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Revenue Committee  
January 20, 2010

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[LB698 LB724 LB804]

The Committee on Revenue met at 1:30 p.m. on Wednesday, January 20, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB698, LB724, and LB804. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Galen Hadley; LeRoy Louden; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: Greg Adams.

SENATOR CORNETT: Good afternoon and welcome to the Revenue Committee. I am Senator Cornett from Bellevue. To my left, Senator Cap Dierks from Ewing, I believe, will be joining us. To his left, Senator Adams from York would normally sit. He has been excused today; Senator Hadley from Kearney. On my far right is our newest member of the committee, Senator Pete Pirsch from Omaha; Senator Dennis Utter from Hastings; Senator LeRoy Louden from Ellsworth; Senator Tom White from Omaha. Our research analysts for the committee are Steve Moore, to my right, and Bill Lock at the end of my left. Erma James is the committee clerk. Before we begin hearings today, I would advise everyone to please turn off cell phones and pagers while in the hearing room. The sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify hand your testifier sheet to the committee clerk. There are also clipboards in the back of the room to sign in if you do not wish to testify but would like to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or representative will present the bill, followed by proponents, opponents and neutral testimony. Only the introducer will have the opportunity for closing remarks. As you begin your testimony state your name and spell it for the record. If you have handouts, please bring ten copies for the committee. If you only have the original, we will make copies. Give the handouts to the pages, and our pages today are Abbie Greene and Ryan Langle, to circulate to the committee. With that, we will begin the hearings. Senator Coash...or Senator Louden. I saw you sitting there and I didn't look at my own agenda. []

SENATOR LOUDEN: Good afternoon, Senator Cornett and members of the Revenue Committee. My name is LeRoy Louden and the last name is spelled L-o-u-d-e-n, and I represent District 49. Today I bring before you LB698. LB698 is a bill that eliminates certain insurance tax premium tax provisions in statutes. I'm introducing this bill on behalf of the Health and Human Services and Vivianne Chaumont, director of Medicaid Services, will be answering all of your questions. And I will probably, therefore, defer most of the questions to her. With that, if you have any questions, why, please defer them to the lady from Medicaid assistance. (Laughter) [LB698]

SENATOR CORNETT: Senator Louden, do you wish to waive closing? [LB698]

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SENATOR LOUDEN: Yes. [LB698]

SENATOR CORNETT: Okay, thank you. First proponent. [LB698]

VIVIANNE CHAUMONT: (Exhibit 1) Good afternoon, Senator Cornett and members of the Revenue Committee. I'm Vivianne Chaumont, V-i-v-i-a-n-n-e C-h-a-u-m-o-n-t, I'm director of the Division of Medicaid and Long-Term Care at the Department of Health and Human Services. I would like to thank Senator Louden for introducing the bill on behalf of the department. I'm here to testify in support. Nebraska Revised Statutes, Section 77-908, currently provides for a Managed Care Program Premium Tax to be administered by the Department of Insurance on premiums paid by vendors under the Medicaid Managed Care Program. This statute was originally proposed under LB9 during the Ninety-Seventh Legislative Session in 2002. This bill would repeal a portion of that current statute which was dependent upon approval of the Center for Medicare and Medicaid Services, CMS, in order to implement a premium tax on capitation payments made in accordance with the Medical Assistance Act, which is Medicaid. The Centers for Medicare and Medicaid Services has found that this type of provider tax is impermissible. Therefore, the tax cannot be collected by the Department of Insurance. In order to address this issue, this change is necessary. The Department of Insurance also supports this change. The proposed change is technical in nature and we believe it reflects clean-up for existing statutes rather than prescribing new policy. Thank you. I would be happy to answer any questions. [LB698]

SENATOR CORNETT: Senator White. [LB698]

SENATOR WHITE: Thank you. The Centers for Medicare and Medicaid Services, did they make the finding just on a regulatory basis? Was it challenged? Was it taken up to court? Has there been any kind of judicial determination whether, in fact, this type of tax is a violation of federal law or regulation? [LB698]

VIVIANNE CHAUMONT: No. The federal law is pretty clear that the tax has to be applied across the board and can't be limited to just Medicaid providers. [LB698]

SENATOR WHITE: Okay. But, I guess, the question is on this particular issue, is there...and I understand the regulatory agency has taken that position. That may be enough. I was just curious whether or not that had been challenged, whether other states had taken it up and had any kind of federal court ruling on it? [LB698]

VIVIANNE CHAUMONT: No. [LB698]

SENATOR WHITE: Okay, thank you. [LB698]

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SENATOR CORNETT: Seeing no further questions, thank you. [LB698]

VIVIANNE CHAUMONT: Thank you. [LB698]

SENATOR CORNETT: Next proponent. Are there any further proponents? Is there anyone to testify as a proponent? All right, we'll move to opponent testimony. Anyone in a neutral capacity? All right, that closes the hearing on LB698. And, Senator Louden, you did wish to waive, correct? [LB698]

SENATOR LOUDEN: I waive closing. [LB698]

SENATOR CORNETT: And we will open the hearing on LB724, Senator Coash, welcome to the Revenue Committee. [LB724]

SENATOR COASH: (Exhibit 2) Thank you. Thank you, Senator Cornett and members of the Revenue Committee. For the record, my name is Colby Coash, spelled C-o-a-s-h, and I represent District 27. I brought LB724 to this committee because tourism is currently Nebraska's number three industry. It is important that we as a state start to recognize more clearly how important tourism can be to our state. This bill is very simple in nature. This bill returns revenue to the Visitors Promotion Cash Fund to be used for promoting tourism in Nebraska to attract residents of neighboring states. Let me give you a little bit of background on where this came from. Currently, there is a 2 percent lodging tax collected for the County Visitors Promotion Cash Fund. So there's a 2 percent lodging tax. The Department of Revenue has been holding back 3 percent of that 2 percent. This 3 percent holdback has been in place since 1980, and it was designed to allow the Department of Revenue to recover the costs of collecting that revenue. They no longer use the revenue for that purpose because they now kick that revenue back to General Funds. As we learned in the special session when we discussed checkoff funds, I believe, Nebraskans expect that when they are taxed for a certain purpose that the money is spent for that purpose. So what...LB724 simply remits this 3 percent back to its intended purpose, which is the state Visitors Promotion Cash Fund, and adds a significant increase to the budget of tourism. The intent would enhance Nebraska sales tax by attracting tourists from neighboring states. New money spent by Nebraska's neighboring tourists results in pure profit for the state. Out of state trips in Nebraska have averaged 2.5 people and 2.5 nights of stay, visits to multiple attractions and visits to multiple restaurants. So I simply just, in closing I just...this is a bill that is very simple in nature to take some carve-off money that the Department of Revenue had carved off and put it back to where it was intended to go. I've got some testifiers behind me and I've passed out some letters of support. I'd be happy to answer any questions before we move on. [LB724]

SENATOR CORNETT: Senator White. [LB724]

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SENATOR WHITE: Thank you, Senator. Senator, as I read your bill, it also changes where the money should be spent from tourism generally, does it not, to promote tourism in Nebraska by residents of neighboring states? [LB724]

SENATOR COASH: Yes. [LB724]

SENATOR WHITE: So it is more than just the 3 percent. It actually redirects the use of the whole funds to be isolated, I take it, only to the states that adjoin us? [LB724]

SENATOR COASH: Correct. [LB724]

SENATOR WHITE: You haven't addressed that. Can you explain to us why that's a good idea. [LB724]

SENATOR COASH: Sure. As we looked at how our tourism money is currently spent and we've tried to increase visitors to our state, what we know is the best place to look is those around us. And so I wanted to craft this bill to go after that because that's what...the folks in the tourism business are telling us that we really need to start, you know. People in Nebraska know what we have to offer. It's people next to us that we need to start bringing into... [LB724]

SENATOR WHITE: Well, and I...we haven't had testimony on that. But, for example, one of the tourist attractions in Omaha,... [LB724]

SENATOR COASH: Um-hum. [LB724]

SENATOR WHITE: ...which Senator Cornett and I represent that area, is the College World Series. This will prohibit money being used, for example, if Louisiana got in or Tennessee or New York or whoever got in, any dollars from being used to advertise to the alum in that state to come follow their team to the College World Series, for example, or a rodeo, Cap's district. Aren't we tying our hands? If that's really the best way to spend the money, isn't that going to be done on an administrative level anyway? [LB724]

SENATOR COASH: It could be. And, you know, the definition of neighboring states doesn't necessarily have to mean a state that's directly bordering. And then by the way, this is money that is in addition to their already funded budget. So it's not the whole tourism budget goes to this, just the money that's turned back, just the 2 percent or the 3 percent of the 2 percent that's being turned back. [LB724]

SENATOR CORNETT: Senator Utter. [LB724]

SENATOR UTTER: Senator Coash, this bill, one of the questions, I guess, I have with

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regard to this bill, it's going to deplete General Fund revenues by \$288,000. Do you have any idea of where we can find this \$288,000 since we're redirecting these funds? How are we going to work that out in your mind? [LB724]

SENATOR COASH: Well, I hesitate to say this, but I will. The Appropriations Committee already appropriates a certain amount to the...in their budget, which is about \$4.8 million. So, although I would like to see that amount continue to be appropriated, they may choose to say, well, if we're going to turn back this, we'll reduce it by that much. That's an option. [LB724]

SENATOR UTTER: And I also have some of the same concerns as to...as Senator White in that it seems to me like when we put in the legislation exactly where this money has to be spent, we are somewhat tying the hands of the Tourism Department. And that certainly, if the neighboring states, whatever they are, and I'm not sure and you raised a question as to what can be considered neighboring states. In my mind it's the states that touch Nebraska's borders. If we limit it to just that, why this seems to restrict maybe should there be opportunities that we need to use the money somewhere else. [LB724]

SENATOR COASH: Fair enough. I would say to the committee that for me it's more important that we are taking this lodging tax and putting it into the use for which it was intended. And I'm more than happy to work with the committee to...and changing the language of how it's spent, if the committee would like to. [LB724]

SENATOR UTTER: Okay. [LB724]

SENATOR CORNETT: I'm sorry. Senator Louden. [LB724]

SENATOR LOUDEN: Yes. Thank you, Senator Cornett. Senator Coash, as I look at this, this is like taking checkoff money because this is money that's supposed to be for tourism. And once upon a time, why the Department of Revenue was supposed to get this in order to offset some of their administrative costs. Is that correct? [LB724]

SENATOR COASH: That's correct. [LB724]

SENATOR LOUDEN: And then over a period of time when there was that other 2 percent added into there, then their...probably their income was doubled, is that...would that be correct to say? Because you said it was done in 1980. [LB724]

SENATOR COASH: That's right. [LB724]

SENATOR LOUDEN: And LB726 wasn't introduced until 2003 for the second part of that occupation tax. [LB724]

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SENATOR COASH: Yeah. There is... [LB724]

SENATOR LOUDEN: And do they still get the 2 percent of that last occupation tax or is it just 2 percent... [LB724]

SENATOR COASH: I'll defer that question to the testifier behind me. I wasn't looking at that particular 2 percent. I was just looking at this 2 percent. And as we were looking, where does that go? Well, the Department of Revenue has been carving off 3 percent of that, initially to administer the program. However, they're kicking that money right back to General Funds, which tells me they don't need the money to collect the tax. [LB724]

SENATOR LOUDEN: Well, yeah, and I'm wondering... [LB724]

SENATOR COASH: So we ought to send it back to the reason that it was collected, which is to promote the industry. [LB724]

SENATOR LOUDEN: I agree, because it's a checkoff fund is what it is. It's for promotion. But I'm quite wondering which fund it was going in. My other question would be, when you had neighboring states, why can't it just go back to the Visitor Promotion Fund, like we have now? Why did it have to say neighboring states on there? [LB724]

SENATOR COASH: It doesn't have to. And I drafted this bill because I am working with the folks in the tourism industry. This was an area that they felt they needed additional funding to support. [LB724]

SENATOR LOUDEN: Okay, thank you. [LB724]

SENATOR CORNETT: Senator White, then Senator Pirsch. [LB724]

SENATOR WHITE: And I have a question I don't know the answer to. The appropriation system, does it require the Department of Revenue to kick all these funds back and then they can ask for them reappropriated or had they traditionally just kept them in-house not accounted for? [LB724]

SENATOR COASH: I can't answer that, Senator White. I'm not...we can find that out. [LB724]

SENATOR WHITE: Okay. Well, I guess, I don't know if expenses have disappeared and they don't need them or you can draw that conclusion, or whether or not they're supposed to give it back to Appropriations and then ask in their application, say, well, we gave you 3 percent to maintain this fund, we need that money back. [LB724]

SENATOR COASH: My understanding is that the 3 percent was to set up the

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mechanism, a one-time setup to collect it. It's been set up, but they haven't given that money back. [LB724]

SENATOR CORNETT: You would still have to have the costs of administrating it, though. [LB724]

SENATOR COASH: Correct. [LB724]

SENATOR CORNETT: Senator Pirsch. [LB724]

SENATOR PIRSCH: What types of promotional items did you have in mind in terms of use of specific language "neighboring states" as you formulated or crafted this? What were you envisioning this money would be used for? [LB724]

SENATOR COASH: I am going to defer to some of the folks in the Convention and Visitor Bureau to let them speak to some of the things that they're already doing and some of the things they'd like to do if we could increase some of the revenue. [LB724]

SENATOR PIRSCH: Okay. [LB724]

SENATOR CORNETT: Are there any further questions from the committee? Seeing none, thank you, Senator Coash. [LB724]

SENATOR COASH: Thank you. [LB724]

SENATOR CORNETT: Will you be remaining for closing? [LB724]

SENATOR COASH: Yes, I'll stay. [LB724]

SENATOR CORNETT: With that, I will open the hearing for testimony, proponents. And I forgot to say this last time. Could any proponents please state and spell your name for the record. [LB724]

ALICE LICHT: (Exhibit 3) Good afternoon. Senator Cornett, my name is Alice Licht, that's A-l-i-c-e, and the last name is L-i-c-h-t, and I represent the Nebraska Hotel and Motel Association. And we appear in support of this bill. And I appreciate some of the questions that came up today, which I'll be happy to address if you "reask" them at the end of my testimony. I just have some brief comments. LB724 will do the following: It will remove the 3 percent that the Nebraska Department of Revenue keeps when they collect the 2 percent County Visitor Promotion Fund. And Senator Loudon asked a question, do they also take 3 percent on the County Enhancement? They do not. It's just on the promotion fund at this point. The 3 percent under this legislation will be allowed to be reverted back to the Tourism Division to be used for tourism promotion.

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Currently, the Department of Tourism has a budget of about \$4.9 million, that is the state department. They receive that money from a 1 percent lodging tax. They also receive about \$700,000 from the federal government for highways and byways. So the rest of it is lodging tax at 1 percent, in addition to this year \$250,000 from the General Fund. And next fiscal year there is \$500,000 coming from the General Fund, so that will make up essentially the \$4 million. Currently, the Department of Revenue collects lodging taxes paid by individuals who stay in hotel and motel rooms in Nebraska. The hotel and motel industry provides a checkoff on lodging rooms to promote tourism. And they are the only tourism business who pay into a checkoff program for tourism promotion. We have long wanted to try something else, like other states have done to help fund tourism. But we can't seem to get that done with other industries kicking into the fund, whether that be restaurants or gasoline stations. If you look at the materials I passed out to you it shows all the various entities that benefit from tourism. In Nebraska when you stay in a hotel room, if you have a \$100 room, you're paying \$1 that goes to the State Tourism Department, you're paying 2 percent or \$2 that goes to the county for county tourism promotion, you're paying another 2 percent that goes for tourism enhancement of brick and mortar projects. For example, in the city of Omaha the Henry Doorly Zoo or Joslyn Art Museum benefit from that. In other communities, Kearney Arch, some of those type of things benefit from that 2 percent. In Omaha, in addition to that 5 percent that I just mentioned, there is a 4 percent lodging tax that goes to the Qwest Center. There is an additional 1 percent that is collected for the new baseball stadium, an additional .50 percent for tourism promotion, making Omaha one of the highest tourism tax cities in the country if you add in sales tax at 18.23 percent. Other cities, as I indicated, have added on additional taxes, like the Golden Spike in North Platte, the Arch in Kearney, the I-MAX Theater in Hastings, and some other projects. After having gone through the special session this fall, it has become clear that utilizing checkoff dollars designated for a specific purpose to be moved to the General Fund is very controversial. And I realize we are coming with this type of legislation when there are no funds. And this money has been going into the General Fund but we feel strongly that this 3 percent really does belong in tourism promotion. In the facts that I passed out to you, I won't reiterate those at this point, but Nebraska currently ranks, I believe, 44th in the country on what we spend on tourism. And you can see in the surrounding states, South Dakota...of our Nebraska spending \$4.8 million, South Dakota spends \$10.7 million; Iowa \$4.8 million; Missouri spends \$20.6 million; Colorado spends \$22.6 million; Wyoming spends \$11.7 million. And the average tourism budget nationwide is about \$17 million. So we're pretty low down on the totem pole. Some questions that came up earlier I would be happy to answer. I'm trying to remember some of them. Senator White, you had some questions. I believe one was, of these dollars, why are we designating this to neighboring states? [LB724]

SENATOR WHITE: Yes. [LB724]

ALICE LICHT: We are simply saying that of the state's total \$4.8 million we're going to

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be adding another \$220,000. The rest of that money stays where it was. This \$220,000 was suggested maybe to promote tourism to surrounding states and bring people in, for example, for hunting. We've got some things like that in western Nebraska, do some things in rural communities, try and do day trips, bring in people from the Kansas City market or from let's say the Minneapolis market. Because some of the studies that have been done is, let's face it, we are not a major destination state for tourism, like Las Vegas or San Diego or people who have mountains. So let's capitalize on some of the things that we can do and bring people in here to see what we have that are motor trips, they'll stay overnight in a hotel room, eat in our restaurants, go to the Henry Doorly Zoo, that type of thing. [LB724]

SENATOR CORNETT: Senator White. [LB724]

SENATOR WHITE: But can't the Department of Tourism do that now? [LB724]

ALICE LICHT: Certainly. [LB724]

SENATOR WHITE: Did somebody lose a battle inside on allocations in that agency and now they want us to overrule it? Is that what's going on? [LB724]

ALICE LICHT: No, no. And I don't think, as Senator Coash indicated, I don't think there is a sticking point on neighboring states. It was we were sitting around. We had discovered in the last couple of years that that 3 percent was there, because we were looking at ways to enhance tourism. And we were like, whoa, the Department of Revenue is keeping 3 percent of that money. What could we use it for? [LB724]

SENATOR WHITE: Do you have any testament from the Department of Revenue, are you aware of anybody saying they don't have the expense to collect this, that that's not accurate? They no longer incur that expense. [LB724]

ALICE LICHT: I do not have any knowledge that they have an expense. I do know that when you receive a sales tax form, as I do in business, there is a place on there for lodging tax. And you simply fill it in and it's a turnkey operation at this point. [LB724]

SENATOR WHITE: Sure, okay. [LB724]

ALICE LICHT: So is there expense? I suppose by remitting the money back to the counties that they collect, there might be some minor expenses in them paying that back to them. But \$220,000 is a lot of money that we could use to help promote tourism in this state. [LB724]

SENATOR CORNETT: Senator Loudon. [LB724]

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SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, as I look at this bill, how come you didn't just go in there and just repeal 81-1261? That's the one that took care of that administration fee and saves all the other writing. [LB724]

ALICE LICHT: Actually, we did. In fact, on page 3 of the bill, in Section 6... [LB724]

SENATOR LOUDEN: No, you still left the 3 percent in there so that you can take that cash and go do something else with it. As Senator White said, you're redirecting some of this funding. [LB724]

ALICE LICHT: Right. [LB724]

SENATOR LOUDEN: But if you were wanting to put this 3 percent back into the Visitors Promotion Fund, couldn't you just have repealed that section and went from there? [LB724]

ALICE LICHT: Well, let me explain. The 3 percent is being collected from the County Visitors Promotion Fund. So it's being taken out of the 2 percent that is from the county, and we're redirecting it back to the state. That's why it's left in there. [LB724]

SENATOR LOUDEN: You're redirecting it to where you want it to go for neighboring...for promotion of tourism in neighboring states. [LB724]

ALICE LICHT: Right, right. [LB724]

SENATOR LOUDEN: Well, you could already do that with the other Visitors Promotion Fund up here at the top of the page and all of that. That's the reason this 81-1261, all it does is set up that they'll get their 3 percent fee to service that fund. When you look at it, the rest of the extra wording that you put in there, that directs it where they're going to send the 3 percent for. That was my question, is why you didn't just...if you want to put that 3 percent money back in the Visitors Fund, why not just repeal that section? [LB724]

ALICE LICHT: Because the 3 percent is being collected from the county, the 2 percent. So what we're trying to do is redirect that to the state fund versus the county fund. [LB724]

SENATOR WHITE: Oh, I see what's going on. [LB724]

ALICE LICHT: You with me? [LB724]

SENATOR WHITE: So the county is paying the 3 percent? [LB724]

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SENATOR CORNETT: Senator White, I'm sorry, it's just...so for the record. [LB724]

SENATOR WHITE: Oh, I'm sorry. Yeah. The county is paying the 3 percent and you don't want to give it back to the county, you want to take it to the state. [LB724]

ALICE LICHT: Right. [LB724]

SENATOR WHITE: Oh. [LB724]

ALICE LICHT: Giving the state a little additional funding to do some additional promotion. [LB724]

SENATOR WHITE: Which the county won't miss because they haven't been paying it anyway. [LB724]

ALICE LICHT: They haven't been receiving it at this point. [LB724]

SENATOR WHITE: And...yeah. [LB724]

SENATOR CORNETT: Senator Louden. [LB724]

SENATOR LOUDEN: Well, not all counties collect that Visitor Promotion Fund, do they? [LB724]

ALICE LICHT: No. [LB724]

SENATOR LOUDEN: And so you're telling me that just the ones that do, there's 200-and-some-thousand dollars that comes out of just the counties that do collect that? [LB724]

ALICE LICHT: That's correct. And I would say the bulk of that comes from Omaha and Lincoln, just because of the number of hotel rooms in those communities. [LB724]

SENATOR LOUDEN: Well, not necessarily, there's a lot of it comes from other parts of the state. Because some of these counties, I said, made out like Chinese bandits when they got that promotion fund in there too. They did quite well. So I'm sure a lot of it comes from around here. So rather than let the counties go ahead and do their own visitor promotion, you wanted that money so you can have the state visitor promotion. In other words, you would be increasing that 1 percent fee that the state levies now, is what you're doing, by 200-and-some-thousand dollars? [LB724]

ALICE LICHT: What we're saying is currently the Department of Revenue is keeping let's say \$220,000 that is 3 percent of what's collected for the county level. Department

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of Revenue is keeping that, it's going into the General Fund. What we're saying, instead of them keeping it, move it into the state Tourism Division and focus it toward surrounding states. Now that's not sealed in blood, as Senator Coash indicated. If there... [LB724]

SENATOR LOUDEN: Yeah. But wait, while you're on that, the state gets 1 percent now of the occupation tax. [LB724]

ALICE LICHT: Right. [LB724]

SENATOR LOUDEN: And then the counties get two different sets of 2 percent in there. [LB724]

ALICE LICHT: Right. [LB724]

SENATOR LOUDEN: Now this here comes from the county's share, is that what you're telling me? [LB724]

ALICE LICHT: That's correct. [LB724]

SENATOR LOUDEN: And then in other words, if we followed your bill like you have here, the state would get 1 percent plus \$288,000 out of somebody else's pocketbook. [LB724]

SENATOR WHITE: The tourist fund. [LB724]

ALICE LICHT: The tourism fund, yes. [LB724]

SENATOR WHITE: Out of the General Fund pocketbook, but it's generated on the county (inaudible). [LB724]

SENATOR LOUDEN: Okay, thank you. [LB724]

SENATOR CORNETT: What determines which counties pay into this and which don't? [LB724]

ALICE LICHT: There is someone here with the Convention and Visitors Bureau. And if I'm incorrect on this, please correct me. But in some counties the county commissioners vote on whether they're going to do this or not. Am I correct on that? [LB724]

SENATOR CORNETT: That's all right. If you don't know the answer, I will ask the next person. [LB724]

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ALICE LICHT: It's a county vote on whether they will collect the tax or not. It's given as an option to the counties to do it. And, I believe, there are like 60 counties who do it. There are some counties who do not have any hotels or motels or have very few. And so there is no purpose for them to have a lodging tax. And if Senator Fischer were here she could probably tell us in Cherry County there probably aren't that many hotels when you get out in the Sandhills. So some counties don't do it at all. The active counties, of course, are going to be what they call the fishhook, you've got Scottsbluff, Gering area, and Ogallala, and Norfolk, and Kearney, and Grand Island, and Hastings, and those populated communities that have a lot of hotels and motels. [LB724]

SENATOR CORNETT: Just so I make sure that I'm clear in what you are proposing. That basically, this is money that the counties are remitting back to the state for handling the fund, which is remitted back to the Department of Revenue, who is putting it in the Cash Fund. Correct? [LB724]

ALICE LICHT: The hotels and motels throughout the state on the sales tax form fill out their total lodging dollars collected and they send to the state of Nebraska 1 percent... [LB724]

SENATOR CORNETT: In the counties that collect this. [LB724]

ALICE LICHT: Right, 1 percent that is collected for the state Tourism Department, 2 percent for county visitor promotion,... [LB724]

SENATOR CORNETT: And 3 percent of that 2 percent goes back. [LB724]

ALICE LICHT: And that 3 percent of that 2 percent now the Department of Revenue is keeping for a collection fee. It's not going back to the counties at the present time. So if a county sends in \$100,000...or if all the hotels in Hall County send in \$100,000, 3 percent of that is \$3,000, am I right? [LB724]

SENATOR CORNETT: Um-hum. [LB724]

ALICE LICHT: The state keeps for collecting that. And so what we're saying is, you know, really that should go somewhere. That should go for tourism promotion because that was the intent of collecting the money. [LB724]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB724]

ALICE LICHT: Thank you. [LB724]

SENATOR CORNETT: Next proponent. [LB724]

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LORA YOUNG: (Exhibit 4) Good afternoon. I'm Lora Young. I am testifying on behalf of the Nebraska Association...Nebraska Travel Association. It's spelled L-o-r-a Y-o-u-n-g. We would like to show our support for the concept of LB724 and thank Senator Coash for his support of tourism, it's important. As Nebraska's third leading industry, tourism has provided...has proven to be a positive impact on the economy of Nebraska. Using other states as an example, tourism can grow to be even a larger part of tourism. One of the major stumbling blocks that we have, however, is an underfunded tourism state, state tourism office. This limits the amount of dollars that are available for marketing our product to potential visitors. We understand the financial challenges the state is experiencing and know you have some very tough decisions to make. New money to compete for this important revenue stream is vital. And this revenue would be a good start, and we emphasize start, to grow our promotion effort, but it is not a close comparison to our neighboring states. In fact, South Dakota State Tourism Office just awarded a \$7 million contract to an advertising agency for marketing of their state. That's more than the entire budget for the Nebraska Division of Travel and Tourism. We need to work together to build this industry, attract visitors with disposable income to spend those dollars in our state of Nebraska. We need your support and belief in this industry and more than just one piece of this pie. We need our citizens, our legislators, our leaders to believe in the value of tourism and work together for a common goal. Thank you for the opportunity. And I'll be happy to answer questions. [LB724]

SENATOR CORNETT: Senator Louden. [LB724]

SENATOR LOUDEN: Yes. Well, thank you, Lora, for your testimony. And, yes, as the previous testifier talked about the way that was done, the county commissioners do, by resolution. And that was LB726, that was one of the bills when I first came down here that I introduced and got into law. And that gave everybody the 2 percent. What I'm wondering by the way this bill is written, the county money isn't going back to the county. It's going to go into the state tourism fund. And you're comfortable with that or should it....should that, as we say, just repeal that section where the state collects the tax money and it would stay right there in the county. [LB724]

LORA YOUNG: I'm just going to answer this honestly. I was on a conference call this morning with most of my peers. Unfortunately, Nebraska Travel Association was not involved in the writing of this legislation. We certainly appreciate Senator Coash and all the work that has been done for this. Those same issues were raised with a lot of my peers this morning in the conference call. But we wanted to come here as an association, you know, to support the concept of increasing money into the division to promote tourism for the state. We strongly...who are in this industry, we strongly feel that by increasing money that we can market tourism, we can help the state's economy by bringing people with disposable income into the state. There's a lot of things that people don't realize that we have in Nebraska. [LB724]

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SENATOR LOUDEN: Yeah. Well, I guess, my question is, what would your druthers be? Would you "druther" leave it with the county, or would you "druther" have it brought back and put in the state tourism fund? [LB724]

LORA YOUNG: As representing the association, I'm not sure that I can answer that, Senator. Personally, I have, I mean, I have not had a chance to even talk to my county commissioners on this on a personal note. [LB724]

SENATOR LOUDEN: I'm asking you, I'm not asking your county people. [LB724]

LORA YOUNG: Okay. [LB724]

SENATOR LOUDEN: What do you think? Okay, I won't put you on the spot. I don't want to get you fired. [LB724]

LORA YOUNG: I'm...(laugh). It's a real tough position right now, to be perfectly honest. I'm sorry. [LB724]

SENATOR LOUDEN: Thank you for your "nontestimony." (Laugh) [LB724]

SENATOR CORNETT: Are there further questions from the committee? Seeing none, thank you. [LB724]

LORA YOUNG: Thank you. [LB724]

SENATOR CORNETT: Next proponent. How many more proponents are there? [LB724]

JIM BALLARD: Senator Cornett, senators, my name is Jim Ballard. I'm with James Arthur Vineyards, owner of the winery here in Raymond, Nebraska, here representing the Nebraska Winery and Grape Growers Association in support of LB724. Many of the wineries, including ours, market not only locally here in the state, but also on a regional basis, which is one of the questions that was raised here. But we not only do that ourselves, but we have developed a great partnership with state tourism and local CBBs and work with them in helping to promote on a regional basis as well. There are currently 25 wineries in the state of Nebraska and many of us are producing some award-winning wines, which have won numerous awards in some major national, international competitions. And we don't want to keep that a secret. We want to tell everybody in our neighboring states about the great things happening here and what we're doing in the grape and wine industry. By putting some of these monies back into the state Visitors Promotion Cash Fund I think it would just bolster the resources that tourism has and not only hopefully helping us promote grape and wine industry in Nebraska but many of the other destination spots here in Nebraska for tourism to our

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neighboring states. Finally, real quick, we just not too long ago the university's Bureau of Business Research completed an impact study that reported the grape and wine industry had about a \$5 million impact on the state's economy based on sales tax, job creation, etcetera. We're now in the second phase of that study which looks at tourism and the trickle-down effect of what those visitors, the role they play in the economy in many rural areas and in Nebraska as well. And, hopefully, the results of that study will be done here in the next couple of months. But, I guess, empirically speaking, at JAV what we've seen is probably about 30 percent of our visitors are from out of state, between Memorial and Labor Day probably about 40 percent, that goes up to 40 percent of our visitors. So with increased funding for tourism, I think that would only greatly benefit many of the destination tourism spots here in Nebraska. And let me just add that I know we were talking about regional versus money going in. I think any money that comes back in to help the tourism industry in Nebraska is a great benefit to not only us but other destination spots. But one thing that we've seen at our winery and then talking to other winery owners is in lieu of the economy and things happening, lately a lot of our traffic and tourism from out of state visitors has really been regionally. A lot of people are taking day trips, cutting back on their vacations and spending more time taking two- or three-day trips. So to focus on a regional aspect of this makes a lot of sense to me. But like I said, any money that comes in to help tourism promote not only our industry but others is an added benefit. So having said that, I'd be happy to answer any questions. [LB724]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB724]

JIM BALLARD: Thank you. [LB724]

SENATOR CORNETT: Next proponent. [LB724]

JIM OTTO: Senator Cornett, members of the committee, my name is Jim Otto, O-t-t-o. I'm a registered lobbyist for the Nebraska Retail Federation and the Nebraska Restaurant Association, and I'm here on behalf of both organizations to testify in favor of LB724. I want to emphasize that we are in favor of the concept, recognize the concerns over whether it should be county or state. But we're not here to or I'm not here to get involved with that, just to emphasize that the concept that we support is the fact that these dollars were collected for tourism and these dollars should be used for tourism. Now whether or not that should be in the state or county, that's, I guess, for you guys to decide. Just wanted to mention one thing. The question came up earlier as to, you know, this was originally established for cost of collection, does that cost still exist, are there still administrative costs? I just...a position that we are obviously biased on is that prior to 2002, the state reimbursed retailers one-half of 1 percent for collecting...retailers and restaurants or all collectors of sales tax, reimbursed them one-half of 1 percent for the tax collected. So the amount that was, I guess, agreed to prior to 2002 was that it

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must cost somewhere close to one-half of 1 percent of the tax to collect the tax, because that's what they agreed to reimburse those who collect most of the tax. In 2002, that was taken away and put...and changed to a maximum of \$75 a month. No matter how many millions of dollars of tax you collect, the maximum any one collector can receive is \$75 a month or \$900 a year. So we each year, except for this year, have asked for a bill to be introduced to change that back to the way it was prior to 2002. This year we wouldn't...we didn't do that because we felt with the \$6 million fiscal note that that wouldn't be prudent, it wouldn't be prudent of us to ask any legislator to do that in these tight budget times. My point is that the state must not think it costs restaurants, retailers anything to collect it because they don't give them hardly anything. So (laugh) I don't think it costs the state 3 percent either. With that, I'd be glad to answer any questions. [LB724]

SENATOR CORNETT: Seeing none, thank you. [LB724]

JIM BALLARD: Thank you. [LB724]

SENATOR CORNETT: Are there opponents? I believe that was the last proponent, correct? Are there any opponents to the bill? Is there anyone here in a neutral capacity? Senator Coash, you're recognized to close. [LB724]

SENATOR COASH: Thank you, Senator Cornett and members of the committee. And just a few brief things in closing. I wanted to reiterate something that Alice Licht said at her opening, which was we currently rank 44th in expenditures to promote our number three industry. And that's something that we as a state need to really look at. We can do better than being number 44 in promoting our number three industry. The question...some of the questions had to do with whether or not these funds ought to be remitted back to the county or back to the state as proposed in this bill. Something for the committee to consider as you look at that is the counties, some counties may get very little of that money back, some counties may get quite a bit of that back. What I would like to do and the reason we drafted this bill in this way is we want to leverage all of that, putting that all together because counties can be limited in what they can do with their limited funds when the state has a larger reach, ads to promote a particular piece of an industry, like the vineyards, for example, an ad to promote that in a prudent way is going to cost \$50,000 to \$60,000. And counties aren't going to have the kind of funds to be able to do that, the state will. So that's one of the reasons that we did that. With that, I appreciate the committee's interest in this and look forward to working with you to move this forward. Thank you. [LB724]

SENATOR CORNETT: Thank you, Senator Coash. That closes the hearing on LB724. Speaker Flood, you are recognized to open on LB804. [LB724 LB804]

SENATOR FLOOD: Good afternoon, Chairperson Cornett, members of the Revenue

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Committee. For the record, my name is Mike Flood, F-I-o-o-d. I represent District 19 which includes the city of Norfolk and all of Madison County. LB804 would add two kinds of deeds. One, deeds between siblings for no consideration; and two, deeds between nonprofit organizations for no consideration to a list of deeds in Nebraska Revised Statute, Section 76-902, which are exempt from the documentary stamp tax. The stamp tax is imposed by 76-901 on a grantor who executes a deed transferring his or her interest in real estate. The tax rate is \$2.25 for each \$1,000 of value of the real estate, and the tax is collected by the local register of deeds offices when a deed is presented for recording. For each \$2.25 of tax collected, the register of deeds retains 50 cents to be placed in the county General Fund, the remaining balance is remitted to the State Treasurer who credits \$1.20 of such amount to The Affordable Housing Trust Fund, 25 cents to the Homeless Shelter Assistance Trust Fund, and 30 cents to the Behavioral Health Services Fund. Now there are 22 kinds of deeds that are exempt from the documentary stamp tax, and these deeds are listed in 76-902. Some of these existing exemptions include deeds between husband and wife, and parent and child for no consideration, and deeds between a subsidiary corporation and its parent corporation. I introduced this bill because I have been made aware of a couple of situations that suggested the need for these two additional exemptions. In one, two siblings own real property as joint tenants. They wish to sever the joint tenancy and did so by recording a deed that conveyed the property to each other as tenants in common without the payment of any consideration. In another situation, a local church wished to convey certain real estate to a nonprofit charity it also operates, so from the church to the church's foundation. I believe in these two situations, deeds between siblings and deeds between nonprofits for no consideration, it doesn't make sense to impose the doc. stamp tax. In fact, I imagine when the exemptions were created by the Legislature these types of transactions were intended to be included as exempt transactions. I also realize that no matter how consistent these proposed exemptions are with the current exemptions, any kind of fiscal note is a tremendous hurdle, especially this session and rightfully so. While the bill does not impact the state's General Fund, it will have some fiscal impact on the Nebraska counties, as well as on the Affordable Housing, Homeless Shelter, and Behavioral Health Funds. As the fiscal note explains though, the Department of Revenue assumed that the two proposed exemptions in LB804 would have the same impact as the average impact of the 22 current exemptions. I would make one quick observation, and that is it would seem that using an average could yield a number that is much higher than the actual fiscal impact. With that, I would like to thank the committee for its consideration of the bill and I'd take any questions. [LB804]

SENATOR CORNETT: Questions from the committee? Senator Hadley. [LB804]

SENATOR HADLEY: Senator Cornett. Senator Flood, thank you. With all of the exemptions is there an overarching policy on the other exemptions that kind of says that they fall under, basically, one policy and that's the reason we're exempting them? [LB804]

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SENATOR FLOOD: I think so. If you look at 76-902, the current tax exemptions, and I guess the ones that I would be looking at would be 76-902 (4), deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded but which do not extend or limit the existing title or interest. Now when you have a church that decides to transfer a farm that it inherited through a probate proceeding, from the church itself to the church's foundation, you know, if I decide to give St. Mary's Catholic Church in Norfolk my house when I die, and the church accepts it, has to accept it, well, it doesn't have to, but it chooses to accept it, and then the church council looks at it and they say, well, we have all of our real estate in our foundation. My thought is the church wholly owns the church corporation and the foundation. And they should be able to transfer that to the foundation to keep all their investment assets over here. There's no money that changes hands, it's simply a deed from the church to the church's foundation. And I think if you look through some of the other exemptions, deeds transferring property into a trust, if the transfer of the same property would be exempt if the transfer is made directly from the grantor to the beneficiary or the beneficiaries under the trust. So if I decide to take my house and put it into the Michael J. Flood Irrevocable Trust as part of my estate planning, I can execute a deed that accomplishes that transaction without paying documentary stamp tax. But the Department of Revenue's position, and they are very, you know, strictly construing the statutes, they don't see a specific authorizing language. They would say, well, take the value of your house, say it's \$100,000, you're going to pay \$2.25 times 100 to record the deed, to put it into the foundation. So, I hope that explains where I'm coming from. [LB804]

SENATOR HADLEY: Okay, yeah. I guess, the reason, Senator Flood, that I bring this up, it's something I wrestle with. Because if we have a policy and something comes in and fits under the policy, at what point in time do we say, oh, we can't do it because the fiscal impact is so large. Does that make sense that, you know, if we have a policy it seems to me that we ought to be looking at something as to whether it fits the policy that we currently have. And then the fiscal note becomes something we have to look at. But I want to look at the policy first and then...and how this fits the policy and then look at the fiscal. [LB804]

SENATOR FLOOD: Yeah. It just seemed to me wrong when we don't do it in trust and other specific, you know, transfers of real estate. But, you know, but the fiscal note is what it is. And I'm not going to represent it has no impact, because right now the state is collecting the doc. stamp tax. [LB804]

SENATOR CORNETT: Senator Utter. [LB804]

SENATOR UTTER: Senator Flood, in your judgment what percentage of the filings do you think, as watching the filings in Madison County, for example, do you think might fit

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this category of exemption that are not being exempted now? [LB804]

SENATOR FLOOD: I don't know what percentage. I would say that it's not very often that you have these types of transactions in comparison to what they usually do, which would be selling homes and farms and business property. But I do know that when this issue has come up the register of deeds in Madison County has had to call down to the Tax Commissioner's Office to find out, which tells me it doesn't happen all that often. [LB804]

SENATOR UTTER: And the fiscal note is, again, will you tell me what the fiscal note is based on again. [LB804]

SENATOR FLOOD: There's 22 exemptions under the law right now, in 76-902. And they...the Department of Revenue and the register of deeds get a real estate transfer statement on every transfer. So I assume they added up the value of all of the exempt transfers of real estate, calculated the tax and then divided by 22. And they just said, well, one of the...the average exemption in this case is what you see in the fiscal note. [LB804]

SENATOR UTTER: Can you help me with the increase that we're showing in these exemptions from fiscal year '10-11 to fiscal year '11-12 and '12-13. It goes from \$285,000 to almost \$800,000 in fiscal year '12-13. Is that just based on some assumed inflation or...that sounds like an awful lot of property being transferred to nonprofits and an awful lot of property being transferred between brothers and sisters. [LB804]

SENATOR FLOOD: Well, that's not...I don't know that I can explain the increase there, Senator. I just saw this yesterday. But in defense of the bill, I don't think that's the...that's an average, that's 1 of 22, if you take all of the exempt transactions. I would, you know, I would suggest to you that most of the exempt transactions are people in their estate planning that are transferring a farm into their trust. You know, I don't...I think most of the people that use the exemptions fit into that category in my limited experience. And while everybody does estate planning, especially since you hit a certain stage in your life, I don't know that you see as much transfer into a nonprofit foundation. But I probably...you know, I need to do a little more research on why the number jumps. [LB804]

SENATOR CORNETT: Further questions from the committee? Seeing none,... [LB804]

SENATOR FLOOD: Thank you very much. [LB804]

SENATOR CORNETT: Senator Flood, will you be remaining for closing? [LB804]

SENATOR FLOOD: I waive closing. [LB804]

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SENATOR CORNETT: Okay, thank you. First proponent. Are there any proponents? (Laugh) We'll move to...they're all behind you, Mike. We'll move to opposition testimony. Is there anyone in opposition? Is there anyone in a neutral capacity? [LB804]

BETH BAZYN FERRELL: Good afternoon, Chairman Cornett, members of the committee. For the record, my name is Beth Bazyn B-a-z-y-n, Ferrell F-e-r-r-e-l-l. I'm the assistant legal counsel with the Nebraska Association of County Officials. I'm appearing here neutral today simply because our board has not addressed this issue yet. But we would like to be on record. We will take this bill up on Friday when we meet. I would just let you know that we have fielded some calls from registers of deeds who are interested in the kinds of specific examples that Senator Flood presented today. And that sort of led to a larger policy discussion within the registers of deeds about what should they exempt and what they hadn't. And again, we'll take it up on Friday. Be happy to try to answer questions. [LB804]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Is there anyone else here in a neutral capacity? Seeing none, that closes the hearing on LB804 and ends the hearings for today. Thank you very much. [LB804]