

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

Revenue Committee
January 30, 2014

[LB783 LB794 LB829]

The Committee on Revenue met at 1:30 p.m. on Friday, January 30, 2014, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB783, LB794, and LB829. Senators present: Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: Galen Hadley, Chairperson.

SENATOR SCHUMACHER: Ladies and gentlemen, welcome to the Committee on Revenue. I am Senator Paul Schumacher, Vice Chair of the committee. To my far right is Senator Burke Harr from Omaha; Senator McCoy from Lincoln?

SENATOR McCOY: Omaha.

SENATOR SCHUMACHER: Omaha. Okay. (Laughter) Senator Hansen from North Platte; committee counsel Mary Jane Egr Edson. To my right, Senator Pete Pirsch. To my left, Bill Lock isn't here today. He's our research assistant. Our committee clerk is Krissa Delka. And Drew Schendt from Broken Bow is our page today. Please turn off cell phones or put them on vibrate while in the hearing room. The sign-up sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to your testimony. When you come up to testify, hand your testifier 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 your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door. The introducer or a representative will present the bill, followed by proponents, then opponents, then the neutral folks. Only the introducer will have the opportunity for any closing remarks. As you begin your testimony, state your name and please 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. Just give the handouts to the page and they will circulate them to the committee. We've also been instructed that this year the folks doing the recording and transcribing are having a hard time hearing us, so please speak closer to the microphone. And we've also been cautioned if you adjust the microphone, don't break it. With that, we will open today's hearings and Senator Lathrop on LB783. Welcome to Revenue.

SENATOR LATHROP: Thank you, Mr. Chair and members of the Revenue Committee. My name is Steve Lathrop, L-a-t-h-r-o-p. I am the proud member of the Legislature and a proud senator from District 12, which includes Ralston and the Millard area in Douglas County. I'm here today to introduce LB783. In 2010, the Legislature adopted the Sports Arena Facility Financing Assistance Act in order to establish a funding mechanism that would assist political subdivisions in building sports arenas with between 3,000 and

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

Revenue Committee
January 30, 2014

7,000 seats. The funding mechanism that was established created a turnback zone within 600 yards of that new arena which resulted in any new sales tax revenue generated within this zone to be turned back to the political subdivision. As a result, the city of Ralston built a new arena that opened in the fall of 2012. Currently, the Tax Commissioner annually audits and certifies the amount of the new state sales tax from the turnback zone after the close of the fiscal year during which the tax revenue was generated. This amount is then certified by December and becomes part of the appropriations process that begins in January of the following year. As a result, there is a lag between the actual collection of the sales tax and the returning of it to the political subdivision, in this case, the city of Ralston. LB783 amends the act to provide that instead of an annual determination, certification, and transfer of these funds, the Tax Commissioner would make quarterly estimates of the amount of sales tax revenue and the new state sales tax revenue generated within the turnback zone. The commissioner would then certify an amount to the treasurer so that the treasurer could then transfer the amount to the Sports Arena Facilities Support Fund on a quarterly basis. This amount would then be transferred to the appropriate political subdivision at that time. At the end of the year, the Tax Commissioner would then determine whether or not a reconciliation of the funds needs to be made. At this time, the city of Ralston is yet to receive any of the turnback funds despite the arena operating for nearly 17 months. By making this change, the city of Ralston and any future cities or counties who would utilize the act would be able to more immediately use the sales...the new state sales tax generated as a result of this project. Mayor Groesser will testify after me today to discuss why this change would be helpful to the city of Ralston and the Ralston Arena. I will...that's my opening. I want to make a comment though to the committee because the committee was intimately involved in this bill passing in 2010. And as my opening indicated, the arena has opened in Ralston and it's operating. And if you haven't been to the arena, I would invite you to come because it's a terrific addition to our community. I happen to go to the hockey games there, and to see the number of people who come to support the athletic events that are there and what it does for the Ralston community is impressive. But more importantly and to the point of the Revenue Committee, sort of the promise of turnback financing is, if you allow us to put an arena there, what's going to happen is it will spur economic development in the area. And I am happy to report to you, and you can certainly visit with the mayor about this when he's up here--I'm sure he's very, very proud of it as I am--it's doing just that. It is creating economic development on really what was an area of...the arena went where an old golf course was. It was not a particularly great golf course. It was one I actually struggled with. But it was kind of an area between the Interstate 80 and Harrison Street. There was just a stretch there where there wasn't much going on. And this...the presence of this arena has spurred the development that we promised it would spur. It's creating the revenue it promised we would create with the presence of the arena. It's doing everything we promised. We just didn't think through how the payments were going to be made. And we're not asking today to increase the circle to get one more dime that the original bill didn't provide for. This bill simply says instead of making us wait and do this like with a

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

Revenue Committee
January 30, 2014

one year lag, let us have quarterly payments so that we can actually use the money as we need it to pay on the bonds, which is sort of the whole point of the turnback in the first place. And so with that, I would be happy to answer any questions. And I guess that's it. [LB783]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. Any questions for Senator Lathrop? Seeing none, will you be staying for closing? [LB783]

SENATOR LATHROP: Yes, I will. [LB783]

SENATOR SCHUMACHER: Thank you, Senator. We're ready now for proponents on LB783. [LB783]

DON GROESSER: Good afternoon. I'd like to thank the Revenue Committee for seeing me, Mr. Chairman. My name is Don Groesser, Don, D-o-n, Groesser, G-r-o-e-s-s-e-r, and I'm the mayor of Ralston, Nebraska. I've been the mayor for 17 years, so it's been quite a long, long, long time. But I really want to take the opportunity to talk to you guys today. And we...as Senator Lathrop said, in 2010, we passed a bill called LB779 which gave us the opportunity to build an arena in Ralston and it also gave the opportunity to any other city or county to do the same thing. We are up and running. We opened October of 2012. And we've been going for 17 months. The project is going very well. We've got lots and lots of people coming. We got about 80 events that we've had already and we've had over about 300,000 people attend our arena. So it's been a really good economic boost for our city and a good economic boost for the community, the whole area. We did have a...we...our problem basically is that, you know, we're a small city and we have 6,000 people. Of course we wouldn't have been able to build this arena without the help of the turnback tax of LB779. But my...since we started construction, I've had the construction loans to pay and now I'm actually starting to pay the actual physical notes of the bills for the bonds. And what I'm having to do is pay these bonds and I'm really taking it out of my reserves and I'm really getting short of my reserves. So it would really be a help to me and to our city to be able to maintain a smoother cash flow so I could anticipate exactly what I have coming in and what I have going out. And this cash flow going up and down with an annual payment, you know, I have to really, really bank it and then all of a sudden I can make the payment and you know. So it's really creating me quite a financial...just some stress. So I think it would help. The money has been collected. It's in the General Fund, so I'm not asking for anything that's not there that shouldn't be ours. I'm just asking for if it could be distributed on a quarterly basis. I think that would help me out a lot. We've already made bond payments over a million dollars to date. And if you've been around small cities, why, a million dollars is a lot of money to me. So it would really, really help us out a lot. I invite you to come down and see the arena any time. I'd love to show you through it. It's just a beautiful complex. We got lots of things going on and love to have you come to Ralston and enjoy our facility. So with that, I would be happy to answer any questions.

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

Revenue Committee
January 30, 2014

[LB783]

SENATOR SCHUMACHER: Thank you, Mayor Groesser. Any...Senator Harr. [LB783]

SENATOR HARR: Thank you, Chairman Schumacher. In light of your guest tomorrow night at the arena, is it correct that this arena is not killing Ralston and to get the money early would not be killing the state? [LB783]

DON GROESSER: It would not be killing the state because the state already has the funds in the General Fund. [LB783]

SENATOR HARR: Thank you. [LB783]

DON GROESSER: Okay. [LB783]

SENATOR HARR: For the record, Bill O'Reilly is speaking tomorrow. That's why you can say that. [LB783]

SENATOR SCHUMACHER: Thank you for that information, Senator Harr. [LB783]

SENATOR HARR: Useless. [LB783]

SENATOR SCHUMACHER: Was that a little advertisement for the program or... [LB783]

DON GROESSER: If you'd like to come, we'd like to have you. [LB783]

SENATOR HARR: Tickets are still available. [LB783]

SENATOR SCHUMACHER: Any other questions for Mayor Groesser? Thank you for your testimony. [LB783]

DON GROESSER: Thank you very much. [LB783]

SENATOR SCHUMACHER: Next proponent. Welcome, Lynn. [LB783]

LYNN REX: Senator Schumacher, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we'd just like to go on record in support of this bill. We think it's appropriate and simply expedites the funding for the city of Ralston on this project. And I would underscore what the mayor and Senator Lathrop have said. It's a phenomenal facility if you haven't been there, and it's done great things for Ralston and the surrounding area. So I'd be happy to answer any questions you may have. [LB783]

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

Revenue Committee
January 30, 2014

SENATOR SCHUMACHER: Any questions for Ms. Rex? Seeing none, thank you for your testimony. [LB783]

LYNN REX: Thank you, and we hope you expedite the bill quickly. Thank you. [LB783]

SENATOR SCHUMACHER: Next proponent. Seeing none, opponents. Any opponents to this proposition? Seeing none, any people in the neutral position? Seeing none, Senator Lathrop, would you like to close? [LB783]

SENATOR LATHROP: Just briefly. And thank you, Mr. Chairman and members of the committee, for your attention. I just want to emphasize or reiterate what I said in my opening and what the mayor indicated. We're not increasing the liability of this state at all. And so you look at the fiscal note. What's happening is instead of having the money that's been collected, that's earmarked for this turnback paid next year, it would be paid in installments as it comes in essentially in quarterly installments. We're going to try to work and see if there's not some way to eliminate the fiscal note, which is not so much a new expense as it is bringing an expense into this year that would otherwise be...or bringing a payment that will be made next year into this year. And I'm not sure how we're going to do that yet, but we're going to work with legal counsel, the Department of Revenue, and find a way because the money is already banked by this state and it's already earmarked for this particular turnback. So with that, I'd be happy to answer any other questions. [LB783]

SENATOR SCHUMACHER: Senator Hansen. [LB783]

SENATOR HANSEN: I do have one. Thank you. Senator Lathrop, would the 600-yard distance that's involved in this, are there other businesses that have popped up with the economic development that's going on around the new arena? [LB783]

SENATOR LATHROP: Yes, and, in fact, there were...this is situated to the south of L Street. There have been businesses, a significant business that went up, a Menards actually, that went up on...within the radius of the 600 yards, which has helped the economic development considerably. There are some other businesses that have gone up. I know that I went to a ground breaking for a credit union that's gone up around there. There is some talk of other businesses that sits on 72nd on the Ralston side or the west side of 72nd. And on the east side, there is some I'd call it some strip malls that are old and not very attractive would be my description. And there is some talk of further development there as this, sort of the development that infects the area after the arena arrives is happening. And that's going to benefit the state, of course, in new taxes that Ralston won't get, you know, which is fine. But it's doing what we promised, which is spurring economic development. [LB783]

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

Revenue Committee
January 30, 2014

SENATOR HANSEN: If the Menards is within 600 yards, do you collect some of the turnback money from them too? [LB783]

SENATOR LATHROP: Yes. No, that's happening right now, Senator. [LB783]

SENATOR HANSEN: That's pretty good sales. [LB783]

SENATOR LATHROP: They have good sales. And we expect more development to just sort of begin organically at the arena and spread, and that's kind of the deal we made with the state. We'll create the new sales tax dollars and we'll grab the ones that we create in the first two years, and all that other stuff that comes will go to the state and the state will have that as revenue for their General Fund. It's working. This idea is working. [LB783]

SENATOR HANSEN: Thank you. [LB783]

SENATOR SCHUMACHER: Senator Harr. [LB783]

SENATOR HARR: Thank you, Chairman Schumacher. Just quickly, you mentioned the fiscal note. Can you explain the fiscal note on this? [LB783]

SENATOR LATHROP: Well, as I understand it, the money that they're collecting in 2014, I'm going to simplify it because I'm not neither a Revenue nor an Appropriations member, but as best I can understand, they're going to collect it in '14 and then certify it, and then it becomes part of the appropriations process next year. And so what we have is a lag between when the money is coming into the state and when it's actually paid out so that it can be used to satisfy the bonds. And all the bill is doing is saying let's make the payments as the money is coming in, in quarterly installments. And then because it's somewhat of an estimate in the fourth quarter, we would do sort of a reconciliation. If for some reason the quarterly installments were too much, then the reconciliation happens in the fourth quarter. [LB783]

SENATOR HARR: And what's the \$132,000 then going forward cost, \$139,000, if you know? And I know you only get these 24 hours ahead of time so it can be difficult. [LB783]

SENATOR LATHROP: Yeah. I... [LB783]

SENATOR HARR: Are you looking to an amendment to lower the fiscal note? [LB783]

SENATOR LATHROP: Yes. I'm going to work with... [LB783]

SENATOR HARR: Okay. [LB783]

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

Revenue Committee
January 30, 2014

SENATOR LATHROP: ...legal counsel and the Department of Revenue to try to determine because it's not costing any money that isn't already going to be paid. It's just what year it's paid in. And that's what we're going to work on to determine... [LB783]

SENATOR HARR: So it'd be nice if we could have this in October. [LB783]

SENATOR LATHROP: Well, it'd be nice to have it in quarterly installments. [LB783]

SENATOR HARR: No, the fiscal note in October. [LB783]

SENATOR LATHROP: Oh, sure. Okay. That's a reference to his Exec Board hearing. Anyway. [LB783]

SENATOR SCHUMACHER: Any other questions? Senator Pirsch. [LB783]

SENATOR PIRSCH: Thanks. The fiscal note since it's been raised there, is that just then reflects a cost to be able to project on a shorter basis what the revenue stream is owed, what's due? Is that... [LB783]

SENATOR LATHROP: The greatest share of that is just moving into this year payments that are going to be made next year. Okay. I'll try it again. [LB783]

SENATOR PIRSCH: So in the long term it'll balance out. Is that what you're saying? [LB783]

SENATOR LATHROP: In the long term the state will not spend any more on these turnback payments than they would otherwise. All we're doing is asking that they be paid as received in quarterly installments. [LB783]

SENATOR PIRSCH: Okay. [LB783]

SENATOR SCHUMACHER: Essentially, Senator Lathrop, you're making a even flow out of otherwise lumpy flow of money. [LB783]

SENATOR LATHROP: That's exactly it. That's exactly it. [LB783]

SENATOR SCHUMACHER: Okay. Any other questions? [LB783]

SENATOR PIRSCH: Yeah, I have a follow-up. [LB783]

SENATOR SCHUMACHER: Follow-up. Okay. [LB783]

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

Revenue Committee
January 30, 2014

SENATOR PIRSCH: Just is it...so is it once a year then it trues up? You have these projections, three of a... [LB783]

SENATOR LATHROP: Yeah. The way the bill is written it would say the Tax Commissioner is going to make an estimate so that we don't get to where we have to spend a lot of time and a...I don't think it would be that difficult for them to make the estimate, but in the event the estimate is off for the good or the bad, okay, they would reconcile that in the fourth installment. So they estimate how much the turnback would be for the first quarter, they send a check out. They estimate the second one, they send a check out. They estimate the third one, they send the check out. The fourth quarter they do a reconciliation and say we should have sent you this much money, and so they make sure by the end of the year it is exactly and no more than the turnback bill called for. [LB783]

SENATOR PIRSCH: Okay. That was my assumption. Thanks. [LB783]

SENATOR SCHUMACHER: Thank you, Senator Pirsch. Any other questions? Thank you, Senator Lathrop. [LB783]

SENATOR LATHROP: And I'll just wrap up with this comment. Ralston and this senator in particular appreciate the work of the Revenue Committee on this turnback. It is an idea and a deal that works and we're not asking for anything more. We're just asking for a little help on how it's paid out. So thank you very much. [LB783]

SENATOR SCHUMACHER: Thank you, Senator Lathrop. That concludes the hearing on LB783. (See also Exhibit 10) For the benefit of the audience, I might point out that you will see senators come and go today. It's not because they're bored or want to get out of here, well, they might want to get out of here, (laughter) but because they've got other hearings that they've got to attend, other bills that they've got to present, and so we're trying to work through a limited time frame in 60 days and get everything in. Next one up on the agenda, LB794. Senator Burke Harr, welcome to Revenue. [LB783]

SENATOR HARR: Thank you, Chairman Schumacher. To follow up on your last comment, I have four bills this afternoon, so I will be doing the introduction on this and I will be doing what I dislike, is when a person introduces a bill and leaves, and you get to listen to the people who may be against this. So I apologize up-front. [LB794]

SENATOR SCHUMACHER: Well, that will help us dispose of the bill rather quickly then. [LB794]

SENATOR HARR: Well, and that's what they would like. Chairman Schumacher and members of the Revenue Committee, I am Senator Burke Harr, H-a-r-r, and I represent midtown Omaha, which is comprised of Dundee, Benson, the Keystone neighborhoods,

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

Revenue Committee
January 30, 2014

and a few others. This bill is looking at two bills that were introduced last year and trying to marry them together. We had a bill last year from Senator Hadley, that Chairman Hadley brought on behalf of the Department of Revenue, that there was concern that there is sales money collected by the merchant but then never given to the state. And so there was a look at changing the way we do the liens. And then Chairman Schumacher, today, had LB333, which is a complaint from the merchants that they have to pay for the credit card processing fee on sales tax to a tune or a loss of approximately \$8 million a year. So we look at these two situations and we say, how can we correct it so that maybe both sides come out a little bit ahead and a little bit behind? And so that's what this bill attempts to do. LB794 requires any retailer that uses a credit card debit card for purposes of sales to utilize software that once the card is swiped the sales tax owed to the state will go to immediately to the Department of Revenue and will not be held in an escrow account that is now paid at the end of the month, quarter, or year. The state gets the money faster and it's guaranteed, and it will make paperwork less cumbersome for the retailers because they don't touch the dollars. Also the retailers...to the advantage of the state, retailers cannot borrow or float the escrow account. LB794 would also increase the fees kept by retailers for collecting the sale and use tax. The collection fee is currently 2.5 percent of the first \$3,000 remitted each month. LB794 keeps the 2.5 percent on the first \$3,000 and adds an additional .5 percent on amounts remitted over \$3,000 a month--LB333. It restores the 2002 level of compensation for those businesses and other entities compelled to collect the tax on behalf of the state by adding back into reimbursement compensation calculation of one-half of 1 percent of all amounts in excess of \$3,000. According to an editorial in the World-Herald, written by Mr. Jim Otto with the Nebraska Retail Federation, dated October 29, 2013, Nebraska retailers and restaurants are forced to remit to the state over \$8 million more in sales tax annually than they collect on a net basis. It is the result of the fees charged by credit card companies when it's taxed to a credit card sale. The credit card fee is charged on the total amount, including tax, not just the sale itself. If I buy something in Lincoln or Omaha, there will be a 7 percent sales tax. Depending on the contract with the credit card processor, the business has negotiated that there will be a cost of 9 cents to 21 cents to process the tax. Using a moderate fee of 14 cents, the merchants will actually receive \$6.86 in sales tax after paying the fee to the credit card processor. The business then eats...so this is based on a \$100 sale, excuse me. So on a \$100 sale what would happen is retailer, after a processing fee, received \$98 on what they sold, and then on the sales tax they'd only receive \$6.86 of the \$7 collected in sales tax. So there's a net loss to the business. So what we're trying to do is to say to the state, you get the money right away; you get the float that before was going to these businesses; but in return you have to pay for the processing fee of the portion of the money you receive. Retailers, you no longer have to pay for the processing of the sales tax, but you've got to pay immediately and you don't get the advantage of the float. That's a breakdown of the law or the bill as written. I would be...I would ask that you would advance LB794 out of committee, and I would be happy to answer any questions. [LB794]

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

Revenue Committee
January 30, 2014

SENATOR SCHUMACHER: Thank you, Senator Harr. We might note for the record that Senator Sullivan from Cedar Rapids has now joined us on the committee. Any questions for Senator Harr and LB794? Seeing none. [LB794]

SENATOR HARR: Thank you. And again, I apologize that I have to leave, so enjoy. [LB794]

SENATOR SCHUMACHER: Thank you. [LB794]

SENATOR HARR: Thank you. [LB794]

SENATOR SCHUMACHER: Time now for proponents of LB794. Welcome to the Revenue Committee. [LB794]

BETH BAZYN FERRELL: Thank you. Good afternoon, Senator Schumacher, members of the committee. For the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing here in support of the portion of the bill that deals with the commission on collecting sales tax. Last year, and traditionally, we have supported returning that commission to the original 2002 formula so that counties would collect a higher commission on motor vehicle sales tax collections. With that I'd just like to register our support of that piece of it, and I'd be happy to try to answer questions. [LB794]

SENATOR SCHUMACHER: Any questions for Beth? I just have one. If you could just briefly go over the history of this for us. You mentioned 2002; what happened then? And I would guess promises were made and probably not kept or something like that? [LB794]

BETH BAZYN FERRELL: In 2002, there was a big budget crunch, like there was during that time frame. During a special session in 2002, that extra half cent...or half of a percent, was eliminated. So the formula went from being 2.5 percent on the first \$3,000 collected, plus then a half percent on any collections after that, to just the 2.5 percent on the first \$3,000. So what happened was, no matter how much was collected, everyone was limited to \$75 per month in commission, so...and that applied to counties, it applied to retailers, it applied to everyone. So this bill would reinstate that so it would have both halves of the formula again. [LB794]

SENATOR SCHUMACHER: Do you know or have you done any research on this particular bill, whether or not the county would have to add software or computers or anything like that in order to do this instant deduction stuff? [LB794]

BETH BAZYN FERRELL: We have not looked at that part of it. We've only looked at the

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

Revenue Committee
January 30, 2014

commission part of it. I would imagine, though, that there would be some programming that would be involved. [LB794]

SENATOR SCHUMACHER: Any other questions for Beth? If not, thank you for your testimony. Any other proponents? Seeing none, any opponents to LB794? [LB794]

KIM ROBAK: Good afternoon, Senator Schumacher and members of the committee. My name is Kim Robak, R-o-b-a-k. I come to you today on behalf of First Data in opposition to LB794, and I'm also testifying in opposition to LB794 on behalf of AT&T. Specifically we are opposed to the language change in Section 77-2708(1)(a)(i). We are not testifying on the collection fee to merchants and do not have an opinion on whether or not that should be raised to what the amount was in the past, but only on the immediate transmittal of the sales tax to the department. It's unclear from the current language where the payment processors, like First Data, would fit into the requirement and the statute change. But First Data is concerned that the obligation for retailers to acquire software to accomplish the daily sales tax reporting could negatively interfere with the transaction flow process that currently is in place today. Transaction processing relies on speed, safety, and efficiency; so new software requirements have been taken into consideration, the impact that they'll have on the current systems that are in place. LB794 seems to intimate that the point of sale systems would have to delineate between the total transaction amount and the sales tax for each transaction using a credit or debit card. So the idea is that when you use your credit or debit card that a certain amount would go to the retailer or to the bank and a certain amount would go to the state. And while that sounds straightforward on paper, the problem is that behind the scenes to get this done in the computer software system is not nearly as easy. Simply put, there's no software quick fix that exists today that would allow a payment processor to separate out the sales tax portion of a debit card or a credit card transaction at the point of sale and then remit that money to the state. And the reason that's the case is because tax...these payment processors were not set up as tax collection entities. Their systems were designed to enable retailers to accept credit card payments and to move money for customers' convenience. So when a consumer swipes their credit or debit card, only certain information is collected. First, they find out, are you authorized as the right person to do this? And that's why you put in your PIN or sign. Whether the actual account is active, is there actually an account there? And then, third, are there funds in that account that will cover that transaction? So when a card is swiped, it's only the total amount that's transmitted at the point of sale. So in other words, when I use my debit card at the grocery store, a processor like First Data sees that I spent \$100. It doesn't see that I purchased milk, that I got \$40 back in cash, and that I bought some cards that are taxable. Some items are taxable, some items are not. And because the cardholders come from all over the country and we all expect these cards to be seamless at any type of retailer, anyplace in the country, these payment systems have to be interoperable. So 7 million merchants across the U.S. have to be able to communicate with hundreds of payment processors who communicate with a

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

Revenue Committee
January 30, 2014

dozen payment card networks and then they communicate with the 7,000 financial institutions. The bottom line is, it's an expensive process. The retailers would have to upgrade their systems, which would also cost money. So the bottom line is, we oppose the requirement because of the expense involved and the difficulty of implementing it in the systems that are in place today. And I would be happy to answer any questions. [LB794]

SENATOR SCHUMACHER: Any questions for Ms. Robak? Kim, I have one. First Data does these transactions for outfits outside of the state of Nebraska too. Anywhere else, is this method been tried? Is there software; is there standards that software have to be...would have to meet? [LB794]

KIM ROBAK: I don't believe so. I believe that there was a bill introduced, and I want to say in Connecticut, but I don't know that it passed. And I could double-check on that for you, Senator. But I don't think it's in place anyplace else other than...I understood that the bill had been introduced in Connecticut, and maybe...but I'll find out that information for you. [LB794]

SENATOR SCHUMACHER: Thank you for your testimony. [LB794]

KIM ROBAK: Um-hum. [LB794]

SENATOR SCHUMACHER: Any other questions? Thank you. [LB794]

KIM ROBAK: Thank you. [LB794]

SENATOR SCHUMACHER: Any other opponents? [LB794]

KATHY SIEFKEN: (Exhibit 1) Good afternoon, Senator Schumacher and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, here representing the Nebraska Grocery Industry Association in opposition to LB794. We do support that section of the bill that increases the commission to 2002 levels, but the rest of the bill would be very difficult for our industry and for any retailers to implement. And what I have provided for you with handouts is a letter from the National Conference of State Legislatures, and this bill was the bill that was sent to the state of Connecticut once they dropped legislation in. And they dropped that in early this year. I don't believe it's had time to go anyplace, but it set off alarm bells across the nation because of how overburdensome and expensive it would be. And if you look at the study that has been...or not the study, the summary, that has been provided by the Coalition (sic--Council) of State Taxation, it provides a summary, and then there is also questions or concerns that are listed, 1-17, on the handout. So if you flip to the last two pages, this document really does outline the concerns that we as a segment of the retail industry would have. Basically, the credit card companies don't know the amount of the sales tax

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

Revenue Committee
January 30, 2014

to remit. And my understanding is that with the Department of Revenue there is just one place where we touch. And I think Kim outlined it very well in that there are certain pieces of information that are delivered and there is no opportunity in the current software packages that we all have to provide the information that would be required to collect this. It would be very, very expensive. One of our main concerns is just the reconciliation. A lot of the reconciliation would have to be done by hand, and whenever it's done by hand there are errors; and when there are errors, there are penalties. And the list goes on and on. Also, number 17 on the list here really does wrap it up fairly tightly, and basically what that says is "Real-time sales tax collection does not appear to advance any sound tax policy." What it does is it drives up the cost, and those costs would have to be passed on to our consumers; so the cost of food would increase. And if you look at the fiscal note, and I'm assuming that you all have a copy of the fiscal note, but if you go to page 5 it was...that segment of the fiscal note that was provided by the Nebraska Game and Parks Commissions, and Game and Parks is saying that it would cost them \$773,000 to set up the system and to do the reconciliation if this bill should pass. And we contend that each and every grocery store as an independent operator would see astronomical costs that wouldn't be as high as what the Nebraska Game and Parks Commission has set out in the fiscal note; but it would be very, very considerable, and you could use this as a comparison. So if you have any questions, I'd be happy to answer. [LB794]

SENATOR SCHUMACHER: Senator Sullivan. [LB794]

SENATOR SULLIVAN: Thank you, Senator Schumacher. And thank you, Kathy. So but if this proposal is returning to something that was done in 2002, what was the difference back then, that...I mean, is technology not kept up, or, I mean, what's...can you expand? [LB794]

KATHY SIEFKEN: Okay. There are two sections of this bill. [LB794]

SENATOR SULLIVAN: Okay. So it's the one that's about the real-time transactions. [LB794]

KATHY SIEFKEN: The real-time transaction... [LB794]

SENATOR SULLIVAN: Okay. All right. [LB794]

KATHY SIEFKEN: ...is the one that would be overburdensome. [LB794]

SENATOR SULLIVAN: Right. Okay. [LB794]

KATHY SIEFKEN: The other segment of the bill says that if we do this, we would obtain the same level of collection fees that we did back in 2002. And to say it bluntly, right

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

Revenue Committee
January 30, 2014

now, the state of Nebraska isn't paying us enough money to pay for the cost of collection and remitting of those sales taxes. And we think that we as retailers should be paid a decent wage for doing that service for the state. So we would support that section of the bill that increases the commissions as was promised back in 2002 when there was a budget shortfall. We were told, okay, if you give us this now, we will give it back to you later. And here we are in 2014, and we still don't have it back. And we would like to see that collection fee increased. [LB794]

SENATOR SULLIVAN: Thank you. [LB794]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony today. [LB794]

KATHY SIEFKEN: Thank you. [LB794]

SENATOR SCHUMACHER: Further opponents. [LB794]

JIM OTTO: (Exhibit 2) Senator Schumacher, members of the committee, my name is Jim Otto; that's J-i-m O-t-t-o. I'm here representing the Nebraska Retail Federation and the Nebraska Restaurant Association in opposition to LB794. As everyone else has said, we do appreciate the portion of the bill that Senator Harr put in there to return it to the way it was prior to 2002. We're very supportive of that. But...and, in fact, for the record, Senator Schumacher has a bill in this committee that would do just that, that would enact that portion and would not do the real-time transfer. So we're very supportive of that. But the bottom line is that it simply isn't worth it to...if we were to enact this, it would cost way more--I mean, many multiples more--to enact this real-time transfer than we would receive in the increased credit card collector...or, excuse me, sales tax collection allowance. I do want to point out these questions are probably repetitive to some of the questions that Kathy passed out to you, but it just kind of gives you an idea of how complicated it is. And one of the ones I'd like to point out is number 6. It says, "How would split tender transactions be handled? Customers often make a purchase using a gift card to pay for part of the purchase price and a credit card for the remainder of the purchase price. Similarly, customers sometimes charge part of the purchase price on one credit card and the remainder on another credit card; for example, if they have reached their credit limit on one card." So it would just become so complicated to do, that it is just...I don't know that these things were...there are just many, many questions. I guess to sum it up I'd just like to tell a quick story. I don't want to say it's impossible. A lot of times I've heard people come and testify and say it's impossible. And my standard whenever anyone says to me that something is impossible, I go "We went to the moon in 1969, and this is impossible?" And I told that to a waitress when I ordered a large pizza, half pepperoni, half hamburger. And she said, "We don't split pizzas." I said, "We went to the moon in 1969, and you can't split a pizza?" And she said, "Our chef didn't go to the moon; I suggest you order two smalls."

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

Revenue Committee
January 30, 2014

(Laughter) So with that in mind, this may not be as hard as going to the moon, but it would be pretty complicated. Thank you. [LB794]

SENATOR SCHUMACHER: Senator Hansen. [LB794]

SENATOR HANSEN: I do have one. Thank you, Mr. Otto. Senator Harr, when he introduced the bill, he said, you know, that it would take away your float. And I know that, you know, if you're going to wait and sort all this stuff out, is float really a major factor in this whole process? [LB794]

JIM OTTO: At 20 percent interest, maybe. At 2 percent interest, no. [LB794]

SENATOR HANSEN: We went to the moon and interest is still .5? [LB794]

JIM OTTO: (Laugh) No, actually float isn't...maybe it is to the state, I don't know. But the float on that money at the present cost of money isn't that much. [LB794]

SENATOR HANSEN: Okay. Thank you. [LB794]

SENATOR SCHUMACHER: Welcome, Senator Janssen, to the Revenue Committee. Any other questions for Jim? I just have one. So it's not your testimony today that the folks that figured out the Obama Web site would be able to figure this out? [LB794]

JIM OTTO: Maybe the ones that figured out how to get him donations would be able to figure it out, but not the ones that did the healthcare. [LB794]

SENATOR SCHUMACHER: (Laugh) Thank you for your testimony. Any other opponents? [LB794]

ROBERT HALLSTROM: (Exhibit 3) Senator Schumacher, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I'm here today in opposition to LB794 on behalf of the National Federation of Independent Business. Other than my name and my client that I represent, anything else would be repetitive. I do have a copy of the Council on State Taxation materials also attached to my testimony. And as Mr. Otto suggested, perhaps not impossible, but highly costly for small merchants and business people to conform and comply with the real-time submission. I would suggest that perhaps that pizza waitress would like to send Mr. Otto to the moon, but that's a different matter altogether. I'd be happy to address any questions. [LB794]

SENATOR SCHUMACHER: Any other questions for Mr. Hallstrom? Thank you for your testimony today. [LB794]

ROBERT HALLSTROM: Thank you. [LB794]

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

Revenue Committee
January 30, 2014

TIMOTHY KEIGHER: Good afternoon, Senator Schumacher and members of the committee. My name is Tim Keigher; that is K-e-i-g-h-e-r. I appear before you today in opposition to LB794 on behalf of the Nebraska Petroleum Marketers and Convenience Store Association, and also on behalf of the Nebraska Chamber of Commerce and Industry. Here again, I don't have anything to add to what the previous testifiers have said. I could show Mr. Otto where he could get that pizza though; I've had one like that before, so. I'd be happy to answer any questions if you have them. [LB794]

SENATOR SCHUMACHER: Any questions for Tim today? Seeing none, thank you for your testimony. [LB794]

TIM KEIGHER: Thank you. [LB794]

SENATOR SCHUMACHER: Any other opponents? [LB794]

DOROTHY PORATH: Good afternoon. My name is Dorothy Porath; that's spelled D-o-r-o-t-h-y P-o-r-a-t-h, and I am here to testify in opposition to this bill on behalf of the Nebraska Game and Parks Commission. And I really follow a lot of the things they've already said, so I don't want to go on. But I do want to say that we're a little bit unique because we have over 36 areas and locations across the state, and then a lot of these areas have a single point of sale; but many of them have multiple sites, like an office, a pool, a theater, marina, kiosks. And we even had a credit card machine on the beaches at Lake McConaughy last year for people to have an opportunity to pay. So it's really multiple locations that we may be able to use a debit or a credit card. And some of our areas are open 8 to 5, Monday through Friday; but a lot of ours are seven days a week, and we have the 24/7 on-line permitting system, you could make reservations. And we use the credit card machines, the Web, and then also a cash register system. So while tax is added at most of these sales, a lot of our taxes are backed out, which is all manual processing. An example would be is if you make a reservation to go camping out at Branched Oak or Mahoney Park, you have an opportunity--on the Web--to buy a NEBRASKAland subscription for \$12. And the one sale price is just sent...credit card sales sent to the credit card processing center. The next day we have to look up that magazine subscription and find out where does that person live so you pay the correct city sales tax as well as the sales tax itself, and back that out of the \$12, rather than our system trying to figure that on top. And like if you pay for that camping, our camping is a flat rate fee; but we have to manually back out sales tax as well as the county tax, and then the state lodging tax. So it's all manually. And to try and create that and charge people individually, like create a system to charge tax on top and to have them go out and hit where a person lives and comes back, it's a very detailed system. So we try and make it more simple for our customers and just back that tax out ourself, so. And we are like them, we are unaware of a specific software that would be assisting us to provide this sales tax on a daily basis. We...they brought up a message. I did want to say we do

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

Revenue Committee
January 30, 2014

put our sales tax right into a liability account, so we pay it every month. It's not like we're trying to hold or not pay our taxes or anything. And due to the anticipated increased workload that this proposed legislation would create, the commission has submitted a fiscal note which was addressed. And the cost of meeting these new requirements would be nearly 75 percent of the amount of taxes we collect as a whole, and exceeds our sales and use tax alone. So if you have any questions for us? [LB794]

SENATOR SCHUMACHER: Any questions? Senator Hansen. [LB794]

SENATOR HANSEN: I do have one. I think I understand what the Game and Parks opposition is to the bill. Do you have a problem doing it quarterly? You still have to do it, but do you do it quarterly, or? [LB794]

DOROTHY PORATH: We pay every month. Any...like a... [LB794]

SENATOR HANSEN: Monthly. [LB794]

DOROTHY PORATH: Right. We pay our... [LB794]

SENATOR HANSEN: Do you have problem with that, doing it monthly? [LB794]

DOROTHY PORATH: No, no. No, it's just to do them every day. [LB794]

SENATOR HANSEN: Okay. Okay, thank you. [LB794]

DOROTHY PORATH: Right. [LB794]

SENATOR SCHUMACHER: I just have one question. How much sales tax does Game and Parks collect of its operations in a year? [LB794]

DOROTHY PORATH: We pay \$650,000 in sales tax and around \$400,000 in lodging tax. [LB794]

SENATOR SCHUMACHER: So about a million dollars generated for the state from your cash fund. [LB794]

DOROTHY PORATH: Right. [LB794]

SENATOR SCHUMACHER: Now does that just go to the general fund or is that routed back to you some way, or do you know? [LB794]

DOROTHY PORATH: We do put it into our accounts based on the method of...I mean, you know, on what the item is for. And then we pay from that account right into

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

Revenue Committee
January 30, 2014

the...well, it actually goes to the Treasurers and the Department of Revenue account.
[LB794]

SENATOR SCHUMACHER: Okay. [LB794]

DOROTHY PORATH: Right. [LB794]

SENATOR SCHUMACHER: Any other questions? Thank you very much for your testimony. [LB794]

DOROTHY PORATH: Thank you. [LB794]

SENATOR SCHUMACHER: I think we're still on opponents. Any other opponents? Anybody neutral? Seeing none, Senator Harr has waived, and this will conclude the hearing on LB794. Senator Hansen, do you want to take over the helm of the Star Trek Enterprise? (See also Exhibit 11) [LB794]

SENATOR HANSEN: Hang on. I might be a bumpy ride, Senator. Senator Schumacher, welcome to the Revenue Committee. [LB829]

SENATOR SCHUMACHER: I understand this is the most august committee. [LB829]

SENATOR HANSEN: I'm not going there. We do welcome you to introduce LB829.
[LB829]

SENATOR SCHUMACHER: Thank you, Senator Hansen and members of the committee. I'm Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature. And I am introducing today LB829, which deals with a subject...had you told me it would be a subject, I wouldn't have believed just a few months ago. Everybody knows when you go buy a roll of postage stamps there's not sales tax. Well, you'd probably be wrong in some cases. So let's go through a simple example of a problem that was brought to my attention which appeared on the surface to be a fairly minor, maybe isolated problem, which isn't so. It is a large problem and it affects businesses across the state, particularly those that are involved in the printing business or who use printers and do some type of mailings. Start out with something simple: You want to send your Christmas cards. You go down to the post office and you get a roll of stamps and you address your Christmas cards, put the stamp on, take it to the post office and mail it, and there's no tax at all. But you want to also put a Christmas letter in there. And you put the...you say, I don't have a Xerox machine, I'll just go down to the local print shop, have them print up my Christmas letter on nice Christmassy paper, stuff it in an envelope. I'll give them a mailing list and when they've got it all prepared they can take it down to the post office and put postage on it, and I'll reimburse them for the postage. Sounds fair enough. There shouldn't be any sales tax, should there? No. Well, there is.

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

Revenue Committee
January 30, 2014

And that's the root of the problem. If you hire a printer, the printer whether they lick the postage stamps or use their little postage permit to put postage on them, the printer takes it to the post office, deposits it in the mail after it's done being printed, turns around and bills you for the postage. We charge sales tax on the postage. And on large commercial mailings which people in some cases have to make because they're required by federal law to do large commercial mailings in addition to, you know, maybe other advertising type mailings, that amounts to a lot of money. Now, you can get around it; you can beat it a couple different ways. One, you can have your own Xerox machine, print shop, whatever, if you're big enough to have that, and then there's no problem because you're just like the person mailing their own Christmas card. You know, print it up, put it in the back of the pickup truck, run it down to the post office, and boom, no sales tax. You also can have the printer drop it by your facility and you run it to the post office, affix the postage, no sales tax. You can meet the printer at the post office if you want, and you carry in the baskets of printing material, same deal, no sales tax. So when we see a rather significant fiscal note on this thing of a couple million dollars a year, it's a fiscal note that is generated by people who probably don't know there's a shortcut to it and they're probably right now finding out there's a shortcut to it. And printers who are right now finding out there's a shortcut to it by doing...by just delivering it to the mail, the sender himself delivering it there. We shouldn't put businesses through having to do an inefficient step in order to be treated fairly on postage. The way we're doing it now creates three issues. The first issue is, particularly if you're in a border bleed situation, you use a printer across the river, you don't have to pay the tax. Well, you save the tax. But Nebraska ships out maybe a \$10,000 to \$15,000 printing job to across the river and printers over there, if it's in the situation of Omaha and Council Bluffs. A plain loss of revenue and a loss of business. It treats small businesses unfairly because you can't run your own print shop. The big guys, the real big operators that send out a lot of credit card type information or things like that, they do it all in-house. And so it really squeezes the smaller operation fairly significantly, and is basically very, very unfair in that particular situation. I believe I'm actually going to have support for this bill today. That's unusual. (Laughter) I'm glad that Senator Harr took all the opposition bills today. But it's a problem. It is certainly an unexpected thing. I never realized that there was this kind of wrinkle. Postage always, in my mind, was never taxed. And we should not be saying we're business friendly on one hand and making businesses go through a meaningless hoop just to be treated fairly with the big guys or just to keep business in this state. And with that I'd answer any questions. [LB829]

SENATOR HANSEN: Are there any questions of Senator Schumacher? Senator Sullivan. [LB829]

SENATOR SULLIVAN: Thank you, Senator Hansen. Could...Senator...thank you, Senator Schumacher. Could you recap that example you gave and how it would change if this legislation were passed? [LB829]

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

Revenue Committee
January 30, 2014

SENATOR SCHUMACHER: Okay. Basically, the example I gave with the Christmas cards, step one, you get your Christmas cards, put the stamp on, address them and drop them in the mail, no postage stamps (sic--tax). Step two, you decide you want to send a Christmas letter with it, so you take your mailing list down to the local printer with the script of what you want to say in your Christmas letter; they print it up, they put your address labels on it. They...instead of...most practically, instead of them licking stamps, they'll use their postage permit. And they'll go down to the post office and mail it, and the postman will charge them whatever the mailing fee is, the postage. And they'll write out a bill to you that says, so much for printing Christmas letter and so much for postage reimbursement. Okay? You would get the sales tax on that. Now, you wouldn't have sales tax if this bill would pass, on the postage portion. [LB829]

SENATOR SULLIVAN: On the postage. Just the postage. [LB829]

SENATOR SCHUMACHER: Just the postage portion. All we're talking about is postage. You'd still have the normal thing for printing up the Christmas letter. [LB829]

SENATOR SULLIVAN: Okay. Thank you. [LB829]

SENATOR HANSEN: Any other questions? Senator Janssen. [LB829]

SENATOR JANSSEN: Thank you, Chairman. I might be the Chairman here pretty soon if you keep going. (Laughter) My question...it's not really even a question, it's about the fiscal note. And so to me I disagree with the fiscal note other than I think it's kind of like a thief would lose money if they were in prison as opposed to stealing from people. And that's kind of what I see with this. Was this an unintended consequence, the way it was applied to certain businesses and especially small businesses that we daily hear about, we want to bring...we want to keep our young people here. And I've talked to people about this issue, whether it be campaign materials or whether it be credit card materials, that are starting up and they see this tax, and it was never brought to me. So I guess my question is, how was it brought to you and what's your thought on the fiscal note? And I'd appreciate it if you could do that in under 90 seconds. [LB829]

SENATOR SCHUMACHER: Well, it was brought to me instead of you because they figured you were busy running for Governor. [LB829]

SENATOR JANSSEN: (Inaudible), right, right. [LB829]

SENATOR SCHUMACHER: (Laugh) Okay. Basically people began saying, you know, why do I have to pay tax on postage? You don't have to pay tax on postage. Well, if you literally read our law, it includes postage as part of a delivery. And so that's where the wrinkle comes in. And since we sometimes talk out of both sides of our mouths about

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

Revenue Committee
January 30, 2014

wanting to help businesses but we also don't want to give them any money if we can help it, and we want to take some from them if we can, and business-to-business charges, you know, that's how it came down and it's in the books that way. The legal counsel for the committee has pointed out that if the committee chooses to advance this bill, we might have to tweak the statute in a couple different sections in order to make sure and make it very clear that we intend that postage not be charged sales tax. And it's a minor tweaking as I understand it, if we choose to advance this. But that's why. And my 90 seconds are up. [LB829]

SENATOR JANSSEN: Yeah, probably. So it was a misapplication. [LB829]

SENATOR SCHUMACHER: Well, not... [LB829]

SENATOR JANSSEN: But it's true. I mean, it's in the statute. [LB829]

SENATOR SCHUMACHER: It's an unintended... [LB829]

SENATOR JANSSEN: So they're following it but that...unintended consequence maybe? [LB829]

SENATOR SCHUMACHER: It's probably an unintended consequence of not read closely language. [LB829]

SENATOR JANSSEN: Okay. Thank you. [LB829]

SENATOR HANSEN: Any other questions for Senator Schumacher? I have one, Senator, if no one else does. In the 1800s we had a...it costs about \$8 to send a letter from St. Louis to Sacramento via the Pony Express, but we didn't have to pay any sales tax on it. Is there a threshold on the number of deliveries before they start selling...or listing the sales tax on the receipt or whatever it is? [LB829]

SENATOR SCHUMACHER: I don't see one in the statute. And soon it will cost \$8 to send something from here to San Francisco. [LB829]

SENATOR HANSEN: If it keeps going it will be. U.S. postage is...remember, it's running the U.S. Postal Service, and most government entities are financed through tax money. Are stamps, taxes? Aren't stamps a form of taxes? [LB829]

SENATOR SCHUMACHER: No, actually probably...I mean, the constitution has the U.S. Post Office, the federal government set up to run the postal service. [LB829]

SENATOR HANSEN: Delivery? [LB829]

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

Revenue Committee
January 30, 2014

SENATOR SCHUMACHER: So I think it's kind of the original FedEx, only it's government run. [LB829]

SENATOR HANSEN: Okay. Any other questions? If not, thank you, Senator Schumacher. [LB829]

SENATOR SCHUMACHER: And I'll stay for closing. [LB829]

SENATOR HANSEN: Okay. Anyone in the proponents? Welcome to the Revenue Committee. [LB829]

CHRIS LaFEVER: Thank you. [LB829]

SENATOR HANSEN: Please state and spell your name. [LB829]

CHRIS LaFEVER: (Exhibits 4 and 5) Good afternoon. I'm Chris LaFever, C-h-r-i-s L-a-F-e-v-e-r, and I appear before you today in full support of LB829. I would like to thank Senator Schumacher for introducing the bill and for Chairman Hadley's cosponsorship. I am president of Pharmaceutical Technologies, Inc., which is a pharmacy benefit management company headquartered in Omaha, Nebraska; and all of our operations are out of Omaha. In 1993, I started this company by borrowing money from my folks, and now I'm the president and CEO of the company. We employ 170 people and do business with a nationwide network of 65,000 pharmacies across all 50 states, processing claims for millions of people. As part of our services, we are required either by law or by contract to send out hundreds of thousands of mailings every single month. These mailings are not advertisements, solicitations, or promotional literature. Rather these mailings are primarily explanation of benefits, account statements, and privacy notices. In the case of Medicare beneficiaries, federal law requires us to send out these EOBs on a monthly basis, and requires enrollment kits, identification cards, and benefit letters to beneficiaries to be delivered on a periodic basis. The printing and delivery of these items are sourced entirely to Nebraska businesses, and are, thus, subject to the Nebraska sales tax, since we only have one business location which is in Nebraska. This is because nonpromotional material is considered other direct mail. Our company contracts with a printer in Omaha to print our mailings and then collate, fold, and stuff these documents for mailing to members and member pharmacies. On a monthly basis this printer informs us of the amount and price of U.S. postage that will be required to mail that month's mailings. The printer then asks that we cut a check made directly out to the U.S. Postmaster. When we receive a statement from the Nebraska printer for these charges, everything is itemized, including the amount of U.S. postage, and Nebraska state and local sales taxes are charged on the entire amount. In other words, we are being charged sales tax on the U.S. postage. This is because postage is considered a delivery charge under current Nebraska law and interpretation. The printer does not have an upcharge such as a handling charge. When you or I go to the post

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

Revenue Committee
January 30, 2014

office or the grocery store to purchase U.S. postage, we are not charged sales tax. However, because we are directly reimbursing the U.S. Postmaster through a pass-through statement from a Nebraska printer, we are required to pay sales tax on the postage. In my handouts, which I think you should all have, I brought an example of one of my monthly statements from the printer to show exactly how this is done, along with a detailed cover sheet to explain. As you can see, this tax on U.S. postage is costing my company an average of \$3,500 per month, and that was before the recent hike in postage. I was under the understanding that postage stamps were a federal obligation and thus they shouldn't be taxed. If I took this printing in-house, as many other companies are now doing, and did it myself, I would not incur the sales tax on postage. However, I am not in the printing business and don't intend to do so. I also don't wish to move this business to Iowa, as we are a Nebraska-based company and want to keep our business in Nebraska. Yet, in Iowa, the sales tax would not be applied to the postage. LB829 would provide that when U.S. postage is a separately stated charge on an invoice, bill of sale, or similar document, it would not be considered a part of the sales price, and thus, not subject to sales taxation. We support the bill and any clarifying amendments to achieve the intent of the legislative change required. Thank you for your favorable consideration of this measure, and I would be happy to entertain any questions the members of the committee may have. [LB829]

SENATOR HANSEN: Are there any questions? Seeing none, thank you very much for coming... [LB829]

CHRIS LaFEVER: Thank you. [LB829]

SENATOR HANSEN: ...and explaining your situation. Next testifier in...proponent. Welcome to the Revenue Committee again. [LB829]

KATHY SIEFKEN: (Exhibits 6 and 7) Again. Senator Hansen and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, here representing the Nebraska Grocery Industry Association in support of LB829. And we thank Senator Schumacher for introducing this bill. I have given the clerk both my testimony and a copy of a document that was an interpretive ruling several years ago. Currently, the state of Nebraska...in the state of Nebraska, sales tax is assessed on postage if the piece is mailed by a third party. The cost of the postage, the cost of the printing, all of those things are identical. They remain the same, yet...and they are paid by the grocer that contracts for the printing to be done. Our warehouses provide our members choices because we have different needs. The choices are that the warehouse will print the fliers, the ad fliers, and mail them out for some of our grocers. And in that case, there is a sales tax paid. In the case where the grocer has the personnel, the software, and the database, and they can mail out their own fliers, the warehouse will go ahead and print the fliers and send them over to the grocer. And in that case, the sales tax is not paid. But the end result is the same in that these same fliers go to customers; the retailers are

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

Revenue Committee
January 30, 2014

the ones that pay for the printing and for the postage. So the transactions are identical except for where or how it's delivered. According to Nebraska law, sales tax can be imposed for transportation costs, and the Department of Revenue interprets the transportation costs to include postage. So, in essence, the tax is imposed because the fliers are mailed out from one location in Nebraska and not from another. LB829 levels the playing field by treating all postage the same if postage is listed separately on the invoice when fliers are being mailed out. I've attached a copy of the interpretation that I talked about a little earlier, from the Streamlined Sales Tax governing board that was obtained several years ago, along with the Streamlined Sales Tax rules that I printed from the SST Web site this morning so that you could see that the definitions have not changed. This is an issue of fairness and we would appreciate your support in passing the bill out of committee. And I would also like to add to that, Senator Ray Janssen introduced similar legislation for us many times. I think my files this morning, when I went through them, it looked like there were four different times that he introduced legislation. It wasn't exactly like this but the end result was that it would level the playing field. And when there was a budget shortfall--I think the last time was like in 2006--and when there's a budget shortfall, the Revenue Committee was not interested in listening to us talk about fairness, because there wasn't enough revenue to go around as it was. We're now in a position where hopefully that's changed. We've got income coming in, and we believe that its time may have come. This is the fair thing to do. It's the same advertisements. It's the same customer base. It's just that one added piece where the bigger grocers can actually afford to have someone else do the work for them or can have a third party do the mailings. So it really is an issue of fairness. If you have any questions I'd be happy to answer them. [LB829]

SENATOR HANSEN: Are there any questions? Senator Janssen. [LB829]

SENATOR JANSSEN: Just a comment really. I'd like to note that regardless of political party and former Senator Ray Janssen, a Democrat, wanted to cut taxes as do I, so we do share that commonality within our family, and I'll let him know that you've mentioned him today. He'll appreciate that. Thanks, Kathy. [LB829]

SENATOR HANSEN: Any other questions? Senator Sullivan. [LB829]

SENATOR SULLIVAN: Thank you, Senator Hansen. And thank you, Kathy. Just to reiterate the question I posed to Senator Schumacher earlier, it's not really, is it, that there's any tax evasion. It's like the statute almost requires when that delivery or that printer is doing the work, that they have to charge sales tax on the postage. [LB829]

KATHY SIEFKEN: And I think Senator Schumacher summed it up very concisely and accurately in that perhaps it just wasn't good language at the time. It was one of those things that slipped through. And frankly, the Department of Revenue's job, their task is to find revenue that is owed to the state and collect it. They have been doing their job.

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

Revenue Committee
January 30, 2014

So really the fix isn't in changing their interpretation; it's changing the law as Senator Schumacher's bill will do. [LB829]

SENATOR SULLIVAN: Thank you. [LB829]

SENATOR HANSEN: Any other questions? Thank you for coming today. [LB829]

KATHY SIEFKEN: Thank you. [LB829]

SENATOR HANSEN: Next person as a proponent. Welcome to Revenue. [LB829]

TIM KAISER: Good afternoon. My name is Tim Kaiser, K-a-i-s-e-r. I am the CFO business manager of Printco Graphics in Omaha, a 20-year-old printing company employing 90 employees. I'm here to talk about the unfair taxation of sales tax on postage. I feel I am qualified to understand the sales taxation of this issue, as I have a bachelor's and master's degree from Creighton University, and also hold certified public accountant and certified management accountant certificates. First off, Printco Graphics complies with all rules and regulations of sales tax. We have collected and remitted to Nebraska over \$650,000 of sales tax from customers the last three years. Printco, as mentioned, does commercial printing, yet we do some small-scale mailing as well. I wish to explain why the sales tax on postage reduces Nebraska commerce as it relates to the surrounding states, and, in addition, creates very little sales tax for Nebraska. And ultimately, net-net reduces sales tax and jobs in Nebraska, contrary to LB775 and LB312, which is encouraging commerce. The best way to explain this is to start with an example. If Printco does printing for a Nebraska customer, and we also mail for that same customer within Nebraska, we are required to charge sales tax on both the printing and postage. The rationale is that we have done a service for the printing, which we agree with, but we also charge sales tax on postage as the current law reads, that by affixing a stamp a service has been performed. To show the dollar magnitude, I will illustrate one job we do for a \$10,000 printing job and a \$4,000 mailing. Total bill is \$14,000 before sales tax. Sales tax is \$980 for the printing and mailing, which is \$14,000 times 7 percent. Sales tax just for the printing would be \$700, which is \$10,000 times 7 percent. The difference to the customer is the \$280 in sales tax on the postage. If this is a monthly publication for one of our customers, the annual impact to the customer would be \$3,360 just on that one job. This \$3,360 of sales tax on postage is a considerable amount of money, incremental money, to a publication customer who is continually getting displaced by the Internet and social media. Additional facts. Okay, if Printco mails a piece of product that utilizes Printco's postage permit and the piece is mailed to all 50 states, Printco has to run a software program that is ran to capture the amount that is mailed to Nebraska residents only, and applies sales tax to that Nebraska mailing. This requires Printco to incur additional expense to monitor this very much involved issue. Printers and mailers are trying to reduce costs to remain competitive to the Internet and other states grabbing our business. Yet here we are

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

Revenue Committee
January 30, 2014

incurring additional costs, going in the opposite direction relative to cost to make us competitive to other states and other mediums...making us anticompetitive to other states and other mediums. The problem is, is ultimately this, is customers are very smart people who know their costs and go where the costs are the cheapest and have the least complexity. Printco competes with various printers from other states each time we bid a job. If the customer we are trying to win is a Iowa customer with Iowa and a majority of Nebraska mailings using the \$14,000 job discussed earlier, the customer will ultimately award the job to the Iowa printer for both their printing and mailing for two reasons. One, it will save them \$3,360 annually on sales tax; and two, customers will go to the printer where the mailing is occurring because those usually act in tandem. Printers cannot compete on a level playing field today given the taxation. And my understanding is that we are only one of the three states in the whole country who tax postage, however you want to define the postage, whether it be a delivery, a service, or whatever the case may be. We are losing more sales tax revenue because of this law, and I'd just like to at least compete on a level playing field with all the other states. And just one thing in addition to Senator Janssen, it's very popular to say you want to cut taxes. Everybody wants to cut taxes. I agree with you wholeheartedly. What this will do, if you change the law, it will actually increase sales tax for Nebraska net-net, because I am losing that \$700 print job because they are escaping over the river to avoid that \$280 charge. So net-net, you may lose on paper, but objectively what is camouflaged is how much that I am not able to print and charge sales tax on. If you have any questions, I'd be glad to answer. [LB829]

SENATOR HANSEN: Are there any questions for Mr. Kaiser? I have one question. Half the senators sitting around this table are running for an office. What do you do for political ads? I mean, there's a lot of mailings going out because we have a lot of candidates running for various offices this year. I mean, I don't know how many there are total, but there's quite a few. Political ads, every four years, get pretty busy. Do you collect sales tax on those? [LB829]

TIM KAISER: To be totally honest with you, the elections happen only every two years, every four years. Those candidates usually go through brokers. They don't deal directly with printers. [LB829]

SENATOR HANSEN: Okay. [LB829]

TIM KAISER: And brokers, because they know costs better than anybody, they do not come to us. They go to Iowa to get their printing and mailing done. I can't speak for that because I don't mail for them, but that's what...the fact that we don't have any, that leads me to believe that's what our competition is getting. [LB829]

SENATOR HANSEN: Okay. Does that raise any questions? [LB829]

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

Revenue Committee
January 30, 2014

SENATOR JANSSEN: Yeah, absolutely. The question is political campaigns, they are taxed then basically the same if they're in Nebraska as anybody else. Right? [LB829]

TIM KAISER: Um-hum. They would be. If they're...if we print it and we mail it within Nebraska, that would be sales taxed. [LB829]

SENATOR JANSSEN: So my choice to use Cutthroat Printing in Nebraska is... [LB829]

TIM KAISER: Either way you're going to pay 7 percent. [LB829]

SENATOR JANSSEN: So, wow. Is there any Iowa-based companies or... [LB829]

TIM KAISER: Unfortunately, that's the reality of the situation is there will be a lot more Iowa-based companies than there are Nebraska for... [LB829]

SENATOR JANSSEN: You're right. You're absolutely right. And that was brought to my attention. I was just kind of playing a little bit there. [LB829]

SENATOR HANSEN: Okay. [LB829]

SENATOR JANSSEN: Thank you. [LB829]

SENATOR HANSEN: Thank you. Any other questions? Thank you, Mr. Kaiser. Next proponent. This is the man with the silver cane. [LB829]

SENATOR JANSSEN: You had one last year. [LB829]

SENATOR HANSEN: I don't have one that pretty. [LB829]

HARVEY SANKEY: I told Senator Chambers last year when I was testifying before the Judiciary Committee, this is my equalizer. (Laugh) [LB829]

SENATOR HANSEN: Welcome to the Revenue Committee. [LB829]

HARVEY SANKEY: (Exhibit 8) Thank you. Chairman Hansen and members of the Revenue Committee that are present, and those who are not present, my name is Harvey Sankey and I represent Printing Industries Midwest, specifically the printing industries of Nebraska. [LB829]

SENATOR HANSEN: Could you spell your name, please, and spell it? [LB829]

HARVEY SANKEY: My name spelled is H-a-r-v-e-y S-a-n-k-e-y. I live at 3204 North 157th Street, Omaha, Nebraska. [LB829]

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

Revenue Committee
January 30, 2014

SENATOR HANSEN: Thank you. [LB829]

HARVEY SANKEY: I too support LB829. The printing industries and relating support employ 8,424 workers at 390 establishments in Nebraska. According to the latest survey by the Brookings Institute (sic--Institution) of employment and manufacturing industries in Omaha, printing and related support ranks second. During the last six years the printing industry has declined in Nebraska. There have been bankruptcies, mergers, and reduction of workers at the companies that are still operating. We have lost two major printing companies in Lincoln that employed over 300 workers combined. The remaining companies have reduced shifts, benefits, and wages in order to stay competitive in the print markets of Nebraska and the surrounding states. The competition is fierce and the profit margins are very low, if not break even. We need to reduce costs in order to compete in other states. The elimination of the sales tax on postage will allow us to compete on a level playing field or give us a leg up against the competition. A few thousand dollars or even a few hundred dollars less on a bid can give us a new customer or help us retain a current one. We can't afford to lose customers to out-of-state printers. Some of the printers here in Nebraska rely on direct mail as part of their sales, and we can't afford to lose them. Right now, I've heard over the last couple of years, we want to bring business into Nebraska. Well, we have a problem. Unemployment rate is low and we don't have the skilled work force, so we have to concentrate on businesses that are here in Nebraska currently. We must retain our current businesses and our skilled work force in Nebraska. If a printer goes out of business or has to lay off workers, these people may leave Nebraska to find a job with another printer. There are very few skilled print workers left in this industry and we must retain those that are still here in Nebraska. Eliminate the sales tax on postage charges on direct mail and retain a printer or other companies that we work with in the direct mail industry. It will also help you on your campaigns. It will reduce your costs for your campaigns. [LB829]

SENATOR HANSEN: Are there any questions for Mr. Sankey? I have one. [LB829]

HARVEY SANKEY: Yes, sir. [LB829]

SENATOR HANSEN: What about, you know, not only political candidates but most any other mailings, I mean, social media; what do you think social media has done to the printing industry? [LB829]

HARVEY SANKEY: Oh, it's hurt the industry, definitely. If you look at some of your catalogues or some of the magazines that you get, the ad revenues have gone down, the page count has gone down. It's very much hurt the printing industry, the media right now. They can advertise over the Internet. A lot of these industries can sell over the Internet too, and avoid a lot of catalogues and magazines. It's hurt not only the printing

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

Revenue Committee
January 30, 2014

industry but the paper industry too. A lot of the newspapers are folding. Paper industries are closing. They're eliminating a lot of their paper machines. So the effect is...goes into that area also. [LB829]

SENATOR HANSEN: Thank you. I appreciate that input there. Any other questions? If not, thank you for coming today. [LB829]

HARVEY SANKEY: Thank you. [LB829]

SENATOR HANSEN: The next proponent. [LB829]

ROBERT HALLSTROM: Senator Hansen... [LB829]

SENATOR HANSEN: Welcome back to Revenue. [LB829]

ROBERT HALLSTROM: (Exhibit 9) Thank you. Senator Hansen and members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before the committee today as a registered lobbyist for the Nebraska Bankers Association in support of LB829. Our story is no different than those that you have already heard today, of financial institutions that outsource some of their customer mailings for things like bank statements, privacy notices, and other types of mailings are also subject to the imposition of the sales tax. We don't think that makes a lot of sense, if any. It certainly is not fair and would encourage the committee to advance the bill and allow Nebraska to join the vast majority of other states that exempt postage that's separately stated from the delivery charge definition for purposes of sales and use taxes. I'd be happy to address any questions. [LB829]

SENATOR HANSEN: Any questions for Mr. Hallstrom? If not, thank you. [LB829]

ROBERT HALLSTROM: Thank you. [LB829]

SENATOR HANSEN: Next proponent. [LB829]

RON SEDLACEK: Thank you, Senator Hansen and members of the Revenue Committee. [LB829]

SENATOR HANSEN: Welcome. [LB829]

RON SEDLACEK: For the record my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce and Industry in support of LB829. Just a little bit of background. Back in 2011, the Revenue Committee considered and enacted into law LB211, which conformed a number of Nebraska definitions to the Streamlined Sales Tax Agreement. And one of the areas deals with direct mail, and

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

Revenue Committee
January 30, 2014

they essentially...in conforming with that agreement, there's two types of direct mail. And that's one item I just wanted to mention here to call your attention to. LB829 refers to direct mail. Okay? So, for example, if you have a situation of postage and handling and that's a service that is not direct mail necessarily, you buy a book from, you know, some other retailer and there's postage and handling of \$7.50 or whatever it could be, that would be subject to tax. However, in this particular case there are two types of direct mail. There's the direct mail that is promotional material, solicitations. I suppose campaign publications would fit in that category. There's a sourcing rule in Nebraska as well as the other streamlined states, and that is that you pay tax on that which is delivered to Nebraska residents, but if you're mailing in all other states you don't. Okay? Then there is other direct mail. Other direct mail is treated differently. That is nonpromotional material, and that would be your statements, invoices, and so forth. So that is all sourced tax...as far as sales tax is concerned, to the purchaser. So the company takes it to the printer and these things are done...you know, the task is accomplished. You owe the sales tax on the entire mailing. And that's part of the streamlined issue. So this issue is not new and in most states because most states have made an adjustment, and that is they have exempted U.S. postage for direct mail. Only a handful of states are left. In fact, Indiana, in last year's legislature, enacted legislation almost identical to LB829. The Nebraska Chamber of Commerce and Industry believes that, number one, U.S. postage is a federal obligation and should not be taxed. Number two, as Senator Schumacher mentioned, it's in a sense a little bit of form over substance as to how you direct your path. You can avoid the sales tax. But what the current law is doing essentially is saying, well, why don't you just integrate operations and bring it in-house? And there have been a number of businesses that have been. In that sense you don't have to pay the sales tax, but to the detriment of other industries in Nebraska where you could be generating more sales tax. So it's unfair, particularly in a border situation, where you can go across the river. Iowa doesn't charge that tax. Kansas doesn't. Even South Dakota, which taxes just about everything that moves, does not tax U.S. postage. I believe all the surrounding states do not. And we feel that Nebraska should actually join the vast majority of states and enact this particular legislation. And be happy to answer any questions that you might have. Yes, Senator. [LB829]

SENATOR HANSEN: Are there any questions for Mr. Sedlacek? Senator Janssen. [LB829]

SENATOR JANSSEN: Thank you, Mr. Sedlacek. Do people that have jobs and pay income tax move into South Dakota? [LB829]

RON SEDLACEK: Pardon? [LB829]

SENATOR JANSSEN: Do people in South Dakota move? [LB829]

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

Revenue Committee
January 30, 2014

RON SEDLACEK: Do people in South Dakota move? [LB829]

SENATOR JANSSEN: Yes. [LB829]

RON SEDLACEK: Move to? [LB829]

SENATOR JANSSEN: You said anything that moves in South Dakota. [LB829]

RON SEDLACEK: Oh, okay. I understand. Well, now I understand what you're saying. [LB829]

SENATOR JANSSEN: They do not pay income tax in South Dakota. [LB829]

RON SEDLACEK: No. (Laugh) That's right. That is true. [LB829]

SENATOR JANSSEN: I just wanted to make that point. We're in "agreement." [LB829]

RON SEDLACEK: Okay. [LB829]

SENATOR JANSSEN: I just wanted to point that out on the... [LB829]

RON SEDLACEK: Okay. [LB829]

SENATOR JANSSEN: Thank you. [LB829]

SENATOR HANSEN: Any other questions? If not, thank you. [LB829]

RON SEDLACEK: Thank you, Senators. [LB829]

SENATOR HANSEN: Next proponent. [LB829]

BRUCE BOHRER: Good afternoon, Senator Hansen, members of the Revenue Committee. Bruce Bohrer appearing on behalf of the Lincoln Chamber of Commerce. For the record my last name is spelled B-o-h-r-e-r. I'm not going to try to cover all the ground we're already covered other than just to say we're supportive mainly for all the reasons you've already heard. I hear from small business people on the fairness issue and also what Mr. Sedlacek just mentioned, the idea of a work-around anyway, and what I heard earlier. We shouldn't put businesses through this inefficient step in order to be treated fairly. And I think that really sums it up as to why we need the changes as proposed under LB829. We urge your support of it and I would be happy to answer any questions. [LB829]

SENATOR HANSEN: Are there any questions for Mr. Bohrer? [LB829]

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

Revenue Committee
January 30, 2014

BRUCE BOHRER: Thank you. [LB829]

SENATOR HANSEN: Seeing none, thank you. Any other proponent? Mr. Otto. [LB829]

JIM OTTO: Senator and the committee, my name is Jim Otto, J-i-m O-t-t-o. I'm here on behalf of the Nebraska Retail Federation and the Nebraska Restaurant Association in support of this bill. And I don't need to waste your time for all the reasons that have already been said, but I do want to specifically thank Senator Schumacher for taking things like this on that are...in all this effort of changing the tax situation, it seems like there's a huge push to lower taxes, and I am certainly not opposed to that; but it's important that we take a look at the things that are not equitable in the present situation, and I think Senator Schumacher is taking a hard look at that. Thank you. [LB829]

SENATOR HANSEN: Thank you. Are there any questions for Mr. Otto? Thank you. Any other proponents? We've got one. I thought...has the bus showed up yet, Senator Schumacher, with the opponents? (Laugh) [LB829]

SENATOR SCHUMACHER: No. Another one is coming. [LB829]

SENATOR HANSEN: Oh, another one. Thank you. Welcome to the Revenue. [LB829]

VAL NELSON: Thank you. Good afternoon, members of the committee, and thank you, Senator Schumacher, for introducing this bill. My name is Val Nelson, spelled V-a-l N-e-l-s-o-n, and I am here as the owner of a small business called Cutthroat Print in Omaha, Nebraska. I'm the little guy. I'm a newcomer on the block. We just started our business last September, and we are...it's interesting the things that we're learning as we go along. One of the nightmares that we've encountered was the fact that we have to collect sales tax on U.S. postage. And again I'm not going to reiterate what's already been said, but I will say it's a nightmare that when we have a customer come to us with, say, a \$10,000 job, and we have to come back and say, oh, by the way, you owe \$750 for state sales tax. And they go, what? And that's the reaction that we all have because it's wrong. It's just simply wrong to collect sales tax on a service that we don't provide. I'm not the mailer. I'm not the shipper. I merely print and I deliver it to the post office. But because I will deliver it to the post office's door, I'm required to pay sales tax on that. But the thing of it is we don't charge the customer a profit for postage. That's a service. You know, putting that stamp on the envelope is basically a service that we provide for free. And yet, we're supposed to charge sales tax on that? I guess the question I have for you is, why didn't the state just go to the U.S. Postal Service and say from now on we're charging 7.5 percent sales tax on everything that comes through your doors? You'd be laughed out of their doors. (Laugh) And you should be laughed out of your doors for not...if you don't advance this bill. (Laugh) We need to have this bill advanced because it's the right thing to do. We need that as a small business. If...you know, being

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

Revenue Committee
January 30, 2014

in Omaha, the Missouri River is only ten minutes away, and if we have to make the business decision to go to the other side of the river, we'll do that. I don't want to because we're a Nebraska-based business. We're here for Nebraskans and we use Nebraska vendors. We also use a Nebraska software provider to do our accounting for us, and we are fortunate to have one here in the state that could do this. But think about the small businessman that has to go out of state to have their software provided, and they need to go to them and say, oh, by the way, you need to charge our customers sales tax on postage. It would cost thousands of dollars for that client to go to that...or have that software vendor, you know, modify his software to accommodate that one exception, because nobody else does that. So as a small businessman, I plead with you to please advance LB829. We need this. Nebraska needs this. And think of this too: Think of all the business that's being choked back because of the sales tax. Think what that customer could have taken that \$750 and used that to advance his business with. He could have produced...he could have purchased more mailings from us. He could have reached a larger customer base. He could generate more business from that customer base, which would generate more sales tax on that end. But as it is, you basically just cut your nose to spite your face with the law as it currently is. So this law needs to be modified. The sales tax must be repealed. [LB829]

SENATOR HANSEN: Thank you, Mr. Nelson. Congratulations on starting a new business in Omaha. [LB829]

VAL NELSON: Thank you. I hope we can continue. Any questions? [LB829]

SENATOR HANSEN: Are there any questions? [LB829]

SENATOR JANSSEN: Just a quick one. [LB829]

SENATOR HANSEN: Senator Janssen. [LB829]

SENATOR JANSSEN: Mr. Nelson, when you started your business...and myself being a businessman, you put down a plan, I'm certain. And were you aware that the...? I wasn't aware. Were you aware of that? [LB829]

VAL NELSON: No, we weren't aware. That was a gotcha. [LB829]

SENATOR JANSSEN: So you were not aware that we charged, nor was I. [LB829]

VAL NELSON: No, that was something we learned the hard way. And so we had to basically eat some sales tax on jobs that we didn't charge for because we didn't realize that we were supposed to be collecting that. I mean, who does that? [LB829]

SENATOR JANSSEN: Have you lost any specific jobs over that? [LB829]

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

Revenue Committee
January 30, 2014

VAL NELSON: Yes. We have... [LB829]

SENATOR JANSSEN: I know, especially being in Omaha. I mean, it's a... [LB829]

VAL NELSON: Yes, we actually have lost business because of that. We've had customers that wanted to come to us to do a job. We came together with a proposal and they liked what we did, and then when we gave them the final bill and said, oh, by the way, we have to charge sales tax for the mailing, they said, oh, we can't afford that. So yes, it has cost us business, which costs Nebraska business, which costs revenue to the state of Nebraska because they could have used that money to generate more revenue. We could have used that money to generate more revenue. So yeah, it's a tax on a tax on a tax, basically. [LB829]

SENATOR JANSSEN: Thank you, Mr. Nelson. [LB829]

SENATOR HANSEN: Any other questions? I have one. Mr. Nelson, as a third-party mailer, and I guess what a printer becomes if you do take the printed material to the post office and mail it, do you actually put a stamp on it or is it just a postage machine that has the... [LB829]

VAL NELSON: We use a mail house in Omaha that does that service for us. But we have to reimburse them for the sales tax. I mean, they're not going to eat that. [LB829]

SENATOR HANSEN: Okay. All right, thank you. [LB829]

VAL NELSON: All right. Thank you. [LB829]

SENATOR HANSEN: Are there any other proponents? Are there any opponents to LB829? Is there anyone who wishes to testify in the neutral position? Senator Schumacher, would you like to close? [LB829]

SENATOR SCHUMACHER: Thank you, Senator Hansen, members of the committee. This started out as a little mouse I felt sorry for, and it looks like what it really is, is a lion that roars. And it bears a lot of resemblance to that agricultural repair bill. Something that you really don't think about that much as having economic consequence, and all of a sudden it does. And it affects people's lives directly. It affects commerce in this state. It is fixable, probably for far less than what the fiscal note shows because that fiscal note doesn't count into the fact that it's not a dynamic fiscal note. The revenue that is lost from sales tax on printing itself that is lost to the state doesn't calculate into affect the income taxes that are lost on any profits that might be made by the printers or shippers that might be involved. And it's the kind of thing that we can do something about well within our current fiscal situation, a fairly minor amount of money if there is

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

Revenue Committee
January 30, 2014

any loss at all. And it is an incremental thing that certainly is within the spirit of where we went through with the Tax Modernization Committee. It's not a big fireworks event but it is tax modernization, it's tax justice. In this particular case it's efficient and it's not requiring our businesses to go through a economically inefficient step in order to be competitive with our neighboring states. It will deter the exporting of business from our state, economic development here. And it also helps the little guy who can't afford to set up his own print shop, do everything in-house, but has got to come together with other little guys to support print shops that are in this state that are making jobs and taxes for us. So I'd be happy to answer any further questions. [LB829]

SENATOR HANSEN: Are there any further questions for Senator Schumacher? If not, thank you very much. [LB829]

SENATOR SCHUMACHER: Thank you, Senator Hansen. [LB829]

SENATOR HANSEN: That concludes the hearing on LB829, and I believe we are adjourned. Thank you very much for coming in. [LB829]