sales tax on vehicles? [LB581]

LARRY DIX: It's going to vary as you go around the state. There's a number of states I think that sales tax is collected at the car dealership; that's one of the areas. Now I know when we bring that bill, of course, we're going to see a young man by the name of Loy Todd in here saying that that's going to bring an end to the car dealerships and, you know, it's going to hinder sales and things like that. But it is done in other states. [LB581]

SENATOR HADLEY: I was going to say, I think I lived in a state where you just... [LB581]

LARRY DIX: Yeah. [LB581]

SENATOR HADLEY: ...when you signed the deal for the car, they figured the... [LB581]

LARRY DIX: It's similar...cars are a big-ticket item, no question about that. But there are other big-ticket items that you buy at a retail entity and that retail entity collects sales tax. Now I can go to a Best Buy and buy the biggest and best possible television that I possibly can put my hands on and spend \$5,000 or \$7,000 and that sales tax is collected at point of sale. [LB581]

SENATOR HADLEY: And lastly, so if I bought a brand new Lexus and I could get a slip that it's worth \$100, that that's what I paid for it... [LB581]

LARRY DIX: Then... [LB581]

SENATOR HADLEY: ...you think the county treasurer might question that transaction? [LB581]

LARRY DIX: Jean Sidwell, the County Treasurer in Buffalo County would probably question, Senator Hadley, that that was a \$100 vehicle. [LB581]

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SENATOR HADLEY: Was, well...Senator Sullivan. [LB581]

SENATOR SULLIVAN: Thank you, Senator Hadley. Larry, do you know how many counties are up against their lid? [LB581]

LARRY DIX: We're always...when we talk about up against the lid, we always...there's always sort of that range that we talk about. But for the most part, we usually refer to about 15 because they're not at the 50 cents but they may have a penny or so. And some of those smaller counties, a penny isn't going to raise them, you know, a whole lot. But there's 15 that are always within striking distance of any budget year. [LB581]

SENATOR SULLIVAN: Thank you. [LB581]

SENATOR HADLEY: Seeing no other questions, thank you, Mr. Dix. [LB581]

LARRY DIX: Thank you. [LB581]

SENATOR HADLEY: Any other proponents? Opponents? Welcome, Ms. Rex. [LB581]

LYNN REX: Senator Hadley, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we respectfully oppose this bill simply because we need to have some questions answered about the implications on local option sales tax directly. We tried to get that information through the Fiscal Office, and we're going to continue trying to pursue that. Certainly we understand that having counties only get \$75--the large ones in contrast to the very small counties--doesn't seem to be very fair. We understand that. And we are, obviously, very sympathetic to what has occurred to the counties over a period of years in terms of loss of revenue. But that being said, we are concerned about the implications of this bill on municipalities as well. I'd be happy to answer any questions that you might have. [LB581]

SENATOR HADLEY: Questions for Ms. Rex? Seeing none, thank you, Ms. Rex. [LB581]

LYNN REX: Thank you very much. [LB581]

SENATOR HADLEY: Opponents? Any further opponents? Neutral? [LB581]

JIM OTTO: Senator Hadley, members of the committee, my name is Jim Otto, J-i-m O-t-t-o. I'm president of the Nebraska Retail Federation and a registered lobbyist for them. Also a registered lobbyist for the Nebraska Restaurant Association. And I'm here to testify in a neutral capacity to LB581 on behalf of both associations. I agree with

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everything that's been said. It would be to our benefit to pass it even though there would be no direct benefit to retailers. I would just point out that in the next bill, this would be kind of maybe getting the camel nose into the tent. We're going to share some facts on the next bill that show you how the retailers are getting a really bad deal to the tune of about \$9 million a year due to credit card processing fees on sales tax that they collect. But having said that, I don't need to bore you with that right now. I would just say that we would be neutral on this bill but very supportive of the next one. [LB581]

SENATOR HADLEY: Questions for Mr. Otto? Seeing none, thank you, Mr. Otto. Any other neutral? Senator Crawford, would you like to close? [LB581]

SENATOR CRAWFORD: Yes. Thank you. [LB581]

SENATOR HADLEY: Quickly. [LB581]

SENATOR CRAWFORD: No, I'd like to do it very slowly. Thank you, Chairman Hadley and members of the Revenue Committee. And I would like to thank Rich James for coming to testify and the other testifiers as well for what they've added to the conversation and the questions that they've raised as well, for us to look into. Especially the implications for local sales tax, implications we'll be happy to be involved in that process as we continue working on this issue. As you heard from Sarpy County Treasurer, Rich James, the process of collecting this sales tax is an involved one. And the current compensation of \$75 a month is not sufficient for the work that is required by the treasurers. I would also draw your attention again to the diagram that we passed out that shows the road funding process and where the money comes from and where it goes. And across the top, you'll see where the money funnels in and you'll see that the motor vehicle sales tax--this is what we're asking counties to collect--that the motor vehicle sales tax is second only to motor fuel taxes in terms of the revenue coming into the Highway Trust Fund. So we are asking counties to be involved in this process of challenging valuation and putting the forms in the computer and collecting this sales tax for us. And in 2012, that brought in over \$179 million into this Highway Trust Fund. And we're just asking that we provide a small sliver of that money to compensate counties for this work that they do that brings this revenue into the fund in the first place. On this...LB581 is the beginning of a larger discussion that we, as the Legislature, should have regarding state- and local-level relations. Nebraska's counties carry out much of the work of the state performing tasks and functions we ask them to do. It's important that we compensate them appropriately for this work to prevent cost shifting to property taxes. This bill, in particular, restores some of this state local compensation to funding levels that existed before the state budget crunch in 2002. It could mean a fiscal impact of approximately \$100,000 for the Sarpy County and thousands more for counties across the state. It is important to note that LB581 does not propose any changes in tax rates or dramatically change funding streams to the state. It has been over ten years since the counties have received fair compensation for collecting motor vehicle sales

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tax. It's time for the Legislature to change that. And we thank you again for considering LB581 and look forward to participating a broader discussion of these issues and answering any other questions that arise as we move forward in restoring this commission to the counties. [LB581]

SENATOR HADLEY: Are there questions for Senator Crawford? I don't have any right now, but the committee always reserves the right. On a spreadsheet like this we'll have Senator Schumacher explain it to us and then we may have questions later. So thank you, Senator Crawford. (Laughter) [LB581]

SENATOR CRAWFORD: Excellent. Thank you. Thank you. [LB581]

SENATOR HADLEY: Next, Senator Schumacher, LB333. [LB581]

SENATOR SCHUMACHER: Senator Hadley, members of the committee, my name is Paul Schumacher, P-a-u-l S-c-h-u-m-a-c-h-e-r. I represent District 22 in the Legislature, and I'm here today to introduce LB333. And also thrilled a minute ago when Mr. Otto said he was going to testify in support of this bill. Finally, somebody testifying in support of one of my bills. This bill kind of reminds us that nothing in life is free. And up to 2002 when a business collected sales tax for the part of the...on behalf of the state--kind of a little slave labor out there--they got a percentage of the sales tax at 2.5 percent up to \$3,000 of principal, and then after that they got .5 percent. And they were asked...businesses were asked to sacrifice a little bit because there was a budget crunch, and gave up the .5 percent over the \$3,000 in sales; kind of with a wink and a nod that it'd come back later on. Well, it didn't. And we're here today. If you've ever set up a business in Nebraska, you know that very shortly after you incorporated or form an LLC or register it somehow, you start getting love letters from the state of Nebraska: love letters reminding that you better have your workmens' comp insurance, love letters telling you, you better file unemployment compensation forms, love letters telling you, you better do income tax and submit your income tax withholdings or they'll come get you, and a love letter about sales tax. And it is one of the joys of being a small businessman. And those things are not easy things to deal with, particularly if you don't have some automated system and you have to sort through what you collect tax on and what you don't collect tax on, in our always logical scheme of sales tax regulations as to what's taxable and what's not. And as a result of that, I'm involved in two small businesses. My wife does the sales tax forms in one, and my business partner does it in the other. And on those days when sales tax is due, I step lightly around the office because they...it is...give anybody a choice of not having to do that work and getting rid of this miniscule fee, they'll take getting rid of the work because the fee doesn't amount to much. And so I think that as part of our overall look at taxes, we can't forget that the taxing mechanism that we adopt and that we put into effect has got to take into consideration fair compensation for those parties in the private sector and on the part of cities...counties, rather, that actually do the work collecting the tax. It is not a fun job and

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there are penalties involved. And there is always a feeling deep down that, why do I have to do the state's work for virtually nothing? And so that's why this bill is brought. And I'm very happy to hear that somebody else is going to support it. [LB333]

SENATOR HADLEY: Questions for Senator Schumacher? Senator Sullivan. [LB333]

SENATOR SULLIVAN: Thank you, Senator Hadley. Just a clarification, Senator Schumacher. Did I get the impression that you'd like to defer this for our commission to study or not? [LB333]

SENATOR SCHUMACHER: I think that we probably could use a little more discussion on the floor about the Revenue Committee this year. (Laughter) [LB333]

SENATOR HADLEY: Thank you. Senator Pirsch. [LB333]

SENATOR PIRSCH: With respect to all retailers in different industries, are they all on parity in terms of how much the state or do some industries allow for... [LB333]

SENATOR SCHUMACHER: It's my understanding that you get \$75. [LB333]

SENATOR PIRSCH: That's throughout industry? [LB333]

SENATOR SCHUMACHER: Right. That's...I mean, it doesn't differentiate between, you know, a pharmacy and a car dealer--well, a car dealer isn't involved because the county does that--but a pharmacy and a grocery store and somebody who sells some other type of tangible property that's taxed. [LB333]

SENATOR PIRSCH: You're talking about within the category of tangible property. [LB333]

SENATOR SCHUMACHER: Right. Well, our sales tax applies. If it's sales or use tax, I think you get the \$75 if you've got \$3,000 worth of activity. [LB333]

SENATOR HADLEY: Senator Hansen. [LB333]

SENATOR HANSEN: Thank you. Senator Schumacher, I'm going to pass on a comment that I received last summer from a small businessperson who did work in concrete and construction. The state sent him a letter and said, your sales tax has to come on-line, and he'd always done it through the mail. That caused him a lot of angst because he didn't have a computer. And his other concern was something about sales taxes had to be paid at the end of the month whether he collected them or not. Is that...would that be correct? [LB333]

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SENATOR SCHUMACHER: I...you're supposed to collect sales tax at the time of sale. And that may...I can't speak authoritatively--maybe somebody in the room can--but I think that if you don't collect it, you've got to report your sales and you've got to submit the money whether or not you actually got it or not. It's your fault if you didn't. [LB333]

SENATOR HANSEN: Well, I think that that was the problem, that he was doing work in the third week of the month, hadn't sent the bill out yet, but still the state says that on-line you must submit that sales tax receipt. [LB333]

SENATOR SCHUMACHER: I was under the impression that unless...that you...if...you had to have gotten the money for the principal amount or made a loan out or something in order to offset it before it is. But you're right on one thing, Senator. The Revenue Department's on-line forms and stuff like that leave a lot to be desired and I know just from my little experience in my businesses, sometimes paper was a lot better and lot more friendly than...and there again, what ends up happening is in an effort to save money--it isn't just the Revenue Department, it's businesses all over--the guy on top shoves the work down to the guy on the bottom and calls it efficiency when really what's happening is that it may be more efficient on the upper level, but the lower level, you know, ends up having to do more work. [LB333]

SENATOR HANSEN: Transfers more work to the... [LB333]

SENATOR SCHUMACHER: Sure. [LB333]

SENATOR HANSEN: ...local businessman. Well, I think as we study the tax modernization issue, you know, and one of the items we're supposed to discuss was fairness. And I think this lacks some fairness, and your main, underlying bill lacks fairness too. So... [LB333]

SENATOR SCHUMACHER: I hope the bill doesn't lack... [LB333]

SENATOR HANSEN: I mean that you're discussing lack of fairness. Thank you. [LB333]

SENATOR SCHUMACHER: Yes, it is. [LB333]

SENATOR HADLEY: Senator Schumacher, I happened to catch the news and I think it was last night. And I can't tell you the name of the man, but it was a fellow that had been involved in one of the high-tech companies and he's back on...involved with them again. But he also started a company called, I think, it was Square with the idea that you carry this little gadget in your pocket, and you just walk out of a store with your goods and it automatically scans the goods. And this little gadget either does the sales tax out of your bank account or, you know, it's basically a payment method that you don't even have to get out and use. And he is trying to market this. But it gave me thought,

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shouldn't we be looking at, you know, we have all these...so much being done with credit cards and such as that now. Is there a way that we could get the credit card company to remit the sales tax from these merchants so all the merchants he's working with is the relative...the smaller cash sales? [LB333]

SENATOR SCHUMACHER: You know, that may be something you could do. But I wonder how you...I mean, you've still got to do the paperwork for the smaller cash thing... [LB333]

SENATOR HADLEY: Yeah, I suppose that's right. [LB333]

SENATOR SCHUMACHER: ...and maintain a book system. But I suppose if we paid the credit card companies enough, they'd do it for us. [LB333]

SENATOR HADLEY: Well, I was thinking of them doing it for us free. [LB333]

SENATOR SCHUMACHER: Oh, I forgot about that. They always do that. [LB333]

SENATOR HADLEY: They always do it for free. Thank you, Senator Schumacher. Are there proponents for LB333? [LB333]

LARRY DIX: Good afternoon, Senator Hadley and members of the Revenue Committee. For the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials appearing today in support of LB333. I certainly don't want to be redundant, but I know in previous times when we have checked legislative history and we'll see a...we'll go through the transcript and we'll say, well, I said the same thing as I said on another bill. And then you don't know what other bill you were talking about. So for the record, I want to put it on it my comments for LB333 would be the same as they were on LB581 that was heard on this same day. And so that way the transcript will make that clear. And for future generations when they come back and look at this, they'll be able to track my comments. So with that, I would be happy to answer any questions that you may have. [LB333]

SENATOR HADLEY: Any questions for Mr. Dix? Seeing none, thank you. [LB333]

LARRY DIX: Thanks. [LB333]

SENATOR HADLEY: Further proponents? [LB333]

JIM OTTO: (Exhibits 2, 3) Hello again. Senator Hadley, members of the Revenue Committee, my name is Jim Otto, J-i-m O-t-t-o. I'm president of the Nebraska Retail Federation and also a registered lobbyist for the Nebraska Retail Federation, and a registered lobbyist for the Nebraska Restaurant Association. And I'm here to testify in

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favor of LB333 on behalf of both associations. Also, Kathy Siefken of the Nebraska Grocery Industry Association, wanted to go on record in support of LB333 so that is K-a-t-h-y S-i-e-f-k-e-n. And I also turned in a green sheet for her. As I said, I'm testifying in support of LB333 on behalf of both associations. We want to sincerely thank Senator Schumacher for introducing it. As I will explain today, it is a well-documented but little known fact that Nebraska merchants remit over \$9 million more in sales tax than they collect on a net basis annually. This is the result of the large amount of sales tax charged to credit cards. Allow me to explain it with a simple math problem. And I have a little sheet there if you could all take a look at that, with the little yellow highlights. On a \$100 credit card sale in either Lincoln or Omaha, there is \$7 sales tax which goes on the credit card. The merchant pays a credit card swipe fee--they call that, because you swipe the card...retailers call it because they swipe the fee from us--but anyway, these fees vary from 1.4 percent to 3 percent of the charged amount. If we use a conservative figure of 2 percent, the merchant pays 14 cents to the credit card company to process the charge of \$7 in sales tax. Thus, the merchant collects a net of \$6.86 in sales tax but still remits \$7 to the state. Now that 14 cents on that single sale equated to at least \$8.4 million statewide in 2009. And that figure was not determined by the retail industry, but by the Fiscal Office of the state of Nebraska on LB186, which was introduced in 2009 by Senator Karpisek. That bill would have reimbursed the merchant for the credit card processing fee only on the sales tax amount. That fiscal note also projected the amount merchants are paying in credit card fees on sales tax to grow to \$9.22 million this fiscal year. Now I also included the actual fiscal note--you should have gotten a copy of that--on LB186 in 2009. And if you notice down there at the bottom it says that it would be \$9.2 million in fiscal year...in this fiscal year. So the point is that not only are...it's that the real rub with retailers is not...and it is...it does cost to just actually collect the fee. The real rub is, though, that they actually remit \$9 million more than they collect on a net basis. And as has been said before, this was not the case prior to 2002. It was .5 percent as has been explained before, of the total sales tax amount. But that was changed to a maximum of \$75 a month. And to just...many people would say that this is only for the big retailers. Well, at 7 percent...a rate of 7 percent, that comes to...if you have annual sales of about \$650,000 to \$660,000 a year, anything over that you will be penalized by the \$75 a month. The break-even point on the \$75 a month is approximately \$650,000 to \$660,000 a year. That's at 7 percent. If you're in a 5.5 percent where it's only state sales tax, it's down around \$550,000 a year. In other words, any business with over \$650,000 in annual sales, taxable sales, is being penalized by the present situation. And if you're any kind of a...every successful appliance store, jewelry store, furniture store, electronics store, or home improvement store has taxable sales well beyond that threshold, LB333 addresses this injustice by returning the collection allowance back to the way it was prior to 2002. The fiscal note on LB333 is \$8.1 million for 2014. The fiscal note on LB186 projected that it would cost...it's costing merchants \$9.2 million. So LB333 addresses...significantly addresses the inequity but it doesn't totally solve it. It still falls \$1 million or maybe even \$2 million short. But it does really do a major step in addressing a glaring tax injustice. So we urge

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you to move LB333 to General File, and I would be glad to try to answer any questions.
[LB333]

SENATOR HADLEY: Questions for Mr. Otto? Mr. Otto, I guess a question. The alternative for a merchant is not to take the credit card, right? [LB333]

JIM OTTO: Correct. [LB333]

SENATOR HADLEY: And you could either give credit to the customer, which means you may delay payment and have bad debts... [LB333]

JIM OTTO: Correct. [LB333]

SENATOR HADLEY: ...down the line or you can hopefully get cash. So I'm trying to figure out, isn't part of the fee--the credit card fee--the ability that the merchant gets the money? [LB333]

JIM OTTO: Well, yes. That is an advantage. [LB333]

SENATOR HADLEY: When that swipe is there, the... [LB333]

JIM OTTO: That is an advantage. But it is still a fact that...as it was...it is passed onto the consumer eventually in the form of a higher price. It has to be because the merchant has to eat it. So the real truth is that part of the price of the product you're paying for is actually not for the product but for the state tax. And it's just a...you are correct. I guess I'm going too far, but you are correct. The alternative...I would submit that we would collect much less sales tax if all merchants chose not to take credit cards. [LB333]

SENATOR HADLEY: We're credit card recovering, aren't we? [LB333]

JIM OTTO: Pardon? [LB333]

SENATOR HADLEY: A credit card system. [LB333]

JIM OTTO: Yeah. Credit or debit. If you add credit and debit together, it's somewhere between...approximately 55 percent of all sales are either on credit or debit card.
[LB333]

SENATOR HADLEY: Are the debit fees the same as... [LB333]

JIM OTTO: Debit fees are smaller and are capped. They're about the same percentage on low-dollar sales. You get above \$50 and the debit fee is a smaller percentage.
[LB333]

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SENATOR HADLEY: Okay. Thank you, Mr. Otto. We appreciate it. [LB333]

JIM OTTO: Thank you. [LB333]

SENATOR HADLEY: Are there further proponents to LB333? [LB333]

RON SEDLACEK: Good afternoon, Chairman Hadley and members of the Revenue Committee. For the record, my name is Ron Sedlacek. That's spelled S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce and Industry to testify in support of LB333. We have been at previous hearings in regard to this particular subject and made our support known. We would like to see a return back to the previous law prior to 2002. I would like to just essentially incorporate the remarks that were made by Mr. Otto, who I thought gave an excellent explanation as to the rationale in which we support the bill. And without being repetitive, I'll close my testimony and I'd be happy to entertain any questions. [LB333]

SENATOR HADLEY: Questions for Mr. Sedlacek? Mr. Sedlacek, you were around in 2002 when this probably went through. Was there any other reason other than just a financial that the state was looking behind every door to find money? Was there any fiscal policy, tax policy that led to them doing this? [LB333]

RON SEDLACEK: My recollection is that there was no policy considerations, there was no tax policy change, rather it was tax politics. And they needed additional funds, and this was one way in which to get that accomplished. [LB333]

SENATOR HADLEY: This was the way. Do you think the same...do you think anything has changed since 2002? Obviously, with the state finances, those have changed. But as far as a tax policy issue, do you think anything has changed from 2002 to the present that would say we should change this or should not change it? [LB333]

RON SEDLACEK: I think that there's probably rationale for making the change back to where it was because of...there's a number of issues in regard to just in compliance with the tax laws' reinterpretations. There's the local sales tax reprogramming costs, any adjustment in that regard. Streamline certainly has helped, but there's both positive and negative in that regard. And in the future, when we do have perhaps mainstream fairness as an issue before us, although we're talking about those companies here that have an excess now, there still will be additional compliance issues to resolve not only here but in other states. [LB333]

SENATOR HADLEY: Okay. Senator Hansen. [LB333]

SENATOR HANSEN: Thank you. Mr. Sedlacek, it was one of the handouts said that

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Senator Karpisek had a bill in 2009, tried to get this very same thing taken care of. If a law was passed in 2002, what was the sunset date, do you remember? [LB333]

RON SEDLACEK: I don't recall there being a sunset date on that particular piece of legislation. [LB333]

SENATOR HANSEN: Not on this one? [LB333]

RON SEDLACEK: No. [LB333]

SENATOR HANSEN: It was on the previous bill. [LB333]

RON SEDLACEK: I believe so, but I don't recall that. [LB333]

SENATOR HANSEN: Not a sunset date? [LB333]

RON SEDLACEK: Uh-huh. [LB333]

SENATOR HANSEN: What I was wondering, if there had been any legislation proposed between 2002 and 2009. [LB333]

RON SEDLACEK: On this subject? [LB333]

SENATOR HANSEN: Uh-huh. [LB333]

RON SEDLACEK: Yes, there have been. I'd defer to Mr. Otto, but perhaps three bills, two bills? [LB333]

JIM OTTO: Yeah, there were two bills. [LB333]

RON SEDLACEK: Two additional bills, yes. [LB333]

SENATOR HANSEN: Thank you. [LB333]

SENATOR HADLEY: Okay. Thank you, Mr. Sedlacek. [LB333]

RON SEDLACEK: Thank you. [LB333]

SENATOR HADLEY: Are there further proponents to LB333? Seeing none, are there opponents? [LB333]

LYNN REX: Senator Hadley, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And very respectfully, we

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oppose this measure only because we still need to get some information about the impact of this on local option sales tax. One thing I can share with you is that well over ten years ago when the league was looking at the issue of the 3 percent collection fee that the state gets on local option sales tax--which goes in to fund right now the municipal equalization program--we were told that it costs the state of Nebraska less than .07 of 1 percent to do the collection on local option sales tax. I don't know how that relates, though, to the issue before you. But we do have some questions just in terms of the implications for local option sales tax. We still understand the need to compensate people fairly. I'd be happy to respond to any questions that you might have. [LB333]

SENATOR HADLEY: Any questions for Ms. Rex? Seeing none, thank you, Ms. Rex. [LB333]

LYNN REX: Thank you. [LB333]

SENATOR HADLEY: Further opponents? Seeing none, neutral? Senator Schumacher, do you wish to close? [LB333]

SENATOR SCHUMACHER: Just real, real briefly. The economy seems to be moving more and more toward a credit card economy. And what is happening--and I think the testimony was fairly dramatic today--is people are credit carding their sales tax as part of their purchase transaction. And that certainly should be a cost to the state if that's what we're going to do, not expect to be borne by the people that we conscript to collect that tax. And I think that it is something we're going to need to look at as part of our...when we judge the efficiencies of sales tax, the cost of it. [LB333]

SENATOR HADLEY: Okay. [LB333]

SENATOR SCHUMACHER: I have nothing else. [LB333]

SENATOR HADLEY: Questions for Senator Schumacher? Thank you. [LB333]

SENATOR SCHUMACHER: Thank you. [LB333]

SENATOR HADLEY: That closes LB333. The next one is LB6... [LB618]

MATT RATHJE: Senator Karpisek is on the way. [LB618]

SENATOR HADLEY: Okay. Senator Karpisek is on his way. Welcome to the Revenue Committee. [LB618]

SENATOR KARPISEK: Thank you. And I apologize. [LB618]

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SENATOR HADLEY: We could...I could say, we could have saved you a lot of time but, no, go ahead and present your bill. [LB618]

SENATOR KARPISEK: I know. And I could have saved you some time. I apologize for being late. I was watching and I just assumed one of Senator Schumacher's bills would have a lot of opposition. So I thought I had quite a bit of time. [LB618]

SENATOR HADLEY: Yeah. Listen, this was one of the first times he actually had a bill that he had a proponent. [LB618]

SENATOR KARPISEK: Wow. Well, it is about the last day. (Laughter) Senator Hadley, members of the committee, for the record, my name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k. And I represent the 32nd Legislative District. LB618 is a bill that I have brought in front of this committee in prior years. It was LB469 in 2009, and it asks to have a study done...a task force on ag land valuation. And how funny that it just seems to be timing on what we've heard upstairs. And I think that in all of your discussions that you will have on taxes, I'm sure that this will--I hope--that this will play into it. I sell crop insurance a little bit on the side and I know we don't always want to hear what Kansas, Iowa, everyone else does, but I'll tell you anyway. They go by what the land can produce. And I don't know how that's doing. I know Senator Hadley talked a little bit today, but it can go by...it goes by what the land can produce. And on crop insurance, we have a ten-year average and that's where you figure out if you are...if you have a loss or not. And Senator Sullivan can explain it if I don't get my point across. But that's what we use. There is a ten-year average and then you elect the percentage that you want to take to be insured for. But I think by doing that, you can look at different parcels of land and see what they...if it's a good piece, if it's a bad piece. Of course, there's irrigation plays into that. But I think somehow we need to look at that. These people coming and buying pieces of land for \$10,000 an acre, driving up people's land who are next to them that the land really probably can't produce that. And I don't know how it'll ever pencil out. But their taxes...their property taxes just get incredibly high and how can they balance that? I've said all along, Senator Hadley, and I've heard you say it...with the study is...I'm not talking about lowering taxes, I'm not talking about that sort of stuff. But maybe make it more equal and a better way to be able to maybe fluctuate it a little bit if we need one way or another. And I realize anytime you mess with this, we start talking about a lot of other things, schools, counties, and that sort of thing. That's why I've always brought study and not a bill to actually change it. Again, I think that this can be a great part of what you are going to do, and I'm very sure that it will be. But I put this in at the beginning of the year. Thank you, and I'd be glad to take any questions. [LB618]

SENATOR HADLEY: Thank you. Questions for...Senator Sullivan. [LB618]

SENATOR SULLIVAN: Thank you, Senator Hadley. Senator Karpisek, do other

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neighboring states go this route? [LB618]

SENATOR KARPISEK: They do. Kansas, Iowa, and South Dakota had just implemented this maybe a couple of years ago where they use a production method. Again, I don't know this year how it's been working. Bill Lock and I have worked on this in the past. And, you know, there's other things in play. Kansas has some oil wells. Iowa has different sort of things that they bring in too. I think Kansas uses the oil for their schools. All three of them have gambling that goes into state coffers. So you can't look at it as a identical situation but I think, again, it's something to look at, look at what they're doing and how it's working for them. [LB618]

SENATOR SULLIVAN: Certainly commodity prices kind of enter into this, don't they? [LB618]

SENATOR KARPISEK: Absolutely, and I think that as you do that, what the land can produce, you would have to look at not only bushels, but price per bushel. Again, that probably--I don't know if ten-year average, five-year average--you don't want it too short because a bad or a very good year would really skew your averages. But if you go too long, too, then it would stay the same all the time. [LB618]

SENATOR SULLIVAN: Uh-huh. [LB618]

SENATOR KARPISEK: But I think there could be some sort of a equation that you would use that you could change to do some of that. And Senator Coordsen worked on this long before I was here and could never quite get it done. And I don't know that it's the right way to go or not but I think it definitely should be looked at, especially with the prices we're seeing now for land values and when that changes, because it will change. [LB618]

SENATOR SULLIVAN: Uh-huh. [LB618]

SENATOR KARPISEK: Hopefully not for a while. [LB618]

SENATOR HADLEY: Any other questions for Senator Karpisek? Seeing none, thank you, Senator Karpisek. [LB618]

SENATOR KARPISEK: Thank you. [LB618]

SENATOR HADLEY: Are there proponents? [LB618]

JESSICA KOLTERMAN: Good afternoon, Senator Hadley and members of the committee. For the record, my name is Jessica Kolterman, K-o-l-t-e-r-m-a-n. I am the state director of governmental relations for Nebraska Farm Bureau, and I appear before

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you today in support of this legislation on their behalf. I'm not going to get into the problem--you all know what the problem is, you've heard about it this whole year--but just wanted to share some thoughts on this topic for you when we look at an income-based approach and valuing the land based on what it produces. Given our present system of basing agricultural land on market prices through the sales comparison approach, our members feel it's difficult to sort out the nonagriculture influences in the market, and that these influences get captured in the assessed values and property taxes paid. Given the small percentage of land that's actually changing hands, it may provide a market that's too thin to provide reasonable test of market value with too few sales to provide an accurate and fair value to agricultural land for the calculation of property taxes. As an alternative, our members have long supported an income capitalization approach as the most equitable for valuing agricultural land for tax purposes. Furthermore, they feel that it's better to exclude influences outside of agriculture from entering into the assessment of agricultural land valuations. Finally, the income capitalization approach may more accurately accommodate the cyclical and volatile nature of the agriculture income and commodity prices. The agricultural sector has realized higher incomes over recent years, but property taxes paid by farmers and ranchers have consistently risen, as you know. From a regional competitiveness standpoint, our research shows that Colorado, Kansas, Iowa, Missouri, Wyoming, and South Dakota all value ag land based on the income capitalization approach. And consequently, they do a different land assessment. And it makes it unfair for some of our farmers here in Nebraska, especially on the border areas. So with that, I will conclude and I'd be happy to answer any questions you might have. [LB618]

SENATOR HADLEY: Senator Schumacher. [LB618]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony, Jessica. What is that capitalization rate that the other states apply? Do you know? [LB618]

JESSICA KOLTERMAN: I do not have that in front of me, but I can certainly track that down for you. [LB618]

SENATOR SCHUMACHER: Thank you. [LB618]

SENATOR HADLEY: Any questions for Jessica? Thank you, Ms. Kolterman. [LB618]

JESSICA KOLTERMAN: Thank you. [LB618]

SENATOR HADLEY: Further proponents? Opponents? Neutral? Would you like to do a short close, Senator Karpisek? [LB618]

SENATOR KARPISEK: Yes, just very short. I thought Larry Dix would be neutral, but he

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wasn't. Again, to go with all of this naturally, too, we have to look at then residential values too because one of the last things that you'd want to do, of course, is to change ag land valuation to make homeowners and businesses go up. So it all works together. I'm not telling this committee anything they don't know. Again, I just think it's very important that we look at this subject. To me and in my world, it is more important than sales taxes and income taxes and all of those taxes. It's a big issue out in especially rural Nebraska. So I appreciate where you're going with the whole tax issue and hope that you'll take a good look at this. [LB618]

SENATOR HADLEY: Questions for Senator Karpisek? Thank you, Senator Karpisek. [LB618]

SENATOR KARPISEK: Thank you, Senator Hadley. [LB618]

SENATOR HADLEY: Senator Schumacher, LB414. [LB414]

SENATOR SCHUMACHER: Thank you, Senator Hadley and members of the committee. My name is Paul Schumacher, P-a-u-l S-c-h-u-m-a-c-h-e-r, representing Legislative District 22 in the Legislature. And I'm here today to introduce LB414. LB414 would have the state stop collecting from the cities a 3 percent fee for collecting the city sales taxes and remitting it back to the city. Oddly enough, that 3 percent number keeps coming up, but that's the fee that the state in the existing language of the collection law said was a fair compensation for collecting a tax. The state then now puts the revenue derived from that funding into the Municipal Equalization Fund. What this bill would do would let the cities keep the 3 percent collection fee and supplement the Equalization Fund with General Fund revenues. Translation, a backhanded way of restoring some of the state aid to municipalities that has caused them a great deal of financial difficulties once we took it away and forcing them to...or think about being creative with such things as occupation tax, which is rubbing a lot of people the wrong way. So this is part of this complex situation of how do we fund government, how do we control spending, and there's folks here I think from the city of Lincoln and perhaps others that will share with you their thoughts with regard to LB414. [LB414]

SENATOR HADLEY: Questions for Senator Schumacher? I just would have a comment. We're getting better, Senator Schumacher. At least this one has a fiscal note that can explain...you explained it enough to get a fiscal note on this one. [LB414]

SENATOR SCHUMACHER: Well, I tell you, we just keep trying and trying. And it's just a little one. This will scoop out on the floor just real easy. [LB414]

SENATOR HADLEY: Yeah, it's just a little one. The only reason we say that is we've had some bills from Senator Schumacher that they can't come up with a fiscal note on. So you know, thank you, Senator Schumacher. First proponent, please. Mayor,

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welcome. [LB414]

CHRIS BEUTLER: (Exhibit 4) Senator, thank you. Thank you for the opportunity to be here and talk a little bit about this. I can remember what it was like when you came to the end of the hearing process. It was always a bit of a sense of relief to be able to start to sum up everything and get out on the floor and get some things done. For the record, my name is Chris Beutler, B-e-u-t-l-e-r, and I'm the mayor here in Lincoln. And we certainly want to testify in support of LB414 today and thank Senator Schumacher for introducing the bill on behalf of our city and a number of affected cities. Let me drop back a little bit and remind you as you may already recall, the Municipal Equalization Fund--the principal fund that we're talking about here--was created back in 1996. And it came along with lid and levy restrictions that were adopted by the Legislature at that particular point in time. And the Municipal Equalization Fund and the levy restrictions took place...took effect back in 1998. The distribution formula was overall designed to help those municipalities who might have to deal or might have trouble dealing with the levy restriction. The formula basically provided assistance to those cities and villages with high property tax levy and low per capita valuation. As the senator indicated, it's currently funded by two different sources: the insurance premium tax that you levy at the state level; and then again with respect to all city sales tax revenues, the state holds back 3 percent and that 3 percent then is funneled in and paired up with the premium tax to be the fund that is distributed under the equalization formula. Here in Lincoln, that 3 percent equates to about \$1.8 million or so. Obviously, considerably more in Omaha, and somewhat less in the cities of the first class and the smaller communities who levy the city sales tax. Over the years, there have been a number of bills that have attempted to tweak the MEF formula--Municipal Equalization Fund--MEF formula. The problem, of course, is that as with all formulas, unless new revenues are added to the equation, any tweaks, so to speak, inevitably result in winners and losers. And that's something that we would prefer to avoid with this bill. And that is why the bill is drafted to substitute state General Fund dollars into the equation, replacing the cities' sales tax dollars that were...that fund it now. By allowing municipalities to retain the 3 percent as the bill does, we are creating only winners at the municipal level because as the senator explained, the money is replaced by state General Funds. This year, I'm president of the League of Municipalities. In that position, I've had the opportunity to hear from my colleagues across the state. The last several years have been challenging for us, challenging for you too, for that matter. But except for the influx of stimulus dollars a few years ago, our federal revenues have been generally flat or diminishing. As the state has worked hard to balance its budget, municipalities have also been seeing declining state assistance, of course, including the substantial loss of direct state aid a few years ago. And now we're all dealing with the uncertainties of sequestration and the effects that that will have on federal and, consequently, also state funding streams generally. We most certainly want you to know and agree with what we've heard from you time and again, that cities and villages and political subdivisions must continue to find greater efficiencies through new technologies and partnerships of one sort or another and other

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means. As stewards of the public's tax dollars, it's our responsibility as it is your responsibility to always be looking for ways to reorganize and restructure and do more with less. And as president of the League, I would submit to you that your local municipal governments are hearing that and are doing the best they can to be more efficient and to work better with fewer dollars. That being said, we also need to invest...to continue to invest in our communities if we want them to continue growing and moving forward. LB414 recognizes the value of such an investment, and so I respectfully ask the committee to keep this option in mind as it studies the state's overall tax policy in the next several months. I also want to make an observation that I hope you don't consider divisive in any way, but I think it's factual in nature. You may recall that when you cut out state aid a couple of years ago, there were two funds that constituted principal...of the principal state aid to the municipalities. One was the Equalization Fund that I've been talking about today, and that Equalization Fund was left untouched by you. What you did cut out was the second big fund, the Aid to Municipalities Fund, which was, I think, solely funded out of General Funds. And that would have been principally, I think, your principal reason for doing...for going that route. But going that route had consequences for a lot of cities, and it had major consequences for Lincoln and Omaha and Kearney and some of the first-class cities because Lincoln and Omaha and a whole number of those cities did not then and do not now get any money out of the equalization formula. So when you cut out that one fund, you cut out all of the money for a large number of cities rather than choosing a pathway that would have required some sacrifice by all cities. So I would suggest to you that there's an equity argument involved in your consideration of this matter as well as the concept of restoration of some aid. So with that, I would just thank you again for the opportunity to take a few minutes of your time. This bill, we asked you to hold it and look at it late because we know it's complex. We want to work with individual members of the committee to see what...there are a whole number of modifications and pathways on this bill whereby the city and the state could share the burden, or different cities could share the burden, in different ways, a whole number of ways of approaching the problem to restore some greater equity to the matter. And so, with your permission, we would like to see you hold the bill and give us the opportunity over the summer and the fall to find out from you which pathway might be, if any, might be acceptable to the committee. That will give us time to work on it, and we'd be grateful for that, Mr. Chairman. [LB414]

SENATOR HADLEY: Thank you, Mayor. Are there questions for Mayor Beutler? Thank you, Mayor Beutler. We always appreciate when you come and give us... [LB414]

CHRIS BEUTLER: Thank you. [LB414]

SENATOR HADLEY: ...your history. Thank you. Further proponents? [LB414]

LYNN REX: (Exhibits 5, 6) Senator Hadley, members of the committee, my name is

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Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we have a handout for you that you've seen before but just for a review of some of the cuts and things that have occurred with municipalities over the last several years including the elimination of the Municipal Infrastructure Redevelopment Fund, state aid, and other cuts. And also just to give you an updated list of those municipalities that have local option sales tax because as LB414 is drafted--and we do, again, thank Senator Schumacher for introducing this measure--this will assist what will be 207 municipalities as of July 1, 2014, that will have local option sales tax. The last time that I testified before you this session, we were looking at 202 municipalities and now, because of elections and other things, we're looking at 207. The last one to go on-line will be Platte Center, which is a village that recently adopted a local option sales tax. Again, I just want to reiterate what Mayor Beutler indicated to you. I think this is an issue of equity. It was supported unanimously by the League executive board that has representatives from all classes of municipalities and from municipal officials from across the state. So we would just again ask that the committee hold the bill but consider it as part of your overall tax issue and work with us throughout the summer so that we can perhaps proceed with some kind of an equitable resolution to the issue. I'd be happy to respond to any questions that you might have. [LB414]

SENATOR HADLEY: Questions for Ms. Rex? Seeing none, thank you. [LB414]

LYNN REX: Thank you very much. I appreciate your time today. [LB414]

SENATOR HADLEY: Okay. Next proponent? [LB414]

JACK CHELOHA: Good afternoon, Senator Hadley and members of the Revenue Committee. My name is Jack Cheloha. First name is spelled J-a-c-k, last name spelled C-h-e-l-o-h-a. I'm the lobbyist for the city of Omaha, and I'd like to testify in favor of LB414 today. Thank you to Senator Schumacher for introducing the bill. Thank you for allowing me to speak here before the committee. Most of the notes that I took on the bill have already been covered by Mayor Beutler and Ms. Rex, so I'll try not to be repetitive. As you know, local option sales taxes are voter approved and implemented within municipalities. As those revenues are out there, there is the 3 percent withholding by the state, which as has been explained, goes into the Municipal Equalization Fund. And because this fund was tied to property tax reductions, there was various considerations that went into it in the mid '90s. And some of it makes sense and is rational, but some of it kind of is ironic in the sense that we...the whole purpose in the '90s was to try and keep property taxes down and to reward, you know, cities that could do that. Whereas, some cities that had a local sales tax, they could use that to keep their property taxes down. But yet, they paid a extra cost with the 3 percent withholding that went to some of the other communities. And so, I guess, this all leads to, once again, the equity and fairness arguments. And Omaha doesn't benefit at all from the Municipal Equalization Fund. In fact, in the early years of that fund, there used to be some excess revenues

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that the Legislature by design and by statute said the excess revenues would be divided up on a per capita basis where some of the contributors to the fund did get some revenues back. Since then, all the Equalization Funds are utilized just to harmonize and help some of those cities with the high property tax rates and the low valuations. And we're not saying that part is unfair, but what did happen though is the excess was changed and taken in the times that were tough for the state. The state came in and took not only the 3 percent to fund the Equalization Fund but they also took the excess that used to go out to communities on a per capita basis. So it seemed like on this, where I represent Omaha, we've kind of been on the back end, if you will, for a number of different pieces of legislation on this. And so we would support the study of this issue and just ask you to keep it in mind as you do your study. So thank you. [LB414]

SENATOR HADLEY: Questions for Mr. Cheloha? Seeing none, thank you. [LB414]

JACK CHELOHA: Thank you. [LB414]

SENATOR HADLEY: Further proponents? Opponents? Those in the neutral? Senator Schumacher, would you like to close? Senator Schumacher waives on closing. Thank you. Senator Kintner is...oh, he's here. Senator Kintner, we didn't see you sneak in over there. [LB558]

SENATOR KINTNER: Yeah. I'm so small, you just...you know, I blend right in, you know. [LB558]

SENATOR HADLEY: Well, I was going to say, just a mere shadow of your former self. [LB558]

SENATOR KINTNER: That's right. [LB558]

SENATOR HADLEY: Senator Kintner, sit down. And welcome to the Revenue Committee again. [LB558]

SENATOR KINTNER: Well, it's very good to be here. It's Bill Kintner, B-i-l-l K-i-n-t-n-e-r. And I'm going to do something that's rarely done. I'm going to talk about a proposed bill with no fiscal note. I'm not asking for a penny. So I do want to say thank you, Mr. Chairman and members of the committee. This is a very simple bill and makes two changes--it's LB588 (sic) and two changes to the current statute. These two changes which this addresses: First, current law requires a taxpayer to bring action seeking a declaratory judgment within the calendar year that the tax was levied. What this means is a taxpayer has a very short window in which to decide whether to pursue such action. Oftentimes taxpayers will not receive tax statements until very late in the calendar year, which ends on December 31. As such, if they seek to challenge the tax, the deadline to make a decision would be very short. LB588 (sic) will help by extending the time period

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under which an action can be brought to 12 months after the tax was levied. So we're going to go from have to do it that same calendar year to now 12 months after the tax was levied. That's the first difference. Second, LB588 (sic) clarifies that taxpayers can file a claim for a refund for property taxes a taxpayer claims to be unconstitutional. The current statute allows only claims for illegal taxes. Thus, only taxes found to be illegal by the courts are subject to the refund provisions of the law. The Supreme Court has recently held that taxes found to be unconstitutional are not illegal and thus not covered under the refund provisions in the statute. LB558 would provide that these taxes found to be illegal or unconstitutional are subject to the refund provisions in the law. These are the reasons for which the bill is drafted. I look forward to any questions you may have. Now, I've got to tell you. I did not wake up in the morning and say, jeez, I think we ought to have a whole year. Actually, someone brought this to me. They got caught in this. And I got looking at it. I go, you know what? That's not right. So I just want to give our taxpayers every chance that they should legitimately have to challenge what would be an unconstitutional or illegal law. And one other thing I might point out is a unconstitutional law is one that's been authorized but declared...we authorized it in the Legislature, but the court struck it down as unconstitutional. A illegal tax was levied without authorization. So I had to go back and find out what the difference was, so that's the difference between the two. Okay, questions? [LB558]

SENATOR HADLEY: I was going to ask you because I'm confused because it seems to me that an unconstitutional law, obviously, must be illegal because otherwise you would say unconstitutional law is...anyway, okay. So that explains the difference. [LB558]

SENATOR KINTNER: That's why lawyers make \$400 an hour. [LB558]

SENATOR HADLEY: Any questions for Mr. Kintner? Thank you, Mr. Kintner...Senator. I apologize, Senator. I apologize. First proponent? [LB558]

DWIGHT TRUMBLE: Senator Hadley, Senators, I'm Dwight Trumble from Springfield, Nebraska, spelled D-w-i-g-h-t T-r-u-m-b-l-e. I would like to thank Senator Kintner for introducing this bill for me. It resulted from Sarpy County Farm Bureau and myself having cases filed against the Sarpy County Commissioners, commonly called the Learning Community cases. I originally was part of the Sarpy County Farm Bureau case, but when I paid my taxes I could no longer be part of that case. And I did that because we wanted to file also under a different statute. Let me find the right sheet. Here we go. (Statute) 25-21,149 is the bill...is the statute that applies when you don't pay the taxes and file a case. (Statute) 77-1735 applies when you do pay your taxes and then you subsequently have an action. The first case filed was Farm Bureau case. The court subsequently found that case to be invalid because it was not filed before the first of the year. We had between the time...and we have no standing until we received a tax statement to file this case. So we only had approximately 15 or 20 days, the time between we received our statement and the first of the year to file that case. We...by

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that time, I had my case filed. And we decided at that time to pursue my case and file a case on the '10 taxes that the members that were still interested in being members of the Farm Bureau case. We got the second case for Farm Bureau filed in time only because we had previous experience of what had to be done. We had the case prepared ahead of time and filled in the final numbers so we could get it filed before the first of the year of '11. My case went to the district court and it was approved and moved up toward the Supreme Court. The second Farm Bureau case was found favorable and moved up toward the Supreme Court. The Supreme Court ruled against the Farm Bureau case that the tax year ended as of the first of the year. It was impossible to get that done in that time and so that was ruled against. Well, actually, they were both ruled against because they found the taxes being taken by the Learning Community as valid. My case was also found invalid for the same reason, but they put notes on each case that caused the items which we are bringing to you for your concern. I don't quite understand why they came to the Finance Committee. I thought they would probably go to the Judiciary Committee because we're dealing with statutes. The impact...the financial impact is minimal. There were only two people that applied...the Farm Bureau cases applied to. I don't know what their taxes were, but they had to pay those taxes and penalties after the case was decided. My case, I paid the taxes. I didn't get a refund. That fiscal impact was less than \$10,000 of taxes, so there was only that much I'm aware of for sure. There was costs to the state because there were two cases that came to the court for the Farm Bureau case which was a negative impact to the county or the state because of your funding of the district court. And I don't know what that impact was, again. But there was a positive and a negative financial impact, I can tell you that much. If you have questions, I'd be glad to answer them. And I'm looking forward to your consideration of this. [LB558]

SENATOR HADLEY: Well, I can tell you if you'd have wanted to go to Judiciary, you'd have something about holding a weapon. If you'd have put that...if you'd have talked about getting into the Supreme Court with a weapon, then you might have got it to Judiciary. But... [LB558]

DWIGHT TRUMBLE: I'd probably be in the penitentiary. [LB558]

SENATOR HADLEY: Yeah. Are there questions? Seeing none, thank...we appreciate very much, I think, for bringing this to us, and I appreciate Senator Kintner bringing the bill to us. So we very much appreciate your bringing it to us. [LB558]

DWIGHT TRUMBLE: The passage is needed to make the statutes that exist more workable for the citizens of the state. [LB558]

SENATOR HADLEY: For the citizens, I agree. Thank you. Ms. Kolterman, welcome again. [LB558]

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JESSICA KOLTERMAN: (Exhibit 7) Thank you. Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n, director of state governmental relations for Nebraska Farm Bureau. I come before you today on behalf of my organization in support of LB558. We have member-adopted policy specifically relating to this bill. And I'm happy to give you a letter, and you don't have to listen to all my testimony. So thank you. [LB558]

SENATOR HADLEY: Any questions for Ms. Kolterman? Seeing none, thank you. Further proponents? Any opponents? Neutral? Senator Kintner, would you like to close? [LB558]

SENATOR KINTNER: (Exhibit 8) I've been informed that I think I said LB588. It's LB558. I have a letter here. You should have this letter from Nebraska Bar Association. I just want to make sure it gets entered in for the record. And I want to say this is just a very commonsense solution to a problem that only affects a few people here and there. But I think it's something that we owe it to the taxpayers to get straight for them so they have their day in court and they have it in a timely fashion. That's it. [LB558]

SENATOR HADLEY: Senator Schumacher. [LB558]

SENATOR SCHUMACHER: Thank you, Senator Hadley. You initially referred to this bill as LB588? [LB558]

SENATOR KINTNER: Yes. [LB558]

SENATOR SCHUMACHER: Eight plus 8 is 16, plus 5 is 21. (Laughter) [LB558]

SENATOR KINTNER: Ah, you got me. Ah. I didn't see Senator Chambers sitting here. (Laughter) I thought I was off the hook. Oh. With that, I can go right now. Okay, thank you. [LB558]

SENATOR HADLEY: Okay, that...with that, I close the hearings for the day. Thank you so much. [LB558]