

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

Revenue Committee
January 18, 2007

[LB3 LB60 LB94 LB98 LB177 LB223 CONFIRMATION]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 18, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB98, LB94, LB223, LB177, LB3, LB60, and gubernatorial appointments. Senators present: Ray Janssen, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Carroll Burling; Abbie Cornett; Chris Langemeier; Don Preister; Ron Raikes; and Tom White. Senators absent: None.

SENATOR DIERKS: Good afternoon, ladies and gentlemen. I think we're ready to start. My name is Cap Dierks. I'm the senator from the 40th Legislative District, Vice Chair of the Revenue Committee, and in the absence of Senator Janssen I'm going to open the committee hearings this afternoon. He'll be back in a moment. He's doing a bill introduction someplace else. I would like to introduce to you the members of the committee that are here. To my far left is Senator Preister from Omaha. Next to Senator Preister is Senator Burling from Kenesaw, and sitting down right next to me is Senator Cornett from Omaha, Bellevue. To my right is George Kilpatrick, the committee counsel. Next to George is Senator Raikes from Lincoln, and then next to Senator Raikes is Senator Langemeier from Schuyler, and then Senator Tom White from Omaha. So we are all here except for Senator Janssen. And Erma James is the committee clerk. We have a page named Marcus Papenhausen who will help you with any of your requests...or not any of them, but some of them, coffee or....we want for you to feel comfortable when you come up to testify. We think that this is important that you are comfortable with your testimony and that we'll try to keep it that way for you. We ask for you to turn off all your cell phones or put them on buzz or something so that they don't interfere with the committee clerk's recording. Sign-in sheets for testifiers are at the doors. If you're going to testify we would like for you to get a sign-in sheet and when you come up to testify hand it to the committee clerk, and then when you come in to testify we ask you to state your name clearly for the record and spell it for us. There are clipboards in the back of the room for people who want to sign in either in favor or support or opposition to any of the legislation but you don't want to testify, and we'll keep track of that. It will go on the record as well. We are going to follow the agenda that is posted on the door and I think that we've covered most of the preliminaries. So now we're going to have a confirmation hearing first for Doug Ewald who's been appointed the State Tax Commissioner by the Governor. So, Doug, if you'll come forward, we'll get started with this. Go right ahead, sir. [CONFIRMATION]

DOUG EWALD: Good afternoon, Vice Chairman Dierks, members of the Revenue Committee. For the record, my name is Doug Ewald, that is D-o-u-g E-w-a-l-d, and I'm here today for my confirmation hearing as the Nebraska Tax Commissioner. My background is as follows: I hold a bachelor's degree in accounting from Buena Vista University in Storm Lake, Iowa. Additionally, I have a master's in public accountancy from the University of Nebraska at Omaha, and I am a certified public accountant. I'm

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

Revenue Committee
January 18, 2007

excited to be part of the Governor's team and I have been charged with three items. First of all, it's providing leadership for sustained tax relief and supporting income tax relief for middle-class Nebraskans; streamlining the incentive application process to ensure that approvals or denials are issued more quickly and decisively, effectively, and efficiently; and thirdly, restructuring the agency with a business focus beginning with moving the Nebraska Department of Property Assessment and Taxation back into the Department of Revenue. I want the Nebraska Department of Revenue to be a model for what government can be. I come to the Nebraska Department of Revenue from the private sector where I spent the last 17 years at Union Pacific Railroad. Prior to Union Pacific, I was employed by Arthur Andersen and Company. I have experience in working with many other states on many different issues and have always tried to understand both sides of an issue or all sides of an issue. I'm very fortunate to have the highly capable and respected Cathy Lang as my partner in reshaping the Department of Revenue. Additionally, I know that my staff and I enjoy the positive working relationship with George Kilpatrick. Honestly, George is a wealth of knowledge to the Department of Revenue as well as to the Revenue Committee. Senators, I know that I will not always have the answers to your questions. I pledge to you that I will find out the answer to those questions and make staff available to you at all times. As you know, tax policy can be quite complex. Working together, I believe that we can have a positive impact on the tax policy in Nebraska. With that, that concludes my testimony and I'd be happy to answer any questions at this time. [CONFIRMATION]

SENATOR DIERKS: Thanks, Doug. Are there questions for Mr. Ewald? Senator Burling. [CONFIRMATION]

SENATOR BURLING: Thank you, Senator Dierks. Congratulations, Mr. Ewald, on your appointment. [CONFIRMATION]

DOUG EWALD: Thank you. [CONFIRMATION]

SENATOR BURLING: When you were reading a couple of items that you were charged with it occurred to me that they alluded to maybe a more citizen-friendly taxpayer responsive department. Would you care to comment on how you, at this point in time until you get into it further, how you might take some steps to be responsive to taxpayers? [CONFIRMATION]

DOUG EWALD: Absolutely. Yes, Senator. I've been here a whole six weeks, trying to get my arms around a number of things, trying to understand a number of things. And as far as that goes taxpayer-friendly, honestly, on the second floor of the State Office Building is where I'm at, there's a hard wall up there that you basically--kind of, I'll call a bunker almost--that you have to call, come up to, pick up the phone. There's a video conference wall to actually get access in to see me at the Department of Revenue. That wall will soon be coming down. So I want taxpayers to know that they can come in and

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

Revenue Committee
January 18, 2007

see the Tax Commissioner. I'm also at this point in time, all calls from the press are coming through me. I want to return those phone calls initially before I farm them out to somebody. I want to let them know that we're going to be more responsive. So hopefully that will change some attitudes with respect to that. Tax incentives have been a hot button, if you will, with a number of businesses. We have currently, I've reallocated some of our staff so that we can move some of our qualification audits along more quickly and with that, get to yes or no with respect to tax incentives and what type of benefits a business has available to them. So those are some things I've done initially here the first six weeks. There will be more to come I guarantee you. But I look forward to taking on that challenge. [CONFIRMATION]

SENATOR BURLING: Thank you. [CONFIRMATION]

SENATOR DIERKS: Thank you, Senator Burling. Senator Preister. [CONFIRMATION]

SENATOR PREISTER: Yes, my congratulations also, Mr. Ewald. [CONFIRMATION]

DOUG EWALD: Thank you, Senator. [CONFIRMATION]

SENATOR PREISTER: Your credentials are very impressive. Your work experience, background, and education is all certainly commensurate with the position, so I see that you have the abilities. I'd like to follow up on Senator Burling's question too, because I heard you say that you were going to make decisions on some of the applications much faster. Then in answering Senator Burling you said that you're reallocating staff to be able to do that. I'm just curious what isn't going to be done or what is going to get a lower priority, because we're not giving you an additional budget and the Governor is wanting budgets to stay flat or barely increase. So I'm wondering in the reallocation what is getting a lower priority or how do you manage personnel when you've got a lot to do but no additional support or personnel or money to hire them to do it with. [CONFIRMATION]

DOUG EWALD: Yes, Senator. We are going to or what we've done is we're not going to spend a dollar to chase a dime. So as far as what we're not going to do, there's going to be some things that are completely optional right now. And if it's something that we don't have to do and we're not reaping any benefits associated with it, we're not going to do that or we're going to temporarily put that on hold until we get up to speed on a number of other items. In particular in this case, it's the qualification audits. An example of that is maintenance audits for tax incentives. Maintenance audits don't have to be done. We like to do them, but I find that we have done 60 percent of the audits we have going on out there were related to maintenance audits instead of the qualification audits. Well, I just as soon shift gears a little bit with respect to that, give the attention to the qualification audits. We can always come back and pick up on the maintenance audits. [CONFIRMATION]

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

Revenue Committee
January 18, 2007

SENATOR PREISTER: Okay, thank you. [CONFIRMATION]

DOUG EWALD: Thank you. [CONFIRMATION]

SENATOR DIERKS: Any other questions? Senator Raikes. [CONFIRMATION]

SENATOR RAIKES: Yes, I join in the congratulations on your qualifications and I just note in the summary of your qualifications the fourth item caught my attention. Admittedly leaving out a few words, it says adept at applying accounting principles in a creative manner, and I would just tell you I've got a set of books I'd like to have you take a look at (laughter). [CONFIRMATION]

DOUG EWALD: Thank you, Senator. [CONFIRMATION]

SENATOR DIERKS: Senator Langemeier, please. [CONFIRMATION]

SENATOR LANGEMEIER: Thank you, Chairman Dierks. Mr. Ewald, I, too, want to congratulate you on the new position appointment here. My question is the Governor has talked about property tax relief and we have a number of people that have introduced bills in regards to property tax relief and I too, one of those. I'm not looking for a solution here, but do you really think as a body--it's always a political question--can we address property tax? Do you, in your mind, do you believe that can be done from this level? [CONFIRMATION]

DOUG EWALD: At the state level? It can be done, I believe, with certain lids or caps. It's a more difficult issue obviously, because you don't have the control necessarily over the funds. That's done at the local level. And you know there's always the ability at the local level to override certain caps. So that issue is more difficult to deal with at the state level I would say. [CONFIRMATION]

SENATOR LANGEMEIER: All right. Thank you. [CONFIRMATION]

SENATOR DIERKS: Other questions? Well, I'd like to just congratulate you too, Doug. I have to tell the committee that I've had a visit with Mr. Ewald and with Cathy Lang at some length the other day in my office and I'm very favorably impressed. They are very concerned and interested and I think it's going to be a great position for you and for us. Are there any other questions or comments? I think that takes care of it, Doug. Thank you very much. [CONFIRMATION]

DOUG EWALD: Thank you. [CONFIRMATION]

SENATOR DIERKS: Is there anyone here to come in support of this nomination?

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

Revenue Committee
January 18, 2007

Anyone in support of the nomination? Anyone in opposition to the nomination? Opposition. Anyone in a neutral capacity? Well then that closes the hearing on the nomination of Mr. Ewald for Tax Commissioner of the state of Nebraska. I want to turn the committee meeting over now to Senator Janssen and let him do the rest of it. [CONFIRMATION]

SENATOR JANSSEN: Thank you, Senator Dierks. Next on the agenda is LB98, Senator Flood. [CONFIRMATION]

DENISE PEARCE: Senator Dierks, I appreciated your comments about making testifiers feel comfortable. This is the first bill I've ever introduced on behalf of a senator so I'm going to try to take that to heart. [LB98]

SENATOR DIERKS: You just be comfortable. [LB98]

DENISE PEARCE: Thank you. Good afternoon, Chairman Janssen and members of the committee. My name is Denise Pearce, P-e-a-r-c-e, and I work for Senator Mike Flood. Senator Flood apologizes for his absence. He is currently introducing a bill in the Natural Resources Committee. LB98 is simply a cleanup bill. It strikes references to the Department of Revenue Enforcement Technology Fund which terminated on July 1 of last year. You will see that on the bottom of page 3, starting with line 25, and then extending to the top of page 4, line 2, as well as on the top of page 5, subsection (7) there. This Enforcement Technology Fund was tied to the 2004 tax amnesty program. You'll also see in the middle of page 3 that under current law 80 percent of the revenue received in connection with the amnesty program goes to the General Fund, 10 percent of the revenue not to exceed \$500,000 goes to the Department of Revenue Enforcement Fund, and before July 1, 2006, 10 percent, not to exceed \$500,000, went to that Department of Revenue Enforcement Technology Fund. Again that second fund is the one that no longer exists and we therefore raise the 80 percent General Fund distribution to 90 percent on page 3, line 10, as a harmonizing measure. That is all I have on this and I'd be happy to answer any questions if I can. [LB98]

SENATOR JANSSEN: Any questions? [LB98]

DENISE PEARCE: Thank you. That was painless. [LB98]

SENATOR JANSSEN: Don't look like...I think we all know what the Speaker has in mind here so... [LB98]

DENISE PEARCE: Thank you, Senator. [LB98]

SENATOR JANSSEN: You bet. Are there any proponents? Any opponents? Seeing none, do you want to waive closing? [LB98]

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

Revenue Committee
January 18, 2007

DENISE PEARCE: I will waive closing. [LB98]

SENATOR JANSSEN: All right. She waives closing. That ends the hearing on LB98. Senator Cornett wants to tell us all about LB94. Senator Cornett, the floor is yours. [LB98]

SENATOR CORNETT: Thank you, Senator Janssen and members of the Revenue Committee. My name is Abbie Cornett and I represent the 45th Legislative District and I'm here to introduce LB94. This bill would allow for municipalities that receive local option sales tax to receive the names and addresses of the retailers who have collected this tax for the municipality. This in turn would allow the city to make sure the retailers located in that municipality are collecting the tax and that the tax is being properly distributed to the city. The reason that this bill is important to the city of Bellevue and other cities similarly situated is that the communities such as Bellevue have many different zip codes within the city limits. Some of the zip codes such as 68157 and 68147 have Omaha addresses also. According to the post office they are listed as Omaha addresses. However, the city of Bellevue is providing services for these areas. This bill would allow the city to look at the list to make sure they are getting the tax money that is entitled to these areas. You will hear from representatives from the city of Bellevue that will speak to you about how important this bill is and how they've worked with the Department of Revenue to correct some of the problems. I thank you for your time and consideration and I'd be happy to answer any questions you have. [LB94]

SENATOR JANSSEN: Thank you, Abbie. Any questions? Seeing none, thank you. Oh I'm sorry, Carroll. I didn't see your hand up. You've got to wave. [LB94]

SENATOR BURLING: I'm a little slow today. [LB94]

SENATOR JANSSEN: That's all right. [LB94]

SENATOR BURLING: Thank you, Senator Cornett. Is there a definition of city in here? [LB94]

SENATOR CORNETT: In the bill? [LB94]

SENATOR BURLING: Yeah. Or are you using a definition from other statutes what constitutes a city for this purpose? [LB94]

SENATOR CORNETT: No, I don't believe there's a definition of city in what we're proposing... [LB94]

SENATOR BURLING: Okay, I'm just wondering how small... [LB94]

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

Revenue Committee
January 18, 2007

SENATOR CORNETT: ...because it's not just cities that this affects. I mean it will affect cities, but different class also. [LB94]

SENATOR BURLING: Your intent would apply to any town... [LB94]

SENATOR CORNETT: Yes. [LB94]

SENATOR BURLING: ...any corporated town? [LB94]

SENATOR CORNETT: Yes. So the sales tax would go to the correct area not based on what the post office has them listed as. [LB94]

SENATOR BURLING: Okay, thank you. [LB94]

SENATOR JANSSEN: Okay, thank you, Abbie. Proponents, we'll take proponents. Gary. [LB94]

GARY KRUMLAND: (Exhibit 1) Senator Janssen, members of the committee, my name is Gary Krumland, it's spelled G-a-r-y and the last name is K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB94. Senator Cornett mentioned this bill creates a procedure to allow municipalities and that term is used, municipalities, and it usually means all the classes of cities and villages who have the local option sales tax to request from the Department of Revenue a list of the names and addresses of the retailers who have collected the sales tax. It's very important in the area around Omaha, but it's also important in other areas of the state who have asked for this procedure too. Under the bill municipality may request once annually to the Tax Commissioner on or before June 30 that they receive the list. Only the names and addresses are to be made available. No other information is available. Some of you who were on the committee last year may recall this is similar to, actually it's exactly the same as LB1080 from last year that this committee heard and advanced to General File. Before that bill was introduced we worked with the Department of Revenue for their input and not that they support this, but they did help us with the technical aspects so it is easy for them so it's at the lowest cost so it's efficient for them to do this too. And all of their suggestions were incorporated in the draft of the bill. I did hand out a letter from the city of LaVista who also would like to go on record in support of the bill. And with that I just ask that the committee consider the bill and advance it to General File. [LB94]

SENATOR JANSSEN: Any questions? Seeing none, thanks Gary. Next proponent. [LB94]

MICHAEL NOLAN: Senator Janssen, members of the committee, my name is Michael Nolan. You spell it N-o-l-a-n. I'm the city administrator of Norfolk testifying in support of

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

Revenue Committee
January 18, 2007

the bill. Norfolk uses a zero based budgeting concept. We have for many, many, many years. We've had some significant luck with it holding down our costs and just essentially implementing good financial administration. I say that simply because I want you to understand that we do a lot of other things beside look for ways that we can ask the Legislature to enhance our revenues or our financial management information that has a budgetary impact. We want to do this because quite frankly our levy right now is about 11 cents which I think is the lowest in the state. We've replaced most of our property tax with sales tax, and in the last four years our sales tax has been flat. We've looked for every reason we can figure out as to why that is. Frankly it's kind of astounding. We just had the largest annual collection in commercial permits issued last year in the community's history. So it doesn't reconcile somehow. We're trying to kind of figure out why this is. We have a couple of theories. One that might be Internet sales but we're not totally sure of that. And we think if there's a way to do this where it doesn't encroach on anybody's proprietary information, it would certainly help us to determine, in fact that the revenues that we need to have are coming from where they should be coming from. By the way, last year we used our zero based budget process to eliminate eight full-time equivalent jobs. We did this through attrition. We didn't have to lay off anybody, but in fact we know how to do the controlled expenditure side of budgeting just like we do the revenue side. So I would encourage you to give this some support and consideration. I'll answer any questions if you have them. [LB94]

SENATOR JANSSEN: Ron. [LB94]

SENATOR RAIKES: Mike, once you get this list, what do you do with it? [LB94]

MICHAEL NOLAN: Pretty much, I think some big things stand out to us. Like we know that there's a...say there's a box store that's not on the list or whatever. We'll probably try to follow up with the Department of Revenue and find out if in fact that there's some kind of disparity there. We certainly are not going to try to, from our standpoint, expand it to anything else that might be considered an encroachment on a LB775 or other type of an incentive benefit. But right now quite honestly we don't know the answer to our question and we figure this is one way we can help us get some additional information. [LB94]

SENATOR RAIKES: But basically it would be...this list would tell you which retailers are submitting or collecting sales tax... [LB94]

MICHAEL NOLAN: Yes. [LB94]

SENATOR RAIKES: ...on the city. So you're going to have to compare this against the universe some way and see which ones are left out. [LB94]

MICHAEL NOLAN: Well, we'll probably do one of those, whatever the real estate people

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

Revenue Committee
January 18, 2007

call the drive-by reconnaissance or whatever it is. But yeah it'll at least give us the base by which the Department of Revenue is collecting the revenue and we won't have any ambiguity about that. So I think it's really a good deal and I don't understand exactly where the bill came from. I was just aware of the bill, frankly from looking at the last legislative bulletin and talking to some of the people who are here today but I really am in favor of it. [LB94]

SENATOR JANSSEN: Chris. [LB94]

SENATOR LANGEMEIER: Thank you, Mr. Nolan, for coming down. I'm going to throw this at you because I know you pretty well and maybe somebody else is going to answer the question later and just so I grasp this. So right now if per se you have a store that gets built and it's got an Omaha zip code and it's sitting closer to Bellevue and they submit their sales tax based on XYZ store and their physical address, the Department of Revenue is then sending that sales tax dollar back based on that zip code and that town, and that's your question is they may be physically located a little closer and it should be over here and it shouldn't be over there and you can do that in your closing, but that's my question. Just so I have that clarified. [LB94]

MICHAEL NOLAN: I think that certainly is an example of that. But I have to tell you this and I don't mean this to be implied as any criticism of the Department of Revenue but they don't always get it right. And I don't mean that as a criticism. That's just a fact. I mean, we've had a situation where they've remitted tax to us and then discovered a couple months later that they shouldn't have done that and it comes out of your subsequent check. So I think from the standpoint of just having more than one set of hands that kind of evaluate whether or not you're collecting all that you should, it would be of maybe some benefit to them too. That's happened on LB775 things by the way, but it's also happened on some things where they thought that the entity was inside of the city and they weren't inside of the city. We got the revenue and then they took it back from us. So I don't see any reason why anybody should be afraid of having something like this in the statute. [LB94]

SENATOR LANGEMEIER: Thank you. [LB94]

SENATOR JANSSEN: Mike, and Norfolk wouldn't have that problem to that great extent because you're within your city. You know where your boundaries are at... [LB94]

MICHAEL NOLAN: Right. [LB94]

SENATOR JANSSEN: ...and you probably know everyone that has a company in that town. [LB94]

MICHAEL NOLAN: I hope so. [LB94]

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

Revenue Committee
January 18, 2007

SENATOR JANSSEN: In Senator Cornett's case, you know, everything is so close together. But there would be an address also and as long as the address is correct they should know which city they're in. [LB94]

MICHAEL NOLAN: We haven't had a whole frequency of this kind of problem, Senator. [LB94]

SENATOR JANSSEN: Um-hum. [LB94]

MICHAEL NOLAN: I just think it's a good tool. We have had the problem on some occasions where it's been an annoyance. In fact, we had an instance of one business that, I can't remember what part of their operation it was but they were right on the line, and part of it was outside... [LB94]

SENATOR JANSSEN: Outside the city limits. [LB94]

MICHAEL NOLAN: ...outside of the city and it must have been sort of quasi-industrial or something. But we weren't really aware of what portion of their revenues were affected, but we discovered in retrospect that in fact that had been a complication. I'm a little ambiguous on what the details of it were but if you'd like some information the finance person has cracked all of these little anomalies that have occurred from LB775 and everything else. And we got a complete list of them when we thought we were collecting the correct revenue and then discovered we weren't. And I really don't see anything wrong with this. I really do appreciate Senator Cornett put this in and I'm sure that in Bellevue, you're going to hear from the city administrator of the city of Bellevue here why they feel like they need to have it. [LB94]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, Mike. [LB94]

MICHAEL NOLAN: You bet. [LB94]

SENATOR JANSSEN: Next proponent, please. [LB94]

GARY TROUTMAN: (Exhibit 2) Good afternoon Senator Janssen, members of the committee. My name is Gary Troutman, that's G-a-r-y T-r-o-u-t-m-a-n. I am the city administrator for Bellevue and I wanted to just make a few short remarks. I've turned in a position paper that really outlines more of where we're coming from. But I would like to begin by thanking Senator Cornett for introducing this bill. We started about a year ago after Abbie had been elected to the unicameral and visiting with her about the problem we have in Bellevue. And basically what we have are five different zip codes in Bellevue that we provide service to that are within our city limits. Two of those zip codes are designated Bellevue, two are Omaha, and one is Papillion. And through the efforts of

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

Revenue Committee
January 18, 2007

Senator Cornett we were able to meet with the Revenue Department and did through a number of meetings worked with them and found that we were receiving the amount of sales tax that we should. And part of the problem we discovered was on our part whereby we weren't keeping the Department of Revenue advised of our annexations. And we have now corrected that and working very closely with the Department of Revenue in ensuring what's in the city limits of Bellevue and what's outside the city limits of Bellevue. The reason we asked Senator Cornett to pursue this is that although we have a good working relationship with the Department of Revenue, the individuals may not be there that we're currently working with in the future. And our thinking was if we could get the statute amended where we could ask for the information on an annual basis just to ensure that we're getting the appropriate sales tax revenue. And I'm sure as you're all aware that's kind of important to us in Bellevue right now with our current financial situation. And therefore we are pursuing and asking for your support. And we also found when we got into this that there are some other municipalities around the state that are encountering the same type of situation, and therefore we would basically ask for your support in this legislation. And I'll be happy to answer any questions, Senator Janssen. [LB94]

SENATOR JANSSEN: All right. Any questions? Senator Raikes. [LB94]

SENATOR RAIKES: Quick one. It was mentioned by Norfolk that their sales tax receipts are flat. [LB94]

GARY TROUTMAN: Um-hum. [LB94]

SENATOR RAIKES: Is that your experience? [LB94]

GARY TROUTMAN: No. Our sales tax receipts have increased this past year, Senator. We've had about a 4 percent increase. It's not flat but it's not at what it was before. [LB94]

SENATOR RAIKES: Your local option raised a cent and a half? [LB94]

GARY TROUTMAN: Yes, sir. [LB94]

SENATOR RAIKES: And everybody in the metro area around you is also at a cent and a half... [LB94]

GARY TROUTMAN: Yes, sir. [LB94]

SENATOR RAIKES: ...so the total rate is 7 percent? [LB94]

GARY TROUTMAN: That is correct, sir. [LB94]

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

Revenue Committee
January 18, 2007

SENATOR RAIKES: Okay, thanks. [LB94]

SENATOR JANSSEN: Any other questions? I don't see any. Thank you, Gary. [LB94]

GARY TROUTMAN: Thank you, Senator. [LB94]

SENATOR JANSSEN: Next proponent. [LB94]

LANCE HEDQUIST: Chairman Janssen, members of the Revenue Committee, my name is Lance, L-a-n-c-e, Hedquist, H-e-d-q-u-i-s-t. I'm a city administrator of the city of South Sioux City and I did want to speak in favor of this bill. In South Sioux City we've actually checked on occasion in terms of the Department of Revenue's website where you put in the address and see what sales tax rate you should pay. And we found about 15 different discrepancies where actually the wrong data comes up in that particular process and so that if anybody used that site to determine what their rate should be, it was an error. It was incorrect. We've actually had people that have had to pay back taxes to the state because they're improperly done. And we've also had people that were paying Iowa sales tax which obviously doesn't benefit Nebraska at all, actually paying Iowa sales taxes on programs that were done within our community. So we would support the bill and we think that it would be beneficial to see this passed and we appreciate Senator Cornett's introduction of this bill. [LB94]

SENATOR JANSSEN: All right. Thank you. Any questions? Seeing none, Lance, thank you for being here. Next proponent. [LB94]

JACK CHELOHA: Good afternoon, members of the Revenue Committee. My name is Jack Cheloha, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I'd like to testify in favor of LB94. After hearing Bellevue's testimony, I mean it may be to our detriment that we support this but yet in the interest of fairness we support this and we think it's of interest and good government to provide this information, you know, to those cities that have a local option sales tax. And for those reasons we support it and ask you to look on it favorably. Thank you. [LB94]

SENATOR JANSSEN: Thank you, Jack. Any questions for Mr. Cheloha? Seeing none, you're out of here. [LB94]

JACK CHELOHA: All right. Thanks. [LB94]

SENATOR JANSSEN: You bet. Next proponent. Any more proponents? Any opponents? No opponents. Anyone in a neutral capacity? Senator Cornett to close. [LB94]

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

Revenue Committee
January 18, 2007

SENATOR CORNETT: To give the new members of the committee a little bit of a history on this, my first year in the Legislature the city of Bellevue came to me and asked me to go to the federal government and ask them to redraw the zip codes because I am inside the city of Bellevue but my actual post office address is city of Omaha. Obviously moving the post office was not an option. So we last year drafted a bill that would allow this to be reported, and we had sat down in the interim last year and met with the department. And they do have a computer program where they will type in an address such as mine--or, well, I guess what my address used to be--which is 2601 Alberta, and it would come up as an Omaha address. If that had been included in the annexation records to the state, then the sales tax, if I had purchased something at one of the big stores around the metro area, would have been assigned to the city of Bellevue. But there are a lot of addresses that are not included in that, that have not been kept up-to-date and there are mistakes, and that is why the municipalities are in favor of this. This is a way for them to check, one, that they're receiving the tax revenue that they should be receiving and also making sure that they're not receiving any that they're not supposed to. It's a matter of, like Jack Cheloha said, good governance at this point. Did you have another question, Senator Langemeier? [LB94]

SENATOR JANSSEN: Go ahead. [LB94]

SENATOR LANGEMEIER: Yes, the only question I had was which you're getting to the point, it is the address of the business that's charging tax. This is not your personal address that's in question. [LB94]

SENATOR CORNETT: Well, it's both. Say, for instance, I purchase something for, if I'm not mistaken, delivery from Nebraska Furniture Mart and it's a big dollar item. With the Omaha address, that sales tax would go to the city of Omaha or had been going to the city of Omaha. So it's both for residential and business. [LB94]

SENATOR LANGEMEIER: Okay, thank you. [LB94]

SENATOR CORNETT: You're welcome. [LB94]

SENATOR JANSSEN: Seeing no other questions, thank you, Abbie. That closes the hearing on LB94. Next we'll hear LB223 and counsel will handle this one. George? [LB94]

GEORGE KILPATRICK: Thank you, Chairman Janssen and members of the committee my name is George Kilpatrick. I guess I should spell it, K-i-l-p-a-t-r-i-c-k, legal counsel to the Revenue Committee here to introduce the last committee bill, LB223, on behalf of the Revenue Committee. Let me start by, I guess stating or apologizing, this is a big bill and it has a lot of stuff in it. And it's a big bill in part because that's sort of what we had asked for. The Department of Revenue has a number of divisions and they have a

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

Revenue Committee
January 18, 2007

number of people within the legal division and so forth who work on different aspects of the revenue code. And LB223 when it was brought to Senator Janssen for consideration as a committee bill was four bills. And you may or may not know that the rules of the Legislature limit committees to eight committee bills, and we suggested at that time that perhaps some of this should be combined so that it wouldn't use up too many of the committee bills. And as a result, all of them were combined to create one very large committee bill. So there are a lot of subject matter. I know there's a lot of material and a lot to fight through. The four different things that were approached was some withholding enforcement matters which is half a dozen sections or so. Some changes that are for compliance with the streamlined sales and use tax agreement which is another ten sections or so, including some rather large new definitions that are added to the sales tax but do not have impact essentially on the sales tax revenue of the state. There were another 10 or 12 sections or so dealing with incentives, and there was one bill that had one lonely section that dealt with disclosure of information to the Auditor for purposes of audits and then imposing the confidentiality requirements that are otherwise in the statute for the employees of the Department of Revenue to include the employees of the State Auditor which was its own statute. Maybe a little bit about streamline. Streamline is approximately eight years old by now. It was a project that was started among state governments concerned about the collection of revenue from remote sales. A lot of people call it Internet sales. Internet is part of it. Internet is not all of it. It is remote sales generally. The Supreme Court has determined that states may not impose a sales tax collection responsibility upon retailers that do not have physical presence in the state of Nebraska. So, in many cases, remote retailers forever have, many of them have not collected sales tax in the state of Nebraska long before the Internet for mail order purchases over a number of years. And that's been supported by Supreme Court decisions, the most recent of which was in 1992. The states got together and said there may be a couple of ways to resolve this through better, more uniform definitions of products and services, more uniform procedures for changing sales tax base and rate, sufficient lag time to implement changes in sales tax rate and base, and some help from the standpoint of the state in terms of making sure that we have what they call a tax ability matrix, which is a whole list of a bunch of products and rates and states that determines if you go across here to Nebraska and down here to software tax or no tax. That sort of operation is what the matrix is about. And so that that would be uniform and available. The streamlined system now is operational. We're told the states collect approximately \$2 million actually from businesses that have voluntarily, incidentally not mandatory, but voluntarily registered to collect Nebraska and other states' sales tax on their remote sales including Internet sales. There are 18 states involved. They represent over--what is the threshold--20 percent of the sales tax revenue from the states that have a sales tax which met the threshold for operation of the system and it's been functioning just about a year now and collecting revenue. There is a governing council. Nebraska, because we're a full participating member, is a member of the governing council. They have motions, they go through debate, they have hearings, and they adopt new rules and they adopt new definitions, and what you have is several of those

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

Revenue Committee
January 18, 2007

things that have been adopted. The incentive issues are relatively extensive in this bill. Among other things it talks about either denial or recapture of benefits if employees have been deported. A lot of folks view this as an immigration issue which it is of course, but it does not impose a burden on businesses or the department to figure out who's legal and who's not, but if there is a deportation somebody does figure it out. Then the benefits could be denied or recaptured on past benefits, any benefits that are based on wages that are paid to those employees. And so that is a new and it's a relatively unique approach that is a change and a potential reduction in benefits available under the incentive acts. And I suspect you may hear about that. There is another definition put in place for livestock. Last year a bill numbered LB990 allowed credits for livestock modernization facilities. It was Senator Wehrbein's bill. Those of you that were here probably remember it. Livestock was undefined. This puts in a definition and what it says is cattle, hogs, chicken, and turkeys. As you know, we can define different terms, different ways in different statutes. The sales tax definition for livestock, in fact says animals raised ordinarily for human consumption and horses. This doesn't include horses. You will have a bill later on that was introduced yesterday that would add quail and pheasants. So these definitions can move but there may be some folks who would be dismayed, for example, at the new definition. And I guess I don't want to predict that. It's just certainly possible because there is no definition currently for livestock for purposes of livestock modernization. That's a couple of issues. I suppose we'll hear about these. I feel or sense that the Tax Commissioner is sitting behind me and would like to testify on his bill and so perhaps it's best that I stop. Are there any questions directed at me? [LB223]

SENATOR JANSSEN: Senator White. [LB223]

SENATOR WHITE: Yes, with regard to horses, do you agree, George, that the breeding of horses creates economic development in rural areas if urban people move back, start businesses, invest money into the property, hire stable hands, buy grain, buy hay, things like that? [LB223]

GEORGE KILPATRICK: Certainly any investment of that type would be economic development in those areas. [LB223]

SENATOR WHITE: Can you tell me what is the rationale to exclude horses as livestock? [LB223]

GEORGE KILPATRICK: I cannot. [LB223]

SENATOR WHITE: With regard to quail and pheasant, are you aware in South Dakota that one of the largest economic engines in that area is hunting through the use of quail and pheasant on smaller plots of land? [LB223]

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

Revenue Committee
January 18, 2007

GEORGE KILPATRICK: Yes, I've recently to tell you the truth become aware of a lot of operation...that including in Nebraska incidentally, which I assume is the origin of the bill that we have, that people do provide feed or veterinary products or other things that would otherwise be exempt, to quail and pheasant for purposes of releasing them for hunters. Yes, I'm aware of that. [LB223]

SENATOR WHITE: Has it not been one of the policies of the state to broaden the agricultural base using our land, our feed, our water to try to get a broader economic base in rural areas? [LB223]

GEORGE KILPATRICK: Well, I'm not sure. I think that's what the argument will be, yes. [LB223]

SENATOR WHITE: What is the rationale to exclude things like pheasant and quail that have been successful in that area in other states? [LB223]

GEORGE KILPATRICK: I don't know that there is a rationale. I'm certain it was overlooked at the time because it wasn't what was thought of as traditional livestock when the statute was put in place, I don't know how long ago. It's not been in the last 15 years. [LB223]

SENATOR WHITE: Thank you. [LB223]

SENATOR JANSSEN: Any other questions? George, I have a couple of comments... [LB223]

GEORGE KILPATRICK: Sure. [LB223]

SENATOR JANSSEN: ...before I forget about it. Quail and pheasants, you know there are people that are making some pretty good money having a little farm. One is not too far from where I live. He's pretty well booked up. And he goes out and releases the pheasants and they pay so much to go out there and hunt those pheasants. It's really quite unique the way they set them out. I hate to elaborate on this too much but they take those pheasants out and they put their head under their wing and they go to sleep. [LB223]

GEORGE KILPATRICK: Um-hum. [LB223]

SENATOR JANSSEN: So they'll sit there for five, ten minutes, something like that. And then after a while they'll wake up and they're in a strange surrounding and that is the way they hunt those pheasants. It's really quite unique. Pretty good business too. There I got my story told. (Laughter) Seeing none, George, that's fine. [LB223]

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

Revenue Committee
January 18, 2007

SENATOR DIERKS: You can do the same thing to the chickens, Senator. [LB223]

SENATOR JANSSEN: I suppose you can, Doctor. Okay, proponents. [LB223]

DOUG EWALD: (Exhibit 3) Good afternoon Senator Janssen, members of the Revenue Committee. For the record, my name is Doug Ewald, that is E-w-a-l-d, and I am here today as Nebraska State Tax Commissioner representing the Department of Revenue and testifying in support of LB223. Before I begin my testimony I'd like to thank the committee for introducing this bill on behalf of the department. LB223 is a package of provisions that George did a very good job of elaborating on, that will help the department more efficiently enforce and administer the revenue laws of Nebraska. These provisions can be grouped into three main categories: streamlined sales tax, economic incentives, and enforcement cleanup. I think prior to this hearing Cathy Lang and I were able to meet with all the senators with the exception of Senator White. I apologize, Senator. We just couldn't make it work. We had it on. It got cancelled. So some of the others have been briefed more than you have with respect to what's actually in this piece of legislation. First of all, with respect to the streamlined sales tax I do not plan on going into all the definitional changes here with respect to streamlined sales tax. If you have any specific questions I'd be more than happy to address those. If you would desire more education with respect to streamline, I suggest we maybe get with George or some of the people on my staff with respect to what it all means, what it's all about, when it came in, what it actually means anyway. But as George elaborated on a number of the definitional changes here technical in nature, keep us up to speed with changes that have been passed with the national Streamlined Sales Tax Agreement. So one of the questions, I know George had elaborated on that we have about \$2 million annually. People voluntarily remitting sales tax through Internet sales if you will. Total Internet sales tax collections approximate \$6 million a year to the state of Nebraska currently. So a third of that is done voluntarily at this point in time. So just a piece of information that you might find useful. So the next section talks about economic incentives. With respect to the economic incentives there are a number of provisions in there. George elaborated on a couple of those. With respect to the latest conversation we had going on here with respect to pheasants and quail, the department is not opposed whatsoever to expanding that livestock definition to include pheasants and quail, so we'd be perfectly agreeable to that expansion of that definition. And some other items with respect to the economic incentives. There's one section there that eliminates the requirements that an individual be a Nebraska resident for purposes of qualifying as an employee under the Nebraska Advantage Rural Act. And what that does is it makes this piece of the, there's several tiers under that act, and this makes that particular tier consistent with other tiers of LB312 and that's not unusual. You could have someone living in South Dakota coming to Nebraska to work or any other state, and just because they live in another state shouldn't prevent them from being a qualified employee per se underneath the act. With respect to the Microenterprise Act we've changed the date for which we'd like to receive applications by. We moved that date to

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

Revenue Committee
January 18, 2007

November 1 and asked that they be completed by December 1. What we're finding here is if we could have that November 1 date we could act on those by December 1 and we know who's eligible for the funds before the end of the year. This last year we had people that were honestly unable to take vacation between Christmas and New Year's because we were working those applications. So moving it up, hopefully people will get them in earlier and enable us to react, respond to those and get them taken care of before the end of the year. And it also seems that taxpayers do a lot of their year end tax planning in December and we get a rush of applications the last week of the month, and this allows us time to fully review all the applications and ensure that they're completed and accurately documented. There's a change in here with respect to the definition of telecommunications that is driven specifically by the Streamlined Sales Tax Agreement so that's very technical in nature. There's a list of prohibited transactions that apply to the Microenterprise and Rural Development Act. That's consistent with the other area of the Nebraska Advantage Act, so all those prohibited transactions are consistent from that standpoint. And let's see, with respect to mainframe business computers it is expanded to cover server farms, if you will. The present movement afoot in business is you go from the old big mainframe machines to a lot of these server farms, multiservers still required to be housed in air-conditioned, certain, you know, raised floor rooms, if you will anyway. The environmental conditions need to be just so and those are kind of an expansion of what we see going on out there in the business today. And that is honestly how we're treating that today. So this is not an expansion of that particular incentive. So that's how we're treating it today, and server farms are currently given specific treatment and this just basically codifies that. The last section of the incentives deals with the R&D credit. And what it does is it gives taxpayers a credit of 15 percent of their federal section 41 R&D credit. The federal R&D credit has been in existence since the early eighties. Some 25 years in a row now it has been continually extended. Last year it went down to the eleventh hour, late December when it was actually extended, but it was extended. Like I said, it was some 25 years, and what this does for us is it simplifies the calculation of the credit for the taxpayer and allows the Department of Revenue to more easily monitor and enforce the amount of the credit claimed. With respect to revenue cleanup and enforcement, there's a few items here that we have. There's a new hire database that this would give us access to that new hire database for purposes of delinquent tax collections. The new hire database was a part of the federal New Hire Act. However the database is actually maintained by the state. This gives us access to that particular database. George had touched on the ability for the Auditor of Public Accounts to have access to tax information within the Department of Revenue that is currently allowed with the legislative auditor. And they could also often get income tax but couldn't get sales tax, so this basically allows them access to all records if you will. Another provision with respect to electronic filing of W-2s. This requires any business that has more than 250 W-2s to be filed, to do so electronically. This basically we would give a hardship exemption to somebody who couldn't deal with that for whatever reason that might be. I mean there's a potential for a hardship exemption, but this change will help us reduce income tax fraud. Honestly it's

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

Revenue Committee
January 18, 2007

very difficult to match W-2s when they come in in paper format. It's just not very efficient obviously. You're paging through them. It's just not really feasible. By requiring employers in this situation allows us to match those W-2s up more efficiently. And we do see, not a lot but there's some isolated fraud out there with respect to W-2s. And Senator Preister is not here and he asked me a question that I now have the answer to with respect to penalties for filing fraudulent returns. And the department has encountered a situation where a taxpayer had intentionally overstated his withholding and increased the amount of his refund. And in that particular situation we corrected the overstatement before the refund was issued. So they inflated their income, they inflated their withholding, and in this situation the taxpayer was still due a refund. As a result, we had no recourse under the current law to penalize the taxpayer for the fraudulent act. And this change would eliminate that loophole that, okay, you've done something fraudulently. This would give us the ability to penalize the taxpayer in that particular situation. That doesn't happen a lot but it does happen. Another section here basically provides a...nonresident contractors are required to provide a project bond if their project exceeds \$2,500 in value. This would raise it to \$10,000 comparable with other surrounding states, and honestly there's not a whole lot a contractor can do these days for \$2,500 so this kind of brings it up to \$10,000 and makes doing business here in Nebraska easier for more contractors. An item I think here that's fairly significant and fairly important is under Section 22 of page 69, allows the Department of Revenue to use only the last four digits of a taxpayer's social security number when a tax lien is filed with the Secretary of State. Current state law requires the entire social security number to be issued by the department, and the department just views this as an identity risk threat so we prefer if we can utilize their name and the last four I believe that's adequate. And the last piece there, Section 23 changes the timeline for filing of liens in bankruptcy cases. It moves it from 30 days to six months which is consistent with what the IRS currently has for such liens. That's the extent of my testimony. I'd be more than happy to answer any questions. [LB223]

SENATOR JANSSEN: Any questions? Senator White. [LB223]

SENATOR WHITE: Would the administration also be all right with horses being added to the pheasants, quail, and game birds? [LB223]

DOUG EWALD: Absolutely. [LB223]

SENATOR WHITE: Another question is one of the concerns regarding using increased number of dependents. It's been reported to me that illegal aliens working illegally in the state regularly will inflate the number of dependents when they report to their employer so that taxes are not withheld. [LB223]

DOUG EWALD: Reducing their withholding. [LB223]

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

Revenue Committee
January 18, 2007

SENATOR WHITE: Yes. Therefore they are not paying any taxes and of course they can't apply for a refund. Would this provision also apply to them to help stem that abuse? [LB223]

DOUG EWALD: I don't know that it would, but I'd be receptive to making sure that we would have something in there with respect to that. [LB223]

SENATOR WHITE: Would the administration look at expanding this so that we can take care of that abuse as well? [LB223]

DOUG EWALD: Absolutely, Senator. [LB223]

SENATOR WHITE: Thank you. [LB223]

SENATOR JANSSEN: Any other questions? Ron, did you have one? [LB223]

SENATOR RAIKES: George has the comment on his that there could be winners and losers resulting from these changes. What would be your quick summary of the winners and losers here? [LB223]

DOUG EWALD: Specifically with respect to... [LB223]

SENATOR RAIKES: All of it. (Laughter) Not the regulatory stuff but the incentive part of it. [LB223]

DOUG EWALD: Well, that's a good question. I guess I hadn't really thought about the winners and losers. I mean prohibited transactions, I mean those are the transactions where you can't...if you buy an existing business that doesn't qualify for incentives. That's a consistency issue amongst all tiers of the Nebraska Advantage Act. You know, I suppose you could have some winners here with respect to if you expand the definition of livestock. [LB223]

SENATOR RAIKES: Is that a capped provision; that part of it, and is it fully subscribed now? [LB223]

DOUG EWALD: For rural or for microenterprise or what's... [LB223]

SENATOR RAIKES: Yeah, microenterprise. [LB223]

DOUG EWALD: Good question. The rural currently allows, the statute says up to \$3 million a year in rural, and as info, in 2006 that full \$3 million was not filled. We had probably 21 applications of which probably 6 of them were withdrawn. So we're around the 15 range. We didn't fulfill the full \$3 million. Now with respect to the microenterprise,

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

Revenue Committee
January 18, 2007

the statute says we can allow up to \$2 million a year with respect to the microenterprise. Now that's a different story. We had 450 applications of which 250 were approved, on average about \$8,000 an application. We ran out of money December 6-7 time frame and we're treating that on a first in-first out basis. So with respect to the microenterprise that there kind of is a snapshot of where we were last year. This year so far we have about 78 applications in for \$650,000. Fifty percent of those are ag-related, accounting for about 71 percent of that \$650,000. So rural was not fully subscribed. Microenterprise was oversubscribed last year and those that got in late were shut out I guess if you will from that standpoint. [LB223]

SENATOR RAIKES: Okay, and remind me now, the livestock definition would affect which of those? [LB223]

DOUG EWALD: The livestock would affect the rural. [LB223]

SENATOR RAIKES: Okay, which was not subscribed. [LB223]

DOUG EWALD: Which was not fully subscribed, correct. [LB223]

SENATOR RAIKES: The other thing being Nebraska residents, is it possible to qualify where there are no Nebraska residents under your proposal? [LB223]

DOUG EWALD: I imagine it would be. Absolutely. I mean if you had all your entire workforce came from Iowa over to Nebraska to work everyday they could qualify. Now to the extent you wouldn't get any wage credit associated with those people because they're out of state but you could get an ITC credit for investment. [LB223]

SENATOR RAIKES: Well, if they work in Nebraska, they get a W-2 for Nebraska, right? [LB223]

DOUG EWALD: That's correct. [LB223]

SENATOR RAIKES: So there would be Nebraska withholdings even if they were out of state. [LB223]

DOUG EWALD: There would be Nebraska withholdings if they, for an example, live in Iowa and work in Nebraska they would receive a W-2 with Nebraska withholding on it. They would file a nonresident Nebraska return, file an Iowa resident return, and use a credit for taxes paid to Nebraska on their Iowa return. [LB223]

SENATOR RAIKES: Um-hum. Okay. [LB223]

SENATOR JANSSEN: Any other questions? Chris. [LB223]

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

Revenue Committee
January 18, 2007

SENATOR LANGEMEIER: Just to follow up on that a little bit. So if I work for a company and I'm getting salary, and our company is located in Iowa and we happen to come to Nebraska to do some little project, some portion of those wages then would show up on a Nebraska W-2 or only if I work for a company that was in Nebraska? [LB223]

DOUG EWALD: Correct. Only if you work for a... [LB223]

SENATOR LANGEMEIER: So the company would have to be there. If I came over on a road paving crew and then went back, there would be no... [LB223]

DOUG EWALD: That's correct. I mean your state of residence and your employer's base would not be Nebraska. [LB223]

SENATOR LANGEMEIER: Okay. Thank you. [LB223]

SENATOR JANSSEN: Okay, all right. Any other questions? I don't see any, Doug. Thank you for being with us. [LB223]

DOUG EWALD: Thank you. [LB223]

SENATOR JANSSEN: Next proponent. [LB223]

RICHARD BAIER: (Exhibit 4) Chairman Janssen, members of the committee, my name is Richard Baier, for the record that is spelled B-a-i-e-r. I currently have the pleasure of serving as the director of the Department of Economic Development, here today to testify in support of LB223 and more specifically the provisions that would apply to Nebraska Advantage. What I tell you is I'm going to dispense a bit from my written testimony. I think through the questions we've answered many of the things that I was going to address so I don't want to waste your time in that effort. I will tell you in terms of Senator Raikes, you asked a bit about the issue of winners and losers. There would be in terms of the Rural Advantage Program some winners in terms of companies that are locating in places like South Sioux City, Omaha, and Scottsbluff because we do see at this point those companies potentially not qualifying for incentives because of their employee residence issues. And we've had a couple of projects that have been borderline where we've had some projects not qualify, and I think the folks from South Sioux City are here to share an example with you in that effort. Second piece, again in terms of the mainframe computer, I want to again tell you that this really is a great change for Nebraska. We are seeing more and more people begin to question the term mainframe in our statutes and say, you know we haven't used a mainframe in 15 or 20 years. What are you folks talking about? Again in terms of sending a very positive image about Nebraska and our ability to deal with modern technology, I know this was

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

Revenue Committee
January 18, 2007

an issue we tried to deal with two years ago and we kind of got to the end and said we're done with changes. So I appreciate the willingness to work with the Department of Revenue. We work closely with Revenue as well as some other folks in crafting this definition, so I appreciate that. Finally in terms of the R&D tax credit, again a very important part for supporting entrepreneurship in Nebraska especially in terms of start-up companies. And I will tell you there has been some confusion in the way that the statute was originally written. It referred to section 174 of the Internal Revenue Code. What we really find is the federal R&D credit is tied to section 41. So what this change does is really more reflect and make it easier to implement R&D tax credits in Nebraska. I will tell you and I want to thank the committee for introducing this as a package. I believe it's an important issue. I also want to thank George for his efforts in putting all of this together. It's been kind of a work in progress, and lastly I want to thank Doug Ewald, Cathy Lang, and their staff. We really worked cooperatively over the last six to eight weeks to finalize this language and I will tell you I'm very excited. If it wouldn't have stretched out the afternoon I would have jumped up and supported Doug in his confirmation efforts because I think he's doing an outstanding job and appreciate the cooperative attitude that we've had with his staff. With that I would take any questions that might be out there. [LB223]

SENATOR JANSSEN: Any questions? Thank you for being here, Rich. [LB223]

RICHARD BAIER: Thank you. [LB223]

SENATOR JANSSEN: Next proponent. [LB223]

LANCE HEDQUIST: (Exhibit 5) Thank you Senator Janssen, members of the Revenue Committee. My name is Lance Hedquist, H-e-d-q-u-i-s-t. I'm the city administrator of the city of South Sioux City and I'm here to speak on behalf in support of LB223. There is some disparity between the Nebraska Rural Advantage and the Nebraska Advantage programs. I do want to say first that I applaud Governor Heineman, Richard Baier, director of the Department of Economic Development, and the Nebraska Unicameral for developing and passing the farsighted Nebraska Advantage legislation. It has truly made a difference. In South Sioux City we have never seen the number of quality firms seeking to expand and relocate to our community. Incentive built in the Nebraska Advantage to encourage higher paying jobs is also a clear plus and I want to thank you for that. The city is concerned on the difference between the Nebraska Rural Advantage and the Nebraska Advantage legislation as it relates to employee residency requirements. We feel that getting the employees that pay the Nebraska taxes should be the driving force with the Rural Advantage just as it is with the Nebraska Advantage program. We have more jobs in Dakota County than we have employees. We have several industries and distribution centers that are not large enough to qualify for the Nebraska Advantage program but would qualify for the Nebraska Rural Advantage except for the fact that many of the employees are not Nebraska residents. Millions of

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

Revenue Committee
January 18, 2007

dollars of projects will be announced yet this year and next year if this technical correction can be made. We encourage your support and expeditious passage of this bill. With that, Mr. Chairman, I'd answer any questions you might have. [LB223]

SENATOR JANSSEN: Any questions? Thank you. [LB223]

LANCE HEDQUIST: Thank you. [LB223]

SENATOR JANSSEN: Any other proponents? Any opponents? Anyone in a neutral capacity? Welcome. [LB223]

JOHN CEDERBERG: Good afternoon. I'm John Cederberg, C-e-d-e-r-b-e-r-g. I'm a certified public accountant here in Lincoln and I come forward representing myself. Actually I came over to listen to the hearing today. I didn't intend to say anything but a comment from Mr. Kilpatrick alerted me to a potential that I would urge the Commissioner of Revenue and perhaps some members of the committee or Mr. Kilpatrick to follow up with some of the major audit firms and see if the provision regarding incentive credits related to illegal immigrants that are eventually deported causes any kind of significant financial reporting issue for public companies. Back when I was first getting started in the tax business, my audit brethren had a lot of fun kidding me about the six feet of books on my bookshelf for code and regs and such, and they were explaining to me that they could do all of accounting in 13 IEPB opinions. Well, they have gotten much more creative over the years and they now have a relatively new provision that they refer to as FIN 48 where the title is uncertain tax positions. And FIN 48 in summary requires a company as part of their financial reporting to provide a reserve or a provision for the disallowance of tax benefits and the disallowance is unasserted. I mean this is not just limited to an examination in progress and these are the issues, but it's any position taken in any tax return that could be challenged upon exam. And I really don't know. Sitting here thinking through FIN 48 and thinking through the provision regarding immigrants and the credits, I'm not sure, A, if we have any employers to whom that exposure would rise to the level of materiality that would have to be calculated and disclosed. And I'm also not totally certain about the parameters of FIN 48 as to whether this would be an uncertain tax position that would fall within it. My hunch is it might be but I'm a tax man. I have not participated and audited financial statements since 1991. So I bring it forward just to alert you to the existence of that accounting requirement and to suggest that the technical people might want to follow up to see if including it in the bill creates any financial reporting issues for our publicly reporting companies. That's all I have to say. I'll answer any questions if I could. [LB223]

SENATOR JANSSEN: Thanks, John. Any questions for Mr. Cederberg? [LB223]

JOHN CEDERBERG: Thank you. [LB223]

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

Revenue Committee
January 18, 2007

SENATOR JANSSEN: Thank you, John. Anyone else in a neutral capacity? Seeing none, George you want to waive closing? Do you want to close? No? Okay. All right. That ends the hearing on LB223. Senator Dierks. [LB223]

SENATOR DIERKS: LB177, Senator Janssen is introducing it. Whenever you're ready, Senator Janssen. [LB223]

SENATOR JANSSEN: All right. Thank you, Senator Dierks. For the record, my name is Ray Janssen representing the 15th Legislative District, the "Pathfinder District," here to introduce LB177. This bill, LB177 would make four changes to the Nebraska Advantage Microenterprise Tax Credit Act which was first passed two years ago. First, the definition of microbusiness would be changed to include a farm or livestock operation only if the farmer or livestock producer also qualifies as a beginning farmer under the Beginning Farmer Tax Credit Act. Second, the definition of investment would be expanded to include inventory purchases, advertising, travel, supplies, and professional services. Third, the \$2 million annual cap on credits for claimants would be removed. Fourth, increased employment which would otherwise qualify for the credit will not qualify for any compensation in the excess of 150 percent of the median earning in Nebraska. I'd try to answer any questions but I'm sure there are people here to testify who can do a lot better job than I can and explain the need for these changes. With that I would try to answer any questions. [LB177]

SENATOR DIERKS: Thank you, Senator Janssen. Are there questions for Senator Janssen? [LB177]

SENATOR JANSSEN: Seeing none, thank you. [LB177]

SENATOR DIERKS: Yeah, seeing none, thank you. (Laughter) Would you like to reserve the right to close, Senator? [LB177]

SENATOR JANSSEN: I would like to reserve the right to close but I probably won't. [LB177]

SENATOR DIERKS: Okay, first proponent, please. [LB177]

CHUCK HASSEBROOK: (Exhibit 6) Good afternoon. Thank you. My name is Chuck Hassebrook, H-a-s-s-e-b-r-o-o-k. I'm executive director of the Center for Rural Affairs of Lyons, Nebraska. I want to thank you for the opportunity to speak today. I want to thank Senator Janssen for introducing this bill. This bill refines the Nebraska Advantage Microenterprise Tax Credit that was passed two years ago. That bill provides a 20 percent investment credit to microenterprises, businesses with five or fewer employees. Microenterprise is important. Of course the Center for Rural Affairs works on rural issues. If you look at the most rural parts of Nebraska, our rural agricultural counties,

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

Revenue Committee
January 18, 2007

nonfarm microenterprise accounts for at least three-fourths of the new jobs in the most rural agricultural parts of Nebraska. Nonetheless it's not just a rural issue because microenterprise is likewise important in the inner cities. One of the interesting things about this microenterprise issue is microenterprise tends to be most important in rural and inner city areas which are the places that large businesses are less likely to invest. You know, Nebraska really became a leader in the nation when we passed this tax credit two years ago. If you read some of the economic development literature that comes out of think tanks today nationally, groups like Corporation for Enterprise Development is starting to talk about the case for microenterprise tax credits. Well, they're starting to talk about it. Nebraska has already done it and we're the first state in the union to have done it and at this juncture still the only state in the union to have done it. And one of the things that happens when you're an innovator and when you're first is that you try something and then oftentimes you learn from what you try and you have to make some refinements. And this is a good bill because it builds on what we've learned to make some critical refinements. First is the definition of eligible investment. As passed, this bill kind of modeled the microenterprise tax credit after the tax credits we do for large businesses. It said you get a tax credit if you invest in plant and equipment and if you hire new employees. Well, that makes sense for large businesses but when you look at microbusinesses, most microbusinesses aren't capital intensive. They don't invest a lot in plant and equipment. Their investments tend to be more on things like advertising and inventory and supplies and all those kinds of things. This bill would make them eligible for the tax credit. Many microbusinesses do hire employees but most aren't. Most microbusinesses provide self-employment. And so for those businesses they also don't benefit from the employee credit. So what we had was a microenterprise tax credit that was kind of designed in a way that really fit large businesses but excluded microenterprises, microbusinesses that weren't capital intensive and that didn't hire employees, and that tended to be most microenterprises. This bill fixes that and it's a good bill. Second thing that I think is really essential about this bill is that it removes the \$2 million cap on the aggregate credits that can be claimed. Of course this bill has a \$10,000 cap per taxpayer but it also has a \$2 million aggregate credit and this bill would eliminate that. And I think this is just public policy. In my judgment, public policy should be balanced with respect to the way it treats large business and small business. We certainly ought not discriminate against small business or treat it as sort of a second class form of business compared to large enterprise. So right now with our large business tax credits we basically say, look if it cost--this is the law--if it costs \$150 million a year to cover everybody who qualifies, they get it. We don't do that with microenterprise. We say \$2 million is it. And I think removing that is simply good public policy. It's saying we want to move toward a more balanced approach that treats small business on the same terms as it treats large business. And I think fortunately the revenue note on this is very modest. It's \$500,000 in year one, a million in year two, and I think that easily fits within the tax cut that's being discussed this year. Thanks for hearing my comments. I'd welcome any questions you might have. [LB177]

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

Revenue Committee
January 18, 2007

SENATOR DIERKS: Questions for Chuck? I think not, Chuck, thank you very much. [LB177]

CHUCK HASSEBROOK: Yeah, thank you. [LB177]

SENATOR DIERKS: Other proponents, please. [LB177]

JEFF CHRISTENSEN: (Exhibit 7) Senator Janssen and the committee, my name is Jeff Christensen, C-h-r-i-s-t-e-n-s-e-n. I'm a business loan specialist with the Northeast Nebraska Economic Development District, or NENEDD, which serves 25 counties in northeast and north central Nebraska with its microenterprise development program in 12 legislative districts. NENEDD provides technical assistance to over 200 new and existing businesses each year. My intent today is to convey to you how real beneficiaries, the microbusinesses across Nebraska, will be positively impacted with the proposed revisions to the Nebraska Advantage Microenterprise Tax Credit. Most of the businesses that NENEDD works with do not increase their employee count a great deal. The average microbusiness that we finance has about 2.5 employees of which the husband and/or the wife are at least one or two of this number. There are several businesses that recently received financing from NENEDD that would benefit from this proposed tax credit revision for the increase in their inventories sold during the year as well as the advertising they will do and the legal advice they will need to grow their business. An established business in Schuyler where I'm from is being purchased by someone locally. The new owner is forming their own corporation and has a fair amount of other legal expenses that will be incurred in the business transaction of buying this business. Fortunately the business is not closing. An equine business in Fremont is working on details to add a feed division and may consider forming an LLC or corporation as she expands. A catering business in Albion is working on details to expand her wedding and special occasions catering to include meals for the employees of local businesses thus a large increase in the cost of goods and inventory she must incur. A tire sales and repair shop service in Ewing has also found a niche market in this area selling truck tires so his inventory must increase tremendously to meet the need and demand that the truckers put on his business. A beautician in Genoa just opening her business and will depend a lot on advertising to build her clientele and will need legal advice as her business grows and she hires additional beauticians. An auto repair business in Creighton just expanded to open a parts business and they too will need additional inventory and advertising expenses. These are just a few examples of businesses that could be more effective in their economic activities should the proposed revisions be put in place. I'm sure other microloan programs in Nebraska can share with you similar examples. The Nebraska Advantage Microenterprise Tax Credit is a great tool. NENEDD makes every attempt to educate all entrepreneurs, whether large or small, of the Nebraska Advantage program and to encourage them to have their tax professionals assist them in utilizing this tool. There are many businesses that NENEDD

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

Revenue Committee
January 18, 2007

works with that could make use of the enterprise tax credit if it's broadened beyond capital investment and new employees as LB177 proposes. A 20 percent refundable income tax credit will have a tremendous impact on Nebraska microbusinesses. Without these credits, a business may not take the next step to reach out and diversify or seek necessary legal advice. On behalf of Nebraska's microenterprise community, I encourage you to support LB177. Thank you. [LB177]

SENATOR DIERKS: Thank you, Jeff. Are there questions? Senator Raikes, please. [LB177]

SENATOR RAIKES: Well, one of the things that's being added is travel. Brings up the question how do you police this thing? I mean, travel may not be a good example but it may or may not pertain to the business. [LB177]

JEFF CHRISTENSEN: That's a good question. That I don't have an answer for you. [LB177]

SENATOR RAIKES: Okay. Thank you. [LB177]

SENATOR DIERKS: Other questions? I think that's it, Jeff. Thank you very much. [LB177]

JEFF CHRISTENSEN: Thank you. [LB177]

SENATOR DIERKS: Other proponents, please. Proponents? Is there opposition to the bill? [LB177]

JAY REMPE: Senator Dierks, members of the Revenue Committee, my name is Jay Rempe, that's J-a-y R-e-m-p-e. I'm state director of governmental relations for Nebraska Farm Bureau Federation. I'm here today on behalf of the Nebraska Farm Bureau in opposition to the bill. And I hesitate to come up here in opposition because we agree with three out of the four parts that are in the bill that Senator Janssen laid out. The one disagreement we have is with the refinement of the definition of farmers and ranchers that could qualify under the Microenterprise Act to beginning farmers. And it's not that we don't support trying to help out beginning farmers because we certainly do, but beginning farmers can already qualify under the act. What we don't like is the restriction of not allowing existing farmers to participate in the act, as well, because we're certainly trying to encourage farmers to diversify, look at other things in their operations like value-added projects, recreational projects, hunting, those kind of things, renewable energies, all those kind of things that existing farmers would like to try to do, and the Microenterprise Act would certainly help in that regard. We also have concerns with the way the act ties it back to the Beginning Farmer Act. And under that act there are nine criteria that a beginning farmer has to meet to be qualified under that act and some of it

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

Revenue Committee
January 18, 2007

involved going in front of the Beginning Farmer Board and assuring them that they have the financial wherewithal to run a farm and those kind of things. So what we're really doing is restricting it, in our view, to only those beginning farmers that participate under the Beginning Farmer Act. And so we just feel that's too limiting and we'd like to see that definition remain as it is, and that's our only concern with the bill. And I appreciate the opportunity to be here and I'd be happy to answer any questions. [LB177]

SENATOR DIERKS: Thanks, Jay. Are there questions? I guess that does it. Thanks, Jay. Other opposition? Anyone else in opposition? Is there a neutral testimony? Neutral? Do you want to close, Ray? [LB177]

SENATOR JANSSEN: No. [LB177]

SENATOR DIERKS: Senator Janssen has waived closing so that closes the testifying today on LB177. Your chair, Ray. [LB177]

SENATOR JANSSEN: Thank you. Next on the agenda is LB3. Senator Pahls. Senator Pahls? [LB3]

SENATOR PAHLS: I'm here, thank you. [LB3]

SENATOR JANSSEN: Okay. Welcome to the Revenue Committee. [LB3]

SENATOR PAHLS: (Exhibits 8, 9, and 10) Thank you. Good afternoon, Senator Janssen, members of the committee. My name is Rich Pahls, R-i-c-h P-a-h-l-s. I represent the District 31, the Millard of Omaha. Today I come forward to introduce and discuss LB3. It would be another avenue of helping young families and everyone around this table in fact. As you know, every year in August families and students across the state head to the malls to get outfitted for the coming year. You know, as a former administrator I see it's fun for them to get prepared for school and it is expensive. Many times I've heard parents say, Pahls, you broke me. Not necessarily me but since they're starting school. So there is a concern about the amount of money it does cost to start school. LB3 gives families and students a small break in their budget as they make their purchases on clothing, school, supplies, and computer equipment. LB3 creates a sales tax holiday on the first Friday, Saturday, and Sunday in August basically as the start of school. Currently there are 14 states and the District of Columbia who have enacted a sales tax holiday. There are two states bordering Nebraska that have sales tax holidays: Iowa on the first Friday and Saturday in August, and Missouri on the first Friday, Saturday, and Sunday in August. LB3 matches the Missouri law which is more generous than Iowa's. Iowa only exempts clothing. Under LB3, retailers would not charge or collect sales tax on clothing, school supplies, or computer equipment. Each article of clothing that costs \$100 or less is exempt. The bill contains the exact definitions on page 2, line 22. This definition includes shoes and cloth or material that

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

Revenue Committee
January 18, 2007

makes clothes or a uniform. It does not include things like jewelry, bags, belt buckles, etcetera. Under school supplies it's \$50 is exempt. On page 3, line 10 of the bill, you would see that includes textbooks, notebooks, paper, pencils, rulers, bookbags, calculators. It does not include sporting equipment. I found it interesting the fiscal note that used North Carolina as an example. They do include sports equipment. It also includes \$350 worth of software. Computer equipment is \$3,500. That includes laptop, tower, display monitor, keyboard, mouse, printer, etcetera. You find that on page 3, line 2. As I see it, this bill takes away the advantage that Iowa and Missouri retailers have over Nebraska retailers. The incentive along the Missouri border would be equal, but along the borders of our state when you compare Iowa, Kansas, Wyoming, etcetera, that we would be at an advantage. LB3 is aimed at families with school age children and students, but as I said earlier everyone of you sitting around here would qualify because you could purchase these things on those days. All taxpayers would qualify but our intent is to make it a sales tax holiday for families of children going to school. I have provided an example of an estimate for a Nebraska family. One of the charts, you can see, I ask you to take a look at this chart. What I did is, because I know we have two bills that are very similar, that what you would do is as you take a look you can see LB3, LB60, Missouri, and Iowa. And as you go across the top, an article of clothing \$100 or less, LB60 has that, Missouri has that, Iowa has it. School supplies, \$50 per purchase. In LB60 it's \$100. Missouri, they have it similar to ours because we model it after that. And Iowa is not included. As you go across, the software you see who has it and who does not. As you go across the fourth line, you see personal computers--\$3,500 in this bill, \$1,500 Missouri, Iowa, again you can see them. If some of these figures scare you, you know that's negotiable. And as you can see the holiday dates is Friday, you can see it's very similar because I wanted to go around the concept of school. And here's an example on this particular sheet. Just basically shows you the possibilities or the potential that a family could save. You could save, if you do things correctly on this family, \$175. So it does show you that there is some potential of this. Now again I look at the fiscal note. You should have the fiscal note for LB3 and LB60 and I'd like to show you a little bit of a comparison if you have that possibility. The total funds as you take a look at the revenue on '07-08 on LB3 it's \$3,820,000, and on LB60 it's \$3 million. The reason I'm doing this I want to show you how it's a little less. Of course they don't have as many things exempt. But as you take a look below, under one you have \$100. What surprises me because there is a difference like on the computers; however, the significance on the lost revenue is not that big of a deal. So sometimes when you set up these fiscal notes you have to really see through some of this stuff. And North Carolina was utilized and I think it's because their tax, I think the top tax there is 7.25 percent and ours is 7 percent so that may be one of the reasons. When we contacted Iowa and we contacted Missouri they said it was a wash. The reason why because you're going to be "incentivied" to come spend some of your money, you're going to spend some more. Let's say that I'm a family coming into Omaha or Norfolk. I may go there and not only buy some of these things you see here, but I may stay overnight. So those cities would actually incur more people spending more money there. Iowa and Missouri said they did

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

Revenue Committee
January 18, 2007

not have this--I know you're smiling at me, Senator Raikes. I'm just saying this is what they say. I know in North Carolina they said they did see a loss in revenue and that figures out in the total revenue sales tax budget of .33 of 1 percent. I'm not saying that's not significant, but I think what we need to be sending a message to people that we're looking at saving tax, not only on income tax, property tax, but a tax that some people can really understand, and most people can understand that because it'll be like a holiday. And if I'm a merchant, I probably will make this a holiday that would make you want to come to my place of business. So I do see this as having potential. Now in the past, the holiday like this had declined. That was because the people were looking at revenue. But more states are coming on board again simply because things do look a little bit better. So that's just something I like to point out to you. It's a different way of looking at helping people. Especially that age group of people who have children in school such as me. I still have a son in school. So it would help me out. And for those of you who do not have children in school, we would help you out, too, if you would spend on that tax holiday. [LB3]

SENATOR JANSSEN: How about grandkids? [LB3]

SENATOR PAHLS: Why not? Because you can buy for your grandchildren. Think about that. [LB3]

SENATOR JANSSEN: You bet. [LB3]

SENATOR PAHLS: There's a potential for this. [LB3]

SENATOR JANSSEN: Any questions? [LB3]

SENATOR PAHLS: Yes. [LB3]

SENATOR JANSSEN: Senator Langemeier. [LB3]

SENATOR LANGEMEIER: Thank you, Chairman Janssen and thank you, Senator Pahls, for bringing this. A couple questions. You include computers and computer software. [LB3]

SENATOR PAHLS: Right. [LB3]

SENATOR LANGEMEIER: Not having a child to the age of this yet but hopefully will at some point here, what age is this computer purchase or requirement? I mean, do you think that's in high school or are you thinking college students or... [LB3]

SENATOR PAHLS: You know when I said that you could do it, you would even be eligible to purchase a computer because I would not deny you that right because what

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

Revenue Committee
January 18, 2007

am I going to have you do? Come in with an ID? Because you could be saying you're buying it for your family so that would be almost hard to control. [LB3]

SENATOR LANGEMEIER: Right. I guess I was looking at this bill more as a tax-free day for school not for individuals. [LB3]

SENATOR PAHLS: Yes, I understand. [LB3]

SENATOR LANGEMEIER: And that's why I ask that question. Then would you be opposed to inserting a line in here to put college textbooks in that section, three days out of the year and not... [LB3]

SENATOR PAHLS: Well, I know that's an interest of that. [LB3]

SENATOR LANGEMEIER: That's my question. Thank you. [LB3]

SENATOR PAHLS: I know there's an interest of that and, you know... [LB3]

SENATOR JANSSEN: Any other questions? Ron. [LB3]

SENATOR RAIKES: Rich. [LB3]

SENATOR PAHLS: Yes. [LB3]

SENATOR RAIKES: I'll just use your \$175 here. [LB3]

SENATOR PAHLS: Yes. [LB3]

SENATOR RAIKES: As a school administrator, I'm assuming you're not saying that we should reduce our funding of school kids by \$175 per student. [LB3]

SENATOR PAHLS: Both. [LB3]

SENATOR RAIKES: So you're saying that we should cut state funding to K-12 schools by \$175 a student? [LB3]

SENATOR PAHLS: No, I'm sorry. I misunderstood you. I thought you said that should we not fund them. I would say you would do both as well. The point I was saying is that is another area. I do not think this amount of money would necessarily affect the programs that you are discussing. It's a choice. [LB3]

SENATOR RAIKES: Well, what I'm getting at though is that you're saying that the parents who send the kids to school... [LB3]

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

Revenue Committee
January 18, 2007

SENATOR PAHLS: Right, yeah. [LB3]

SENATOR RAIKES: ...should be exempted from paying this \$175 but we're not going to reduce spending on the kids by \$175. So what you're saying is somebody else needs to pay the \$175. [LB3]

SENATOR PAHLS: Good point. However, you could also spend money that day without having children there. [LB3]

SENATOR RAIKES: Okay. So maybe the reduction would be \$200 or \$250 per student, but still somebody's got to pay it, at least as I understand your proposal. [LB3]

SENATOR PAHLS: Yeah. Well the thing about it is you would say there would be loss of tax revenue, tax dollars to you. [LB3]

SENATOR RAIKES: Right. [LB3]

SENATOR PAHLS: Well, the one side to look at it is well you may stimulate other people from buying other things so that could cancel out. That's what Iowa says. That we bring in people from Nebraska that buy things and it helps us because they're buying additional things. Not just the clothing. That's one way to look at it. I mean, you can look at...but this is just like one example, one family. I mean, a family may only save \$50. I mean, if you don't buy a computer that would be a significant drop. [LB3]

SENATOR RAIKES: Okay. Thanks. [LB3]

SENATOR PAHLS: Yeah. [LB3]

SENATOR JANSSEN: Any other questions? Cap. [LB3]

SENATOR PAHLS: Yes. [LB3]

SENATOR DIERKS: Well, it isn't a question more of a statement. We got a tax break a number of years ago through the Revenue Committee for those products that were used to vaccinate cattle, for instance, or hogs. [LB3]

SENATOR PAHLS: Right. [LB3]

SENATOR DIERKS: Antibiotics, whatever was used, because in the food chain we don't tax anything. And we have people come and tell us that they could go to Kansas and buy these products that were not taxed but when they went there they bought groceries and they bought repairs for equipment, and they made the point that it costs Nebraska

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

Revenue Committee
January 18, 2007

retail dollars. And so we managed to get that...were you here then, Senator Raikes, when we got that bill passed? [LB3]

SENATOR RAIKES: I don't think so. I think that was before my time. [LB3]

SENATOR DIERKS: So when you look at a fiscal note that shows the amount of dollars we're going to lose from sales tax, it doesn't show the amount of dollars we might make in retail sales. And I don't know how you can reflect that because that's a nebulous figure to come up with. [LB3]

SENATOR PAHLS: Right. And I understand. That's one of my reasons why this would be the potential of having other people come in because I'm saying is Iowa and Missouri told us that they saw it as a wash because the additional people would come in and buy from them. That was their answer to it. [LB3]

SENATOR DIERKS: And those figures are hard to come up with. [LB3]

SENATOR PAHLS: Right. And I'm not knocking the Fiscal Office. I understand that they... [LB3]

SENATOR JANSSEN: Any other questions? Okay, thanks, Rich. [LB3]

SENATOR PAHLS: Thank you. [LB3]

SENATOR JANSSEN: Proponents. [LB3]

JIM OTTO: Senator Janssen, members of the committee, my name is Jim Otto, O-t-t-o. I'm president and registered lobbyist for the Nebraska Retail Federation and am here to testify in favor of LB3, and thank Senator Pahls for introducing it. I also will be up here again to testify in favor of LB60 and I don't want to be repetitive so I'll save some of my comments for that. I just wanted to echo what Senator Dierks just said. This has been introduced several times in the past, and always the challenge, understandably, is the fiscal note and the amount of money that the state would lose in sales tax. And Senator Dierks makes a very good point. I don't know, it is a nebulous figure to come up with, but it's kind of like why is the milk at the back of the grocery store? Because when you go to get milk you walk by everything else and the milk might be cheap but you bought something else while you were there. And so since there are only certain things that are exempt from tax, there will be more sales as a result that will be taxed, but how do we quantify that? I don't know. I would tell you that according to my counterpart in Iowa at the Iowa Retail Federation, on this weekend they have actually counted the cars in the Mall of the Bluffs parking lot, and 30 percent of the cars have Nebraska plates on this weekend. So we are, in fact, losing some of those sales to Iowa and sales tax to Iowa on that weekend. And like I say it's impossible to figure the net loss. But it is a frustration

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

Revenue Committee
January 18, 2007

for border businesses. And with that I'll end my comments on this one and have a few more on the next unless there are any questions. [LB3]

SENATOR JANSSEN: Senator Dierks. [LB3]

SENATOR DIERKS: Are you sure that wasn't the gambling casino they were checking? (Laughter) [LB3]

JIM OTTO: Maybe so. [LB3]

SENATOR WHITE: Senator Dierks, the portion of the Nebraska plates is far higher at the casinos. (Laughter) [LB3]

SENATOR JANSSEN: Any other questions? Ron. [LB3]

SENATOR RAIKES: Isn't it true that there is a prohibition in statute for a retailer to advertise that they're paying a sales tax? [LB3]

JIM OTTO: That's true, Senator. [LB3]

SENATOR RAIKES: How about we have a holiday on that? So that on one weekend... [LB3]

JIM OTTO: Well, we actually talked about... [LB3]

SENATOR RAIKES: Yeah. On this weekend the retailer can pay the sales tax. [LB3]

JIM OTTO: We actually talked about that last year and I can't get members to agree on that. They think it would be very confusing and some would do it, some wouldn't. So nice suggestion but I couldn't get an agreement. [LB3]

SENATOR RAIKES: Okay, thank you. [LB3]

SENATOR JANSSEN: I remember here a few years ago one of the cities in my district paid the tax. They got in trouble with the Department of Revenue. You couldn't do it. You could not do that. [LB3]

JIM OTTO: Yeah, well... [LB3]

SENATOR JANSSEN: So it would... [LB3]

SENATOR RAIKES: We could fix that, right? (Laughter) [LB3]

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

Revenue Committee
January 18, 2007

SENATOR JANSSEN: Oh yes you can. Anyway, any other questions? [LB3]

JIM OTTO: Thank you. [LB3]

SENATOR JANSSEN: Thank you. Any other proponents? No more proponents. Any opponents? Cheloha...(laughter). [LB3]

JACK CHELOHA: Big bad Omaha. Here we go. Good afternoon, Senators. Senator Janssen, members of the Revenue Committee, my name is Jack Cheloha, last name C-h-e-l-o-h-a, registered lobbyist for the city of Omaha. And I called both Senator Pahls and Senator Avery in advance to let them know that we had decided to take a position in opposition to LB3 and then the subsequent bill which I'll talk about as well. And it's strictly based on, you know, the fiscal note that's been provided to this committee and then likewise is out there for the public. I've asked our finance director to look at these sales tax holidays and ultimately we decided to come out in opposition for the monetary loss that we anticipate. There has been speculation that it could be a wash as people buy other things, but that's hard to track. So all we can go by is what's actually down in black and white at this point. Through the last few years the sales tax base has shrunk dramatically for us and the city of Omaha. For instance as the manufacturing equipment exemption was added recently to Omaha, that's about a \$1 million hit. The home remodeling exemption from last legislative session cost Omaha in terms of lost revenue about \$3 million annually. This year there's a proposal to extend that remodeling which we anticipate would cost another \$500,000. Likewise there's the Nebraska Advantage Act which gives sales tax rebates, etcetera, and that's expected to be even more costly in terms of local option sales tax that's refunded. And, for instance, in 2006 our net sales tax revenue in Omaha was about \$113.2 million, but this was only \$300,000 more than 2005. And with that, so we have concerns as you go along and have hearings on other exemptions we've decided to take a position on these because of the fear of the loss of the base. And for those reasons we're opposed to LB3. I'll try to answer any questions. [LB3]

SENATOR JANSSEN: Any questions? [LB3]

SENATOR WHITE: Would the city of Omaha agree to a one-year test of a holiday so that the committee could compare revenues from this period last year and this period during the holiday, so we can see whether in fact it does generate additional revenue or if it costs us? [LB3]

JACK CHELOHA: Well, that would be good if we could keep all the factors the same, you know, during the timeline and if other exemptions are allowed or granted. Senator, it's going to be tough to do. However, though, not to just be a naysayer. I did come armed with a suggestion for the committee and you might like this, Senator White. We thought it might be more equitable to truly benefit those families that have school age

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

Revenue Committee
January 18, 2007

children by giving an income tax credit to them, because then you could track dependents and know who's actually shopping for the purpose of going back to school and not just, you know, others that go out and buy things. So I thought I'd offer that up. [LB3]

SENATOR JANSSEN: Any other questions? You know, Jack... [LB3]

JACK CHELOHA: Yes. [LB3]

SENATOR JANSSEN: ...it would be interesting to get some figures on what you're losing now, though, to Council Bluffs. [LB3]

JACK CHELOHA: Right. [LB3]

SENATOR JANSSEN: And I'm sure there are smart enough people in this state to figure that out. But it would be interesting to see what the city of Omaha loses, what the merchants in Omaha lose on this tax holiday in Iowa and Missouri. [LB3]

JACK CHELOHA: Right. [LB3]

SENATOR JANSSEN: I think it would be interesting to find that out because you may not see that happen. [LB3]

JACK CHELOHA: Right. [LB3]

SENATOR JANSSEN: You may see more business that's brought into the city of Omaha. Or you may even outdo your neighbor a little bit. [LB3]

JACK CHELOHA: Right, that's true. Then, if you will, it may even the playing field. And it goes back to whether the retailers promotions, if you will. I think Senator Pahls said there was a study from Council Bluffs that roughly 30 percent of the vehicles had Nebraska plates. I've got to admit we've come full circle on this. I've been representing Omaha for 13 sessions and under previous administrations I've actually walked up here in support of this bill. [LB3]

SENATOR JANSSEN: Um-hum. [LB3]

JACK CHELOHA: But based on the recent factors of other exemptions granted recently and just the state of the economy, we've decided we need to come in in opposition. [LB3]

SENATOR JANSSEN: I remember, I think it was a tobacco wholesaler, when Nebraska had raised the price of the revenue on tobacco, this wholesaler was in this committee

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

Revenue Committee
January 18, 2007

and, George, I'm sure you remember that, and Ron. He testified that when we raised that tax on that tobacco, he served both Council Bluffs and Omaha. [LB3]

JACK CHELOHA: Um-hum. [LB3]

SENATOR JANSSEN: And his sales in Omaha dropped, say, 10 percent but they were up 10 percent in Council Bluffs. He said I sold just as many tobacco products, but I sold 10 percent more in Iowa and 10 percent less in Nebraska. [LB3]

JACK CHELOHA: Interesting. [LB3]

SENATOR JANSSEN: I mean it's the same amount of product, it was just more in one state than the other. [LB3]

JACK CHELOHA: Right. [LB3]

SENATOR JANSSEN: Food for thought. [LB3]

JACK CHELOHA: Absolutely. [LB3]

SENATOR JANSSEN: Any other questions? Seeing none. [LB3]

JACK CHELOHA: Thank you. [LB3]

SENATOR JANSSEN: Any other opponents? Anyone in a neutral capacity? Rich to close. [LB3]

SENATOR PAHLS: I know you'll hear some similar and some additional comments from Senator Avery, but I do want to point out sometimes we need to think outside the box. And I do find it interesting in the past this was an acceptable measure. Now it isn't. I'd like your idea. You may want to do like a two-year or a three-year so you have the window opportunity to see, because you could sunset this. You could sunset, well, we know that, a bill after two or three years and really see instead of...I always get frustrated when people talk about this and this and there's no reality check. Let's get away from talking I think this, I think this. Because you've demonstrated that in one area of business that there was a significant change, Senator Dierks. You indicated that there was a change of thinking perhaps. I just challenge you let's think other than just of typical ways of doing business. We'll close and I thank you. [LB3]

SENATOR JANSSEN: Okay, thank you, Rich. That ends the hearing on LB3. Yes, Senator Avery is here to tell us all about LB60. [LB3]

SENATOR AVERY: (Exhibit 11) Thank you, Mr. Chair and members of the committee.

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

Revenue Committee
January 18, 2007

My name is Bill Avery. I represent District 28 here in Lincoln. I did not have the privilege to hear all of Senator Pahls' testimony, so forgive me if I'm a little bit repetitive... [LB60]

SENATOR JANSSEN: Fine, you go ahead. [LB60]

SENATOR AVERY: ...but I was in another committee hearing. LB60 is a sales tax holiday for back-to-school shopping. It would exempt certain designated items from sales taxes in the first weekend in August--Friday, Saturday, and Sunday. The items that would be exempted would be clothing, \$100 per item; shoes, \$100 per item; school supplies, same \$100 per item; and computers, \$11,500 (sic-\$1,500) per computer. Some purchases would not be exempted. For example, computer software would not be exempted. I have a young boy, 15 years old. I don't think that I ought to be able to go out and buy a computer software game and let it qualify under this back-to-school shopping because that's certainly not a school item. Clothing accessories or equipment would not be exempted. Recreational equipment, protective equipment would not be, school art supplies. Basically things that might have multiple uses would not be, that may be back-to-school purchases or may not. We would not exempt those and computer supplies. However, if you buy a computer you would be able to buy accessories also within that \$1,500 limit. If you're only buying accessories then they would not be covered. So it would have to be in the package of the computer like a mouse, keyboard, things of that sort. The history of this goes back to New York State in 1997. Since then it's spread to over 12 states plus the District of Columbia. And let me tell you it's wildly popular. Everywhere that this legislation has been adopted it has been a huge success. I frequently go back to North Carolina to visit relatives and we often are there when North Carolina has their back-to-school shopping sales tax holiday. My wife is in every shop she can find. And she spends a ton of money. And she saves and she likes it a lot. It's front page news. It's front page news in all the newspapers in North Carolina and other states as well. What are some of the arguments for this? Much needed tax relief for working families, many of whom are struggling just to get by and especially have a hard time making it around back-to-school time. Iowa as we have already talked about already has such a law that draws shopping dollars from us. So does Missouri. Perhaps we can do something to stem the flow of those dollars. I have looked at some data that suggests that a sales tax holiday might actually stimulate more spending across the board including taxable items and that would offset the lost revenue. Our sales tax holiday, if adopted, would compete head to head with Iowa's and we would have an extra day, Sunday. They do not include Sunday, it's my understanding, in their tax holiday. And this would keep Nebraska dollars in Nebraska stores. Might even attract some spending from neighboring states. I talked to a TV reporter today. They were interested in this. And he says he goes, every year he goes to Council Bluffs to do back-to-school shopping and he says he runs into people from McCook, from North Platte, from Scottsbluff. Now it sounds strange that people would travel so far to save 6 or 7 or 8 percent on items. Why would people do that? I think there's a kind of a psychological sense of satisfaction that many taxpayers get when

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

Revenue Committee
January 18, 2007

they say I don't have to pay sales tax on that. You know? I don't think you can dismiss the psychological element of that. It could be a very significant stimulus to retail sales of all kinds, both back-to-school items and others. Retailers often will couple special sales promotions to coincide with the tax holiday so you would get additional savings for the consumers. There are some arguments against it. You've heard some of them. It is sometimes said that sales tax holidays rarely work the way you expect them to. For example, maybe you simply shift spending from other days to the tax-free weekend and you don't stimulate new spending. I think there's some evidence out of Missouri that suggests that is not the case. We heard from Jack that the loss of revenue is too much. We can't afford this. I would answer that by saying it's very unlikely that anything we do to help taxpayers is going to be cost-free. We have to recognize that. It is sometimes said, too, that consumers who reap the greatest benefits are those who can afford to spend the most and these are not really the families we're trying to help. Well, the sales tax is a regressive tax and it is the most regressive tax and we have to accept that. Let me tell you a little bit about the Missouri study. And I have here for you to look at, an executive summary of that study. And I have here copies for the committee staff of the entire study. I don't think you would want to read the entire study but if you do your staff can provide it for you. The Missouri study is the only comprehensive, empirical study on this question. Empirical in that it is based upon factual evidence. At least that's all we could find. Missouri produced two studies, frankly. One was by the Missouri Chamber of Commerce which had supported the legislation in the beginning and all the way through its adoption. The other one was by the Missouri Municipal League which did not support the holiday because of fear of loss of revenue. The Municipal League argued that communities actually lost revenue estimating it to be about \$8 million and that consumer purchases were merely shifted from other shopping days to the tax-free weekend. The chamber study found, however, that the holiday did not harm tax revenue, but more importantly actually caused a net gain in sales tax revenue receipts. This study found that the sales of taxable items increased enough to eliminate losses in revenue. I'm not cherry-picking here evidence. I admit to you that there is another competing study. Let me give you just a little bit of anecdotal evidence. In New York, the sales tax break held for one week is both in January and in September. They've been doing this since '97. It became so successful with the taxpayers that the state legislature created a permanent state tax exemption on clothing and footwear up to \$110. And the voters were demanding it they liked it so much. In Florida, they expanded its holiday to nine days over two weekends because it was so successful. In Pennsylvania and in South Carolina they did similar things. And here's something interesting. In many of these states some of the computer stores sell out their inventory, business is so brisk. And now they're starting to try to anticipate how much more inventory they need and bring that in. I think that this is good legislation. I think that the voters in this state have spoken very loudly that they want and deserve tax relief. I just got off a campaign where I knocked on thousands of doors and I'm telling you I heard it everyday--everyday. And I think we have an opportunity here to do something beneficial to the taxpayers. Thank you. [LB60]

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

Revenue Committee
January 18, 2007

SENATOR JANSSEN: Any questions? Chris. [LB60]

SENATOR LANGEMEIER: Senator Avery, thank you for bringing this bill. What would be your thoughts is if we took some ideas have been thrown out here and did take this to a trial period one year, and allow the retailers to...so not charge the sales tax or per se eat the sales tax which obviously by statute here is unacceptable, which would have no fiscal note to the state as well as still give the same benefit? [LB60]

SENATOR AVERY: I think we have to...I'm sorry. [LB60]

SENATOR LANGEMEIER: We would still give the same benefit to the... [LB60]

SENATOR AVERY: Yeah, I think you need to advertise it as something that we are doing for the taxpayers. [LB60]

SENATOR LANGEMEIER: Okay. [LB60]

SENATOR AVERY: That's where the psychological element comes into play and that's what causes I think, the great popularity of this. If you wanted to try it for a year I could accept that. A year or two and see how it works. I'm willing to predict now that if we do try it for a year you're going to be surprised at the outcome. And I don't think the outcome is going to be very negative. I think at worst it would be revenue neutral. [LB60]

SENATOR LANGEMEIER: Thank you. [LB60]

SENATOR JANSSEN: All right. You mean because of the scenario that I stated to Jack or to... [LB60]

SENATOR AVERY: People come into stores, retailers have loss leaders. They advertise an item, get you into the store. Once you get in the store you buy a lot of different things that you didn't go in there to buy. I think this is what would happen. I know my wife does that in North Carolina. I think she's going in to buy back-to-school items that are tax-free and she winds up coming back with half and half. So she's probably not saved a whole lot but she feels good about it. I really don't know that we can say with any certainty what the outcome will be. It might produce enough new spending to generate even additional revenue. It might produce enough new spending just to make it revenue neutral. But as I said earlier, tax relief is rarely cost-free. There may be some cost to us. The projections are hard to get right and I don't fault the Fiscal Office for not being able to tell us how much we would earn through additional taxable sales. I don't know how you would calculate that. But I think it's worth the risk. [LB60]

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

Revenue Committee
January 18, 2007

SENATOR JANSSEN: You think you could get a good enough test in one year? [LB60]

SENATOR AVERY: I think two might be better, but I'll take what you give me, sir.
(Laughter) [LB60]

SENATOR JANSSEN: Okay, any other questions? Ron. [LB60]

SENATOR RAIKES: There's no prohibition in here to prevent a retailer from charging a higher price during this period. [LB60]

SENATOR AVERY: No. [LB60]

SENATOR RAIKES: I mean suppose we've got this situation where people are coming from Alaska to Nebraska to shop because they get a 7 percent discount which I find hard to believe, but suppose that happens. I, as a retailer, could say well I'm going to take advantage of that and my prices actually are going to go up on that weekend. So that really the consumer doesn't save anything. [LB60]

SENATOR AVERY: But a smart retailer is probably going to couple this with additional sales promotions. [LB60]

SENATOR RAIKES: Well, one thing they could do is they could say the state's not going to collect any sales tax and we'll have an additional discount, but they might not do that. They might say... [LB60]

SENATOR AVERY: They might close and not even be open for that weekend. [LB60]

SENATOR RAIKES: ...you know this is an opportunity for...if this is a good idea for a couple of days why isn't it a good idea year around? You sort of touched on that. [LB60]

SENATOR AVERY: Well, I don't know the answer to that and I don't know if there is an answer unless you try it. But if it's such a good idea on three days on a weekend, it might not be a good idea year around. Why? Because you wouldn't have splurge spending like you're likely to have on this weekend. I think you will probably see a surge in spending including taxable items. But that wouldn't happen probably throughout a year. [LB60]

SENATOR RAIKES: But I thought your argument was this is actual increased spending, wasn't moving but spending from one... [LB60]

SENATOR AVERY: Yeah, but if you're concentrated in a weekend, three-day weekend, the focus is on that weekend. People are drawn to the stores in order to get the tax break, you get splurge spending in that weekend. If you extend it over a whole year

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

Revenue Committee
January 18, 2007

people aren't going to spend a whole year in splurge spending. You understand what I... [LB60]

SENATOR RAIKES: I do. I'm not quite adding it together, but you...thanks. [LB60]

SENATOR AVERY: Well, part of the argument is that you would realize additional sales on taxable items to offset the tax-exempted items. And by the way, the items qualify, not the buyers. It's the items that qualify. Anybody can buy them whether you have kids in school or not. But the idea here is that you concentrate the focus on that. You get people's attention. This is where they go and they do their additional spending. If it's stretched out over the course of a whole year, it's not a special event anymore and then you probably wouldn't get the increased spending. [LB60]

SENATOR RAIKES: So I gather from what you just said that you're going to pull spending from days on either side of that three-day period into that three-day period? [LB60]

SENATOR AVERY: Some of that might happen, yes, but I'm suggesting that it would be additional spending. That people when they get in the stores, they will buy more than they would have previously if they were not in the stores. And yeah, some people are probably going to postpone their shopping, but is that enough to justify a fiscal note like this? Probably not. [LB60]

SENATOR RAIKES: And is part of your testimony also that when a person comes into the store they're going to go ahead and buy stuff that is not subject to the sales tax holiday? [LB60]

SENATOR AVERY: Yes. Yes. [LB60]

SENATOR RAIKES: Which says that in some sense the sales tax holiday isn't effective because people buy stuff even if they have to pay the sales tax? [LB60]

SENATOR AVERY: Right. [LB60]

SENATOR RAIKES: Okay. I'll settle for that. I'll give you a break there. [LB60]

SENATOR AVERY: Can I prove that? I can't prove it. Give it a year, you might be surprised. And by the way, if it matters to you, if you advance this piece of legislation I'm willing to designate it as a priority bill for me. [LB60]

SENATOR JANSSEN: Okay. Any other questions? Seeing none, thank you, Bill. [LB60]

SENATOR AVERY: Thank you. [LB60]

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

Revenue Committee
January 18, 2007

SENATOR JANSSEN: Proponents? [LB60]

JIM OTTO: Senator Janssen, members of the committee, my name is Jim Otto, O-t-t-o. I am president of the Nebraska Retail Federation and a registered lobbyist for the Nebraska Retail Federation. Just wanted to make some points that I didn't make in the previous testimony. Try to not be repetitive. Both Senator Langemeier and Senator Raikes, I believe you're kind of making a point that...well, I think Senator Raikes, I think, you were quoted in the paper of saying that all the retailer would really have to do is do a 7 percent discount. There's something about--Senator Avery kind of brought this up--there's something psychological about putting it to the government, because everybody laughs at a 7 percent discount. If a retailer were to have a 7 percent discount it would be laughed at. It's not enough. But somehow when it's no sales tax it's I'm going to get the government. This is my chance to do it. There is something psychological about that. It has become, you know, it gets advertised as shop tax-free in the states that do it. It is actually becoming as the next weekend to the weekend after Thanksgiving in some of the states that have the sales tax holiday. It's kind of hard to understand but it is growing that popular that people come out on that day. As far as answering your question of what if some retailers could just change it, and we kind of talked about that before, Senator Raikes, and just offer the 7 percent or offer to pay the sales tax. The frustration with that is that would be a voluntarily thing. Some retailers would do it, some wouldn't. I mean, it wouldn't be that you knew that you were going to get...it just wouldn't be as effective. That's the argument that I get from...you would have some retailers doing it, some retailers not doing it. It wouldn't be the headline in the paper. It wouldn't create the activity. So there's something about the 7 percent. And Senator Raikes, you are correct that some retailers could in fact raise their prices. I just can't believe anybody that is going to be in business very long would do that, but they would combine it with significant deep discounts like the deep discounts you see on the day after Thanksgiving and everybody trying to pull each other in and competing with each other and all of those things and I think that's what actually results. And once again, we don't know and it's impossible to estimate what other taxable items would be purchased. As far as combining them all into one weekend and people waiting to buy it, some of that I'm sure would occur. I can tell you, however, that my members swear to me that if there's a snow day during the Christmas holiday they will never make that day up. Now you would think that people are going to spend the same amount on Christmas no matter what, but according to my members if there's a snow day and you can't shop that day it will affect their net holiday sales significantly. They will never make that day up. So somehow every day that people come out and shop they spend more. I don't know exactly how that works, but some of what you say would happen but I would suggest that when people go out they buy things that they weren't planning on buying, I guess. I just would take this opportunity also to, whenever I get the opportunity I want to...retailers, you know, collect and remit Nebraska sales tax to the Department of Revenue. That's a significant service that retailers do for the state. One of the things

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

Revenue Committee
January 18, 2007

that really irks retailers is the fact that, well we all know that more and more sales are done on MasterCard, Visa, credit cards. That costs a retailer, if you charge \$100 at a retailer, that retailer is going to get somewhere between \$98 and \$98.50 when that's charged and that 7 percent sales tax is, that retailer pays that discount to the credit card company on the sales tax collected. So, in fact, in most cases retailers remit more tax than they get because they're having to pay that. So that just sticks in their craw because I don't know if it's 50 percent, 60 percent, or 70 percent of the sales that are now done on credit cards. So that is a frustrating thing for retailers. The other thing is that retailers don't get, because they're not considered primary employers, and they aren't primary employers, retail is a spin-off activity of manufacturing and all those kinds of things, but none of the, or very few, I'm not aware of any tax incentives that actually go to retailers. I mean, LB775 doesn't go to retailers. Those kinds of things. So they don't get those things. The exception of the Wal-mart facility in North Platte that upset everyone... [LB60]

SENATOR JANSSEN: Not getting into that. [LB60]

JIM OTTO: ...but supposedly that was a primary employer. I didn't make that decision. And then the other thing about sales tax which is that it is presently limited. In 2002 it got changed. The maximum that you'll pay a retailer for collecting and remitting sales tax is \$75 a month. It doesn't matter if they send you \$10,000 or \$20,000 in sales tax. The most they'll get is \$75 a month. And Senator Burling is addressing that with different legislation. I just point those things out. When you look at the dynamic contribution that retail makes to the state of Nebraska I just wanted to kind of point some of those things out too, and maybe this might be something that could be tried. [LB60]

SENATOR JANSSEN: Questions? Chris. [LB60]

SENATOR LANGEMEIER: Thank you for your testimony. And you talked a little bit about a snow day drastically affecting your retailers and they can calculate that, yet there was testimony earlier today on the similar bill before this that if we did this for one year that the parameters of the economics of the state would change so much that we might not be able to determine that. Do you believe that could be determined in a year? [LB60]

JIM OTTO: In other words would we know--just so I understand your question--would we know after one year whether or not this was revenue neutral or how much it cost us? [LB60]

SENATOR LANGEMEIER: Um-hum. [LB60]

JIM OTTO: I would think we would but like Senator Avery said it would probably be

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

Revenue Committee
January 18, 2007

better to have two. I would think that that could be...I honestly don't know exactly how you would figure out what the spin-off sales are but there are surely people smarter than me that can figure that out. [LB60]

SENATOR LANGEMEIER: Thank you. [LB60]

SENATOR JANSSEN: Carroll. [LB60]

SENATOR BURLING: Mr. Otto, thank you. I hope you understand my terminology when I ask this question. How big of a monkey wrench does this throw in the cash register? Any problems there? [LB60]

JIM OTTO: Most items are computerized enough that they can just, you know the barcode is... [LB60]

SENATOR BURLING: Yeah. [LB60]

JIM OTTO: ...they just have to select those items that do not collect sales tax. They'll have to change it for that weekend. I've talked to major retailers. It's just not that big of a deal. They would welcome it for the opportunity to offer the incentive. [LB60]

SENATOR BURLING: Okay. [LB60]

SENATOR JANSSEN: Any other questions? Thank you. [LB60]

JIM OTTO: Thank you. [LB60]

SENATOR JANSSEN: Any other proponents? Opponents? Neutral? [LB60]

JACK CHELOHA: I'm sorry. I missed that part. [LB60]

SENATOR JANSSEN: Oh, he was an opponent? Okay. [LB60]

JACK CHELOHA: No, I'm still an opponent. [LB60]

SENATOR JANSSEN: You're getting a little slow, Jack. (Laughter) [LB60]

JACK CHELOHA: Sorry, I know. Senator Janssen and members of the Revenue Committee, Jack Cheloha, registered lobbyist, city of Omaha again. I just want to, for the record, state that we oppose LB60 based on the fiscal note. As I look down on it, I'll just ignore the state part because I'm only here for the political subdivisions if you will. The estimated impact is roughly about \$1 million and I think of that amount of total local option sales tax Omaha is roughly, I forget the percent, but I think it's about 35 percent

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

Revenue Committee
January 18, 2007

or so. So based on that we anticipate a loss of about \$350,000 and for that reason we're opposed to the sales tax holidays. I'll try and answer any questions? [LB60]

SENATOR JANSSEN: Seeing none. [LB60]

JACK CHELOHA: Thank you. [LB60]

SENATOR JANSSEN: Thank you. Any other opponents? Neutral? Bill to close. [LB60]

SENATOR AVERY: Very quickly let me just reiterate that voters need and are demanding some tax relief. You will be presented with a large number of proposals, many of which are going to be very costly. You've got a tough job and I know that. I even tried to get on this committee so I could go through the pain that you're going to go through. But this is a proposal that provides you with an opportunity to give taxpayers some relief with little or no cost in lost revenue. That is my belief. Thank you. [LB60]

SENATOR JANSSEN: Okay. Thank you for being here today, Bill. That ends the hearings for today. [LB60]

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

Revenue Committee
January 18, 2007

Disposition of Bills:

LB3 - Indefinitely postponed.
LB60 - Indefinitely postponed.
LB94 - Advanced to General File.
LB98 - Advanced to General File.
LB177 - Advanced to General File, as amended.
LB223 - Advanced to General File, as amended.

Chairperson

Committee Clerk