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Revenue Committee  
January 21, 2016

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[LB725 LB775 LB776 LB777 CONFIRMATION]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 21, 2016, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB775, LB776, LB777, LB725, and gubernatorial appointment. Senators present: Mike Gloor, Chairperson; Paul Schumacher, Vice Chairperson; Lydia Brasch; Al Davis; Burke Harr; Jim Scheer; Jim Smith; and Kate Sullivan. Senators absent: None.

SENATOR GLOOR: I'm Mike Gloor. I'm the senator from the 35th District, which is Grand Island, chairing the committee. I'd like to welcome you to our meeting today. We'll take the bills in the order listed outside the meeting room offices here. Since I'm still a little rusty, for during the interim, I'm going to work off of my notes here. As a reminder, please turn off your cell phones. If you're going to testify, we'd ask you to move to the front chairs so we can keep things moving. The order of testimony is, we'll do the introducer, then we'll go to people who are in support of the bill, those in opposition, those in a neutral capacity, and then we always offer the introducer the opportunity to close. We ask you to please sign in. We have sign-in sheets over by either entrance. Give those to the clerk when you come up. When you sit down to testify, please give us your name and spell it so that we get it correct on the record. If you would like to have your thoughts known but prefer not to testify, there's an opportunity for you to do that in the sign-in sheet by the front doors also. Please be concise. We have a five-minute limit here and we have a racetrack light board. So when it's green, all systems go, the clock is ticking. When it gets to yellow, you've got a minute left, and when it gets to red, I need you to sum up your comments quickly or I'll ask you politely to do so. If you have some sort of written testimony or handout that you'd like us to have, we need 11 copies. If you've realized you don't have 11 copies, get your hand up and let the pages know and they'll make some copies for you. That way, we're sure we've got enough copies for all of us and for the record. Please speak into the microphones so that we get this transcribed correctly. That also pertains to the senators. We encourage them to speak into the microphone also. I'm going to do a quick introduction of my staff and then let the individual senators introduce themselves. Committee counsel is Mary Jane Egr Edson, she's on my right-hand side; down at my far right, your left, is Kay Bergquist, and Krissa Delka is the clerk and she's down to my left, and she's the one you hand your papers to. I'd ask the committee members to introduce themselves starting with Senator Smith.

SENATOR SMITH: Jim Smith, Legislative District 14 in Sarpy County.

SENATOR SCHUMACHER: Paul Schumacher, District 22, that's Platte and parts of Stanton and Colfax Counties.

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SENATOR BRASCH: Lydia Brasch, District 16, that's Cuming County, Burt County and Washington Counties.

SENATOR GLOOR: And we will have other senators who come and go. I think this is a pretty sophisticated audience that understands that people have bills to introduce in other committees and other challenges, so as we come and go, please bear with us. I'd ask Senator Davis to introduce himself.

SENATOR DAVIS: Al Davis, District 43, north central and western Nebraska, about 13 counties in that district.

SENATOR GLOOR: Our pages today are Alex, Alex is from Aurora; and Jordan who is from Wakefield. And there again, they're to help you and us. And with that, we'll start off on our agenda starting with our commissioner, Senator Fulton. Welcome back in front of the Revenue Committee.

TONY FULTON: (Exhibit 1) Thank you, Mr. Chairman. Okay. Chairman Gloor and members of the committee, for the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I was appointed by Governor Ricketts to serve as Tax Commissioner for Nebraska. Chapter 77, Section 360 of our Revised Statute creates the Department of Revenue and names the Tax Commissioner as its chief executive officer. The functions and goals of the Department of Revenue are to: (1) execute faithfully the revenue and property tax laws of the state of Nebraska; (2) provide for efficient, updated, and economical methods and systems of revenue accounting, reporting, enforcement, and related activities; and (3) continually seek to improve its system of administration to provide greater efficiency and convenience to this state's taxpayers. It is with the advice and consent of the Legislature that the Governor makes his appointments and I thank you for inviting me here to appear before you today for this purpose. A little bit about my background. I studied mechanical engineering and I'm a P.E. Emeritus in Nebraska. I don't know that there have been many of those who have served in this position before, but there's some relevance to my background in that regard. I also studied philosophy for a period of time and this has led me to be an entrepreneur and problem solver in the private sector. I've started a small business caring for our communities' elders and I've worked on a number of projects here and around the globe, actually, as a mechanical engineer. I've also been able to serve on a number of boards locally and statewide using my experiences to help in that regard. I served as a senator in this great body from 2007 to 2013 and my assignment was the Appropriations Committee. And so again, I come back to what seems to be a theme in my career, numbers and philosophy and policy and in that case, budgeting also. In our community, I have continued to serve a number of nonprofits, community boards and church groups and again, I tend to gravitate toward those things that involve budgets and numbers. My wife and family live here in Lincoln, but I'm originally from

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Auburn, Nebraska. You might not remember that, but I'm actually a small-town kid situated in a large city. I hope to use the experiences I've had and any skills I've gained along the way, as best I can, to serve the people of our great state. Public service is an honor bestowed upon the few by the many, by our neighbors and our fellow citizens, and I work hard to have merited this trust. I know you, too, recognize this great honor to serve and I hope you know that the enthusiasm with which I approach my job is genuine and heartfelt and stems from this deep belief. I've been on the job since January 4, so a couple of weeks, and during my time there I've been able to meet some of the great people in that department. I stand on tall shoulders for the people before me have done a great job and I've learned that there are a lot of efficiencies over there. But part of what I hope to accomplish in the position here is to really focus on customer service. Having been in the private sector I recognize who the folks are who actually pay the bills and in this case it's the taxpayers of Nebraska. You might recall from my tenure, I take that very seriously. So we will look for efficiencies, but we'll do it in such a way as to honor those who are paying the bills; those are our taxpayers. And that really comes down to customer service. I've been able to get in and see a little bit of what goes on over in that department and I've come to learn that among all of the states in this country, our department is among the leaders with respect to processing monies electronically. I was told that something over 90 percent now of the monies that pass through are done electronically. That's remarkable. We can improve upon it, but the technical side of me says that Nebraska is leading the way in this regard. So those are some of the things that I've learned since I've been over there. I've learned much more. If you have questions, I'll answer them. I stand ready to assist you in your jobs, too. I know and appreciate what's expected of you by your constituents in a particular way. So as I've said to you individually, I say to you corporately, if there's anything that I can do to help you accomplish your job, please let me know. And if there are any questions, I'd be glad to try to answer those now. [CONFIRMATION]

SENATOR GLOOR: Thank you. And we've been joined by Senators Sullivan, Scheer, and Harr who have filled out our full contingent for today. A quick question and then I'll recognize Senator Smith. So you've been on the legislative side of the picnic table in the past interacting with code agencies, and now you're the director of one of those agencies. What...when you consider that unique perspective, what would you say is one of the more interesting takeaways, maybe dispelling things that you had thought about in the past when you sat on the legislative side versus now heading up one of the departments? Anything particular? [CONFIRMATION]

TONY FULTON: Well, I'll just...a stream of consciousness. When I was on the legislative side of things, I was of the belief that the fiscal notes that get attached to bills, I just had this idea that there was someone over in the department that was waiting for Senator Fulton to bring a bill so that he could fiscal note it. (Laugh) That was one of the first things that I was able to see when I got over to the other side and there really is an elaborate and sophisticated system by which an objective number is assigned for each of the considerations that are a function within that department. And so I have a...I'm a little embarrassed actually having sat through and learned

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how they go about putting together fiscal notes, for example. But it was just a completely different vantage. As a senator I wanted the fiscal note to say what I wanted it to say and on the executive side of things, we must obey numerics, numbers, precedent, and so I have a greater appreciation for what goes on over there. [CONFIRMATION]

SENATOR GLOOR: Sounds like the engineering component of you is speaking, too, through all that numbers. [CONFIRMATION]

TONY FULTON: Hopefully. [CONFIRMATION]

SENATOR GLOOR: Thank you. Appreciate that. Senator Smith. [CONFIRMATION]

SENATOR SMITH: Thank you, Mr. Chairman. Mr. Fulton, I enjoyed my two years that our terms overlapped and I was able to work with you and certainly wish you well in your appointment. I do have a question for you. Are you aware of any frustrations that have been experienced by businesses in getting approval for incentive programs that have been enacted by the Legislature? And if you are, if you have any thoughts or ideas as to how to resolve those frustrations. [CONFIRMATION]

TONY FULTON: Yeah. I am aware of some. I'm certain that in the coming weeks, I'll become aware of others. There's...the way that I've come to terms with any disagreements that exist with respect to our incentive program, that's what you said, correct, your...yeah. The way I can set this up is, my responsibility will be placed between two...how do I say...I guess, militating principles. You know, on the one hand we want to...we must follow the law. We must follow the law specifically. We have to. We're the executive branch of government now. On the other hand, you...I have this desire to help business grow. I mean, that was part of what I did as a senator and we as Nebraskans want to see opportunities opened up and so there is on the other hand this tendency to, let's go, let's act, let's get these incentives out the door. It's just the way I'm wired. I have to maintain fidelity to what the statute says, what the law is, what our attorneys interpret within the law. So that's what I'll do. And those times at which it is asked of us to interpret outside of what the law allows and that becomes a function of this branch of government. And I just...I have an appreciation for that because I was on this branch of government. So that has been my...in my couple of weeks down there that's been my experience. I seem to be going between two sides, but I will tend toward the law. I have to, and so I've learned that firsthand. I'm sure that I'm going to learn that in more specific cases going forward. [CONFIRMATION]

SENATOR SMITH: Thank you. [CONFIRMATION]

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SENATOR GLOOR: Other questions? Senator Brasch. [CONFIRMATION]

SENATOR BRASCH: Thank you, Chairman Gloor and Senator Fulton, I want to congratulate you on the appointment and I am very excited to hear that you will be leading the Revenue Department. Some...I left there 20...in 1991. Count the years. It was a large department then, but large in the sense there were 200 employees. How many are on staff today? Can you tell me that? [CONFIRMATION]

TONY FULTON: The FTEs for the department, I think it's 432.05. I checked it this morning. The number...we actually have a number of vacancies in place. Well, this is just my opinion, I'm certain that that's a function of not having had a director or a Tax Commissioner, I'm sorry. So there are some vacancies to fill and this I'm not up-to-date on. Well, I know the number of FTEs that are in that budget. I believe we are 350, I believe that's the number. So we're down, you know, somewhere in the neighborhood of 8 percent to 10 percent, but it's a few more than 200, I know that. [CONFIRMATION]

SENATOR BRASCH: I'm very confident that you will know the number very shortly and everyone within the department. It was a pleasure and honor working with you. You've been a clear communicator and worked well on task. What do you see as your number one task before you? [CONFIRMATION]

TONY FULTON: Well, chronologically, my number one task was to find out where everything is over there, to learn the names of the people with whom I'll be, hopefully, will be working. Yeah, the number one task here is to set a direction for the agency and, you know, assuming that--and I don't want to say it that way--contingent upon the confirmation of this body, I'll feel more empowered to move forward, but I'll want to find a deputy right away. That's going to be very important. There are some positions that I'll need to fill and that will come later. All of this will be couched against a philosophy, again, that gets back to, we have to focus on...the cliché is customer service, but I take that a little bit deeper in that these truly...this philosophically truly is, that these people provide the power by which we are able to do our jobs, and that's the people. And they've done it thus...they've done it themselves. So we have to figure out a way to be able to serve them. That means businesses, that means taxpayers, it means citizens, those who come to the department. So we'll be focusing on customer service with a deeper philosophical vent that I've just described. [CONFIRMATION]

SENATOR BRASCH: I look forward to calling you, Commissioner-Senator Fulton. So thank you again. [CONFIRMATION]

TONY FULTON: Thank you. [CONFIRMATION]

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SENATOR GLOOR: Other questions? Senator Schumacher and then we'll go to Senator Scheer.  
[CONFIRMATION]

SENATOR SCHUMACHER: Thank you, Senator Gloor and Senator Fulton, soon to be Commissioner Fulton. I was really pleased to see that you were appointed. You know, those of us that served with you, as Senator Brasch indicated, have a great respect for you. I do have one question, though. How does one become an Emeritus? I thought that had to be some old guy that...? (Laughter) [CONFIRMATION]

TONY FULTON: You know, this probably is a function of my service in the Legislature. I ceased the practice of engineering about the time I became a senator, go figure. But I wanted to...a lot of blood, sweat and tears that went into earning the P.E. The P.E. is a moniker that means professional engineer and it's actually, again, it comes through the people through our branches of government. It just means that I'm not actually practicing anymore.  
[CONFIRMATION]

SENATOR SCHUMACHER: Okay, not practicing. You got good at it and now you don't have to practice. (Laughter) [CONFIRMATION]

TONY FULTON: I probably need the practice. [CONFIRMATION]

SENATOR SCHUMACHER: Thank you. [CONFIRMATION]

SENATOR GLOOR: Senator Scheer. [CONFIRMATION]

SENATOR SCHEER: Thank you, Senator Gloor. Commissioner-elect, welcome and congratulations. A question you may not have an answer for, and you may have not got that far into the weeds, but I know within discussions and testimony of other individuals that have taken the helm of other divisions, there was a lack of, perhaps, quantifiable management as far as reviews and job descriptions and so forth. Do you think, or has there been a lack of that in the department? I'm not trying to be accusatory. I just don't know. It did surprise me to find out that many of the departments really didn't have large scale review systems put in place to keep everybody accountable. And so I'm just wondering if that is something that you've been...had noticed or run into yet? [CONFIRMATION]

TONY FULTON: I have had exposure. So you're talking about metrics by which an agency can gauge whether that agency is indeed fulfilling its obligations. There are...I'll say it this way. It will require some experiential knowledge to know whether indeed these metrics are appropriate,

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whether they're adequately measuring what they claim to be measuring. And then further whether these metrics give an accurate reflection of what's going on in the department. So I think it's going to take me more time to be able to say definitively, you know, this is my best judgment and these are accurate numbers. That being said, there are metrics galore within the department. I'm like a kid in a candy store. There are a lot of different ways the department measures itself, partly because...and I'll just, if I can, if I may, give you why I think this is the case. I've been exposed to a number of the personalities in that department and there are a lot of really good people over there who are wired kind of the same way that an engineer might be wired, wanting to measure things. So there are...a lot of that exists because of the people in the department, but on the other side of this, there's a certain amount of redundancy that has to occur within a Revenue Department because of the nature of what they're doing. They're handling confidential information, money. There have to be redundancies such that one person's volition is not unchecked. And so that's another reason why there are a number of metrics already in place in the department by which one can glean how the department is performing. So there are a lot of metrics there. We have specific metrics by which we measure the overall department. I have to be honest in saying, I'm not certain whether those are accurate or appropriate, but I will know more after having some knowledge. [CONFIRMATION]

SENATOR SCHEER: Thank you. Thank you, Senator Gloor. [CONFIRMATION]

SENATOR GLOOR: Other questions? Seeing none, thank you. We appreciate your commitment to the state of Nebraska, both in the past and I'm sure in the future, and I know you're sticking around to provide some testimony already in your new role and look forward to hearing from you in a couple minutes, especially since I have to introduce the bills. (Laughter)  
[CONFIRMATION]

TONY FULTON: Thank you, Mr. Chairman. [CONFIRMATION]

SENATOR GLOOR: Thank you. And with that, we'll move on to LB775 and I'll turn the gavel over to Senator Schumacher. [CONFIRMATION]

SENATOR SCHUMACHER: Senator Gloor, welcome to your committee. [LB775]

SENATOR GLOOR: Thank you, Senator Schumacher and fellow committee members. My name is Mike Gloor, M-i-k-e G-l-o-o-r. I'm here to introduce a Department of Revenue technical bill, LB775, which provides some corrections. Section 77-120(5) is harmonized to indicate the factor for net book value will be the year the property is placed in service versus acquisition. It will also harmonize language for trailers and semi-trailers to be exempt from property taxes. Trailers and semi-trailers are now taxed. We're not exempting them. This isn't a new move. They're

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currently spoken to under the motor vehicle fee schedule statutes. Since we moved them from property tax some years ago, this is harmonizing language under the motor vehicle statutes. This has no revenue impact. There is no fiscal note on this bill. I'd be glad to answer some questions, but I have the acting commissioner behind me to speak to you also. [LB775]

SENATOR SCHUMACHER: Any questions for Senator Gloor? Senator Harr. [LB775]

SENATOR HARR: Yeah, and I don't...I understand what's going on and I'll talk to the acting commissioner in a second about this. And he brought up fiscal notes. They absolutely amaze me. You know, I had a bill last year where a fiscal note didn't show up until final reading and there was a...all of a sudden there was a fiscal note. This says there is a fiscal note, but we don't know how much it is. And I don't understand how this...we're saying they disagree because there will be a reduction of revenue from the personal property tax on the local level. So the reason we don't have a fiscal note because there's nothing on the state level, right? [LB775]

SENATOR GLOOR: Correct. [LB775]

SENATOR HARR: Okay. But it'll have an effect on the local level, so which will then turn around and have an effect on TEEOSA. But we don't know what kind of effect it is because we don't know how much money is collected. How do we find that out? [LB775]

SENATOR GLOOR: I can't answer that question for you. [LB775]

SENATOR HARR: Okay. And, you know, my Governor and I have a...number one priority is property tax. This seems to be another situation where we're shifting and taking revenue away from local level. Again, I don't have necessarily a problem with this, but we keep raiding forms of revenue from local government, taking it away and all they're left with is property tax. And then we turn around and complain about property taxes and we say, by the way cities, you spend too much money and we're going to take away ways for you to collect money. So, while this may be okay-fine policy, I think we have to think about the ramifications of what we're doing. Whether it has a fiscal note or not, it has a fiscal impact. And I think we should maybe start looking, instead of doing fiscal notes, we need to start doing fiscal impact notes and say, okay, how does this affect everyone downstream, because that's why we got into this situation we're in today. And then it gets back to, I'm sure, and I'll find out, we're changing a form. And if there's a bill someone doesn't like and we have to change a form, it's amazing. If the department doesn't want it--and not, the Department of Revenue specifically--all of a sudden it has a \$50,000 fiscal note on it, which always amazes me. I can...my little pea brain can change a program for less than \$50,000. I'm always amazed when we want to change a program, there's no fiscal note, no cost to change a program. When we don't want to, it's a very high fiscal impact. And so, I'll be



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interested to hear how this does not have a fiscal note, and how there isn't a change in a computer system, and why DAS hasn't submitted something this time. So, those are more comments than questions, but again, I don't necessarily have a problem, but I need to know how much this is going to hurt our local governments because I've got their backs, and I want to make sure that they're doing fine. Thank you. [LB775]

SENATOR GLOOR: Okay. [LB775]

SENATOR SCHUMACHER: Any other questions, comments, for Senator Gloor? Seeing none, thank you, Senator. [LB775]

SENATOR GLOOR: Thank you. [LB775]

SENATOR SCHUMACHER: Time for proponents. We're looking at proponents for LB775. Now that number must be an Emeritus number because it's been around for a while. (Laughter)  
Welcome, Senator Fulton. [LB775]

TONY FULTON: Thank you, Vice Chairman Schumacher. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I am the Tax Commissioner designee. If I could answer Senator Harr's question, or try to anyway, my understanding is that this is one county, and it's not Lincoln or...I'm sorry, it's not Lancaster or Douglas County, correct? Yeah, it's one county that's not doing this, so the impact, the property tax impact is negligible. That being said, how that affects the TEEOSA formula, I don't believe our fiscal note addressed that, the department's fiscal note. [LB775]

SENATOR SCHUMACHER: Senator Harr. [LB775]

SENATOR HARR: What county is it? [LB775]

TONY FULTON: I don't know. Otoe? Okay, we can verify this is correct, but I believe it's Otoe County. [LB775]

SENATOR HARR: Otoe County? Okay. [LB775]

TONY FULTON: We'll verify that that's correct. [LB775]

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SENATOR HARR: Because that's going to have an effect on whether it affects TEEOSA because as we constantly hear, so many of our school districts, especially rural ones, don't receive any TEEOSA funding. So it may not, but, you know, making...and how much fiscal impact it has on that county. Does that county rely on it? I mean, you say it's negligible. On a state level, it may be for us, but on the county or city level, it may be a lot of money for them. And I guess, I would like to hear their side of the story of why they think this should be collected and how much it would affect them. [LB775]

TONY FULTON: We could...I believe we've been in consultation with the county so we can get any concerns that they have. In fact, we can put you in touch with them. We can do that through our department. [LB775]

SENATOR HARR: Okay. Well, it would be nice, yeah. And maybe they don't care if they don't show up, too, so that might tell us something too. Thank you.

SENATOR SCHUMACHER: Senator Davis. [LB775]

SENATOR DAVIS: Thank you. Welcome, Commissioner Fulton, not to put you on the hot seat, and congratulations also on your new appointment. So, I'm probably as confused as Senator Harr on this. One county out of the 93 has chosen to do this differently so we are codifying the statute so that they will comply with the understanding that we have now in the other 92 counties. [LB775]

TONY FULTON: I believe that this has...I'm not positive. I'm not positive, so I will have an answer for you. I think I know the answer, but I won't say. I'm not positive. So I'll get you the answer. [LB775]

SENATOR DAVIS: Okay. Thank you. [LB775]

SENATOR SCHUMACHER: If I look at the language change, fairly simple language change and I fill out these forms for my own businesses, so I do see a meaningful difference here in that it was the year of acquisition is when you first reported the thing and you got to apply these percents. And now it would be the year placed in service. So if you buy a new gizmo for your business and it's a five-year thing, useful life, under the acquisition if I buy that on December 31, that's the date I acquire it. And so I report it in that year at 85 percent of its value and that's what I pay property taxes on. And, thus, since it's a five-year deal, if I do it that year, so the next year work for my first year, it comes off the tax roles; it runs out a year earlier. Now this seems to say placed in service. Well, since the UPS man hasn't delivered it yet, until January 2, even though I

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acquired it before the first of the year, everything would be delayed a year. And so I'd have my...I wouldn't have tax the first year, would have tax at 85 percent the second year, and then phased out over the next five. So, what is driving this besides...is there an economic reason for doing this and if...how will this impact businesses in how they have their help trained to do these tax forms and be accustomed to reporting it? [LB775]

TONY FULTON: Yeah. As I understand it, this is to clarify the calculation of the net books and net book value. Yeah, the calculation of the net book value for personal property. So, my understanding is that the calculation has been based on the date at which the acquisition was placed into service. That calculation has been occurring because that's a general accepted accounting principle anyway. And so this change in the statute is to harmonize what has been occurring. So that's why...that's my understanding as to why there's no fiscal impact with this. [LB775]

SENATOR SCHUMACHER: So, in the example I give where I bought it on the 31st of December but I didn't put it into service until the 2nd of January, already under the existing application of things, I would be...my first year of reporting it in tax would be the January 2 year? [LB775]

TONY FULTON: Technically, according to the statute, yes. But that's when the statute is being changed is the net book valuation should be based...or I shouldn't say it that way. I should say, the net book valuations calculation has been calculated at the point...from the point at which that personal property was put into service. That is what is being calculated presently, but that's not precisely what the statute indicates. So this is a change in the statute. [LB775]

SENATOR SCHUMACHER: From an enforcement perspective, how do you know if I acquired it on the 31st of December and I really plugged it in on the 2nd of January, how do you know? I mean, isn't it whatever I report it as because you have no way of knowing when I plugged it in for the first time? [LB775]

TONY FULTON: I'm not positive how to answer that question. I have...I can get you the answer to that question. I have an idea, but I'll refrain until I know for certain. [LB775]

SENATOR SCHUMACHER: Any other questions? Senator Davis. [LB775]

SENATOR DAVIS: One more, following up on what you said. So what if you leave it sitting in a box in your garage for a year? It's not placed in service then, so it would defer until the following year? [LB775]

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TONY FULTON: Well, in terms of the net book valuation, there's a calculation by which one determines what that book value of that piece of personal property is. And it has to be done from a certain...it's a time dependent calculation. So that time has been occurring at the time that that piece of personal property has been put into service. That's what's been occurring. And that has been acceptable to the department and others as a practice. Our statutes don't reflect that, though, and that's why this bill is introduced. [LB775]

SENATOR SCHUMACHER: Okay. Any other questions? Seeing none, thank you, Senator Fulton. [LB775]

TONY FULTON: Thank you. [LB775]

SENATOR SCHUMACHER: More proponents for LB775? Seeing none, any opposition to LB775? Seeing none, anyone in the neutral capacity on LB775? Welcome, Mr. Dix. [LB775]

LARRY DIX: Good afternoon. For the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials here today in a neutral capacity on this bill. In fact, when we initially read the bill we tried to come up with some analysis to try to determine what the local impact was, but with our limited ability to get into the state system or the motor vehicle system, we weren't able to do that. So I'm unable to bring you any numbers as far as what it would impact the local system. But typically, we tend to rely on the fiscal note to sort of help us, in many times, make that determination. And like I said, we just weren't able to and when Senator Harr asked the question, I didn't want anyone to think we weren't interested. We just don't know what the fiscal impact is to know if it's something we should get excited about or we shouldn't. And so, for that reason, we are here in a neutral capacity on this particular bill. [LB775]

SENATOR SCHUMACHER: Any questions for Mr. Dix? I just have one. Do you see this as...if the practice was to start paying tax on it and start the calculations on five-year property at 85 percent, for example, if that was in December, if you bought it sometime in December but didn't get it out of the box--it's sitting in the garage--until January. Is that going to, you think, push that whole revenue block five, four, three, two, one years, one year out? [LB775]

LARRY DIX: I think it has the potential to do that. I think somebody would have to interpret that and give us the real, real ruling on that. Typically, you know, we deal with things on a taxable date and most of ours, it says, 12/01, January 1, that becomes the taxable time frame for that year. So we'd probably have to get a ruling on it. I don't know that I can answer that right now, but I think the potential may be there. [LB775]

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SENATOR SCHUMACHER: And as you read this, this is not retroactive. Is that...? [LB775]

LARRY DIX: I don't believe it is. [LB775]

SENATOR SCHUMACHER: Okay. So if I'm in year four of my property tax calculation, I'll still be in year four? [LB775]

LARRY DIX: As I...and I got to tell you, I really sort of scrambled. You guys saw me run out the door to grab the bill to take a second look at it. I probably shouldn't make that determination, shouldn't comment on that. [LB775]

SENATOR SCHUMACHER: That's issues that are on my mind. If it's other than what one might expect, if you'd let us know. [LB775]

LARRY DIX: Right. And we're certainly...if you have some questions of us, you know we'll be around and we'll be happy to try to address them as much as we can. [LB775]

SENATOR SCHUMACHER: Any other questions for...Senator Harr. [LB775]

SENATOR HARR: Less of a question and more of a comment to Senator Schumacher. I would think if I had a trailer, I would keep it for five calendar years. Now the way this is set up, that five calendar year, you might get six tax years out of it, but now it would only be five, if that makes sense. Because you would be taxing for that year that you only had for a day, you'd be getting that write-off and now it would move to the next, wouldn't it? No. M.J. is telling me, no, so maybe I need to figure this out. I'm a little confused. For a cleanup bill in law, this is awfully confusing. (Laughter) [LB775]

SENATOR SCHUMACHER: Any other questions, comments? Seeing none, thank you, Mr. Dix. Any other folks in the neutral capacity on LB775? Senator Gloor, would you like to close? Senator Gloor waives closing and we move up the list to LB776. Senator Gloor. [LB775]

SENATOR GLOOR: This is also a cleanup bill although a little more complicated, so this should be even more fun, perhaps. Again, a cleanup bill requested by the Department of Revenue. For the record, I'm Mike Gloor, G-l-o-o-r. It does a number of things. And some of this relates to the Streamlined Sales Tax Agreement. As an example, take-n-bake pizza is exempt from sales tax in Nebraska because it's not considered food for immediate consumption since it requires additional cooking before it can be eaten. A new definition of food for immediate consumption, has been adopted by Streamline. This additional definition allows Nebraska to remain in substantial

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compliance with the Streamlined Sales Tax Agreement and this is an important initiative for us with, I think we've decided it's somewhere around 20 other states that we're part and parcel of. Counsel and Senator Harr and I traveled to Louisville for a most recent meeting of the Streamlined Sales Tax Agreement and because of the discussion on take-n-bake pizza, I remember this of all of the information that was thrown our way. It doesn't sound like much, but I have to tell you a lot of the work, I reminded, that has to do with Streamlined Sales Tax Agreement and these meetings, is to make sure that we have uniform definitions so it's more an issue of definitions and less an issue of taxation. It also corrects three errors in statutory language to harmonize them with previous changes to the income tax. Specified that the interest earned on the Build America Bonds--you may recall these are some of the stimulus bonds that were out there--issued by Nebraska political subdivisions are excluded from tax. All other bonds issued by Nebraska or its political subdivisions are also exempt from income tax. It clarifies an exclusion for contribution to accounts under the ABLE Act. This was Senator Bolz's act that we passed in 2015, which was modeled a little bit along the Nebraska College Savings Plan, but this was for the developmentally disabled, if you will recall. What we're talking about now is that a person who contributes to the ABLE account, gets the tax deduction but if funds are withdrawn for a nonqualified use in the future, that has to be added back to the previous deduction and this would go against the owner of the account, not the contributor, which is a little different than what the NEST program requires. It corrects language from LB851, which we passed in 2014 regarding the proper statute of limitations for refundable income tax credits in certain circumstances. This gets a little more involved and I'll let the department explain this. And, finally, it makes two changes to the Homestead program, the most significant of which is, we eliminate the annual medical recertification for disabled taxpayers. It seemed to be unnecessary and bothersome for those individuals and really accomplishes very little as far as the state is concerned, and so it would eliminate that. And those are the changes. Again the department will be glad to also answer questions on this bill. Thank you. [LB776]

SENATOR SCHUMACHER: Any questions for Senator Gloor? Senator Harr. [LB776]

SENATOR HARR: Thank you. Thank you, Senator Gloor. I have a question. In the fiscal note on page 2, B, it states, amends Nebraska Revised Statute 77-2716. Now I lost where it was. Under 1, it says, specifically provides that interest earned on Build America Bonds issued by local governments in Nebraska is subtracted from federal AGI. Is that for state tax purposes or is that...? [LB776]

SENATOR GLOOR: Yes. [LB776]

SENATOR HARR: State tax purposes only. [LB776]

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SENATOR GLOOR: Yes. [LB776]

SENATOR HARR: All right. [LB776]

SENATOR GLOOR: I don't think it's...yeah, it's for state purposes. [LB776]

SENATOR HARR: I wouldn't see how that would affect that, yeah. Okay. And all these changes... [LB776]

SENATOR GLOOR: We're treating that just as we would bonds that are issued within the state. [LB776]

SENATOR HARR: So then if we're changing the AGI, is that more of a clarification? I just don't understand how we're taking money away from someone's AGI, that has a zero fiscal impact. [LB776]

SENATOR GLOOR: I can't answer that question for you. It's a question worth asking, though. [LB776]

SENATOR HARR: Okay. Thank you. [LB776]

SENATOR SCHUMACHER: Any other questions for Senator Gloor? Seeing none. Thank you, Senator Gloor. Proponents for LB776. [LB776]

TONY FULTON: Thank you, Vice Chairman Schumacher. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I am the Tax Commissioner designee for Nebraska. Senator Harr, if I may, your question, my understanding from the fiscal note and just being involved in that fiscal note process, the amount is small, but you're asking for a precise...the provision of that number? [LB776]

SENATOR HARR: It goes back to my...and what you talked about earlier sometimes that you are...concerns about fiscal notes. We're changing sales tax amounts on pizzas and we're saying, by the way, we're going to start taxing this differently, but it's not going to have an impact. I just don't know...it just doesn't seem mathematically possible. And then we also say, hey, we're going to change a line on our tax returns apparently for the interest and we're going to adjust it from our adjusted gross income, subtraction. Again, mathematically--and maybe I'm a simpleton--I don't know how that doesn't have a fiscal impact. Now, may be de minimis, but there's going to

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be something and I've had bills that have fiscal impacts of \$1,800, so it's not as though we can't figure this out. And as you said, there's a complex system out there. Well, I'm sure the system can comprehend those gains and losses. I just...I'm a little skeptical. I get what it is. I'm a little skeptical that this wouldn't have a financial impact. What that is, may be de minimis, but the zero number just, in my mind, when I'm paying for that take-n-bake pizza, a tax I didn't before, it has a fiscal impact on me. So I don't know how it doesn't on the state if the money disappears or what happens. So that's what I'm trying to say. [LB776]

TONY FULTON: All right. I gotcha down. I'll get you more detailed answers. [LB776]

SENATOR SCHUMACHER: Any other questions, comments, or admission of designate? Seeing none, thank you very much for your testimony. [LB776]

TONY FULTON: Thank you. [LB776]

SENATOR SCHUMACHER: More proponents for LB776. Seeing none, any opposition to LB776? Seeing none, anyone in the neutral capacity on LB776? Seeing none, Senator Gloor, do you wish to close? [LB776]

SENATOR GLOOR: I'll waive. [LB776]

SENATOR SCHUMACHER: Senator Gloor is waiving. (Laughter) Next one...so that closes the hearing on LB776. Next, LB777. Welcome back again, Senator Gloor. [LB776]

SENATOR GLOOR: Thank you, Senator Schumacher. I'm Senator Mike Gloor, G-l-o-o-r, introducing LB777. So we're all complicit in this particular bill. As a reminder, this goes back to the joint committee hearings that we had this summer with the Education Committee. And towards the end when we decided to have a public hearing, we had some invited testimony. One of the participants was former-Senator Bob Wickersham, who spoke to us. And at a certain point in the morning during the session, I think we challenged him and the other speakers if they had any specific ideas they might give us that they thought would be beneficial. One of the things that he threw out was the opportunity for partial payment of property taxes, which went back to a bill that he had in 2000, or the early 2000s, I think, that eventually got amended to provide for it being a permissive rather than a requirement within the statutes. But his comment was that he felt, and the feedback he had gotten, that it had been beneficial to some people, especially businesses, ag businesses, because it allows them...again the feedback was, it allows them to manage their cash flows better. And so, armed with that, decided let's go ahead and put together a bill, submit the bill, and see what kind of feedback we get on it some 15 years later. The



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mechanics are that county treasurers would accept partial payments, those payments would be placed into an escrow account until payment was due. A county may pay interest on those escrow accounts or the county can keep the difference, can keep the float. That's the way the bill is currently set up. Nothing changes regarding due dates, delinquencies, any other component. I've tried to address, maybe some frequently asked questions that we've gotten since the bill came out. Do some counties already accept partial payments? And the answer is, yes. Some counties have been and have made that decision since LB1048 was put in place to accept partial payments, if the county board authorized by resolution. And some of the language you'll see stricken in the bill takes out the county board requirement for resolution. I know NACO is here and should be able to give us some better idea of what counties do this. I know that Mr. Dix is going to provide testimony so there may be a question you could ask at that time. Is this an unfunded mandate? Yes, it is an unfunded mandate, but we don't know how much it would cost. Counties do get to keep the interest, I would say, off those partial payments that is held in an escrow account. It may not amount to much for some counties, it may amount to a larger amount for others, but they can if they choose, keep that amount. We don't know the extent to which the systems they may have in place are capable of handling this, or if this, in fact, would be more of a challenge for them. Does it apply to all property taxes? Yes, both real, personal property taxes could be paid this way. It applies to residential, commercial, industrial, the way the bill is written. Although the feedback we get is again, this is more, and for those counties who've allowed it and those individuals who've used it, it has been seen more as a help to business. Thinking about it, residential properties, quite frequently are mortgaged and so there's already an escrow account set up and the banks are making those payments. If a taxpayer is already delinquent, they could still use partial payment process and could use partial payment to get current. So that's one of the plus sides of this if people choose to do it. So that's the bill. We tried to keep it as simple as possible to put out there and see what kind of response we get back on it, and that would be my opening on LB777. [LB777]

SENATOR SCHUMACHER: Any questions for Senator Gloor? [LB777]

SENATOR SULLIVAN: Thank you, Senator Schumacher. Thank you, Senator Gloor. Would there be a possibility to make this optional, or does that add to the confusion? [LB777]

SENATOR GLOOR: Well, it is already optional...permissive. So that's why some counties already do it, but the permissive language in the bill also then requires the county board to take action and pass a resolution to put it in effect. So the language is out there. The statute is already in place, but it's permissive. This would take away the permissive components and just say, if a business, property taxpayer wants to do this, the county would have to allow them to do it. [LB777]

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SENATOR SCHUMACHER: Any other questions? I've got just one. How does this impact the...where tax sale certificates have been sold and somebody other than the county owns the taxes? It says that the county treasurer shall allow payments for the discharge of obligations. Does this in any way impact how a holder of a tax sales certificate is...does they have to take payments too? [LB777]

SENATOR GLOOR: I wouldn't think so, but that's a good question. Maybe somebody who follows could answer that question, but we'll certainly try to get an answer for you. It's a good question. [LB777]

SENATOR SCHUMACHER: Any other questions for Senator Gloor? Seeing none, thank you, Senator Gloor. We're to proponents on LB777. Sounds like we're at the casinos, you know, 777. [LB777]

BOB WICKERSHAM: Senator Schumacher, members of the committee, and Senator Gloor. Thank you, Senator Schumacher, for that note about the number of the bill. When I saw the bill had been assigned a number, I was just grateful it wasn't LB775. If you remember anything about my history in the Legislature, I didn't like the concepts that were embedded in LB775 and spoke against those in many other contexts so I was very, very happy it didn't have 775. [LB777]

SENATOR SCHUMACHER: And it wasn't 666 either. [LB777]

BOB WICKERSHAM: And it wasn't 666 and it wasn't...well. [LB777]

MARY JANE EGR EDSON: Will you state your name? [LB777]

BOB WICKERSHAM: Excuse me? [LB777]

MARY JANE EDGR EDSON: State your name. [LB777]

BOB WICKERSHAM: Oh, I will, yes, thank you. Counsel is advising me to state my name. My name is Bob Wickersham, B-o-b W-i-c-k-e-r-s-h-a-m. I'm here appearing in support of LB777. Senator Gloor, again, thank you for introducing the bill after a very brief conversation with you and Senator Sullivan at the joint hearing a couple of months ago now. As Senator Gloor noted, this is really the completion of an idea that was first introduced in the year 2000. At that time there was a bill and it would have required essentially what LB777 now requires, but the only way I could get it passed was as a permissive provision. Now, it's my understanding that a number of counties have taken advantage of the authority given them in LB777 and, in fact, if

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you want to know the complete history, counties were doing it before the bill was passed. So it was something that county treasurers, at least in some of the counties, saw as beneficial. They did it prior to the year 2000 without statutory authorization. So in the year 2000, we gave them statutory authorization and my understanding is, now even more counties are using the authorization. My suggestion to you now is that the issue is one of conformity and uniformity across the state. It seems to me that if it is beneficial to have this kind of a procedure for some taxpayers in some counties, that it is advisable to have this kind of authority or this kind of opportunity available for taxpayers in all counties. I'm also going to suggest that I think in the 16 years since this became permissive, that there have been many things changed with computer systems, methods of payment, other factors that might influence people to use this kind of a system. One of the factors that comes to mind is the use of electronic funds transfers. When this bill was passed, I think many people had to send in a check and it was kind of burdensome. You could either make a choice to send in 12 checks or you could make a choice to send in 2 checks or you could make a choice to send in 1 check. With electronic funds transfers, all you have to do is tell your bank how much to send each month. So there isn't the element of inconvenience. But I think there is an element of convenience if you're able to provide for monthly installments of payment of your tax. If you think about it, in other areas we pay taxes largely as we go. Certainly, we do that with the sales tax. We do that largely with the income tax, particularly if you're an employee and have taxes withheld. Even if you're not an employee, we require the taxes be collected at least quarterly or we penalize you. On the other hand, property taxes, we allow them to aggregate into large amounts that we insist be paid by specific dates, making it almost as inconvenient as possible to budget for and make the payments as possible. There is an easier way to do this and I think if the counties can...some of the counties can do it, it would seem to me that it is reasonable to ask all of the counties to make this opportunity available for their taxpayers. [LB777]

SENATOR SCHUMACHER: Thank you, Senator Wickersham. Any questions for Senator Wickersham? You're going to get by easy. [LB777]

BOB WICKERSHAM: Well, that's fine with me. Thank you. [LB777]

SENATOR SCHUMACHER: Okay. Seeing none, thank you very much for your testimony. Any other proponents for LB777? Seeing none, any opposition to LB777? Welcome to the Revenue Committee. [LB777]

CANDACE MEREDITH: (Exhibit 1) Candace Meredith, C-a-n-d-a-c-e M-e-r-e-d-i-t-h. Good afternoon, members of the Revenue Committee. My name is Candace Meredith. I am the incoming chief deputy at the Lancaster County Treasurer and I am here to testify in opposition of LB777. The Lancaster County Treasurer, Andy Stebbing, and I would like to see the existing

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state statute unchanged, which currently allows for each county board to have the freedom to set up an escrow and accept partial payments for real estate taxes. The underlying procedural issues that can arise for our office are numerous as are the labor intensive responsibilities that our office will need to maintain in order to meet our internal control standards. The Lancaster County Treasurer's Office is also concerned with the lack of transparency of escrow accounts as our Web site is a research tool for many in the field of real estate as well as government agencies and citizens alike. The Lancaster County Treasurer has minimal requests for partial payment acceptance as we often suggest to citizens that they remain fiscally responsible by setting aside a monthly allowance for their tax payments. As far as the fiscal impact on our office, if we made this option available to all parcel owners, we would have to initially build an accounting system that can accommodate escrow holding accounts. Without the transparency of escrow, the office would be fielding more phone calls in regards to unclaimed escrow funds, closing on homes with proration of taxes, as well as an increase in our labor force to handle the influx of payment processing, bookkeeping, and reconciliation of escrow accounts. Thank you for this opportunity. [LB777]

SENATOR SCHUMACHER: Thank you for your testimony. Any questions for Candace?  
Senator. [LB777]

SENATOR DAVIS: Just a couple. Do you know what percentage of your tax payments are made on the delinquency dates? [LB777]

CANDACE MEREDITH: Well, right now, our ratio for, like say for 2014 taxes, I believe our ratio is we had a 63 percent mortgage payment process where they pay in March and July so the rest was paid by our citizens. And right now, for our 2015 taxes...or 2014 taxes, I can tell you we have about 1,000 unpaid parcels right now out of 120,000. [LB777]

SENATOR DAVIS: So 37 percent are paid by the taxpayers. [LB777]

CANDACE MEREDITH: That's correct. [LB777]

SENATOR DAVIS: So out of those 37 percent, do you know how many of those come in on essentially the last day of the...prior to the dealing of this (inaudible)? [LB777]

CANDACE MEREDITH: We get a trace, I would say a couple thousand that we'll get. But we have people paying in December when the taxes are technically due and then we have a majority come in like the second and third week of March and then the second half in July. [LB777]

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SENATOR DAVIS: Okay. Thank you. [LB777]

SENATOR SCHUMACHER: Any other questions? Have you...apparently some counties are allowing for these payments. Are...have you discussed it with those county treasurers? Has there been a big demand for this? What kind of hassles does it cause them? [LB777]

CANDACE MEREDITH: Well, in the e-mails that we've received, I believe their accounting system may be a little bit different than how we run. We have an internal system that we have, so we have not discussed with them. But I know they said they only have a few I believe in Hall County, so I don't know how large the numbers are there as far as how many partial payments they do contain. [LB777]

SENATOR SCHUMACHER: Are you aware of how many counties are, in fact, trying it, other than Hall County? [LB777]

CANDACE MEREDITH: No, I do not. [LB777]

SENATOR SCHUMACHER: Any other questions? Seeing none, oh, Senator Scheer. [LB777]

SENATOR SCHEER: Sorry, Senator Schumacher. I'm sort of confused, you say there are counties that are doing this. Is that correct? [LB777]

CANDACE MEREDITH: I believe so, yes. [LB777]

SENATOR SCHEER: And I'm looking at the fiscal note and it talks about NACO having to be doing some changes and you folks would have to be doing some changes. How are any counties doing it because if they aren't utilizing NACO software and most of the smaller ones, I assuming are, or at least 90 percent of the counties do, how do they do it? [LB777]

CANDACE MEREDITH: We don't use the NACO system. [LB777]

SENATOR SCHEER: I understand, but you have your own software. Ninety percent of the...99 percent probably, use the NACO software and you're stating that you would have an expense to modify your software. [LB777]

CANDACE MEREDITH: Our current software. [LB777]

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SENATOR SCHEER: NACO would have the same expense-type deal. Then how is anybody doing it now? [LB777]

CANDACE MEREDITH: I would not know how they're doing it right now, if they use Excel spreadsheets, I would have no clue. [LB777]

SENATOR SCHEER: Okay, fair enough. Thank you. [LB777]

SENATOR SCHUMACHER: If I'm a taxpayer of Lancaster County and I've got a \$1,200 tax bill on a piece of property and I come in and lay a hundred dollar bill on your desk saying, I want to apply this toward my taxes, what would happen? [LB777]

CANDACE MEREDITH: We wouldn't accept it. We often, you know, when we have those situations we do suggest to people that if they want to start their own account and be fiscally responsible for placing a hundred dollars into their account every month, or whatever they need to to make ends meet to get that second half...first half paid, second half paid, or all, you know, they have that choice as a taxpayer. The issue, I think, also with these partial payments, you know, we don't know what those taxes are going to be until November, December. And then setting up a payment plan to reach that first half by the end of March in larger counties and by the end of July, it would be a hard figure to try to come up with to make sure that those people meet their requirements so they don't get hit with the delinquent interest as well. And they got to make sure that they make their payment, you know, make those payments in a timely fashion. So trying to get their right quota amount, I think would be kind of hard just considering that, you know, from the time November comes out, the statement goes out, we get the amounts in November, we get the statements sent out in December, and then they have to start paying right away to get their first payment made by March, and then the second one paid by July, at least in the three larger counties. I know it's different in the smaller counties, but I would be concerned about the partial payment plan and how that would be set up as well so they don't get hit with the 14 percent daily interest accrual. And that's something else that we got to consider. [LB777]

SENATOR SCHUMACHER: Any other questions? Seeing none, thank you for your testimony today. [LB777]

CANDACE MEREDITH: Thank you. [LB777]

SENATOR SCHUMACHER: Further opposition to LB777. Welcome to the Revenue Committee. [LB777]

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AUSTIN DUERFELDT: Thank you. Committee, my name is Austin Duerfeldt, A-u-s-t-i-n D-u-e-r-f-e-l-d-t. I am the Richardson County Treasurer and I am here in opposition of LB777. I think Candace really covered a lot of it. I can kind of speak a little bit in terms of a smaller county. One of my biggest concerns would be dealing with fraud detection. This account is something that would actually be sitting there accruing funds over a large period of time. There's a lot of potential there for a lot of things to go wrong. I know one of the villages in our county actually had their city clerk get caught doing instances with issues and where, you know, a lot of these treasurers are dealing with, you know, two, three person staffs having the checks and balances and segregation. And the duties is going to be an issue. In terms of answering the question about the software issue on how the counties are currently using partial payments, the county that I spoke to currently is using a third-party software so they have the software that they use for tax collection, distribution, and then they have the secondary software that they're using in order to track partial payments. Richardson County does accept partial payments, but we do not use it in the function of every month you can submit so many dollars. So the purpose that we use it in is if someone sends in a check and it's late and delinquent and needs additional interest, we will go ahead and put that principal amount that they had sent us into the partial payment amount and then notify them with a letter or a phone call notifying them that the payment was delinquent, an additional payment needs to be made in order to pay off the amount. The last thing I will note is with...well, there's two things. The...I think the banking industry is really set up better to handle this and they're ready to go with it. It's not that difficult to set up a savings account and have an ACH every month go from your main account to the special savings account and have it be ready to go whenever the date comes around for the real estate payment. And then terms of if the county treasurers were doing it, first off, we couldn't be as competitive with interest, if they decide to pay interest, so they would be better off with a bank. Second, it really wouldn't be a benefit for school districts or fire districts in the means of until we have enough to pay that first half tax. It's just basically sitting in an account that, right now, I think we're getting .2 percent interest, so it's better off in the hands of the constituent as long as they're fiscally responsible. And I think there's a method set up at the banking system that can handle that. Questions?  
[LB777]

SENATOR SCHUMACHER: Senator Scheer. [LB777]

SENATOR SCHEER: Thank you, Senator Schumacher. So, in your county, are you like delinquent then the May 1 and September 1, is that...? [LB777]

AUSTIN DUERFELDT: Correct. [LB777]

SENATOR SCHEER: Okay. All right. So, if I get a tax bill and it's twelve hundred bucks and I send you a check, delinquent, May 1...so if I send you a check for three hundred bucks, even

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though the first half is six hundred bucks, on February 15, you're not going to take it, you're going to send it back? [LB777]

AUSTIN DUERFELDT: That has never occurred. Yeah, nobody has ever sent us a check for \$300 and halfway through the delinquent date. But if it did... [LB777]

SENATOR SCHEER: But you are the treasurer, so what happens? [LB777]

AUSTIN DUERFELDT: What happens? We would send it back. It is better off and safer in the hands of the constituent than it is, in my opinion...they would earn the interest and the additional chances of fraud...I would feel safer. [LB777]

SENATOR SCHEER: Why couldn't you just apply it to his bill? [LB777]

AUSTIN DUERFELDT: Until we have a full delinquent...or a first half payment, we cannot apply it to a real estate parcel. It would be sitting in someone's name that we have to set up for a specific account, but it would not be applied to your real estate until we have the first half payment. [LB777]

SENATOR SCHEER: Okay. I...that...I'm a business guy, so I mean this just is so counterintuitive that somebody wants to pay part of their bill and we don't want to take the money when they've got it, that one, it really is sort of foreign to me. And this is not derogatory towards you, it's just one of those little oddities I wasn't aware of, so thank you. Thank you, Senator Schumacher. [LB777]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Any further questions? Senator Davis. [LB777]

SENATOR DAVIS: Kind of to follow up on what Senator Scheer is saying over there, it sort of seems to me it's a little bit like when the bank...when you take your change jar into the bank and they say, we won't take that. You have to go somewhere else for that because it's money. But if someone is delinquent, you will take the check, correct? So, they're delinquent and they bring a partial payment, you'll take that check? [LB777]

AUSTIN DUERFELDT: If that check is for the amount of the principal on the (inaudible). [LB777]



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SENATOR DAVIS: What if it's not the total principal? [LB777]

AUSTIN DUERFELDT: Again, I have never seen a check where somebody's said it's an odd amount. Usually... [LB777]

SENATOR DAVIS: Well, I understand that, but you know, this is a hypothetical question. [LB777]

AUSTIN DUERFELDT: Again, if the first half payment was for \$700 and we received \$250, we would probably send it back. [LB777]

SENATOR DAVIS: So, if it was delinquent, they were making a good faith effort but they didn't have the whole thing, you wouldn't apply that to their principal? You'd say, it's all or nothing at all? [LB777]

AUSTIN DUERFELDT: Where it does not stop interest at 14 percent, yes. I mean, without that full first half payment, any form of payment towards the principal doesn't stop that 14 percent. So, if you owed \$600 and you paid \$300 of it, it's still accruing 14 percent on the full \$600. [LB777]

SENATOR DAVIS: So, I guess my question is, what is so hard about taking money from someone that comes in with the intent to pay? I've got a hundred bucks that my grandmother gave me. I'm going to apply it to my payment because I'm not very responsible. And then you say, oh, no, no, you can't do that. You can come back in a month and a half and do that. [LB777]

AUSTIN DUERFELDT: It goes back to that comment of I'm not very responsible. If we receive escrow account payments and everything works like clockwork, I don't think it would be a problem. The problem is going to be when they get three payments down the road and they stop. If they go and they sell their house and then all of a sudden we have to hunt around to see if they have money on a partial payment account that needs to go towards a real estate sale, it's...there's a lot of fine interworkings to this that don't appear on the surface that I think, once it takes effect, are going to start showing up. [LB777]

SENATOR DAVIS: Okay. [LB777]

SENATOR SCHUMACHER: Any other questions? Seeing none, thank you for your testimony. Any further opposition to LB777? Welcome to the Revenue Committee. [LB777]

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ROBERT GIESE: Thank you, Senator Schumacher, members of the committee. My name is Robert Giese, G-i-e-s-e. I am the treasurer in Dakota County here testifying...not so much in opposition, but I'm not neutral on LB777 either, but just wanted to share with you my thoughts and some of the thoughts of other treasurers that I've talked to about it. There seems to be a lot of confusion on partial payments and, you know, why wouldn't we take those, you know, where we could earn interest on those partial payments. We currently in Dakota County do not accept partial payments. We just about a month ago had a resolution drawn with the county board and myself that said that we do not take those payments. If we did, some of your questions on, if I had \$100 and I gave it you, so then we would have that \$100 applied to a separate account. And yes, we could earn interest on that, but in the last year, I've had a million dollars in just a regular passbook savings account and got \$17 interest on that million dollars. So it's not going to be a moneymaker for the counties and, you know, that's not what we're really there for. But we are there to help our constituents to, you know...if there's a problem, somebody came to me and wanted to apply a partial payment, we would address it at the time being, but in the...I'm just a novice at being a treasurer. I'm just a five-year treasurer. I've had zero number of people ask to apply a partial payment to their taxes, so. And maybe Larry Dix can correct me if I'm wrong, but I think the way our law reads is that we have to pay in half or full payment for those taxes. So your May 1st, September 1st deadlines, that's when those come into play. And so if somebody said in January, I want to give you \$100, we have to have a half year's payment before we can apply it to the principal. So, that's the way and the consensus of, at least the treasurers that have communicated amongst everybody in e-mail is that, you know, we...some do, some don't, and I guess it's on a as-needed basis. But I think that the current way that the law reads now, that it's permissive, is fine. And I will leave it at that and answer any questions I can. [LB777]

SENATOR SCHUMACHER: Senator Scheer. [LB777]

SENATOR SCHEER: Thanks, Senator Schumacher. In listening to you and the two previous testifiers, you talk about you can't, but really the fact of the matter is, you can't, but only because of your software. If there's a software change someday that you could technically take \$100, then it would be applied towards that and could go on your account, not necessarily somebody else's escrow account, you certainly could do that. Correct? [LB777]

ROBERT GIESE: I'm not sure where the \$100 would go. We couldn't apply that to their tax bill. It would have to be in a separate account, and yes... [LB777]

SENATOR SCHEER: Well, why couldn't you? If you received the money and the software was updated, it would simply just reduce the balance due? I mean, this isn't rocket science. I'm paying you \$100 to the \$600 bill, the money goes in your account and if it's not going to...if I don't get interest, I know that when I pay in advance, I'm good with that. But if I'm...like Senator

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Davis said, if I'm not a very responsible person but I'm responsible today so I'm going to try to get as much money to you whenever I can, really the problem in what I've listened to is not the fact that it can't happen, it won't happen under the current system based on the software.

[LB777]

ROBERT GIESE: There are...there's a couple different software programs there now. I know there's another one called TerraScan that does have a program that does that. I'm not...I don't know if there's one...Larry can probably address if MIPS has that provided in their program. I'm assuming they do. I have not asked that question. [LB777]

SENATOR SCHEER: Well, I guess and I also...you and the previous two said, well, now, last year I've never had anyone ask. Well, that's because you don't do it. I mean, most people at some point in time maybe have asked somebody else or have called and got the same answer, so the fact that no one asked, to me just implies everybody knows that you don't do it, not that they wouldn't like to do that. And my analogy is, again, I'm a business guy. One of my offices didn't take credit cards. Never decided there was a need for them. By God, we don't want it. Didn't want to have it. I finally said, you've got to have one. I mean, the world uses credit cards. No, no, no, everybody doesn't want it. Long story made short, I went down, I got it for them. I went down, still hadn't used it in 30 days. I went down to the office and I looked on the front counter...we have a nice little bar coming down the pole. The credit card machine was stuck behind it, you couldn't even see it from the counter. I said, well, you haven't used your credit. No, no one has ever asked. I said, well, how would they know you have it? There's no signage, you set it on the counter. Trying to shorten the story, they now use it four to five times a day simply because I forced them to put it on the counter. So the fact that no one asks now doesn't mean that it wouldn't be a used service, because it would be a new service. And just as things have changed, society has changed the payment structures I'm paying from people. You know, I'm not sure that people wouldn't utilize that. And, you know, from my perspective if people are trying to be responsible, but it's really darn hard to get that total amount--and I'm not even going to go to property taxes being higher or lower--but just trying to get the amount to pay those. If I've got it and I can pay you so much, and I know that by the time everything is due, I will have you paid, I don't know why we wouldn't take their money. It just...it just doesn't make sense. I mean, government isn't business. I understand that, but there are business principles that government certainly could follow and I'm failing to see why we can't facilitate that for the consumer from a government standpoint when all we'd really have to do is change a program or programs that any one of the counties might be using. It seems disheartening when you have some counties that can make it work and others that said, oh, my gosh, no, no, we can't do that. And I'm not trying to nitpick, but when you say, well, that's not what you're there for. Well, from my perspective, you are a county official; you're there to be responsive to the needs of your constituents, of your electors. And if that's something that you can do to make their life easier and it doesn't cost you

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anything, because you're going to get money in earlier, gosh, I just...I fail to see why we wouldn't want to do that or at least be able to handle that. [LB777]

ROBERT GIESE: I appreciate the comments. [LB777]

SENATOR SCHUMACHER: Senator Sullivan. [LB777]

SENATOR SULLIVAN: Thank you, Senator Schumacher. Thank you, Mr. Giese. Nice to see you again. [LB777]

ROBERT GIESE: Thank you. [LB777]

SENATOR SULLIVAN: Do...does your county and many others accept electronic payments? [LB777]

ROBERT GIESE: We do. We do, yes. [LB777]

SENATOR SULLIVAN: Okay. All right. [LB777]

ROBERT GIESE: I'm not sure how many others, but I'm assuming a lot of them probably do. [LB777]

SENATOR SULLIVAN: Okay. All right. [LB777]

SENATOR SCHUMACHER: Senator Brasch. [LB777]

SENATOR BRASCH: Thank you, Vice Chairman, and thank you for your testimony here today as well. And I am concerned with the opposition at this point. And Senator Scheer had mentioned that he didn't want to go to the high property tax dollars assessed, but I think we must go there and that's the reason this change would be beneficial. We serve at the will of the people. That's what government is for and a tax statement is not the same as it was even five years ago on real estate or more, and especially in Dakota County where it is and a lot of the rural areas, those taxes have gone up substantially. And it just seems counterlogical that if someone desires to pay their taxes down so they don't have the huge liability at the end of the first half, second half, that we would be more than willing to make those accommodations because it's software anymore. It's not breaking out the old eraser and ledgers and that it should be a seamless electronic calculation, fairly simple math. So, I would encourage if whatever we can do to make

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the tax burden less burdensome, regardless of what type of a tax it is, that this may be something to consider our policies so we have more compliance. Do you think it's a game changer for your job, it will require...? [LB777]

ROBERT GIESE: No, honestly, I am not...I'm not here to say that well, we've never done it that way so I don't want to do it. I just think that if you look at it from the other side is, if I'm going to give...if somebody is going to give me whatever, \$100 or something like that, they'd be better off keeping the \$100 and getting that interest themselves because it does not pay down their principal on their taxes. That's the whole... [LB777]

SENATOR BRASCH: But when we're talking about that 14 percent, shouldn't it also be something we would take into consideration? [LB777]

ROBERT GIESE: Yes, yes, you're absolutely right. And I just think...and there are other areas, tax certificates were mentioned earlier, that's another thing that that's going to get a little legal and dicey if it's on a certificate. Things like that. And I'm not sure that we are... [LB777]

SENATOR BRASCH: But we would have abilities as a lien to hold... [LB777]

ROBERT GIESE: Yes, that can be. [LB777]

SENATOR BRASCH: I think we could accommodate. I would encourage all counties to be a more tax friendly rather than hard, cut and dried, go away until you have every nickle and dime in your pocket. It might be easier and that way you don't see the huge bill at the end of the day. People may choose to do that, but I think it may be something to consider if it's not causing undue expense that the taxpayer will pay at the end of the day anyhow. [LB777]

ROBERT GIESE: And you're right. And it's something that we have to work through. My...some of the questions that I think were addressed earlier was, if somebody owes \$500 they're going to pay \$100 a month for five months, what if they pay two and then they don't pay one and they pay three and they don't pay the last two then we're left with, well, the money. But then how do we...then we're going to have to go after them or whatever, so... [LB777]

SENATOR BRASCH: You'll go after them anyhow if they don't pay any of it, or... [LB777]

ROBERT GIESE: Well, for...unless they get a year behind and then they go on certificate if they're picked up by an investor and then that starts a whole different...a whole different game, if you will. Then it's on a clock, so. [LB777]

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SENATOR BRASCH: All right. Okay. Very good. I have no other questions, but thank you for coming forward. [LB777]

SENATOR SCHUMACHER: Senator Smith. [LB777]

SENATOR SMITH: Thank you, Senator Schumacher. I'm still trying to understand if it's a matter of policy preference or if it's technology restriction, so I'm going to ask it a little bit different. If someone and you charge...you accrue interest on delinquent payments, right, at 14 percent or whatever that is? [LB777]

ROBERT GIESE: Correct. [LB777]

SENATOR SMITH: So if they missed their deadline on their payment and interest is accrued, but they sent you a check, they miss it by a day or two, whatever that is, and they send you a check for the amount that's due, but it does not include the interest, what do you do? [LB777]

ROBERT GIESE: Depends on the interest amount. If we're talking \$100,000 tax bill, you're probably looking at a lot of interest a day and we just...we'd either call them or send it back and we wouldn't be able to process it because... [LB777]

SENATOR SMITH: You wouldn't take the amount that's due and process it through. [LB777]

ROBERT GIESE: No, no. [LB777]

SENATOR SMITH: So it's really...I see this as a policy preference. I don't think it's a restriction of the technology. And I think on the other side, partial payments, it's the same thing. It's a policy preference. [LB777]

ROBERT GIESE: Correct. [LB777]

SENATOR SMITH: All right. Thank you. [LB777]

SENATOR SCHUMACHER: I guess that leads to a question. Where's the authority not to accept the money due because there's a few extra dollars of interest on them? How can you say to somebody, I won't take your tax money if they say here's... [LB777]

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ROBERT GIESE: Well, our system, our software is set up where you...if I come in to pay my taxes or you come in to pay your taxes and it with that partial is what you owe today, so if you go pay it today it's \$100. If you go pay it two weeks from now it might be \$103, if it's delinquent. So that's how it works. [LB777]

SENATOR SCHUMACHER: Well, how do you handle it if it isn't a big amount of money that the interest is two days worth and it's about fifteen bucks? What do you do then? [LB777]

ROBERT GIESE: We wouldn't take it. We would do our best to contact them, you're \$15 short, 99.9 percent of the time they send it in. [LB777]

SENATOR SMITH: Right, but do you...by the time it gets there it's another few days, so you have...do you give them a payoff amount in the future? [LB777]

ROBERT GIESE: Yes. If you call today, we could say, or if you called the office said, I want to pay my taxes February 15, we could tell you what it would be February 15, if they're delinquent. [LB777]

SENATOR SCHUMACHER: And meanwhile, you'd sit on the check for the...whatever thousand, \$2,000 of taxes? [LB777]

ROBERT GIESE: Yeah, and then apply it when we had that full amount. [LB777]

SENATOR SCHUMACHER: In talking with other treasurers, how many other treasurers accommodate the partial payments? [LB777]

ROBERT GIESE: I can't give you a percentage. I'm going to say it's, from what I saw, it's probably 80-20 that do not. [LB777]

SENATOR SCHUMACHER: And the 20 that do, do they have many takers on it, many people accommodating, have they told you? [LB777]

ROBERT GIESE: I can't...there's a particular county that had a lot. I don't know why. It wasn't a big county. It's just something that they've done, but a number of parcels or customers, I don't know how many that they had. I had just never...as I said, I've never had anybody ask because of the fact that you have to pay those in half year amounts. We just can't accept...we cannot apply to the principal \$100. [LB777]

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SENATOR SCHUMACHER: Well, you don't have to pay in half your amounts, you can pay all of it. [LB777]

ROBERT GIESE: Oh, yes, you're right. You're right. [LB777]

SENATOR SCHUMACHER: And so when you pay all of it ahead of time, the second half, where does that money go? It isn't delinquent until September 1, so (inaudible)... [LB777]

ROBERT GIESE: It's just all processed today so you don't owe any tax, you don't owe anything. You owe a zero balance. [LB777]

SENATOR SCHUMACHER: Okay. Senator Scheer. [LB777]

SENATOR SCHEER: Thank you. Listening to your last comments, I mean, it really is a software issue. You just said that if the check is not the right amount, your system doesn't take it, so you have to sit on it. If the system allowed you to take it, it would take it. Fair enough? [LB777]  
[LB777]

ROBERT GIESE: Yes, but I think there's a difference between the late, say, \$10, \$15 interest that is not included versus I'm going to pay you \$100 on a \$1,000 tax bill. I mean, it's two...you're right, I mean it's just a software thing, but it's two different. [LB777]

SENATOR SCHEER: It could be two different things but it still allows you to take the money. I mean the software will determine where and how those funds are distributed. I mean, that's what technology does now, so. [LB777]

ROBERT GIESE: Yes, right. So you just have, but then the gist of it is, the \$100 is just going to sit. If it's a \$1,000 tax bill, you owe \$500, that \$100 is going to sit until you have \$500 to pay at least a half year's tax because that's all we can process. Your bill is in half year increments, so... [LB777]

SENATOR SCHEER: Well, but...excuse me, I don't mean to interrupt but, and I don't think you ever really answered Senator Schumacher's question to the extent which I will reiterate. You're saying, well, you don't have the full payment so we can't process it. Where in statute does it say you can only process a full payment? Does it say...I mean, and I'm asking because I don't know the answer. Does it truly say, if you don't have all the money, we don't take any of it? [LB777]



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ROBERT GIESE: I can't say. I can't answer that for sure. [LB777]

SENATOR SCHEER: Because, I mean, if not, then I think maybe your policies right now or procedure are probably not in compliance. And if it does, then fair enough, we would have to change that even to facilitate what they're doing now. So that, I guess is one thing that I'm really confused about if we're not taking payments regardless if it's prepayments or past payments, because they don't fulfill all of the payment, if that's really something that we're allowed to do. And I'm not saying it's not being done and hasn't for a hundred years, but is that something we should be doing? And I don't know. I grant you, I don't know the answer either, so I'm not... [LB777]

ROBERT GIESE: I'm going to guess that the law reads that we can only accept in six month. [LB777]

SENATOR SCHEER: I don't know. That's why I was asking. I thought maybe you might (inaudible)... [LB777]

ROBERT GIESE: And that's the way we've always done it, so I'm going to defer to my...I'm sure Larry can tell us. [LB777]

SENATOR SCHUMACHER: Senator Harr. [LB777]

SENATOR HARR: Thank you and thank you, Mr. Giese, for coming. I guess here's where I stand. Just...and tell me if...is that we have 20 percent that do it, you say, approximately. I'll call that the pilot program. And I don't see any reason, I'll be honest, not to apply it to the other 80. The reasons I hear don't really resonate with me. What does resonate with me is why is it our duty on the state level to tell you on the county level how to run your office? And I think we're going to run into a lot of that this year and in this legislative session is, what is counties and cities are political subdivisions of the state. And so we get to kind of set some of the rules for you. This is more of a philosophical question of me of how much do I want to micromanage and tell you how to collect and how to run your office and at what point do I get to say, shame on you, you don't know how to run your office. I'm going to come in and tell you how to run your office. I haven't heard anything that convinces me that we shouldn't pass this bill, but I do have a larger philosophical question again. What is the role of the state versus the county and the cities and how much should we be dictating, how much you should be running your office? And I guess, my question to you is, how much should we be dictating how much we should be telling you how to run your office? [LB777]

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ROBERT GIESE: Well, I guess my answer to that is that I believe the current law allows us, if we want, to accept those payments. And I guess that's the way I would like it. How much you have or should tell us how to do that, I mean, I'll leave that up to you, but we have the option now to do that. And I believe that's a good plan. [LB777]

SENATOR HARR: Okay. Thank you. [LB777]

SENATOR SCHUMACHER: Senator Davis. [LB777]

SENATOR DAVIS: Just kind of follow up a little bit on the issues of delinquent properties. So, assuming a farmer comes in and he's got a dozen parcels, comes in late, doesn't have the funding for all those, do you just reject that out of hand and say, no, no, you don't have enough for all the 12 properties so we're not taking this check? [LB777]

ROBERT GIESE: Well, he would probably pay whatever he had. If he had six, he had eight, that's what he would do now. [LB777]

SENATOR DAVIS: But it's a hypothetical question. I'd like to know what your hypothetical answer would be. [LB777]

ROBERT GIESE: What we would do, we would... [LB777]

SENATOR DAVIS: So he's got a dozen properties, he doesn't have all the interest for all the dozen properties. He brings in the check for the principal and has some of the interest, but not all the interest in that check. Makes a mistake on his check, whatever. What do you do? [LB777]

ROBERT GIESE: Well, we would ask him which ones he would like to pay that day and we do accept credit cards. So if he wanted to pay with a credit card, he could pay it, you know, if he had a check. So he would pay whatever parcels he could pay and the rest would have to wait until other payment was arranged. [LB777]

SENATOR DAVIS: So you would be flexible in that situation? [LB777]

ROBERT GIESE: Oh, sure. [LB777]

SENATOR DAVIS: And I guess following up a little bit on what Senator Scheer says, you know we always hear that government should run more like a business and businesses never turn down

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payments when people are happy to bring in a payment. Businesses are usually very happy to accept that and say, thank you very much, rather than saying, I'm sorry, you're not meeting our rules and regulations. Kind of like Senator Harr, I've heard nothing in this debate that makes me think this is a bad bill. Thank you. [LB777]

SENATOR SCHUMACHER: When you take a credit card, who handles the fee, who gets charged the credit card fee? [LB777]

ROBERT GIESE: The...whoever your software provider is gets that interest on that. [LB777]

SENATOR SCHUMACHER: But who pays it? I mean, it's like 2 percent, 3 percent. [LB777]

ROBERT GIESE: Oh, it's the payee, who is paying the bill. [LB777]

SENATOR SCHUMACHER: Okay. And is there statutory authorization that allows you to charge them that? [LB777]

ROBERT GIESE: We cannot make any money on a credit card in our office. It all goes to the provider. [LB777]

SENATOR SCHUMACHER: Right, but who...in other words, if somebody pays you a hundred bucks by credit card, the credit card provider or the banker and everybody takes two bucks, two, three bucks, right? [LB777]

ROBERT GIESE: Right. Right. [LB777]

SENATOR SCHUMACHER: So you owe a net, 97, 98 bucks. [LB777]

ROBERT GIESE: No, it's an additional. If it's \$100, it's \$102.49. [LB777]

SENATOR SCHUMACHER: Is what you charge the customer of the card? [LB777]

ROBERT GIESE: Yes, that's what their card is charged. [LB777]

SENATOR SCHUMACHER: And is there a law that allows you to charge that extra money to the customer? [LB777]

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ROBERT GIESE: Yes, we can't make anything at the county level. [LB777]

SENATOR SCHUMACHER: Right. But is there a provision in our...in the statute that says on the credit card transactions, you may add the fee? [LB777]

ROBERT GIESE: Yes. Yes. [LB777]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. [LB777]

ROBERT GIESE: Thank you. [LB777]

SENATOR SCHUMACHER: Any other opposition? Seeing no other opposition to LB777, anybody in the neutral capacity? Welcome, Mr. Dix. [LB777]

LARRY DIX: Good afternoon, Senator Schumacher and members of the Revenue Committee. My name is Larry Dix, spelled L-a-r-r-y D-i-x. I'm executive director of Nebraska Association of County Officials appearing today in a neutral capacity. And my sheet here has a number of senators names on it and hopefully I can cover and answer some of the questions that came forward. NACO's position of neutral at this point in time, I've got to explain. Our board has not met to take an official position on this bill yet. So, I can't say that just because we're here neutral today, we remain neutral throughout the whole process. But let me go through some of the prepared notes I made and then try to get to the questions. We sent out notice to all 93 counties saying, what do you do? We're trying to find out what do you do on this. I think we, within the office, we had 18 or 19 counties reply. Out of those 18 or 19 counties, I just quickly went through and 8 of them said, they accept partial payments. So, now I don't know, that's not...I wouldn't classify that as scientific study, but, you know, it's random I would say that. And the responses are from all across the state. And when I looked at it we've got Arthur County to Sarpy County, so we've covered pretty good, to Banner County. So we've touched each border. So we've gone across the state. This bill, there's sort of two moving parts. One, is the part where it removes the authority from a county board and moves it to a county treasurer and says the county treasurer "shall." Okay. So, we're getting comments from a couple of different directions. From county boards, we're getting some comments of, is it wise to remove the authority from the county board to pass the resolution and move it over to the elected official? So that's...that, I think, in and of itself, is one policy question for the Revenue Committee that I would want you to think about. And there hasn't been much discussion on that, but that is a point that in the bill I think is something that maybe in Exec Committee, you guys will want to talk about. We've heard...we probably hear a few more horror stories than we hear positive stories on it and some of it gets into this confusion a little bit of where Senator Scheer was going about if somebody provides me money and it's only partial but they don't get to the half of a payment, then the

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interest starts accruing. And keep in mind, when you're talking about partial payments, you're talking about escrowing money is really what partial payments are. They're not applied to the tax. We're sort of escrowing money until we get to an amount to pay equal halves. And there is, I believe--and I don't have the section--I thought we might have found the section that talks about the equal halves of payment, but right now, our belief is a state statute dictates that it's equal halves. And so all the computer systems that I'm aware of are designed specifically to meet the letter of the law and say, you have to meet the equal halves. So I think we have to do a little bit more digging before we go down that path, but that's how I know the computer systems are designed. They're also designed that interest accrues because state law says, interest accrues a day after they're delinquent. And so when we talk about having government run like a business, we're simply saying, this is the law, it says it, we have to carry out the law. And Senator Harr, because of something called Dillon's law, we're sort of counties can't do too much unless the Legislature gives them authority to do that. So, and that's what we consistently sort of tell our county officials. You've got to be cautious about doing something outside the law and so that's sort of how these systems were designed. So, what the concern is, is certainly 14 percent interest. We've got a number of counties that have worked with their local bank. If somebody comes in, they will say, go to the bank, set up an account, because we think that's a better scenario because we've heard some of the horror stories of somebody missing or behind on one payment and then all of a sudden is accumulating the 14 percent. The issue being the "shall" versus the "may" as I pointed out, I think as it is now, "may" we have in our estimate, we have a number of counties that are doing it. We think that when we look at it if we were to do an analysis, we're going to probably find pretty consistent to those numbers. There's quite a few counties that are doing it. I do have numbers from some counties. Some of you have said, well, how many like, how many do some counties do and things like that. I know I'm out of time so I'll let you guys ask those questions. I'll try to address some of the things that were presented before. [LB777]

SENATOR SCHUMACHER: Senator Scheer. [LB777]

SENATOR SCHEER: Thank you, Senator Schumacher. I have a couple of questions. My first one would be, is there some things that you didn't get quite finished with that you'd like to finish? [LB777]

LARRY DIX: A couple of things. Couple things that I just want to touch on. Software costs were brought up in there. The software that the counties have...and in the fiscal note, I think somebody had made mention that there's a significant cost. And I think we put that in there. We know that...and as many of you know, we provide software to a number of counties. We do have software that does accept partial payments. That software was designed for the minimal number of partial payments that typically counties have. So it wasn't designed to almost go to every taxpayer and anticipate that 50 percent of the taxpayers are going to do partial payment. It was designed that most counties are going to have, you know, less than 50. So there would be some

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changes. And we did hear from some counties. I heard from some counties that are using other software vendors that theirs did not allow for it. They didn't have a provision for it, so they were simply keeping that data in an Excel spreadsheet. Okay. So we know that if you look at the whole, there's going to be some costs to those systems. So I wanted to get that in and then we'll go to questions. [LB777]

SENATOR SCHEER: Thank you. Next question. It really does sound like it's just a technical issue as far as computers being able to do that. I'm wondering when I talked with Senator Giese to the extent, do counties or a treasurer have the ability to refuse payment that's not in full? Again, because no one seemed to know so I'm thinking perhaps you might know. [LB777]

LARRY DIX: But, yeah, and I think the way it's...well, I think the county...when you say refuse payment, I think they have the authority to not apply the payment because it does not equate to a half of the tax that is due. And I think that is in statute. [LB777]

SENATOR SCHEER: So the statute says, we don't have to take anything less than the... [LB777]

LARRY DIX: I don't know that it says that we're not going to take...but you know how that works. There's a section of statute that talks about the half payments. [LB777]

SENATOR SCHEER: Okay. Thank you. [LB777]

SENATOR SCHUMACHER: I have a few questions. First of all, when the money, the partial payment comes in...let's back up. Let's say in March, you get a half...a payment equal to half of the May payment comes in, but it comes in March. It goes into a fund in the treasurer's office that's then broken out to each of the subdivisions, is that correct? [LB777]

LARRY DIX: That is correct. [LB777]

SENATOR SCHUMACHER: Okay, and part...am I correct in understanding, part of the issue here is if you don't have the full half month or a half year's worth, it doesn't go into that mechanism that splinters it out to the subdivisions? It has to sit off at the side idling until the half is there. [LB777]

LARRY DIX: You are exactly correct. If it does not equal a half, it sits over here, none of the political subdivisions receive any of that distributed money until you have a half a payment. [LB777]

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SENATOR SCHUMACHER: So, unless we address that part of the issue where the money could officially be put in the system for distribution, it's going to sit off to the side. [LB777]

LARRY DIX: That's correct. [LB777]

SENATOR SCHUMACHER: If we do address that issue, the political subdivisions aren't going to get these little tidbits of money all along. [LB777]

LARRY DIX: Correct. [LB777]

SENATOR SCHUMACHER: Okay. And that has got to be computed for, accounted for, in some part of that software that then, too, if we were to allow it to flow through. [LB777]

LARRY DIX: Yeah. Now, you're talking some changes to software that have to be made. [LB777]

SENATOR SCHUMACHER: Okay. [LB777]

LARRY DIX: That would have to be made. I don't know of any one that's designed right now to do that. [LB777]

SENATOR SCHUMACHER: Okay. So that's a fundamental difference in doing it. So we basically are talking here some situs account that this money would go into and then some way that when it got to the magic half thing, somebody's screen would light up and say, okay, there's enough here to move half over. [LB777]

LARRY DIX: Yeah. And some of that software is designed that once it gets to the half, it notifies the user, you have now accumulated enough in the escrow account to make a half payment. I mean, that's there, at least in some of the software, not all of it, but some of it. [LB777]

SENATOR SCHUMACHER: Okay. So depending on if we do anything here, we may have a cheap way which we had...the county treasurer would have to set up some kind of a buffer account, some side escrow account and then monitor that when those accounts hit the magic levels for transferring to the real system for distribution. [LB777]

LARRY DIX: Yeah, it...well, let's be honest. If we're really looking at that, then we get rid of partial payments. You design a system, completely turn it on its end, change all of the state laws

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that say, you can pay more frequently. I mean, then why do you need a partial payment system? But if you're going to do that, you're going to have to go through a pretty significant study to make sure you get all of the state laws addressed. You can see what I'm saying. But, you know, we continually sort of hammer on this partial payment, partial payment, partial payment system of which, quite honestly, we do hear from a number of the counties that they're very, very few people that make the request. So, in some instances we've got a solution where the problem is maybe not as great as what some people are anticipating. I don't know, you tell me if you've had a lot of constituents saying, I really need a partial payment system. I don't know that, but you might. [LB777]

SENATOR SCHUMACHER: Your current software that you do have basically designed to take a small number...facilitate a small number of partial payments, does it then monitor the amount that's accumulated and tell the treasurer, okay, this person has hit the magic level, you can move money from the escrow account into the distribution account? [LB777]

LARRY DIX: I can speak for our software, but I can't speak for all the counties' software. Ours was designed to look like that. But we've got a number of counties that use other software that may not. [LB777]

SENATOR SCHUMACHER: Senator Scheer. Oh, Senator Brasch. [LB777]

SENATOR BRASCH: You have selective vision, Senator Schumacher. Thank you, Senator Schumacher, and thank you, Larry. As I'm...originally I had one train of thought was, and I still do, it needs to be tax friendly in some sense. And ideally it does seem like simple math. I mean, it sounds easier to buy a car than to pay your taxes anymore. And on the other hand, I do remember being contacted by a county assessor and I called the property tax commissioner because we've had several natural disasters. When the tornadoes hit Wisner and Pilger, Wisner, in my district, feedlots were wiped out, inventory, buildings, etcetera, but taxes were still due. Flooding along the Missouri River, thousands of acres of land, taxes were still due. And when asked if there's special circumstances, situations to ease the tax burden, the answer was, the counties have already budgeted for the money. We need it now, or six months and six months. And I'm just wondering, how would the counties...is that playing into this at all? [LB777]

LARRY DIX: Well, if I were asked the question, I would have answered a little bit differently. [LB777]

SENATOR BRASCH: Okay. [LB777]



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LARRY DIX: Granted, not only the counties budgeted the money, every political subdivision... [LB777]

SENATOR BRASCH: Yes. [LB777]

LARRY DIX: ...that is on a tax statement has budgeted the money. But my response to that would be the law says, and all of you passed the laws, that whatever property is there as of January 1, 12:01, is what shall be assessed against. If the tornado comes through in March and destroys it and wipes it out, we, as counties, don't have any authority to say, sorry, you really had some devastation. We have to follow the law. I don't know that I would have ever gotten into the discussion of what we budgeted it for. But, yeah, well, we, in every school and every NRD and ESU and ag society and everybody else did too, and so... [LB777]

SENATOR BRASCH: So if people made payments...not to interrupt you, would the payment method interrupt the flow of cash to those subdivisions and the counties and... [LB777]

LARRY DIX: It's, you know, when you look at a budget, you're looking at a 12-year period of time, so if you're receiving it in 10-day increments or if you're receiving it in 2 equal halves, I think everybody over the years has known that the law says you receive it in 2 equal halves and there's a spike in payment when those payment dates hit and everybody has sort of adapted their business practices to the way in which the money flows in as have the schools, as have everybody else, because it flows in before, then we can send it to the schools. So everybody...I mean, and that's how they've operated for as many years as I've been involved in property taxes. [LB777]

SENATOR BRASCH: And in saying the counties, that was inclusive of all of the subdivisions they need, but that was my...you know, it seems very reasonable to accept partial payments. But I'm wondering how that affects the overall needs and budgeting. [LB777]

LARRY DIX: Yeah. One of the things that somebody had asked and I'm sorry, Senator Brasch, I'll jump in and answer the question. I don't think you asked it. I think Hall County, Senator Gloor, I think Hall County had sent in a note that they do accept partial payments. They currently have 100, or no, they currently have 40. Seward County sent a note in, they currently have about 100 that they're working with. So there are counties that are accepting them and that, you know, the numbers will vary. You would think Hall County would have more than Seward County just because of population base, but it doesn't necessarily work that way. [LB777]

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SENATOR BRASCH: So one final...in your opinion, would it be doable to have that partial payment changed rather than two halves? [LB777]

LARRY DIX: Yeah, I...you know, let's be honest, it's a software world, anything is doable. There will be some costs. Right? I would tell you that. There's no question that there would be some costs. The doable part of it is, I think as a committee you need to sort of examine, is there a need...is there a problem that we really need to address? Is it that big of a problem that we need to start revamping some software and things like that to address? I don't know the answer to that. I tend to hear from our counties, it's not that big of a problem. [LB777]

SENATOR BRASCH: Thank you, Larry. I have no other questions. [LB777]

SENATOR SCHUMACHER: Senator Scheer. [LB777]

SENATOR SCHEER: Thanks, Senator Schumacher. And I'll shut up after this Larry, but couple of things. Just wanted to make sure, because I did not hear any of the other senators, so we don't have the wrong impression, I don't think anybody was talking about stopping the interest charges or anything just because you paid part of it. I didn't hear that, nor was I trying to imply that people wouldn't be responsible for the fines or penalties that went along with it. But I will tell you that from my vantage point, in relationship to the bill, the cat is sort of out of the bag because once it became permissible and you have some that do and some that don't, to me that's...some of government is continuity. And it doesn't seem right to me that some areas may accept that and help their patrons or facilitate that and you cross the magic county road line and I've got some property on both sides, but the other one doesn't. And so how do you tell the one that lives in the county that doesn't do it, and he says, well, yeah, but they do it for George all the time. I know they do. [LB777]

LARRY DIX: Yeah. [LB777]

SENATOR SCHEER: Well, you know... [LB777]

LARRY DIX: Well, and I think if somebody were to press the issue with me, I would go back to current law and say, it is permissible. [LB777]

SENATOR SCHEER: Well, I understand that it's permissible. [LB777]

LARRY DIX: Yeah. [LB777]

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SENATOR SCHEER: But, I mean, from a practical standpoint, as a policymaker, how am I able to defend that counties that all are supposed to operate essentially the same, don't? [LB777]

LARRY DIX: I won't... [LB777]

SENATOR SCHEER: All right. Thanks. I appreciate it. Thank you, Senator Schumacher. [LB777]

SENATOR SCHUMACHER: Any other questions? Thank you, Mr. Dix. Any other neutral testifiers? Seeing none, Senator Gloor, do you wish to close? Senator Gloor waives and that closes the hearing on LB777. [LB777]

SENATOR GLOOR: (Exhibit 2) I'm going to read into the record for the last bill, LB777, Rich James, who is Sarpy County Treasurer, is in opposition. We were given this note during the hearing, so we'll get that into the record for LB777. And we'll open LB725. Senator Schumacher. [LB777]

SENATOR SCHUMACHER: (Exhibit 1) Thank you, Senator Gloor. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature and I am here today to introduce LB725. LB725 proposes a change in what is required on a real estate transfer form. And I'll give a little background to the law and the nature of the form. I think I've provided the committee with a copy of the form. I'm not sure if it has been distributed yet. But, well, life was pretty simple up to a couple of years ago. And whenever you filed a deed, transfer of property from a buyer to a seller, essentially, you had to file a real estate transfer form with it. And the form is a reasonably simple little form, but it has a lot of blanks and check marks on it and it informs the assessors as to who the seller is, who the buyer is, their phone number, kind of the nature of the property, the legal description of the property, and it's designed, principally, I think to give an indication of value on the...of the transaction of the sale value of the property for probably assessment purposes. And also we have a little thing called a documentary stamp tax which amounts to a couple of bucks per thousand dollars of value so that when you file a deed, you pay a little tax. And we've created a whole litany of exemptions from that tax. And whether or not you qualify for an exemption or not is based upon the information on that form. If it's a deed that's between relatives, you get an exemption. If it's a deed to a charity, you get an exemption. If it's a deed in foreclosure, you get an exemption. So there's a whole bunch of exemptions that are determined basically from that particular form. Well, the can of worms got opened when Senator...I think, it was Wightman had a bill a couple of years ago that introduced a concept of a transfer on death deed, which was something we never had before. And this opened up this particular section of the law and as a result of that this transfer statement was redone. And suddenly, the register of deed's office, and I think probably on some instruction from the

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state office, the Property Tax Administrator's Office, started requiring this form whenever there was an easement filed, not a transfer of ownership, but just an easement, a granting of some rights. Right to put a pole on a property, to dig a wire under a property, to walk across somebody's property, or drive across it because it was a convenient way to get to your own property, for example. And it's a little bit of confusing situation because if you look at the actual law that's been in existence it says that every grantee who has a deed to real estate recorded and every purchaser of real estate who has a memorandum of contract or land contract shall, at the time the deed is recorded, file one of these forms. As a lawyer, when I read that I take that to mean when you're buying a piece of property and the deal is done and you're recording that transaction, you need to file one of those forms. Apparently that is not the way it has been applied and there's been this requirement that if you're just getting an easement, not changing who pays the taxes on the property, not changing the value of the property, you're just getting an easement that allows something to happen; a pipe or a pole or wire or something across property, these forms are required. Well, utility companies, principally--and this bill was instigated in the first instance by NPPD--utility companies are saying, wait a minute, we do a lot, a lot of easements. We have a lot of poles out there and we have a lot of wires and things buried around and it's really adding to overhead to file this form and we don't see where we need to file it in the first place. And they apparently negotiated the language of LB725 that says, well, whatever. We agree that for utility--it's not all easements--but utility easements, this doesn't need to be filed. And that's what LB725 says. Okay. For utility easements, forget it, we don't have to file it. In the Statement of Intent, I kind of broadened it out just a bit and I suggested that perhaps we keep our ears open at this hearing and open for our consideration why we need to file it for any easement. And if there isn't a really good case for requiring it on any easement, why limit it to utility easements, why not go back to what appears to be the original intent of the law when you're transferring title to property, not having some type of an interest like an easement there. So, that's the proposal. It's the proposal to exempt utility easements from requiring this form which always meant a transfer of ownership until it's now been interpreted to have a different application and to keep our ears open as to why we're even requiring it on any easements, and if no good case can be made, maybe expend out the bill. I'll take any questions if there are questions. [LB725]

SENATOR GLOOR: Thank you, Senator Schumacher. Questions? Senator Harr. [LB725]

SENATOR HARR: Thank you. Thank you, Mr. Chairman. I guess my question is, with whom did the utility company negotiate to limit just to utilities? [LB725]

SENATOR SCHUMACHER: I think it was the Property Tax Administrator's Office. There will probably be somebody here to testify for sure, but that's my impression. And it's my impression that there was some pushback and saying, you know, this really doesn't fit, this shoe doesn't fit easements, it's for land transfers, not easements. [LB725]

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SENATOR HARR: Yeah. [LB725]

SENATOR SCHUMACHER: But there apparently was some reason, and I think it's a fair question for the proponents when they appear, that they felt the need to cave and say, okay, well, we'll just be content if you say we're not...the utility easements are exempt from having to file this form. But I do know that among the bar, this requirement that on every easement that suddenly popped out of nowhere, this form be filed has caused some stomachache. [LB725]

SENATOR HARR: Thank you. [LB725]

SENATOR GLOOR: Senator Sullivan. [LB725]

SENATOR SULLIVAN: Thank you, Senator Gloor. Thank you, Senator Schumacher. Could you refresh my memory as to what the process is for perfecting and recording an easement of any kind? [LB725]

SENATOR SCHUMACHER: An easement is something that affects title to land and so to make sure that it is filed and everybody has got proper notice, you have a written document that has to be notarized. It says what the easement is and you have to take it to the register of deeds office and you pay, I think, a \$10 fee. And what the register of deeds does, is they put it in their book, usually I think they call it miscellaneous book, but they put it...they record it, microfilm it or whatever. And then it is available for the title companies, the people who do mortgages, that there is this thing that affects this real estate and that somebody has a right to have a pipe under it or wires over it or whatever. But to be effective against subsequent purchasers, it's got to be recorded in the public records. And so, you pay the fee and they stamp it and they put it on microfilm or in their book, and that's how it's perfected. [LB725]

SENATOR SULLIVAN: And what kinds of easements beyond utilities? Can you give us an (inaudible)? [LB725]

SENATOR SCHUMACHER: The most common one I can think of is an easement for access. You have a farm that may have access to the road, but it'd sure be easier to get to it over your neighbor's property so you get a right to do that, or you partition off a...or break off a piece of property that you need to have a driveway for. Mostly it's easements for...an easement is a right to do something on the land that usually has defined limits in it as to exactly how wide the trench has got to be or how wide the driveway has got to be, and usually defines for how long a period of time that right is good for. And it's the landowner who owns all the sticks of rights of a piece of land, saying okay, you can use these sticks and this particular right that you can drive over it

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or have a pipe over it. But in the end, they're taxed for tax purposes as if they still owned all the sticks. Doesn't affect the value of the land. Doesn't make any new sticks. [LB725]

SENATOR SULLIVAN: Gotcha. [LB725]

SENATOR GLOOR: Senator Scheer. [LB725]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Schumacher, just out of curiosity, is there a fee that you have to pay or any type of amount when you produce this? You send it in and the state... [LB725]

SENATOR SCHUMACHER: You take it to the register of deed's office. The fee...the recording fee...there's a recording fee, I think, like ten bucks a page in order to record the deed itself. And there is, if you don't qualify for an exemption, you got to pay this documentary stamp tax which is, I think, maybe \$2.00, \$2.50 a thousand. To record a deed, not a mortgage, not an easement, just a deed, you pay the documentary stamp tax which...but there's no fee for that. That's a piece of paper I think that goes over to the assessor's office. That's not recorded in record. [LB725]

SENATOR SCHEER: Okay. I guess the reason I was asking, if the fiscal note doesn't show...mute, but it would seem to me that if you have to fill one of these out every time, somebody is doing something with the paperwork and filing, there has to be a cost savings just not handling the paperwork. [LB725]

SENATOR SCHUMACHER: I...and maybe Mr. Dix, if he's here, can correct me, but if I'm not mistaken, that goes to the assessor's office after...for taxing purposes and it also goes...I would guess the register of deed's office retains a copy to justify that it didn't collect the documentary stamp tax. [LB725]

SENATOR SCHEER: But it's a revenue. It ends up in the Revenue Department at some point in time. [LB725]

SENATOR SCHUMACHER: At some point. [LB725]

SENATOR SCHEER: So they have to do something with, if nothing else, file it, so. Thank you, Senator Gloor. [LB725]

SENATOR GLOOR: Senator Brasch. [LB725]

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SENATOR BRASCH: Thank you, Chairman Gloor, and thank you, Senator Schumacher. The question I have at this point is perhaps we'll hear more about the purpose, but often the Department of Roads purchases an easement from a property owner so they can do drainage ditches and road planning and that may perhaps be a quarter of an acre of land. And so that then comes off of your tax statement that you owe less to the county assessor, that you owe less than that one-eighth. And then another specific situation, a couple of them, where I've had constituents ask me to come to their property. One such case is in Tekamah where I believe it was early 1900s, they have the county or city has enough of an easement that should they want to make that into a four-lane highway rather than two-way as it is right now, because at that point in their history they pictured another bridge like the one in Tekamah that would go over into Iowa. And the landowners desperately wanted to purchase back, release this easement from the city because it ran right in the middle of their two-stall garage as did their neighbor's for a stretch all the way you can see, but...and they said, I'll pay taxes on it. We want it. So I think easement may reserve the right for a city or a county or a roads and then it comes off their...would that change this or is this a record of that, or does it...is it a separate item? [LB725]

SENATOR SCHUMACHER: If it's an easement that's required, for an easement to be valid, whether it's an easement for a road, it has to be recorded and right now I'm under the impression that it has to have this form that goes in with it. Sometimes the streets, though, in a lot of these cities, and I would suspect the one that you might have described, they actually own the land under the...they acquire a strip of land and it becomes owned by the city. Sometimes it was reserved from the original plat of a town. They said, okay, there's going to be alleys here, there's going to be streets here, when the streets may or may not have ever come to be. And those would still be owned or under the control of the city, not the landowner. So who is...of course, the state doesn't...state Department of Roads wouldn't pay a tax, neither would the city if it owned the property. [LB725]

SENATOR BRASCH: So this would not affect that type of a transaction or a land use? [LB725]

SENATOR SCHUMACHER: This is simply a recording sheet. I don't think it affects the transaction at all. It's just simply a recording sheet... [LB725]

SENATOR BRASCH: Okay. [LB725]

SENATOR SCHUMACHER: ...that it will be interesting to hear what function in the case of an easement it serves at all. [LB725]

SENATOR BRASCH: I have no other questions. Thank you. [LB725]

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SENATOR GLOOR: Senator Davis. [LB725]

SENATOR DAVIS: Just a couple questions. When did you say this became required, Senator Schumacher? [LB725]

SENATOR SCHUMACHER: I think...well, the form for deeds, absolute transfer, you sell your farm to somebody, that's been around for years and years and years. [LB725]

SENATOR DAVIS: But for utilities? [LB725]

SENATOR SCHUMACHER: For utilities, I think about two years ago; Senator Wightman had a bill. Maybe it was three years ago--time goes so fast--in which we concocted a thing called... [LB725]

SENATOR DAVIS: Transfer on death. [LB725]

SENATOR SCHUMACHER: Right, transfer on death [LB725]

SENATOR DAVIS: At that point, did Department of Revenue start requiring this? [LB725]

SENATOR SCHUMACHER: That's when this showed up as a requirement for easements. [LB725]

SENATOR DAVIS: But they haven't given you any rationalization for that? [LB725]

SENATOR SCHUMACHER: I haven't inquired that much as to exactly what it was. I know that there was an attorney in Columbus that had quite an argument with them and they didn't want to give, so. [LB725]

SENATOR DAVIS: Thank you. [LB725]

SENATOR GLOOR: Senator Schumacher, maybe just by way of a little clarification, my understanding--and maybe we can get another testifier to clarify--is that as a result of that, Senator Wightman's legislation, the form was reprinted. The box then showed up when the form was reprinted which lent itself to then the confusion about this whole issue. And so, this is an issue of a reprinted form with a box that some honor and some do not and therein is we're trying



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to get this, I think, overly simplified and return it to the...well, I'll let it go at that. That much I think I'm comfortable saying with some degree of certainty. [LB725]

SENATOR SCHUMACHER: I think it's an issue that boils down to, why did the box show up and what function does the box and whether we want to clarify it? [LB725]

SENATOR GLOOR: Any other questions? Thank you. [LB725]

SENATOR SCHUMACHER: Thank you. [LB725]

SENATOR GLOOR: We'll now move to proponents for this bill. [LB725]

LARRY DIX: (Exhibit 2) Good afternoon, Senator Gloor and members of the Revenue Committee. My name is Larry Dix, spelled L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in support of LB725. We want to thank Senator Schumacher for introducing this. We were...got involved in this. The question that I first want to ask of the committee, the real estate...the 521 statement that you are looking at, does it have the box with the exemption or with the easement on it? [LB725]

SENATOR GLOOR: Yes. [LB725]

LARRY DIX: Okay. And do you have a copy of what it looked like before? [LB725]

SENATOR GLOOR: No. [LB725]

LARRY DIX: Okay. Here's the old version and it was in 2013, I think is this version, so that may help a little bit of this. NACO really got involved in this over the last year. We started to hear from our register of deeds and we do have a register of deeds here today to testify so that you may be able to answer some of those specific questions to them. What they started to tell us and I think rightfully so, was that companies were starting to come in to file easements and all of a sudden this 521 statement was issued and they said, well, you have to have an accompanying 521 statement. And many of the companies had said, for all the years we've been doing this, we've never had to have that for an easement, why do you need it? And the response was, well, Department of Revenue has said that we...it's on here, it has to be checked. So then we followed through a little bit further and this copy of this 521 statement, of course, then the register of deeds would take. They'd take a copy of it, they'd take it down to the assessor's office, and then a copy would go into the state. And the assessors would say, well, why are you bringing me this? I don't know what to do with it. They didn't have any use for it so that sheet of paper just got sort

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of pushed to the side on the easements when they would file them. And then we had some situations where those companies when they would provide an easement across multiple counties, some counties would say, well, you've got to have this easement and some counties were saying, I'm not sure that you have to have this 521 to file this easement. So it created a lot of confusion and we were starting to see some checkerboarding. So then we contacted a couple of the utility companies because they were the ones primarily that started to have easements across multiple counties. And we started to work with them. So then in the summer...during the summer months, we worked with them and we also contacted Property Tax Administrator and said, here's the problem, can we work through this? I certainly am not here speaking on behalf of the Department of Revenue or the Property Tax Administrator, but when we went through this, the language that you see in the bill that Senator Schumacher is presenting, we believe everybody has signed off on this part of the language. Now to go to Senator Schumacher's additional question, I think purely from the counties' point of view, we would be fine if it was all easements as opposed to just "utility" easements, I'd think. That's what we're hearing. I think you're probably going to hear that from our register of deeds. So, we've just...we worked through the process we think this summer and got the right people to sign off on it and that's really where we're at today. [LB725]

SENATOR GLOOR: Thank you, Mr. Dix. Are there questions? Seeing none, appreciate your testimony. Additional proponents. Good afternoon. [LB725]

JUSTIN RHOADES: Good afternoon. Justin Rhoades, Justin, J-u-s-t-i-n, R-h-o-a-d-e-s. I am a cochairman for the legislative committee of the Nebraska Land Title Association. We are also in support of the bill. However, we propose the change to include...or not propose the change, we would encourage the change of the language to include the term "all easements." We feel that the original draft of the bill when the transfer on death deed issue came about, included a conveyance of interest as an easement and in all actuality, they're never really parceled off, they're not split separately, they don't really generate any type of revenue. Most of the time they're for no consideration. So, we would support that change. [LB725]

SENATOR GLOOR: Thank you. Any questions for Mr. Rhoades? Senator Sullivan. [LB725]

SENATOR SULLIVAN: Thank you. What made me think about this is for no consideration we see, but what about a pipeline where they...it's a permanent easement and the landowner has received money for it, so does that...? [LB725]

JUSTIN RHOADES: Typically that's some sort of lease agreement that would be recorded with the land. [LB725]

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SENATOR SULLIVAN: Okay. [LB725]

JUSTIN RHOADES: So there may be easement language that's contained in that agreement. That would be a recorded agreement, much like a lease where payments would be structured over time for the right of that easement and to use that land. But those are typically structured completely different and again those are not parceled off. Those are not taxed individually or separate. [LB725]

SENATOR SULLIVAN: Okay. So even in that case, what you're proposing, they wouldn't need one of these either? [LB725]

JUSTIN RHOADES: Correct. [LB725]

SENATOR SULLIVAN: Okay. [LB725]

SENATOR GLOOR: Seeing no other questions, thank you. [LB725]

JUSTIN RHOADES: Thanks. [LB725]

SENATOR GLOOR: Other proponents. [LB725]

ALAN BEIERMANN: (Exhibit 3) Chairman Gloor and members of the Revenue Committee, my name is Al Beiermann, A-l B-e-i-e-r-m-a-n-n. I'm the land management manager for the Nebraska Public Power District. I'm a graduate of Peru State College and I've been working in the utility business my entire career of 36 years. On behalf of NPPD, I am testifying in support of LB725. Just to help understand the impact of this bill, I want to explain a little bit about our system and the scope of the projects NPPD is currently undertaking. First of all, NPPD has approximately 5,200 miles of transmission and subtransmission lines across the state of Nebraska. As part of our operation, we continually modify and expand these lines and work on them to expand our system. Two thousand sixteen is going to be an extremely busy year for us. We have three major transmission line projects crossing 11 different counties where we will be obtaining easements. The Stegall to Scottsbluff project is a 23 mile, 115,000 volt line; the Muddy Creek to Ord project is a 42 mile, 115,00 volt line; and the R-Project is a 220 mile, 345,000 volt line. This adds up to 285 miles of new transmission line construction and in order to construct these lines, we will need to obtain over 700 easements, which means we will also need to complete, and the counties will need to process, just as many real estate transfer forms. So the first benefit of this bill is that it would relieve the burden placed on the utilities and the counties that must process these forms. Secondly, there is confusion among utilities and counties

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as to the requirements for how and when to file transfer statements. In some situations counties require these forms, while in the same situation other counties do not. Some counties also interpret the information to be populated differently than other counties, which all adds to the inconsistency in the administration of these forms. Passage of LB725 will provide consistency in when and how real estate transfer statement forms are administered and completed with regard to easements. One of the other purposes of this form is to track property ownership changes. The granting of an easement does not change property ownership, but simply results in the transfer of some land rights. The information provided regarding easements also does not accurately serve to reflect property values. Lastly, easements are exempt from a documentary stamp tax, therefore, no revenue is being generated. However there remains a cost to both the counties and the utilities to administer these forms. On behalf of NPPD, we support LB725, and I'd be happy to take any questions. [LB725]

SENATOR GLOOR: Good information, Mr. Beiermann. Thank you. Are there other questions? Apparently you said it all. Thank you. Other proponents. Good afternoon. [LB725]

JEAN BAUER: Good afternoon, Chairman and committee. My name is Jean Bauer. I'm the register of deeds for Scotts Bluff County and I'm here in support of LB725. We've been dealing with this issue as register of deeds across the state for about a year and a half or so. If you would have taken a poll about a year and a half ago of all the register of deeds you would have found that virtually no one was requiring a Form 521 with the filing of any easement. We were informed about that same time by the attorney for the Property Assessment Division, at one of our annual meetings, that we were, in fact, supposed to collect this form with all easements. As you can imagine, there was a lively discussion weighing the pros and cons, but as it was left, half of our group thought it was a complete waste of time and energy and the other half felt that we needed to comply with the department's request. What's transpired in that year and a half is anything but uniform. Still about half of the counties are requiring the form and half are not. It soon became clear to the remainder of the state that if the big three--Sarpy, Lancaster, and Douglas--weren't going to collect the form, then why should we? So an informal group of the counties who were requiring the form joined together to request a written directive from the department. We figured that if the department wanted us to do something and felt that strongly about it, they wouldn't have any problem putting it in writing. Well, we didn't get that in writing. Apparently, they want us to do it, but they don't want to interpret it for us and put it down in writing so we have something solid so that all the counties are doing the same thing. And as a county official, that's our goal. I don't want somebody to come to Lancaster County and encounter one thing and then come to Scotts Bluff County and encounter something totally different. NPPD had been in contact with a few of the register of deeds across the state. They were going to be filing some easements; thousands, they said. So I think that's kind of how we got this LB725. I think it's a great bill, but I don't think it goes far enough. Why only exempt utility companies and political subdivisions? Who is going to explain to the farmer that he needs

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to fill out the extra form when NPPD doesn't have to? It also requires, as it's written right now, LB725, to have my staff interpret what each document is doing. That's not my responsibility and that's not my staff's responsibility. Is an irrigation company a utility? What about a fledgling telephone company? It's simply not acceptable to require the general public to file the form when...and allow an exemption for public utilities and political subdivisions, when they both have the same force and effect. The Property Assessment Division says the requirement is so that the assessor can determine what sales are valid sales and adequately reflect property ownership in their records. An easement is not relevant to the sales file and/or changing property ownership. Register of deeds and assessors already share these miscellaneous documents so there's no need to file Form 521. Additionally, there is an exemption from doc stamps for all easements so the additional...no additional revenue is gained. Therefore, the requirement to file Form 521 for easements should be eliminated for everyone. In summary, I support the passage of LB725. I would also ask that an amendment be given to that bill so that it would exempt easements just for everyone, not just public utilities and power companies. And try to answer your questions if you have any. [LB725]

SENATOR GLOOR: Thank you. Senator Davis. [LB725]

SENATOR DAVIS: Just a couple of questions. I'm trying to figure out why they think they need this form. You sent them a written request for information. They did not reply to you? [LB725]

JEAN BAUER: Well, yes, we asked for a written directive from the department. We've received those prior on different issues and not had any trouble getting them. For some reason, I can't explain why, they will not provide us with a written directive. And their solution seemed to be, pursue it legislatively. [LB725]

SENATOR DAVIS: So Scotts Bluff County is a big enough county, you probably don't do the assessing there? [LB725]

JEAN BAUER: No. [LB725]

SENATOR DAVIS: Would a recorded easement be available for that assessor? [LB725]

JEAN BAUER: Yes. I think...we had our annual convention in December and prior to the Property Assessment Division coming in, I spoke to the group and I said, hey, we all need to get on the same page. And we all said, we have a mechanism to get those miscellaneous documents, death certificates, easements, that kind of thing, to our assessor already. And so there's really no need to have this 521. This 521, the assessor uses it for property ownership and to determine if

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it's a good sale to go in their sales file. An easement is neither, so they think it's a useless form for them as well. And then it ends up at their Department of Revenue, and I have no idea what they would do with it. [LB725]

SENATOR DAVIS: But it was the Property Tax Administrator who told you, who asked that this be enforced this way? [LB725]

JEAN BAUER: The attorney...one of the attorneys in that office. [LB725]

SENATOR DAVIS: So, speculating, might it have something to do with how the Property Tax Administrator determines what parcels are eligible for comparable purposes? [LB725]

JEAN BAUER: No, I don't think that's...I think their theory in asking us to collect the form was that it affects...in their opinion, it affects the value of a property. [LB725]

SENATOR DAVIS: Well, it's kind of kind of what I was leading into. [LB725]

JEAN BAUER: Yeah, I guess, yeah, yeah. [LB725]

SENATOR DAVIS: All right, thank you. [LB725]

JEAN BAUER: That was their attorney's opinion. [LB725]

SENATOR DAVIS: But you don't think it goes far enough? You think we should exclude irrigation ditches, all other things from the obligation? [LB725]

JEAN BAUER: Well, yeah. I mean, for an example, I have a utility easement on the north side of my property because the electrical utilities are buried in the alley and there's a light pole on the front. Why should I have to file that form or, you know, maybe not, that's a political subdivision. But if it was my neighbor and they were burying something and whatever and I gave them an easement, why should I have to file it, but the city doesn't have to or a public power utility doesn't have to? It does the same thing. [LB725]

SENATOR DAVIS: Thank you. [LB725]

SENATOR GLOOR: Senator Harr. [LB725]

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SENATOR HARR: Thank you. Did you spell your last name for the record? [LB725]

JEAN BAUER: Oh, I'm sorry. [LB725]

SENATOR HARR: Could you? [LB725]

JEAN BAUER: No, I didn't. It's Jean, J-e-a-n, B-a-u-e-r. Sorry. [LB725]

SENATOR HARR: That's all I had. Thank you. (Laughter) [LB725]

SENATOR GLOOR: I wrote it down correctly. Other questions? Thank you, Senator Harr. Thank you. [LB725]

JEAN BAUER: (Exhibit 4) I also have a letter to enter into the record from our county assessor in support of this. [LB725]

SENATOR GLOOR: Okay. Can you hand it to the clerk, please? Thank you for driving a long way. Other proponents. Good afternoon. [LB725]

CHET McWHORTER: Thank you. I'll trying to keep this brief. My name is Chet McWhorter, C-h-e-t M-c-W-h-o-r-t-e-r, and I have to spell it for the record. I'm the general manager at Cuming County Public Power District in West Point, Nebraska. I'm here speaking on behalf of Cuming County Public Power and I'm also here representing Nebraska Rural Electric Association, and that is our association that represents 34 rural electric PPDs and co-ops across the state of Nebraska, and I'm also speaking on behalf of the Nebraska Power Association which is a voluntary association that represents all of the state's consumer-owned electric utilities which includes the municipals, public power districts, rural public power districts and the co-ops. So, I'm not going to say enough words for everybody, because I know you guys are tired of being here and I can appreciate that. I also wanted to offer greetings from my board of directors. They're supportive of what you all do and they're elected officials as well and they just wanted to ask me to give you their greetings. I'm here to ask you guys to support LB725. Cuming County itself has been compliant with 521 recording and we serve five counties. Cuming County asked for the 521. We send in all five. Frankly, I don't believe anything is done in the other four counties, but in Cuming County they do take care of the 521 Form, but it has been an issue for the PPD. The issue for the PPD has been that when the easements...or when the 521 goes in to the clerk and recorder's office, they have to send to the paper all of these deed transfers. And when they print off their group, the deed transfer comes through, goes to the newspaper, then the board of directors are called, how come you guys are buying all of this property in Cuming

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County? What's going on here? And so the perception is that Cuming County Public Power is buying up Cuming County, when in reality we're setting poles and stringing wire and doing the things that we're supposed to do. So that is our biggest issue. I've had multiple conversations with our clerk's office and I will say that they are tired of hearing from me and that they are doing the best that they can given the situation. They have a report that comes out, a Excel spreadsheet, then they've got to cross off the easements. And frankly, it's costing them time. They're paying money to the newspaper to post these things that isn't necessary, and that's one guy's opinion. I've also heard from several other rural electric providers in Nebraska that again say that their county doesn't require it. I just had a conversation this morning with a neighboring district and when I was talking about coming down here to speak to you all, he said, yeah, I saw that bill. What's that about? What is a 521? And he serves three counties and they've never filed one, so. One question was asked earlier I'll try to answer. The reason that we were given that the easement had to have a 521 with it is that it...the law says that it's any interest in the real estate and the interpretation from legal was that an easement was interest in that real estate. So that...you could probably answer that better than me, but that was the legal advice that we were given and essentially that's about what I had to say. I just would respectfully request that you all support this legislation. It's going to save me a headache and that's never a bad thing. So thank you and I'd answer any questions if you had any. [LB725]

SENATOR GLOOR: And probably stop a little paranoia going on within the community. [LB725]

CHET McWHORTER: It couldn't hurt. It couldn't hurt, so. [LB725]

SENATOR GLOOR: Thank you, Mr. McWhorter. Are there questions? Senator Brasch. [LB725]

SENATOR BRASCH: Thank you, Chairman Gloor. And I wanted to thank you for your testimony today and for coming here and I look out and it's great that you came. I serve Cuming County. [LB725]

CHET McWHORTER: Yes, you do. [LB725]

SENATOR BRASCH: And I popped my head into our office and I told my aide, I said, we have constituents here. (Laugh) And so they're celebrating. I hope you stop in to 1016, please... [LB725]

CHET McWHORTER: I will do that. Thank you. [LB725]



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SENATOR BRASCH: ...and meet the team there. So welcome and thank you for helping us with more information. [LB725]

CHET McWHORTER: Well, thank you, for serving. It's very appreciated. [LB725]

SENATOR BRASCH: I have no other questions. Thank you. [LB725]

SENATOR GLOOR: Okay. I see no other questions. Thank you for taking your time to come down. [LB725]

CHET McWHORTER: Thank you all. [LB725]

SENATOR GLOOR: Other proponents. Anyone in opposition? Anyone in a neutral capacity, perhaps? Good afternoon, Ruth. [LB725]

RUTH SORENSEN: Good afternoon. How are you? My name is Ruth Sorensen, that's R-u-t-h S-o-r-e-n-s-e-n. I am the Property Tax Administrator for the state of Nebraska and I'm here to testify neutral on this bill and to clarify any questions that you may have, if you have any remaining. I can tell you that easements are a transfer of real estate and that's what is in the statute. And that's why we require the Form 521. The Form 521 is a very important document. It's a document that comes to the Department of Revenue and we have to create the state sales file from that. From that, we do statewide equalization. And so the form that we have to keep and that we have to maintain and that we have to continue to use. Now, for these easements, they're right. What you've heard is that the easements that contribute to value are very important. And so these utility easements are not contributing to value so we are not going to require them on the utility easement. But if you have an easement like a CRP, CREP, those types of easements that go along with agricultural land, that is going to impact value and we do need to know about that. And the county assessors need to know about that as well as they establish their values for their counties. So there's a number of easements along with the right of ways and things like that that do impact value of these properties and we do need to have the Form 521 for easements. And I just wanted to come and clarify that for the Revenue Committee. [LB725]

SENATOR GLOOR: But, but...I'm sorry, did you have anything else then? [LB725]

RUTH SORENSEN: No. Any clarifications, I mean. [LB725]

SENATOR GLOOR: As relates to the original draft of the bill which referenced just utilities, that's not problematic? [LB725]

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RUTH SORENSEN: It defines utility easements in the bill to include water, which would be the drainage ditches and the irrigation ditches that we were discussing; water is included in there. Telecommunications, sewer, electricity, those types of lines, absolutely. [LB725]

SENATOR GLOOR: Okay. Senator Harr. [LB725]

SENATOR HARR: Thank you. An easement is not...you said it's a transfer of property. Where do you get that from? [LB725]

RUTH SORENSEN: Transfer of real estate in 76-216. [LB725]

SENATOR HARR: It's a transfer of a right in the property. It's not a transfer of property. The owner remains the same. [LB725]

RUTH SORENSEN: It's a...let's read it. It's a deed to real estate recorded. And so there's a deed to real estate recorded. So perhaps transfer is not the correct word that I should use, but it's a deed of real estate recorded and real estate is an easement. [LB725]

SENATOR HARR: Okay. But I am the property owner, I agree to have an easement on my property. My property is burdened. Okay. [LB725]

RUTH SORENSEN: Correct. [LB725]

SENATOR HARR: There is a burden on my property. I do not give up ownership one iota. I still own that. [LB725]

RUTH SORENSEN: Right. [LB725]

SENATOR HARR: I have agreed to have it burdened. [LB725]

RUTH SORENSEN: Right. [LB725]

SENATOR HARR: So there is no transfer of ownership. [LB725]

RUTH SORENSEN: If we look at 76-214, the first sentence is, "every grantee who has a deed to real estate recorded." A deed to real estate recorded. So an easement deed. [LB725]

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SENATOR HARR: Okay. So let's take it this way then. Let's look at the transfer statement. Number 8, type of deed. [LB725]

RUTH SORENSEN: I'm sorry, I don't have it here with me. Yes, type of deed. [LB725]

SENATOR HARR: Okay. Type of deed. If I have an easement, what type of deed is that? [LB725]

RUTH SORENSEN: There's a number of titles to the deed as you heard from Ms. Bauer and what generally it is, is it's a...when you look at like a CREP or a CRP type of a document, it says conservation, reservation, easement. [LB725]

SENATOR HARR: Okay. What type of deed is it though? [LB725]

RUTH SORENSEN: Easement deed. [LB725]

SENATOR HARR: What's that? [LB725]

RUTH SORENSEN: So that they have the right to have those restrictions on that part of the property. [LB725]

SENATOR HARR: Thank you. That's my point. They have a right. There is no transfer of ownership. It is a right. [LB725]

RUTH SORENSEN: But it makes... [LB725]

SENATOR HARR: That's exactly it. That's exactly what I was trying to point out, I'm trying to make... [LB725]

RUTH SORENSEN: Correct. [LB725]

SENATOR HARR: ...because there is no transfer of ownership. There is a transfer of a right on the property, but there's no transfer of ownership. [LB725]

RUTH SORENSEN: The transfer of right affects the value of that property then. [LB725]

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SENATOR HARR: Not necessarily. And by the way, if it does, it's recorded. And if it's recorded, there's already access to that information, or the question...and I guess my question is, what did you do before 2013? [LB725]

RUTH SORENSEN: Well, what was happening was the county assessors were not inventorying these types of easements. And now they're becoming more and more important as agricultural land is increasing and as we have these crops and the CRPs that are being inventoried. They are inventorying them now on their CAMA systems and it's important that we have this Form 521 that matches in the state sales file. I don't go to all 93 counties to look in the miscellaneous books to determine what is the value and how to measure the value in these counties. The county assessor may be able to go if they're in the same courthouse and some are and some aren't. However, we would need it in our state sales file for...when we get requests for easements across the state from various appraisers, various different entities, we get requests for sales file information. And like the form, the 1031 exchanges, like-kind exchanges just recently came on the form, easements have come on the form, this is a constantly changing form. [LB725]

SENATOR HARR: Yeah, well, a like-kind is a different transaction than an easement. [LB725]

RUTH SORENSEN: I understand, but it's an example of how we get the request from various entities asking for the easements that have been filed in the state of Nebraska. [LB725]

SENATOR HARR: I guess...yeah, we're just going to agree to disagree on this, so, thank you. [LB725]

SENATOR GLOOR: Any other questions? Seeing none, thank you, Ms. Sorensen. [LB725]

RUTH SORENSEN: Sure, absolutely. [LB725]

SENATOR GLOOR: Anyone else in a neutral capacity? Did you have something else you needed to share? [LB725]

RUTH SORENSEN: Oh, there's another step. I'm sorry...if I may. There's another statute. It's 76-203 where the deed is defined as an instrument in writing transferring any interest in the real property. So an interest would be the right. So, 76-203. [LB725]

SENATOR HARR: I'll look at the course. What is it, 76 what? [LB725]

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RUTH SORENSEN: Two hundred three. Thank you. And we'll work with you. If the committee would like to make some changes to this bill, we'll work with you. We just don't want to burden our public power companies and those sorts that are filing these utility easements. [LB725]

SENATOR HARR: Okay, if I can respond. [LB725]

SENATOR GLOOR: You may. [LB725]

SENATOR HARR: My property is worth more if I have a utility easement on it. If I have a residential property and I don't have any access to utility and I don't give them access to utility, it's not worth as much. The utility company won't build on it. So there's a value to residential. If you're going to say what's good for the goose, it's got to be good for the gander...there is a value provided by that utility, that house having utility easement, by having a telephone line, by having water, by having electricity. It's got to be all or nothing. I don't think you can do one or the other. I don't...I mean, it just doesn't make sense. I'm...from a policy point of view, I don't see how that makes sense. If you want to respond to that. [LB725]

RUTH SORENSEN: Absolutely. When you have a subdivision that's built, the easement is for the entire subdivision, not the individual homes. And you're right, you will pay more for a home that has the water and electricity and sewer as opposed to just the well or no amenities at all, but that goes into the value and that goes into the mass appraisal of those properties. Absolutely, you're correct. [LB725]

SENATOR HARR: But those easements may not...and I might build an individual home out on a farmland, and I wouldn't have to...I'd have to record it, wouldn't I? [LB725]

RUTH SORENSEN: They would be doing the recording for you, and it would come onto your title as being recorded. [LB725]

SENATOR HARR: Okay. And it adds value, you're right. Correct? So why would they be exempt? [LB725]

RUTH SORENSEN: It will increase the value of your property. Someone is going to pay more for that. [LB725]

SENATOR HARR: So why would those be exempt then from having to do a 521 transaction? [LB725]

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RUTH SORENSEN: Because it's not going to have the increase in value that you're going to see when you have it for other various types of easements. My example was the CRP and the CREP, those types of easements. Those are 15-year easements and those change the value of our property, of the agricultural land in the state of Nebraska. Now, when we look at valuing residential, we're going to look at what is included in that parcel and the assessors and appraisers are going to look at those neighborhoods in those subdivisions. And so, it will increase the value. [LB725]

SENATOR HARR: So they're looking at it already. [LB725]

RUTH SORENSEN: Yes, for residential, for the utilities. [LB725]

SENATOR HARR: I'm confused. We're going to have to talk about this off the record. [LB725]

RUTH SORENSEN: Okay. Sure. [LB725]

SENATOR HARR: We all agree it adds value and we look in some places and we don't look at others, even though we admit it adds value here and here, but we're not going to look here. It doesn't make sense to me. Thank you. [LB725]

SENATOR GLOOR: Senator Davis. [LB725]

SENATOR DAVIS: Sorry. [LB725]

RUTH SORENSEN: No, that's okay. [LB725]

SENATOR DAVIS: Senator Harr has got me going. So there's two ways to look at it. And I understand where he's coming from. So on my particular ranch I have miles and miles of REA lines which I don't think contribute any additional value to the property. Would you like to comment on that? [LB725]

RUTH SORENSEN: I don't know your particular property. (Laugh) [LB725]

SENATOR DAVIS: And on the other hand, and this is really I suppose more as it refers to Senator Harr, but with the discussion of the construction of the R-line and where it will go, we have some people whose business will be drastically affected by the activity that takes place with

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the R-line, so will depreciate in value their business, therefore, isn't there a need for that to be recorded so that you have that in the sales file? [LB725]

RUTH SORENSEN: Well, for the...as far as...you're talking about the utility lines that run like behind residential properties and those types of things? Those are a known when you purchase the property. CRP and CREP are not a known because those are individual deals that the individual property owners have made an agreement with a federal program to do this. Those are not a commonly known. If you're going to buy a residential or commercial, it's a known that there will be water and sewer and electricity and telephone. So it's unknown that we're trying to capture in our state sales file. [LB725]

SENATOR DAVIS: Why does the CRP easement add value? [LB725]

RUTH SORENSEN: I'm sorry. [LB725]

SENATOR DAVIS: Why does the CRP easement add value? [LB725]

RUTH SORENSEN: Well, it may add or it may take away. It depends on the type of agreement that you've entered into. It depends on what type...you know, if you were irrigating and you no longer are irrigating, so it may have to decrease it back off of just being irrigable as opposed to being irrigated. [LB725]

SENATOR DAVIS: And wouldn't the construction of a high...a significant electrical line with a dramatic impact on the...you should have a value...a function of depreciating value? [LB725]

RUTH SORENSEN: If there is a easement for a power line behind a residential, commercial or through an agricultural land, is that...yes, it could potentially have a decrease in that value. And it's the buyer. It's on open market. The buyer will see that telephone pole or the electrical line behind that property or on that property, and they have to make that determination as to whether they want to pay what the asking price is. [LB725]

SENATOR DAVIS: Well, I understand that, but by exempting that you're saying, well, CRP pieces have value and we need to know what those are so we can quantify those, but not if we're depreciating a piece of property because the viewshed has been ruined by the construction of a power line. I guess it seems inconsistent to me. [LB725]

RUTH SORENSEN: Well, on the Form 521, the easements are for just those that are going to affect the value. And again, I have to reiterate that for resident and commercial and for the farm

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home, you're going to find out what type of utilities are on that property before you purchase it as opposed to not knowing. And for utilities, you will know by going through that parcel or by viewing that property whether there are these amenities (inaudible). [LB725]

SENATOR DAVIS: And I understand that, but I mean my point I guess is that you say that the state needs to know about these specific easements that are adding value which you consider to be CRP. [LB725]

RUTH SORENSEN: There's a number of them, number of different programs. [LB725]

SENATOR DAVIS: Right, but you don't...but you're willing to exempt power lines which could depreciate the value of certain viewsheds. [LB725]

RUTH SORENSEN: But that is...when the county assessors are out doing their six-year inspect review and their appraisers, they're going through these neighborhoods. They're going around to look at all these parcels, and they are seeing if it's rural, (inaudible) rural if it's only a well, if it has no electricity, if it has no television cable, they know and they take that into account when they do their mass appraisal. We then just measure that level of value for the residential, but for the agricultural land in our sales file, there's a supplemental questionnaire that has to come through on agricultural land, so we know what kind of land classification groupings they are and what...if it's dry, irrigated, or grass. And so for the agricultural land, those easements are very important for the state sales file. [LB725]

SENATOR DAVIS: Those easements being CREP... [LB725]

RUTH SORENSEN: CRP. [LB725]

SENATOR DAVIS: CRP, but not an easement of a power line that might go through there? [LB725]

RUTH SORENSEN: That would be in the residential and what we would get in the sales file for the residential and commercial. [LB725]

SENATOR DAVIS: What if this is through agricultural land, though? I mean, that's kind of where I'm going with this. [LB725]



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RUTH SORENSEN: It would be going through like the agricultural land much like it would be going through the other lands, and that's not taking into account for residential and commercial so we wouldn't take it into account for agricultural and that's where the uniformity would come into play. [LB725]

SENATOR DAVIS: Okay. Thank you. [LB725]

SENATOR GLOOR: Seeing no further questions, thank you for your testimony. [LB725]

RUTH SORENSEN: Thank you. [LB725]

SENATOR GLOOR: Anyone else in a neutral capacity? Senator Schumacher, would you like to close? [LB725]

SENATOR SCHUMACHER: Just very briefly. The main sentence that all this comes off is, everyone who has a deed to real estate recorded, that is a document that transfers ownership of what they call the fee, the ownership of the land. Or anyone who has a memorandum of contract or land contract, that is an agreement that says when you pay me so much money, I will promise you I will give you the deed, the ownership. That's the language. From the beginning of time until two years ago, there was no need on an easement, no argument that an easement needed to have a Form 521 filed with it. When the hearing on Senator Wightman's bill was had, you can just bet that they were talking about estate planning and this transfer on deed, no talk about the additional need for the Property Tax Administrator's Office to have more forms filed. No argument on the floor of the Legislature that we were now going to require additional forms filed...being filed so that the valuation property...process could be different. There may or may not be a need for such forms. We have not passed on that. There's been no hearing or bill on that. This seems to be an act of fiat. Oh, it would be a good excuse to use Senator Wightman's bill to change the form. And we're not going to put anything in writing as to why we're changing the form or where our interpretation is, but really it's a good idea that we have this form. Now, we're at the next step of it. Most of the easements in the state are these utility easements, but suddenly they don't affect the value of property. We don't need them for that. We'll sign off. It's just some straggly remaining easements that we want this form for. I think if there's a need for easements to affect the value, then we need to say so. An easement is not a deed and there's need to have a bill and a hearing as to why we're going to change the valuation process to then add or subtract easements. And then, if the owner of the easement is a holder of value of land, then do we tax them on a separate tax statement? Or do we get...the landowners still pay for the full value and the easement owner not pay for it? This was not...should not have been a consequence of Senator Wightman's bill. If we've got an issue here, we should address it. But if we're going to exempt the bulk of all easements in the state because, well, we're going to, then why not exempt them

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all, and then deal with any underlying valuation issues and who is going to pay the property tax on the easement, who is going to pay the property tax on the farm or on the...and I think we're going to find that's a very uncomfortable discussion. So, that's...now, I'll take any other questions, but. [LB725]

SENATOR GLOOR: Any final questions? Seeing none, thank you, Senator Schumacher. And with that, we'll end the hearing on LB725 and we'll hear (sic) today's hearing. We're going to go into a brief Executive Session so I'd ask people, if you would please, to vacate the room as quickly and quietly as you can reasonably do so. [LB725]