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Revenue Committee
March 10, 2011

[LB82 LB252 LB560 LR46CA]

The Committee on Revenue met at 1:30 p.m. on Thursday, March 10, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB252, LB560, LR46CA, and LB82. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Greg Adams; Deb Fischer; Galen Hadley; LeRoy Loudon; Dave Pankonin; and Pete Pirsch. Senators absent: None.

SENATOR UTTER: Good afternoon, ladies and gentlemen, and welcome to the Revenue Committee. I'm Senator Dennis Utter from Hastings. I'm the Vice Chairman of the committee. Sitting here will be Senator Fischer from Valentine; Senator Greg Adams from York; Senator Galen Hadley from Kearney, and I assume Senator Loudon will arrive later, as will Senator Pirsch, and Senator Pankonin. Bill Lock and Steve Moore are here as legislative assistants. Matt Rathje is the committee clerk. And Amara Meyer and Marilyn Buresh are here to help us. As we begin the hearing, I urge you all to turn your cell phones off either to vibrate or silent so that the witnesses are not...or the senators are not interrupted. The sign-in sheets for testifiers are on the tables at both doors and need to be completed by everyone wishing to testify. If you're 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 if you do not wish to testify, but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda as it was posted on the door. The introducer or representative will present the bill followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and staff. If you only have the original, we will make the copies. Give the handouts to the page to circulate to the committee. And with that, Senator Cornett, you are recognized to open the hearing on LB252.

SENATOR CORNETT: Thank you, Senator Utter and members of the Revenue Committee. My name is Abbie Cornett, C-o-r-n-e-t-t and I represent the 45th Legislative District. The purpose of LB252 is to provide partial relief from the new 10 percent federal excise tax on businesses in Nebraska that provide indoor tanning services. Due to the enactment of the new 10 percent federal excise tax on indoor tanning services imposed by Congress in 2010, Affordable Healthcare Act, Nebraska indoor tanning service businesses now collect from their customers and pay over a federal and state tax authorities up to 17 percent of their gross receipts from indoor tanning services sold to customers, 10 percent of federal excise tax, plus up to 7 percent of Nebraska state and local taxes. The new federal excise tax, coupled with a longstanding state and local sales tax, places an unprecedented excise tax burden on these businesses and may put them at a competitive disadvantage with such businesses in neighboring states,

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some of which do not impose state and local sales tax on admissions to indoor tanning services. The intent of LB252 is to help relieve affected Nebraska businesses from this inequitable federal excise tax by exempting them from Nebraska state and local sales tax on the admissions due to indoor tanning services that are also subject to the new 10 percent federal excise tax which is arguably a step toward the imposing of a national sales tax. The potential loss of jobs and taxable income in the indoor tanning industry due to the new federal excise tax scheme may have less than desirable consequences for Nebraska's state and local tax systems, especially the state income tax system. LB252 is intended to save jobs and preserve taxable income attributable to Nebraska indoor tanning industry while mitigating onerous burden of the new 10 percent federal excise tax on indoor tanning services and their customers who bear the full burden of paying such taxes. We will be working on an amendment to this bill. I will have that ready in the next couple of days. There are several people from the industry today that can explain the bill and how it affects them and their businesses. Thank you for your consideration on LB252. [LB252]

SENATOR UTTER: Thank you, Senator Cornett, for the introduction. Are there any questions of Senator Cornett? [LB252]

SENATOR ADAMS: Senator Utter, may I? [LB252]

SENATOR UTTER: Senator Adams. [LB252]

SENATOR ADAMS: Senator Cornett, are you aware as committee chair over the years, have we had other industries that have federal excise tax imposed that have come in and wanted exemption from sales tax? [LB252]

SENATOR CORNETT: No. [LB252]

SENATOR ADAMS: Is this unique? [LB252]

SENATOR CORNETT: This is unique. [LB252]

SENATOR ADAMS: Okay, thank you. [LB252]

SENATOR UTTER: Any other questions? Senator Hadley. [LB252]

SENATOR HADLEY: Senator Utter. Senator Cornett, thank you for...just in a nutshell, I would have thought that the tanning for the state of Nebraska would have been considered a service and be exempt from sales tax anyway. It's not considered a service? [LB252]

SENATOR CORNETT: It is not. No. Well, there's a tax on the admission also. [LB252]

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SENATOR HADLEY: Oh, the admission, huh. Okay. Thank you. [LB252]

SENATOR UTTER: Other questions? If not, thanks, Senator Cornett. The first proponent. Welcome to the Revenue Committee. [LB252]

BARTON D. BONN: Well thank you, Senator. My name is Barton D. Bonn, that's B-a-r-t-o-n D-as in Douglas, and Bonn, B-o-n-n. I'd like to thank Senator Cornett for introducing LB252 on the behalf of the Nebraska Indoor Tanning Association. Today I've got a tough task. I've been in business for 20 years building my business and within a few minutes I need to convince you that it's worth offering some relief based on the federal excise tax. I just want to make a point that last year there were 220 tanning salons in the state of Nebraska; this year there are 177. The impact has been dramatic on our industry; it's essentially sucked all of the profits and affected our cash flow and we're all under stress. I wondered what it would be like if we were to roll all of those jobs up into one industry and maybe if it were in your community it would be about 1,000 people and what the impact might be on your community if a business of that size were to shut down and leave. Well, it isn't, we're main street businesses and we're spread across the state. And maybe you haven't even noticed that those 40 salons have closed up in the past year. It's easy to miss. But the impact is just as bad job-wise on those people that have established those businesses. I'm the chair of the Nebraska Indoor Tanning Association. My wife and I own Ashley Lynn's Tanning. We own 14 locations here in Nebraska, and another 4 in other states nearby. And it's, like I said, it's my goal today to persuade you to suspend the 7 percent; it's called an admissions tax, but effectively a sales tax on indoor tanning services in Nebraska to help correct a grave injustice against...perpetuated by the federal government against our business here in Nebraska, as well has nationally. Last year Congress, with the President's signature, signed into law the National Healthcare Act. On one of those 2,800 pages of that mammoth bill were five paragraphs that initiated this effect. It was an industry-crippling excise tax of 10 percent. So today in Nebraska in most of my salons we collect 17 percent right off the top. There isn't another business in the state that does that that provides a retail service. And in fact, Senator Adams, to your question, there isn't any retail ever in the history of the U.S. that has ever had an excise tax. Excise taxes have been on fuel, liquor, and tobacco, and that's all that our research could find. This is a precedent-setting event. And when Senator Cornett talked about that concern about a...is this a gateway, a precedent-setting event that allows the national government to start doing a backdoor way towards kind of a national sales tax. If it occurred to your business, how devastating would it be in your line of work to have a 10 percent tax imposed upon you? It's been very devastating to us, so. A little bit on this bill, it was such a surprise. On December 19, 2009, was the first public mention that tanning salons may be taxed within that healthcare bill. Six days later they voted on it, the Senate did, and it became law. There was no economic impact study; there were no public hearings. As a matter of fact, this Revenue Committee is the first Revenue

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Committee in the country to hear about this bill in a public hearing and to that I thank you for listening to us. So there's an opportunity even here to send a message back to Washington, D.C., on what I think is an inappropriate process. We didn't have due process. I can't believe that an industry of 160,000 people, that employ 160,000 people, didn't even warrant a phone call, let alone a public hearing. But that's, in fact, what occurred. So today I'm here to seek justice. We can't get that in D.C. I talked to my attorneys, how can we get in front of a judge? They said that it would cost a half a million dollars and we'd have to wait four years. I just can't believe that. You know, we fought World War II in less than four years and that's how our justice system works; yet this thing was imposed on us in less than one week. It's devastating to our industry. You know, Senators, this tax, this problem is not of your making, but you do have an opportunity to have a significant impact here. And what's the difference? You're accessible and they are not. You have the opportunity to relieve us of that state sales tax until the federal tax is adjusted and done away with. So just like many of you, our whole situation is waiting on the attorney generals that got together in the Florida court to appeal the healthcare bill. That's where our whole hope lies. And you listen to the news; it's moving along in a direction that would be beneficial to our cause, an incidental benefit, I guess, but very important to us. But still it has to go before the Supreme Court. It may be a couple more years and I've already explained already the effect that it's had on our industry. So on July 1, the tax became effective. It was the first event in that bill to take effect. The unbelievable part, though, was that many other people in our...that offer tanning services are exempted from it; the medical community, the dermatologists that use it, they're exempted from paying the tax. But even more unbelievable is that the IRS also exempted gyms, so now we have gyms that advertise, come here, get the same service that we offer, but they focus on the fact that they're exempt from the tax. It's just not fair tax policy, even if you are going to have it. If you're going to have the tax, all of these sectors should have been taxed the same way. It was deliberate to undermine our industry is my view. And I know this is a difficult task. I know that this committee is probably facing the most difficult challenges since the Great Depression in trying to balance your budget; I know how difficult it is and how tough the timing is on this. But I think that you've already heard from us, we don't have time to wait. We need this relief or our jobs are going to be lost. And so I appreciate how tough this decision is, but believe me, it's tougher for us, I think. I also wanted to give you an update on what the effect has been, kind of a...just a general view of what I see going on around in Nebraska. I have a salon in Grand Island. Last year there were five salons, this year there are three salons in Grand Island. One of the salons had been open for 15 years. Most businesses that fail, fail in that first year or by the fifth year. When a business closes up after 15 years of operation, something else is generally at work. But when it's occurring over and over, then something much, much bigger is occurring. Just down the road in Kearney, there were three salons there last year; today there are two salons. The salon that closed up called me and asked me if I would simply take over her lease so that she wouldn't have to carry the burden of that lease. She had been there for 14 years. I decided to pass on that. I realized that this tax was such a threat that I couldn't

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invest the money, keep those jobs there, and in fact, I've instead spent all that money in the past year, nearly full-time working on trying to stop this tax at both the federal level, local, and state. It's completely diverted my efforts. I've barely worked on my business, that's what I've done for the past year. And for the benefit of my industry, I'm also on the national board as of recently. In La Vista there was a regional...there was a regional corporate entity there called Tan World. They operate in 12 states with some 60 stores. Just a few months ago they sold their corporate headquarters to a company out of Kentucky. Those corporate jobs by this summer will all be gone as a result as well. In Omaha there's many stores have closed; four of them are for sale right now. We heard from a salon owner in Ogallala today that said three salons in her vicinity had closed in the past year as well. It's been said that we're just now coming out of the great depression of '08. That was my second recession. Actually, you might think this is all about the recession; I've been through two recessions. And I find that our industry has been recession-resistant. We'll take a few percentage points hit and move on, so we were actually doing quite well until this tax occurred and then completely the opposite. So it is definitely related to the tax itself. If you remember anything from my presentation today, please remember that this 17 percent tax will kill Nebraska jobs, it has been and will continue to kill jobs. Thank you. If you have any questions, I can take those. [LB252]

SENATOR UTTER: Thank you very much for your testimony. Senator Pankonin. [LB252]

SENATOR PANKONIN: Thank you, Senator Utter. Mr. Bonn, I remembered you from Health and Human Services Committee, my previous committee. [LB252]

BARTON D. BONN: Yes, sir. [LB252]

SENATOR PANKONIN: But first of all I want to state, as a small businessperson obviously can sense for real your frustration and understand, I mean, it just seemed like you got picked upon. The reason, knowing from background on some of the questions sometimes about your industry, was it...it was health related to be punitive do you think? Who put that in and what was the thinking behind it? [LB252]

BARTON D. BONN: No, it wasn't health-related at all, though the coalition of lobbyists that were backing that will say that afterwards. What was occurring on the federal level is all during the healthcare deliberations, there was expected to be a 5 percent elective cosmetic surgery tax. So that coalition got together with a greater coalition of really multibillion, multinational level-type of lobbyists, Revlon to Allergan. Allergan is the primary maker of Botox. And they lobbied Senator Reid for a change. And he granted it at the very end. And like I said without any discussion whatsoever with our industry. So in my view, it was just plain back-room politics lobbying-style in D.C. And I assume you all know that much better than I do, but that's the way that I see that it occurred, Senator. [LB252]

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SENATOR PANKONIN: A follow-up question would be, you mentioned you were on your national association, do you think there is any chance that you can get this rolled back at the national level? [LB252]

BARTON D. BONN: Our best hope is the repeal of the overall bill. We've been engaged a great deal...I never in my life imagined that I would meet the Speaker of the House, but I did, and he was favorable in listening to us here recently. And I also got to meet the Minority Leader. I went in to see Senator Nelson here, who said that if it came up as a separate vote, he would appeal it. It's just so huge in D.C. I was thinking about the size of your budget, a \$3.5 billion is about the size of a Ford pickup truck. They're spending \$3.5 trillion. You could fill Memorial Stadium with hundred dollar bills. So we're just such a small insignificant event, even though there's 160,000 people employed in our industry as far as I can see, Senator. [LB252]

SENATOR PANKONIN: My last question is, obviously what we'd be doing here is trying to help you circumvent federal policy and it would cost our revenue. [LB252]

BARTON D. BONN: Yes. [LB252]

SENATOR PANKONIN: And that's maybe a tough sell on the floor as well. [LB252]

BARTON D. BONN: Yes, it is. [LB252]

SENATOR PANKONIN: But we appreciate you coming. And it's unfortunate your industry is in it and I feel bad about that. Thank you. [LB252]

BARTON D. BONN: Thank you, Senator. [LB252]

SENATOR UTTER: Senator Adams. [LB252]

SENATOR ADAMS: Thank you. Can you tell me our surrounding states, Iowa, South Dakota, Colorado, what tax policy? I mean, they're the same kind of businesses are being impacted by federal,... [LB252]

BARTON D. BONN: Yes. [LB252]

SENATOR ADAMS: ...but what about state tax? [LB252]

BARTON D. BONN: All of the states exempt tanning. They've never had tanning on as a sales tax with the exception of Iowa. So South Dakota, Wyoming, Colorado, Kansas, and Missouri do not have a tax. [LB252]

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SENATOR ADAMS: So your colleagues in Iowa are fighting a similar battle. [LB252]

BARTON D. BONN: No, they do not have the state sales tax, only the federal excise tax has occurred to us all nationally. [LB252]

SENATOR ADAMS: Okay. I misunderstood. I thought you said Iowa was the one that resembled Nebraska. [LB252]

BARTON D. BONN: I'm sorry. Yeah. [LB252]

SENATOR ADAMS: Whereas Colorado and South Dakota did not. [LB252]

BARTON D. BONN: Yeah, well, I'll restate it, Senator. What I mean by that is, nationally everybody got the 10 percent tax. [LB252]

SENATOR ADAMS: Right. What about state tax? [LB252]

BARTON D. BONN: State tax, the only other state that neighbors us that has a state tax is Iowa. None of the others have and none of them ever have. [LB252]

SENATOR ADAMS: Okay. Thank you. [LB252]

SENATOR UTTER: Other questions? Seeing none, thank you very much for your testimony. [LB252]

BARTON D. BONN: Thank you, Senator. [LB252]

SENATOR UTTER: Next proponent. Welcome to the Revenue Committee. [LB252]

HEATHER ALMOND: (Exhibits 1, 2, 3, and 4) Thank you. Members of the committee, my name is Heather Almond, H-e-a-t-h-e-r, Almond, A-l-m-o-n-d. You're receiving some handouts from me right now. There's an economic impact study on our industry conducted by Dr. Ernie Goss. There's also some letters from other proponents throughout the state that would like to be here today, but cannot because they're running their own stores because they can't afford employees. And there's also a breakdown by senators' district to let you know which salons are in your district. I would like to present to the committee a study done by Dr. Ernie Goss done in October, 2010. The effects of the 10 percent federal tax which started in July 2010 have not only met the regressive outcomes predicted by Dr. Goss, but unfortunately from personal data experience by our own sales and discussions and observations of our competitors, have far exceeded the predictions by Dr. Goss. Our industry, like many service industries, has a price elasticity which, as you know, means a higher price will lead to fewer consumers purchasing our services. Dr. Goss used a ratio of .9 percent to 1.8

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percent based on data frequently used for personal care services. In short, a 10 percent increase in a tanning tax leads to a 9 percent to 18 percent decrease in sales. Actually, we have found this to be a conservative estimate since many of our customers in response to this tax are now taking advantage of our competitors found in healthcare facilities, apartment complex facilities, and gyms who provide tanning beds and do not have to pay this unfair tax. Our industry is declining rapidly as a result of this tax. We ask you to consider the overall annual impact of the loss of \$3.9 million to the Nebraska economy on services spent to operate our industry and the potential \$1 million impact on employee compensation. Our study estimates the loss of 49 full-time jobs and several hundred part-time jobs as a direct result of this additional tax. This loss of \$3.9 million to the economy could potentially be a permanent loss if this regressive tax continues. Our industry may actually cease to exist as a result of this tax which is targeted to one specific industry. Tanning services will continue in healthcare, apartment complex facilities, and gyms, but the federal government is not collecting tax revenues on these competitors who are providing the same services. Currently five of our six neighboring states have no tax on tanning services. South Dakota, Kansas, Colorado, Wyoming, and Missouri do not tax our industry. As a manager of 18 tanning salons in four states, I deal with the same issues as any other small business owner. However, unlike any other small business owner, we are starting out with a 17 percent tax burden. We are not asking for a repeal of the admissions tax, but instead we support Senator Cornett's amendment to suspend the admissions tax to level the playing field for our industry. In doing so, we will then be able to continue to be able to contribute to the Nebraska economy. Senators, I remember in the fall when the President and our Congress were calling for creation of new jobs. We, as an industry, are asking you to keep our industry's jobs in Nebraska where all of our owners are small business entrepreneurs taking risks and working to build their businesses. We hope the Legislature will consider the devastating effects this tax is having on the 177 tanning salons left throughout Nebraska and in almost every one of the senators' districts. In a time when we're trying to build Nebraska's economy and keep small businesses alive, I ask you to help our current Nebraska small business owners by taking steps to remedy their tax burden by advancing LB252. Thank you for your time. [LB252]

SENATOR UTTER: Thank you for your testimony, Heather. Questions? [LB252]

SENATOR HADLEY: Senator Utter, thank you. Heather, thank you. The one thing that both testifiers have made a comment that just really shocks me, the state of South Dakota taxes literally everything in the world with a sales tax and tanning is not taxed in South Dakota, is that...? [LB252]

HEATHER ALMOND: No, and actually at the federal level, there's 31 states that do not have tax on tanning services. [LB252]

SENATOR HADLEY: Because South Dakota had a bill in this year to tax rodeo clown

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fee, put a sales tax on it, so that shows you how broad their sales tax is. So that's just kind of amazing to me. [LB252]

HEATHER ALMOND: Right. Yep. [LB252]

SENATOR UTTER: Other questions? Senator Louden. [LB252]

SENATOR LOUDEN: Thank you, Senator Utter. What you're asking for is an exemption from tanning salons, correct? Because otherwise you're not just asking for the return tax on the state because we're also talking about a city sales tax. [LB252]

HEATHER ALMOND: That's right. [LB252]

SENATOR LOUDEN: When you say, when, you know, some of this information says 17 percent they're talking about 7 percent, I presume you have tanning salons in all cities that have a full cent and a half sales tax? [LB252]

HEATHER ALMOND: That's correct. [LB252]

SENATOR LOUDEN: Okay, and that will have some local economic impact. I don't know how much sales tax you pay in those different towns, it's probably not that much, but as far as their budget is concerned, but this is what we're talking about as a complete exemption of tanning salons. [LB252]

HEATHER ALMOND: Um-hum. Actually it would be a suspension as long as the federal tax is in place with the amendment that Senator Cornett is going to add. [LB252]

SENATOR LOUDEN: Okay, thank you. [LB252]

HEATHER ALMOND: Um-hum. [LB252]

SENATOR UTTER: Other questions? Seeing none, thank you very much for your testimony. Next proponent. Welcome to the Revenue Committee. [LB252]

MONICA PARRIS: Thank you so much. Members of the committee, my name is Monica Parris, M-o-n-i-c-a P-a-r-r-i-s. I am a local owner of Alternative Tan tanning salons. I have four locations in Lincoln and I have one in Gretna. I'm here today seeking support of LB252 which represents the suspension of the sales tax. I'm here not only for my family and business, but also on behalf of other salon owners and managers and employees that wished that they could have come. I've been in the tanning industry since 1985. I began working for other salons. I opened my first Alternative Tan 19 years ago with the help of my grandmother who cosigned a loan. In the beginning I worked open to close, seven days a week. As my business grew, I was able to open additional

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locations and hire staff. During my time as a business owner I have had great pleasure in watching my employees put themselves through college, buy their first home, take care of their families. As a business owner and parent, it was and is my goal to provide my daughter with the college education that I was unable to have. Since the institution of this excise tax, I have seen my profits decreasing steadily and I fear I may be unable to send my daughter to college. I work now to pay my salon's rent, my employees and my taxes. I hope that you can see the unfair burden that this has put on my business, as well as others. I'm not asking for a handout and I'm not asking for pity; I'm asking to provide an even playing field for everyone that does have indoor tanning. As a result of the new taxes, my revenues have dropped 20 to 30 percent since July. As the doors of growth and prosperity of my business slam shut, I've cut as many staff as I can possibly cut. I currently have 32 employees; typically this time of year I'd have 55. I can no longer dream of growing my business, but my hope is to keep my doors open. I'm here to say...or to ask...it's not that I want you to come and spend money at my facility, I'm not asking that, to help pay my employees and to keep my doors open. I'm a pretty frivolous individual. I don't spend money to get my nails done. I don't get massages. I don't get tattoos, but I don't wish any of those businesses to be gone from 0 to 10 percent on an excise tax and for their families to go through what my family has gone through, as well as my employees. I'm asking you to see the importance of LB252 and allow my business and therefore my families to have a chance to survive. It is a fact that not all states charge a sales tax on tanning. In my state and city I compete with private gyms, apartment complexes within a radius of every single one of my locations. They have the ability to put a sign in their front lobby that states, we will not charge you tax. I don't have that ability. I can ask my patrons and my staff to share with my patrons to continue to stay with us knowing that we pay a professional to give them the best customer service and the best we have to offer in this economy. But the truth is, is when you're versing us against a health club membership where you can walk in and tan for free, unfortunately in this economy people will leave my door because they can go to their apartment complex and tan, it's part of their rent. They can have that, it's part of their gym membership. Not only are they not paying for that extra tanning, but those businesses aren't paying the tax that across the board we as salon owners are paying all those taxes. I'm asking each of you to see the unfairness of this situation and to give me what is left of my staff and my family, my friends and competitors of Ashley Lynn's, Max Tan, and so many others a chance to be treated fairly and return to us the ability for our business to compete and to succeed in this industry. July 1, we were here at the Capitol and these are thousands of names of our patrons that did not want this extra tax. And I feel at this time it's my last chance to let you all know that these many people...tanning is important to them. It may not be something that each of you patronize and I'm okay with that, but it's important to these people. And I wanted to give them a chance to have a voice as well. So if you have any other questions, I will do my best to answer, but thank you for listening. [LB252]

SENATOR UTTER: Thank you, Ms. Parris, for your testimony. Questions? Senator

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Pankonin. [LB252]

SENATOR PANKONIN: Thank you, Senator Utter. Ms. Parris, just to kind of get an idea here; your industry had the 10 percent excise, you mentioned that some apartment complexes and just as part of the health club that might be attached, and other potential competitors health clubs, whatever, but since this has happened, obviously all your...the regular tanning places, the Ashley Lynn's, those competitors have had the same tax. [LB252]

MONICA PARRIS: Correct. [LB252]

SENATOR PANKONIN: So I guess I don't know how much it is per time when you go for a tanning session, but so you think...is the problem...because all your regular tanning competitors have the same issue, is it just the price elasticity of it's gone up so much for people or do you think it's a more other competitors have taken your customers? [LB252]

MONICA PARRIS: That's a good question. I think it's a combination of both. When a patron has the ability to go and swipe a membership card, they get in and they're able to do their tanning, they're able to do their workout and they're done. They aren't paying an employee. I'm giving the job for someone that there's a price to that. There's a price to offer a professional environment. We don't have any other source of income in our tanning salons. We strictly devote our time and attention and education of our staff to just those things. It's very hard to compete with a gym membership where the majority of people...they are going there for their gym membership, but now in order to gain our business, they can offer tanning on top of that. And they don't have to have an employee just attending the tan, the clients. They don't have to have an employee there that is sanitizing their equipment or making sure that they are doing the appropriate time. We've taken on that responsibility through offering jobs. [LB252]

SENATOR PANKONIN: A follow-up question. So are you under licenser requirements of the state then...the tanning...do you have...? [LB252]

MONICA PARRIS: We do everything that the state has asked of us, yes. [LB252]

SENATOR PANKONIN: Do you have a license, though, to operate from the state for the tanning part of it besides the business sales tax? [LB252]

MONICA PARRIS: For what the state asks of us, yes, we all do. And we do it on a national level by choice. [LB252]

SENATOR PANKONIN: Okay. So even if we rolled back the 7 percent which, as I stated before, I think it's very unfortunate what happened to your industry; do you think it

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would still be a big problem that these people have now gone to these other places and to get them back, do you think the 7 percent would make a difference? [LB252]

MONICA PARRIS: I think it puts us on a more even playing field knowing that if I move into this apartment complex I can get free tanning. Those people may have come to me at one time. But now that they've altered that and can offer that now, I can't. I think that it gives us a little bit...a little bit more of at least it being fair. [LB252]

SENATOR PANKONIN: Thank you. [LB252]

MONICA PARRIS: You're welcome. [LB252]

SENATOR UTTER: Other questions? Ms. Parris, just let me just ask a question. [LB252]

MONICA PARRIS: Yes. [LB252]

SENATOR UTTER: What does it take to qualify as a gym? [LB252]

MONICA PARRIS: Underneath my best understanding with the federal excise tax, it is a certain amount of income generated from the fitness facility itself. But when the fitness facility packages and couples all of it together, they do their step aerobics, and they do free weights, and now we've thrown in tanning; when that's all coupled, they're not paying either one of the taxes that I'm paying. But underneath the excise tax guidelines if I am to understand your question right, to the best of my knowledge, it is the percentage of income generated through tanning or health club memberships. But it's very easy to hide when you're packaging that all together. [LB252]

SENATOR UTTER: Thank you. [LB252]

MONICA PARRIS: You're welcome. [LB252]

SENATOR UTTER: Seeing no further questions, thank you very much for your testimony. [LB252]

MONICA PARRIS: Thank you. [LB252]

SENATOR UTTER: Further proponents. Welcome. [LB252]

MICHELLE FIEDLER: Thank you. Good afternoon members of the committee. My name is Michelle Fiedler, F-i-e-d-l-e-r and I'm here on behalf of LB252. I'm going to speak on a bit more of a personal level. I've been with Alternative Tan for nearly eight years. During those eight years I have not once ever worried about whether or not my

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job was secure. That has all changed since the tan tax was implemented. I can speak on behalf of my entire staff when I say that we are all in great fear of losing our jobs. As the manager, I can tell you the negative impact that this tax has had on our business finances. The decreased flow of customers through our doors has led to a significant decrease in sales obviously. As someone who has been with Alternative Tan for its entire existence of 19 years as either a customer or an employee, the decrease in our clients is devastating. We have not been able to hire the staff that we were once able to support. Retention of our current staff is becoming very difficult due to the uncertainty of the situation. We are forced to make do with less than optimal inventory. The clients with whom I have established family-like relationships over my several years with Alternative Tan, they're angry. They're angry because one of their few affordable comforts is being taxed at such a high rate. Many of our clients have just been frustrated and decided just to give it up which puts our business and our jobs at risk. The people that we employ, they're parents, they're students, they're average people who need their paychecks. I accepted my position with Alternative Tan with the knowledge that it was a respectable business within our community, one that I could definitely see a future with. I'm a single mother of two. One of my children has a disability. This job offers me the flexibility that I need to care for my boys. It's becoming increasingly difficult to adequately provide for my children. My commissions have dropped drastically and I get to see those numbers every day. We're losing clients at an alarming rate. Our industry cannot take a beating like this and be expected to survive. Alternative Tan is one of the things that I am most proud of. I am proud that I'm able to provide for my family; proud to be a part of a business that supports many local charities; and proud to be a part of such a longstanding Lincoln business. But what I am most proud to say is that Alternative Tan is my future. I hope that the committee's advancement of LB252 will help us achieve a more fair, more competitive environment for all of the salons in our industry or in the state of Nebraska. So thank you for your time. [LB252]

SENATOR UTTER: Thank you very much for your testimony. Any questions? Thank you very much. Next proponent. Seeing none. Are there opponents of this bill? Does anyone wish to testify in a neutral capacity? Senator Cornett, you're recognized to close. [LB252]

SENATOR CORNETT: Thank you, Vice Chair Utter and members of the committee. I want to thank you for your time and consideration on this bill. I introduced it at the request of the tanning industry last fall when this was enacted at the federal level. In the beginning it bothered me, not only that we were affecting Nebraska businesses like this and the fact that we were going to be losing businesses and jobs with this additional tax, but also I felt that it was definitely a first step at the federal level towards a national sales tax. It is the first time anything like this has ever been enacted. And it is somewhat of my line in the sand saying that this...we do not want this. Our country has typically...or historically never had a national sales tax. I would hope that you would

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advance this bill and I don't think I've ever said this in my time in the Legislature; as a matter of fact, normally I disagree with it, but I think this is something that we need to discuss on the floor; to have a discussion about where we are going as a state and what we will allow the federal government to do to our state. Thank you. [LB252]

SENATOR UTTER: Thank you, Senator Cornett. [LB252]

SENATOR CORNETT: And I need to grab my other notebook very quickly. I apologize, I thought I had my other notebook.

SENATOR UTTER: We will allow you time to get your notebook.

SENATOR CORNETT: Thank you. While Bill is grabbing me a notebook, I can go ahead and open on the bill. I just want...the notebook has the breakdown in it. This bill is looking at broadening the base of the sales tax. There are two reasons for introducing this bill. I do not expect the committee to pass this bill out. One, it is to have the general discussion about what we exempt and the amount we exempt in this state. And this was the first year that we really did not get a good discussion on exemptions. This is a sales tax broadening into the services area. The second reason that I drafted this bill and introduced it this late in the year and, again, do not plan on Execing on it and I've reassured everyone on that, is we don't know exactly where we're going to be in April. We don't know exactly what the deficit is going to be. We don't know exactly how we're going to do on our budget. If we run into a situation where we have a larger deficit than we assumed we were going to have or we are unable to pass the budget, if people are not willing to make the cuts that have been proposed in the Governor's budget and that were going to be proposed by the Appropriations Committee. We have a requirement for a balanced budget and it is this committee's responsibility for making up that shortfall. So this bill is one of three that I've introduced to give us those options if that occurs. This one, like I said, is a broadening of the sales tax base into services. The ones we will be hearing next week are a...if you noticed, it will be a blank rate increase of income tax and a blank rate increase of sales tax. Again, I do not expect the committee to Exec on any of these bills unless we run into trouble and that is what they are for. There's been a...I've gotten a lot of phone calls in the office about, oh, you're going to tax funeral services; you're going to tax legal services; you're...if it comes to it, it is this committee's responsibility to find money for the state. And this is one of the options that we will have. Unless you need me to go through the individual services, I'll just call that my opening. [LB560]

SENATOR UTTER: You did a great job without your notes, thank you. [LB560]

SENATOR CORNETT: Well, all the notes had were what services we were going to include. But it's \$62 million, or \$64 million fiscal note positive. [LB560]

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SENATOR UTTER: Thank you, Senator Cornett. Senator Cornett, there may be questions for you. [LB560]

SENATOR CORNETT: That's fine. I will wait (laughter). [LB560]

SENATOR UTTER: First proponent. [LB560]

JACK CHELOHA: (Exhibit 5) Good afternoon, Senator Utter and 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 lobbyist for the city of Omaha. I want to testify in support of LB560, and I'm glad the lights aren't on today, because this will only take about 30 minutes or so, so (laughter). No. [LB560]

SENATOR UTTER: If it takes that long, Jack, the lights will come on. [LB560]

JACK CHELOHA: (Laugh) Darn. No, I'm joking. It'll be very brief. I'm asking the page to hand out a general resolution relative to sales tax exemptions that my city council and mayor unanimously support last fall in anticipation of this legislative session. And we appreciate the fact that this bill, at least is out there for discussion purposes, and we just wanted to let you know that any time the state looks at broadening its base on sales tax, it also has an effect or if you narrow your base, obviously, it has an effect on the local option sales tax. And we don't have a particular opinion as to any of these services that are selected within the green copy of the bill, but just generally, I wanted to be on the record and support the bill, so I'll try and answer any questions. [LB560]

SENATOR UTTER: Questions for Mr. Cheloha? Senator Louden. [LB560]

SENATOR LOUDEN: Yes, thank you, Senator Utter. Well, Jack, I was back here in about 2003 when we went through all this with construction sales tax, and the whole thing. Wouldn't it be...instead of worrying about all this, wouldn't it be just a little bit easier perhaps to just raise the sales tax rate on what we have would probably raise way more money than what this is? I mean, a quarter of a percent or less than half. I mean, we're talking about \$62 million in the first year and \$84 million the next, but rather than go through all of these exemptions and go through that, you might say World War VI we had there in about 2004 after that all hit with, I think Senator Landis brought out this construction stuff. To me, I've always thought we can raise sales tax with statutes, and to me, that would be the easiest way to increase any funding if we needed it rather than to open up a whole battlefield again. [LB560]

JACK CHELOHA: Right, and I appreciate your question. And I've been the lobbyist for Omaha for 16 years now, and so I lived through those discussions and the changes in the base back in the years you've talked about. I guess from our perspective, if you've raised the rate, you know, only on the state's portion, it wouldn't affect the local option

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sales tax, because we would still be at the same number that we're at, the percent that that's there. However, I am aware that this committee heard testimony on the bill relative to the local option yesterday. But, nevertheless, I mean, there's all kinds of studies out there as to what should be taxed and what should not be taxed, and...yeah. [LB560]

SENATOR LOUDEN: Well, on the local stuff we had, see, we're not changing the exemptions or anything like that. [LB560]

JACK CHELOHA: Correct. [LB560]

SENATOR LOUDEN: You're just increasing the ability to levy the tax, and we're leaving all of those exemptions. As I say, you know, we've been, what, nearly, what, we're 50 years now, isn't it...40, 50 years working on exemptions on sales tax,... [LB560]

JACK CHELOHA: Right. [LB560]

SENATOR LOUDEN: ...these funds from the time when Tiemann started in, and they've been working on exemptions ever since to try and get that, so everybody can live with it. [LB560]

JACK CHELOHA: Right. [LB560]

SENATOR LOUDEN: And every time we stir this up, it's sort of like...what do they call it, one of these digesters the hog farms use, you know? You get the methane going in a hurry. [LB560]

JACK CHELOHA: Absolutely. I see your point. [LB560]

SENATOR LOUDEN: Okay. Thank you. [LB560]

SENATOR UTTER: Further questions for Jack? [LB560]

JACK CHELOHA: Great. Thank you so much. [LB560]

SENATOR UTTER: Thank you very much for your testimony. Next proponent. Opponents. Welcome. [LB560]

LOY TODD: Thank you, Senator. Senator Utter, members of the committee, my name is Loy Todd. That's L-o-y T-o-d-d. I'm the president of the Nebraska New Car and Truck Dealers Association. First of all, we appreciate Senator Cornett's remarks and know what her intent is on this bill and appreciate that. When you represent an association like mine, though, you probably better get on the record when there are bills that target

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you to some extent. And so I just...I want to make one thing clear, and that is, we understand we're all in this together, and there may have to be tax changes that are made. But this is clearly tax policy, and, you know, one thing that's somewhat troubling is, you pick up the paper sometime or you read comments or listen to the news, and they talk about exemptions as if it's some kind of inside deal or some kind of favorable treatment. And I know from being around the Legislature as long as I have, that these exemptions are considered individually, one at a time, and there's tax policy involved. And I just want to discuss this tax policy on motor vehicle repair, and, you know, it's really simple to explain to people, we don't tax medical bills. We don't tax hospital bills; we don't tax things like that, because those are, you know, bad events that happen to people, and we choose not to pile on with the burden. The state just said, we're not going to do that. Well, you know, we think motor vehicle repair is a little bit like that. Nobody comes in to one of my members' dealership happy that their car broke down. And I'm confident that if anyone in the Legislature or just anybody driving down the road, looks over and sees a vehicle on the side of the road with steam coming out of the hood, their first reaction isn't, oh, maybe we can tax that. (Laughter) I think the thought process is that's too bad; how can we help? And, you know, I'll be honest with you, it's a pass-through for us. We will pass it on to the consumer, because we're required to, and that's what we do. But I...I can just say, as a matter of tax policy, we think motor vehicle repairs are one of those kinds of things that at least has been exempt historically for a reason. And we hope that this bill isn't necessary, and we would hope that if it does become necessary to look at some of these exemptions, you, at least, consider those comments in your deliberations. With that, I would answer any questions you might have. [LB560]

SENATOR UTTER: I think we're all surprised about your testimony, Mr. Todd (laughter). [LB560]

LOY TODD: I'll bet. [LB560]

SENATOR UTTER: Questions for Loy? If not, thank you very much. [LB560]

LOY TODD: Thank you. [LB560]

SENATOR UTTER: Welcome, Ron. [LB560]

RON SEDLACEK: Thank you and good afternoon, Senator Utter...Vice Chair Utter and members of the Revenue Committee. For the record, my name is Ron Sedlacek. Last name is spelled S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce and Industry, and also been asked to enter, for the record, opposition on behalf of the Association of Commercial Property Owners in opposition to...and to be on record in opposition of LB560. Our state chamber policy has generally been and continues to be, and that is that we would not favor any further broadening of the state

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sales and use tax base to include more business to business type services. We, over the years, have had that consistent policy, and particularly, as it relates to business and agricultural enterprises. And when we look at this particular piece of legislation, our concern is with the provisions that would tax storage, parking whether it's on-street or off-street, waste hauling, recycling, other waste disposal services, auto repair and maintenance, and in the landscaping area, particularly snow removal and maintenance of landscape. These, we would consider to be business to business services. There is a distinction, of course, between small business and larger enterprises in which the small business may have the contract and, therefore, pay that sales tax, whereas those who are in a larger enterprise may actually have on staff those personnel in a large company auto pool or in landscaping and maintenance, and so forth, in which they would be exempt from that tax, yet both competing against each other. We feel that this is a pyramiding effect, and ultimately, the consumer will pay for...the ultimate consumer is going to be paying for the extended taxation. And for these reasons, we would oppose the legislation, and be happy to entertain any questions. [LB560]

SENATOR UTTER: Questions for Ron? Senator. [LB560]

SENATOR HADLEY: Senator Utter, thank you. Ron, thank you for coming. In our committee, we hear a lot about border bleed, and it's usually a person trying not to, you know, they want the advantage on the Nebraska side. How do you...do you happen to know how Iowa handles taxable services? Do they tax...put sales taxes on services or is their sales tax similar to ours? [LB560]

RON SEDLACEK: Well, every state is unique in regard to what is and what is not taxed. Iowa has, I believe, a...numerically, if you were to list the services, would have a larger size list than Nebraska. Certainly, South Dakota and other state to the north has even a larger list, because each has, of course, their unique tax systems as to what is and is not taxed. That's correct...um-hum. [LB560]

SENATOR HADLEY: Okay. Thank you. [LB560]

SENATOR UTTER: Other questions for Ron? Seeing none, thank you very much for your testimony. [LB560]

RON SEDLACEK: Thank you, Senator. [LB560]

SENATOR UTTER: Welcome to the Revenue Committee. [LB560]

BILL LAUBER: (Exhibit 6) Good afternoon, members of the committee. My name is Bill Lauber, L-a-u-b-e-r, licensed funeral director, and operate funeral homes in Senator Adams' district and Senator Karpisek's district, served as president of the Nebraska Funeral Directors Association and as currently their legislative chairman. Obviously, our

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colleagues in funeral service oppose LB560. You may not realize this, but our families that we serve currently are already imposed a sales tax, and that sales tax is on merchandise they select. That would be like caskets, urns, burial vaults, video tributes, printed materials, and that kind of thing. And then, of course, our families are burdened with other taxes upon death...the old cliché, death and taxes. You have alternative minimum taxes; you have federal and state inheritance estate taxes, capital gains, and so forth. When we look closely at LB560 and the entities that were drafted in this bill, taxes on services such as dating services, dog grooming, waste hauling, dating services--have I mentioned that--those kinds of things. And then we look at funeral service...tax on funeral, memorial, and crematory services. I feel that these services I mentioned in the bill with the exception of ours, are wants and not needs. Yes, waste hauling may be a need, but when it comes to families who lose a loved one, I feel kind of disappointed they targeted funeral service amongst these services listed. I remember awhile back when they did have a bill or two in the Legislature regarding tax on services, and they targeted funeral service in the bill, our bill was with other professional groups such as doctors and chiropractors and so forth. So to see our funeral professionals listed in this bill really hit us in the gut hard. You know, it just...our society is coming to where a funeral service is now coined and categorized with some of these listed in the bill today. And then, finally, I think funeral homes are heavily regulated to begin with. We are regulated on the federal level regarding EPA, FTC, OSHA, TSA, and then on the state level, of course, funeral homes must comply with state regulatory issues such as the...regarding our state Pre-Need Burial Act, Cremation of Human Remains Act, and of course, the Department of Health. So, I think we urge you to, you know, rethink when we tax services that you try to categorize us in a more professional group. Nothing against the other folks here with the list of services that they may have proposed, but is there any questions or anything you may have? [LB560]

SENATOR UTTER: Thank you, Mr. Lauber, for your testimony. Senator Louden. [LB560]

SENATOR LOUDEN: Yes. Thank you, Senator Utter. Well, when I was reading this bill, and I saw funeral services, I thought, maybe this is a typo or somebody hadn't figured this out. But I'll ask your opinion, and you can correct me if you think I'm wrong. But services are a deductible expense from the estate, right? [LB560]

BILL LAUBER: Yes. [LB560]

SENATOR LOUDEN: Now, the estate taxes is...the estate is what, 15 or 18 percent if they're not... [LB560]

BILL LAUBER: Yeah. [LB560]

SENATOR LOUDEN: ...a spouse or something like that? Well, if there was a \$5,000

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service then you're talking about \$250 worth of estate tax. [LB560]

BILL LAUBER: Um-hum. [LB560]

SENATOR LOUDEN: But if that wasn't all deductible, then the estate would get 18 percent instead of 5 percent. So why would they put a 5 percent tax on when they're going to get 15 percent? In other words, it looks like to me, the state would be losing money by putting a sales tax on services, because they're going to get that at a higher rate. [LB560]

BILL LAUBER: That's true. That's true, Senator. I agree. [LB560]

SENATOR LOUDEN: Okay, thank you. I didn't know if I was correct on that or not. [LB560]

BILL LAUBER: Um-hum. I agree. [LB560]

SENATOR UTTER: Other questions for Mr. Lauber? Seeing none, thank you very much for your testimony. Next opponent. Welcome. [LB560]

JIM CUNNINGHAM: Senator Pankonin, I almost was going to hand that sheet to you. I'm sorry, I guess I'm used to doing it to my left side. Senator Utter and members of the committee, good afternoon. My name is Jim Cunningham, C-u-n-n-i-n-g-h-a-m. I represent the Nebraska Catholic Bishops Conference, and testifying in opposition to LB560. I understand the context of this bill and am testifying because this does create a record, and we want to state our concerns on the record with respect to that very same portion of the bill, and that is the extension of sales tax to funeral services, burial services, and cremation services. Mr. Lauber laid out, I think, a good context and a good analysis of this area. Obviously, this deals with circumstances that are intensely human and personal, and in many instances, they have a deeply spiritual and religious context as well. And whether or not adding sales tax to these services is an appropriate public policy, obviously is up to the committee and the Legislature. But in our estimation, it is not an appropriate use of tax policy. A couple of other issues, more specific and more practical that I'd like to raise. First of all, our dioceses do operate in some locales their own cemeteries, and typically, the cemeteries are in charge of the burial aspect, the internment aspect. And I think that one thing Mr. Lauber alluded to, if not directly, then certainly indirectly, and that is that internment is essential. It happens for everyone. And being essential, of course, it has a lot of repercussions and implications with respect to the sales tax on services. But with regard to burial services, our cemeteries, in some instances, are involved in this, and one thing that they do say is that it is not uncommon to meet the needs of families who are struggling to pay all of the costs of a funeral and burial, and this would be an additional burden in some of those instances. And then also, I want to mention, under the term, funeral services, which is not defined

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for purposes of the bill, it is not common...I think it's fairly typical, and typical in the sense that, usually, I think the funeral service or the funeral home asks the family if they want to include a contribution or a stipend for the priest or the minister, and also, perhaps, for the use of the church. I don't think that...at least in our circumstances, that is not a requirement; there's no mandatory fee. But it is discretionary on the part of the family. And, in some cases, if the funeral home does not include that as part of its package of services, then we could have instances in which stipends are paid directly to the churches, and I'm wondering if that would constitute a funeral service for which it would be income. And I'm wondering if that would be...constitute funeral services, for which, all of a sudden, the church or the minister or priest would become a retailer, and would have to collect and remit tax. That's a practical difficulty. I hope that's not the case. But for those reasons, we would ask you not to include funeral services, burial services, and cremation services under any extension of the sales tax. Thank you. [LB560]

SENATOR UTTER: Thank you, Mr. Cunningham. Are there questions? Seeing none, thank you very much for your testimony. [LB560]

JIM CUNNINGHAM: Thank you. [LB560]

SENATOR UTTER: Next opponent. Are there further opponents of this bill? Is there anyone that wishes to testify in the neutral capacity? Senator Cornett, you're free to close. [LB560]

SENATOR CORNETT: Again, I just wanted to reassure the committee and the members of the audience, I've been fielding a lot of phone calls and e-mails over the last few weeks, what this bill is about. If we come to a place where we have to raise taxes, because either the forecast is lower than we projected or greater than we projected--pardon me--the deficit is greater than we projected or we cannot pass the budget, this committee has to have all options available. This was drafted just as a broadening of the tax base. We can include what we want, not include what we want, find a balance between broadening the base, increasing the rate and looking at income tax. To answer Senator Louden's question a little bit, if we broaden the base, we're helping the local level also. They will be able to receive more than just raising the state rate. And I included the broadening of the base, because a lot of our municipalities before session began were already expressing to me that their budget situations were similar to ours. So, if we do come to that point which I don't think we're going to, we should look at all options and look at the right mix for both the state and the local level if we get to that point. Thank you very much. [LB560]

SENATOR UTTER: Thank you, Senator Cornett. Does anyone have any questions for Senator Cornett? Senator Hadley. [LB560]

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SENATOR HADLEY: Senator Utter. Senator Cornett, I guess it's more of a comment. It's interesting because yesterday we heard a sales tax increase bill for municipalities, and the gist of the conversation we heard a lot about is that we should do it, because most people don't pay attention to sales tax, and it's an easy one to raise. And now we bring one, and we have opposition, because it is a sales tax so. [LB560]

SENATOR CORNETT: It is a sales tax, but understand, over the course of the years, these exemptions have come about by specific groups coming in for specific reasons and lobbying to be exempt. And they're very territorial of their exemptions. And a lot of them are very worthy. I know a number of people in the Legislature would like to expand our tax base to taxing food. That's not one that I agree with or taxing medical care, prescriptions. Senator Pahls has introduced bills that just completely eliminate the exemptions. While, yes, a broader tax base...the broader the tax base is, the lower the rate. But there are certain things that, as a matter of policy, the state has exempted in the past. When we start looking at those exemptions, it's going to ruffle feathers. [LB560]

SENATOR HADLEY: I understand. [LB560]

SENATOR UTTER: Thank you, Senator Cornett. That closes the hearing on LB560. We are ready for LR46CA. Senator Pirsch, you are recognized to open. [LB560]

SENATOR PIRSCH: Members of the Revenue Committee, I am state Senator Pete Pirsch. For the record, my name is spelled P-e-t-e P-i-r-s-c-h. I represent Legislative District 4. I am the sponsor of LR46CA. LR46CA would amend Article III, Section 13 of the Nebraska Constitution to require a two-thirds majority vote of all the members elected to the Legislature to pass any bill that imposes a tax or license fee or increases the rate of a tax or the amount of a license fee. LR46CA also provides that the proposed constitutional amendment would be submitted to the electors of the state of Nebraska for approval or rejection at the November 2012 General Election. It's really a simple concept that underlies this bill, so I'll be brief. If and when bad time hits, our experience has been the Legislature really has two choices, doesn't it? We can really do the easy thing, which is to raise taxes or I should say, easier thing. I don't know that either one is particularly easy, but it is easier to raise taxes, but it does result...I think this body has the general recognition at points in time in which people...average Nebraskans find themselves hurting, it hurts them even more. The second option is to cut spending, of course, and that, I think, has been the philosophy that this body, regardless of partisanship, regardless of where you come through from the state has basically adopted this year. And so, I think by making it...the underlying concept here is to...if you make it a little bit harder to raise taxes as opposed to cut spending, it will create a mild presumption that spending cuts are to be looked at first before you raise the taxes. So it tips the scales, the idea behind this bill, ever so slightly. I am convinced that our future success as a state competing regionally, nationally, and even globally, hinges on our

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ability to present a low tax environment. So, I'm very serious about this bill. When we look around at other states, more than 15 states right now, currently, require a supermajority vote to increase taxes, either in the way this bill envisions or to an even higher level. There are some states that require a three-quarters vote. And so, this year alone, in addition to those 15 states, 7 states have introduced supermajority legislation...I'm sorry, this is from last year...7 states introduced last year supermajority legislation. And so those...I'm not sure how many of those states have added to the 15 states, but I'll look into that as well. So, to that extent, I'm very serious about this bill and have asked for a Speaker priority on this. I'll open myself up to questions if anybody has. [LR46CA]

SENATOR FISCHER: Thank you, Senator Pirsch. Are there questions? Senator Louden. [LR46CA]

SENATOR LOUDEN: Yeah. Thank you. Okay, by that then, the way our present Legislature is set up, you need the 33 votes the same as a cloture vote. [LR46CA]

SENATOR PIRSCH: Yes. And to be quite honest, yeah, that's the way that this would work. Okay. So, if it was current, in its current form. [LR46CA]

SENATOR LOUDEN: And then, I guess, instead of having your dirty 30, you'd have your dirty 33 then. [LR46CA]

SENATOR PIRSCH: (Laugh) Hey, that was Larry Bird's number, and so that's why I... [LR46CA]

SENATOR LOUDEN: Okay. [LR46CA]

SENATOR PIRSCH: ...but I wouldn't get so much hung up on the particular number. I'm not wedded to the number 33 even though I did like Larry Bird, but... [LR46CA]

SENATOR LOUDEN: Well, if you have two-thirds... [LR46CA]

SENATOR PIRSCH: Well, that's right; that's the current number, but I'm saying, if...and I think the idea, as I expressed it here, is to have, to kind of tip the scales slightly in preference of that. But if this body was married to a different number, 30, for instance, I certainly would have no...so I'm pretty flexible in meeting...I think that reasonable people can have reasonable ranges as to what they think would help the scale... [LR46CA]

SENATOR LOUDEN: Now, these other states, when you talk about them, they're all two-house systems. Do both houses have to have a supermajority in order to pass legislation like that? [LR46CA]

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SENATOR PIRSCH: Well, that's my understanding, yeah. That's my understanding. [LR46CA]

SENATOR LOUDEN: Okay. Is that the reason the Senate in Wisconsin, a bunch of them left, so they couldn't get a quorum because they didn't want...well, I mean, that's...yeah, they couldn't pass any laws with a fiscal note is my understanding... [LR46CA]

SENATOR PIRSCH: Yeah. [LR46CA]

SENATOR LOUDEN: ...if they didn't have a quorum there or something like that, so that's what I'm wondering. And they needed that other 15 or so to have the quorum. This is what we would be looking at, though, is...you'd have to have more than a quorum, which we have now...25 is a quorum. You'd have to have more than that with your legislation. [LR46CA]

SENATOR PIRSCH: Yeah. Just a simple...the 25 that occurs now, and you do bring up a good point which is when you think about these two-house systems, and there's...that's the system they've adopted with these two houses, and yet they're able to utilize that in an effective manner in which it's going on in the states. So I don't think it would be an unbearable hardship for us, a one-house body, so. [LR46CA]

SENATOR LOUDEN: Okay. Thank you. [LR46CA]

SENATOR PIRSCH: Things pass too quickly (laugh). [LR46CA]

SENATOR FISCHER: Other questions? Senator Adams. [LR46CA]

SENATOR ADAMS: Just a quick one for you, Senator Pirsch. From the standpoint of separation of powers, to do something like this, in effect, takes the Governor out of the mix. Is that a good thing or a bad thing? [LR46CA]

SENATOR PIRSCH: Well, I'm not sure that I agree with you in that extent. It simply says, no bill shall be passed by the Legislature unless the assent of a majority of all members elected to the Legislature and the yeas and nays on the question and final passage of the bill shall be entered upon the Journal, except that any bill that imposes a tax or license fee or increases the rate of a tax or the amount of a license fee shall require a two-thirds vote of the members elected to the Legislature. I don't think it changes the fundamental structure of our three branches of government. It just sets with respect to how we ourselves in the Legislature conduct our own business. It still has the...we don't thereby preclude or cut off the role of the Governor or the executive branch. [LR46CA]

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SENATOR ADAMS: We cut off his veto power on tax issues. [LR46CA]

SENATOR PIRSCH: Well, I can tell you what my...with respect to, you know, and I'll certainly go over this and review it with your particular concern. But the idea here isn't to change any of the structure that currently exists. It only says, to the extent that right now, 25 votes are necessary, we would need to have some higher number. And the same process and route that occurs right now after we give those 25 votes that occurs now would, under my paradigm, continue to take place in much the same way. So it...the only thing is, some bills that may have...if it was a 25-vote required and would go to the Governor, and it's a higher level now by the Legislature. Maybe, like I said, a bill or two over the course of time may not reach his desk for his same consideration, but that doesn't change the fundamental nature of our interplay with the executive branch, or at least that's not the intent. [LR46CA]

SENATOR ADAMS: I guess the way I perceive it on a tax issue for it to even get to the Governor, it would take 33 votes. You have, in effect, voted on it, signed it. It's done. Right? [LR46CA]

SENATOR PIRSCH: You're saying if something is precluded from getting to the Governor? [LR46CA]

SENATOR ADAMS: No, I'm saying that if, under this standard on...let's say we were going to raise sales tax by a penny... [LR46CA]

SENATOR PIRSCH: Sure. [LR46CA]

SENATOR ADAMS: ...if this were in place, it would take 33 votes to do it. No point for a veto issue or an override. You have, in effect, overridden the veto at the same time that you passed the law. [LR46CA]

SENATOR PIRSCH: Oh, I see what you're getting at. You're saying because of the nature, yeah. And, again, if that causes you...again, the number 33 is not a magical number to me. [LR46CA]

SENATOR ADAMS: Okay. [LR46CA]

SENATOR PIRSCH: If that is, in fact, a concern, I certainly am open to working on that. And, but yeah, I mean, what it would...you're right. But whether or not it...if we send a bill right now that requires 25 votes, if we send it to the Governor with 38 votes, really... [LR46CA]

SENATOR ADAMS: Right. [LR46CA]

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SENATOR PIRSCH: ...I mean, the Governor could, technically, veto it, but as a practical matter, you know... [LR46CA]

SENATOR ADAMS: Good point. [LR46CA]

SENATOR PIRSCH: ...is there any substantive difference in the end of the day? [LR46CA]

SENATOR FISCHER: Thank you, Senator Adams. Senator Hadley. [LR46CA]

SENATOR HADLEY: Just a quick...from a policy standpoint, Senator Pirsch. Why would we pick taxes...because, you know, we deal with right to life; we deal with the death penalty; we deal with some very difficult life-changing policies here in the Legislature. Why would we pick taxes as the one area that we need a supermajority, and many other very difficult and decisions would still be at the 25? [LR46CA]

SENATOR PIRSCH: Well, as we found out this year, you know, finances are an incredibly unique, important, and I think distinct...it's the distinct nature...the reoccurring nature of finances that sets it apart from...I think our future in great...and we can...with regards to other bills, how we feel on issues of religion and whatnot, can shift in the population from time to time. But our future is, to a large extent, the future success of Nebraska in 5 years, 10 years, 15 years, 20 years, is going to be profoundly affected by the actions we take here today from a financial aspect in our tax policy. So it's because of the reverberations, that the vast reverberations...things that happen in 2001, the taxes that were raised years and years and years and years before I came to the Legislature built up such a huge cash reserve that it made my first years in these Legislature profoundly easy...you know, just really easy. And so, it's the...it's that peculiar nature of finances that make it worthy of separating out. [LR46CA]

SENATOR HADLEY: Thank you. [LR46CA]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I see none. Thank you, Senator Pirsch. [LR46CA]

SENATOR PIRSCH: Thank you. [LR46CA]

SENATOR FISCHER: Senator Utter. [LR46CA]

SENATOR UTTER: Thank you, Senator Fischer, for filling in. Are there proponents of this bill? Are there opponents? Is there anyone that wishes to testify in a neutral capacity? Seeing none, Senator Pirsch, you're recognized to close. [LR46CA]

SENATOR PIRSCH: Well, this will just take a few hours, but (laughter)...no, I

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appreciate. I think that pretty well the concept has been expressed. And, again, I just want to indicate that I am serious about this proposal, and that I would be willing to work with this committee in finding a number that people would feel a comfort level. The idea underlying this is, again, just having some sort of gentle tilt to the scale, so that the preference is generally looking at the idea of cutting taxes as opposed to raising...I'm sorry, cutting spending as opposed to the raising taxes. So, thank you for your time. [LR46CA]

SENATOR UTTER: Thank you, Senator Pirsch. That closes the hearing on LR46CA. Senator Coash, you're recognized to open on LB82. [LR46CA]

SENATOR COASH: Thank you, Senator Utter and members of the Revenue Committee. Here I am with...oh, my name is Colby Coash, C-o-l-b-y C-o-a-s-h, and I represent Legislative District 27. And here I am, again, to introduce LB82 which is a similar bill that I introduced last year, but I want the committee, as it's got new members to hear this issue again. I think it's important from the perspective of, you know, this committee has taken on tax policy. And this is an issue that I think is worthy of the committee's attention as it relates to consistency in how we tax certain things. In this case, I'm going to talk about the taxation of contractors who provide contracting or remodeling services on home repairs. Mr. Daringer, who's a constituent and owns Nebraska Sod, brought this issue to my attention earlier this year. And I'm going to defer to him to explain how this plays out in his particular business. Currently, Nebraska is one of the only states in the nation which charges a sales tax on the labor of sod installation. And this is despite the passage of LB986 from 2006, which repealed the sales tax on the contract labor on remodeling and home repairs. Sod installation was not included in this exemption, and for some of you that were around in 2006, you remember that we...there were taxes imposed previous years to that to help with a budget shortfall, and then in 2006, the Legislature came back and said, those taxes should now be repealed, and sod happened to be one of those that was not included in that repeal. And I find it to be interesting, if you think about sod and the laying of sod in a house, in the same vein that you would consider painting the house or roofing the house, it's all part of the construction of a home even though the sod isn't part of the structure, but it is part of the whole package. And the reason for this is because sod layers are considered retailers rather than contractors. And I would put to you that our policy should state that sod layers are contractors just as roofers are contractors, and just as painters are contractors. And what LB82 does is it rectifies the matter by classifying contractors as those who incorporate sod as part of the real estate transaction. So, I'll leave it at that, and I'll probably waive closing, because I'm going to go across the hall and introduce another bill, and will try to answer any questions for you. [LB82]

SENATOR UTTER: Thank you, Senator Coash. Questions for Senator Coash? Senator Loudon. [LB82]

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SENATOR LOUDEN: Thank you, Senator Utter. Well, Senator Coash, now, did we change that? If you're constructing a new house, is the labor taxable for sales tax on labor construction, on new construction? [LB82]

SENATOR COASH: Yes. It's still taxable, and that's what this bill seeks to rectify. [LB82]

SENATOR LOUDEN: On new construction. [LB82]

SENATOR COASH: That's correct. [LB82]

SENATOR LOUDEN: Repair work? [LB82]

SENATOR COASH: Still taxed. [LB82]

SENATOR LOUDEN: Still taxed. Both of them. I thought we overhauled some of that, but we didn't? [LB82]

SENATOR COASH: We did overhaul a lot of this in 2006, but sod was left out. [LB82]

SENATOR LOUDEN: Okay. That's what I mean. [LB82]

SENATOR COASH: So that's what this... [LB82]

SENATOR LOUDEN: But then it...but sod then isn't considered part of it. I mean, isn't considered whether it's sod for a new house or sod for an old house? [LB82]

SENATOR COASH: Still taxed the same. And I'll let Mr. Daringer clarify that. He's an expert in laying sod and charging tax to his customers, and he's also going to illustrate some problems that he's shared with me, and that he's had where there's a perception out there in the building industry that since all these taxes were repealed, that the tax that he's charging shouldn't be paid. And it's his responsibility to collect that tax, and he's got some customers who don't believe that they should, and while it is his responsibility to collect that, sometimes when you got big clients, you might not want to fight with them. And so, we're trying to rectify this legislatively as well. [LB82]

SENATOR LOUDEN: Sod is...the sod...there's tax on sod, if you happen to drive out there and at the farm and pick it up with your truck? It's got sales tax on it out there? [LB82]

SENATOR COASH: Well, we're talking about the tax on the installation, not on the product. [LB82]

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SENATOR LOUDEN: Okay. That's what...you're talking about installation, not product. [LB82]

SENATOR COASH: That's right. And interestingly enough, you know, if you built...and Mr. Daringer will correct me if I'm wrong, but it's interesting if you went and built a new house and decided to sprinkle grass seed or pay somebody to sprinkle grass seed on your...on dirt to grow a lawn, the labor on sprinkling the grass seed would be tax-exempt. But if you already grew the grass and laid that, the labor on doing that is a taxable event. Same outcome, different way of doing it, and one is taxable, and one is not. [LB82]

SENATOR LOUDEN: Okay. Thank you. [LB82]

SENATOR UTTER: Other questions for Senator Coash? [LB82]

SENATOR COASH: Thank you. [LB82]

SENATOR UTTER: Seeing none, thanks. First proponent. Welcome back. I think I remember you from a year ago. [LB82]

DON DARINGER: That's correct. I just got grayer. [LB82]

SENATOR UTTER: Didn't we all? [LB82]

DON DARINGER: (Exhibits 7, 8) Yeah. My name is...first of all, thank you, committee, for letting me come and testify. I'm a sod farmer. I do grow a few other crops. Basically, our crops that we grow are sod, and that's what I'm going to address to you today. My name is Don Daringer. It's D-a-r-i-n-g-e-r. And the girls are handing out a flyer, and I'd kind of like to maybe halfway follow that. This is not my profession, speaking like this, but I think I can get through it and explain what our problems are. To start with, while she's handing this out, the very first letter is the letter that when we got direction from the Department of Revenue, just what today, finally, that what it really boils down to, that we're not a contractor. I thought we were always a contractor just like the guy that puts the brick on the house or the framer, the painter, and whatever. They're telling us we're a retailer. I guess I'm fairly confused why they have us as retailers and not as a contractor on a house. But, anyway, this first letter kind of explains to you the ruling that the state has taken, and the reason we aren't contractors--we're retailers. I am a farmer, and we grow sod, and when we grow any hay or corn or beans, we don't have to charge sales tax on them yet. But, I mean, but when we come up growing sod, we've got to charge sales tax. Well, you know, that kind of upset us, but then we found out that we have to charge sales tax on putting the sod down in the people's yards as well as on a new construction home or major remodel. The painter, he don't have to...he buys the paint. He has to charge sales tax on the paint, but not the labor. The bricklayer, the

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framer, the concrete man, just goes on and on. We are probably the only one on a new house or a major remodel that have to charge sales tax on labor. But I'll repeat...we're the only one. So, I've done some checking. I called different states. I called every state around us--Iowa, South Dakota, Kansas, say, hey, do you charge sales tax? And it came back that none of them charge sales tax on labor. We're the only one. States like Missouri don't charge sales tax on sod at all. They charge sales tax on the material when you plant it, and then it's tax-free. So, you know, it's been a problem for me, because I got builders that send a payment, and they do not include the sales tax on the labor. And they referenced this, bill number a number of years ago in the past that repealed the labor on new construction. So I end up eating it and paying it. I mean, and I don't have an answer for it. I give them the phone number, Department of Revenue, and, you know, if they pay, they pay. If they don't, I have to pay it, because it's the law. In the last number of years, we've had another major problem hit us. It's called the EPA. And if you want to reference down to this document here, it kind of tells you about the document is kind of what the fed governments are putting on developers, builders, homeowners, anyone that's got any land. They're putting these guidelines on, and please look at this little book. I kind of like it. It's got colored pictures in it, so you can kind of get an idea. But, in the cities here and on new construction, they have got to control this dirt at all times. And the very last document is what some of the fines have been. I mean, this is serious. Other words, I just circled a few of them on the outstanding bills, but the one that really caught my eye was Nebraska Department of Roads in 2007 was fined \$73,000 for noncompliance. Another Department of Roads was fined \$60,000. City of Plainview was fined \$19,000. I mean, I just go down the list. Valley, Nebraska, was fined \$40,000. You know, these are all...I mean, they're coming around, and I'll guarantee you, you have dirt out on the street or dirt washing down in a pond, you're in a heap of trouble. And it usually doesn't happen until we have a major storm, and then they're in town, and kind of like OSHA. You know, they're out there fining people. So sod is one of the products that will resolve the problem rather quickly. You know, you can seed a yard or you can seed a bare space, but, as you can see by these vines, what's happening if we get a heavy rain in between the time, you're liable for this. And these fines are very, very stiff. So it's really becoming...I'll even take on a new house. They have to have this erosion control fence up at all times. So when we come in to do any work, that fence has to be removed, put back up. So many people are buying homes without a yard, are nowhere aware of the exposure that they're exposed to. Believe me, let that dirt wash out, they're going to join this list on this paper here too. Sod is probably the only alternative that they have that will fix it immediately, that they don't have that exposure. To grow grass seed, you're looking at 30 days, so they got a 30-day exposure. Kind of like you on your vehicle. You know, you could drive 30 days with no insurance, but do you want to take that risk? I don't know. I just feel that what the EPA, the government requirements are putting on us that sod is becoming more of a necessity. It's not like many years ago, was kind of a luxury. You could throw seed out and forget it. But now with the contamination of the ponds, with the contaminations washing out in the street or anything like that there. One of my builders

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right here...a little subdivision down at Hickman--8,000 square feet, \$10,000 fine--\$10,000 fine. So they are coming around. It's got everyone scared, but the EPA is coming in, and they're telling you, you got to do it. It's just like OSHA. Well, they might have been spending all week working on OSHA requirements. And for a small businessman, it's really tough. So I'm merely saying that at least we're trying to make sod affordable, and every little bit adds. So when you take and put the labor, and you tax that, it's another \$100, maybe to a home that we wouldn't have to. And, believe me, the housing market is hurting bad. And we've got to get that turned around and get it going. But it's just one more thing, and I get so tired of getting phone calls, saying, I don't owe that. And I said, yes, you do, you know. So, I mean, I've had attorneys that we've done work for, and they absolutely...they're the worst. They won't pay (laughter). Anyway, I think I said enough. I think you got the gist of where I'm coming from. It's a problem. With that, I'll take any questions you have. [LB82]

SENATOR UTTER: Thank you very much, Mr. Daringer. Senator Pankonin. [LB82]

SENATOR PANKONIN: Thank you, Senator Utter. Mr. Daringer, a couple of things. The letter that...and there was...they had to make some copies, so I didn't get this right away. So when you were referring to it, I got it a little later. What's the history on this? Has there always been sales tax on the installation? [LB82]

DON DARINGER: No, there wasn't sales tax on the installation. It used to be that there wasn't any tax at all on sod. And, like I say, Missouri, no sales tax on sod. [LB82]

SENATOR PANKONIN: Right. But let's talk about our history then. When did this come about then? [LB82]

DON DARINGER: When whatever they did, I think he had a date on there down at the bottom where it came into play there. And I think really, when they repealed the sales tax... [LB82]

SENATOR PANKONIN: On the construction labor? [LB82]

DON DARINGER: ...on new construction, it was an oversight, and it should have been taken out of there. And, I mean, that dirt has got to be controlled. Somehow they threw us in with landscaping, trees, shrubs, and bushes. But we're not landscapers. All I do is grow sod and put sod in, and that's what everyone does. We're not a landscaper... [LB82]

SENATOR PANKONIN: Right. Well, in fact, I'm good friends...you probably know Wayne and Rob Meisinger with Fast Grass Plattsmouth folks? [LB82]

DON DARINGER: Yes, and all he does is grow grass. He don't grow trees, shrubs, or

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bushes. Yes. [LB82]

SENATOR PANKONIN: Right. We're very familiar with that operation, so. [LB82]

DON DARINGER: Yeah. And Rob is well aware of the problem we have. But the other problem I'm having is with the EPA. [LB82]

SENATOR PANKONIN: I know, but I can't...we can't talk about that here, because we can't solve that one for you. [LB82]

DON DARINGER: I agree. [LB82]

SENATOR PANKONIN: All right. [LB82]

SENATOR UTTER: Other questions? Senator Louden. [LB82]

SENATOR LOUDEN: Yes. Thank you, Senator Utter. If someone drives out to your farm and buys a truckload of sod, do they have to pay sales tax on it when they...out there when they buy it off of you at the farm? [LB82]

DON DARINGER: You bet. [LB82]

SENATOR LOUDEN: Okay. That's what I was wondering. It isn't just... [LB82]

DON DARINGER: In Nebraska, you do, but maybe if you're in Missouri, no. Every state is different. [LB82]

SENATOR LOUDEN: And then you also...they not only pay sales tax on the value of the sod, then they...if you go and lay it someplace for someone, then they pay sales tax on the labor you had to lay it. Now, do you charge mileage to haul that sod from your farm to wherever you're laying it? [LB82]

DON DARINGER: Yes. [LB82]

SENATOR LOUDEN: Do they pay sales tax on that mileage? [LB82]

DON DARINGER: Yes. [LB82]

SENATOR LOUDEN: Do they have to pay sales tax on the mileage? [LB82]

DON DARINGER: Yes. Yes. As a part of installation. Believe me, you wouldn't believe what they're calling installation of sod, but they keep tacking. I notice a prior bill, they talked about landscaping services. Boy, I think you'd be...fall over. But like what they're

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calling us, they tax on sod. Now they're saying that if we do fine grading to the yard, they're saying that's part of installing sod, but they can't see it in the book. It's just implied. So, a lot of these things kind of get implied, and when they come out and do your audit, that's when you find about all these problems. It's not someone coming out, telling you. [LB82]

SENATOR LOUDEN: Now, are you familiar with Colorado or Wyoming? Do they have to pay sales tax on sod over there? [LB82]

DON DARINGER: Colorado pays sales tax...if you come out, pick up the sod, you pay it just like you do in Nebraska. If they go out and install a yard, they do not pay sales tax. [LB82]

SENATOR LOUDEN: You just pay the sales tax on the material. [LB82]

DON DARINGER: On the material just like Iowa, Kansas, all these other states. They're the only one...we're the only one. I called probably 40 states, and the only one I could find was us that charged sales tax on labor. And it's because they don't have us as a contractor. They have us as some other category. [LB82]

SENATOR LOUDEN: Okay. Now, if that contractor comes out to your farm and picks up that load of sod and takes it in and puts it around this house that he's contracted and constructed himself, how does he handle that in there? [LB82]

DON DARINGER: Most of them will sign a resale form. They call it a Form 13 here in Nebraska where they have to collect the tax, so when they go out to the job and do the work, maybe they mark the product up. So let's say they paid me \$100, and they mark it up to \$120. They would put material \$120, labor, you know, \$50, or whatever. So, they...yes, they have to pay tax on it. [LB82]

SENATOR LOUDEN: Okay. [LB82]

DON DARINGER: And a lot of them are not doing it, because they don't know they have to. [LB82]

SENATOR LOUDEN: Okay. Thank you. [LB82]

SENATOR UTTER: Further questions? Thank you, Mr. Daringer, for your testimony. Appreciate it. [LB82]

DON DARINGER: Thank you. See, you at least got a color book with pictures in it. [LB82]

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SENATOR UTTER: Yes. That was very nice of you. Welcome, Justin. [LB82]

JUSTIN BRADY: Senator. Senator Utter and members of the committee, my name is Justin Brady, B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska State Homebuilders, and I won't go through a longer testimony that I was going to, because Don did a nice job of explaining the history. I will say, yes, Senator, originally, it was not taxed. Then the Legislature placed...in hard times, placed a tax on construction labor. When we went back to repeal it, as everything, we couldn't just repeal the law that was put in place. We did it a different way, and when we chose to do it a different way, sod got left out of the mix, and has since been taxed since then. That's, in essence, how sod, if you will, got left out. The homebuilders understand...I mean, one, they face hard times, and they understand that the state does, too, and we understand that this right now costs the state between \$300,000 and \$500,000. And I understand that right now, you don't have that. But they would ask that you keep this issue there, and, if or when money is available, this is an issue. You go back and...that should have been part of the package that was years ago, and make it part of it, so going forward, that it won't be taxed. And with that, I'd try to answer any questions. [LB82]

SENATOR UTTER: Senator Pirsch. [LB82]

SENATOR PIRSCH: Yeah, Mr. Brady, you're an attorney, is that correct? [LB82]

JUSTIN BRADY: Yes. [LB82]

SENATOR PIRSCH: Okay. Now, you would pay your sod bill, would you not, if it? [LB82]

JUSTIN BRADY: I would. [LB82]

SENATOR PIRSCH: Okay. I just wanted to establish that for the record to make sure that not all attorneys but...just having a little fun there. Thank you. I don't have any. [LB82]

SENATOR UTTER: Other questions? Thanks, Justin. Appreciate it. Further testimony from proponents. Opponents. Neutral. Done. Thank you all. I think that closes the hearings for today. [LB82]