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Revenue Committee
February 15, 2012

[LB897 LB967 LB1069 LB1093 LB1109]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 15, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB897, LB967, LB1069, LB1093, and LB1109. Senators present: Abbie Cornett, Chairperson; LeRoy Loudon, Vice Chairperson; Greg Adams; Lydia Brasch; Deb Fischer; Galen Hadley; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR CORNETT: Welcome to the Revenue Committee. My name is Senator Abbie Cornett from Bellevue. To my left will be Senator LeRoy Loudon, Vice Chair of the committee, he is from Ellsworth. To his left is Senator Fischer from Valentine; and then Senator Greg Adams from York will be joining us shortly. On my far right is Senator Schumacher from Columbus; Senator Brasch from Bancroft; Senator Pirsch from Omaha; and Senator Hadley from Kearney. Research analyst today is Stephen Moore; and my committee clerk is Matt Rathje on my far left. The pages today are Michael Killingsworth and Matt McNally. Before we begin the hearings today I'd ask everyone to please turn their cell phones to either off or to vibrate. Sign-in sheets are by both back doors for testifiers wishing to testify. They need to be completed prior to coming up to testify. When you complete those, please print them. When you come up, hand the testifier sheets to the committee clerk. There are also clipboards by both back doors where you can sign in and indicate either your support or opposition to a bill. Those will be included in the official record. We will follow the agenda posted on the door today: the introducer, followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies. If you do not have ten copies, we will make them for you. When you come up, hand the copies to the pages for distribution. With that, we will wait for Senator Pahls to join us. [LB897]

SENATOR PAHLS: My apologies. I was listening to myself being introduced (laughter) in the other committee. Thank you, Senator Cornett. [LB897]

SENATOR CORNETT: Senator Pahls, you're recognized to open. [LB897]

SENATOR PAHLS: Am I ready...are you ready for me now? [LB897]

SENATOR CORNETT: Yes. [LB897]

SENATOR PAHLS: Okay, thank you. My name is Rich Pahls. I represent District 31. It is my pleasure to be in front of this committee again. I think you'll like this one because this one should not take too much time. I introduced LB897 on behalf of the Douglas County Clerk. The bill repeals a provision that requires the county clerk to maintain county tax lists in counties with population in excess of 200,000. The county assessor

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maintains that list in all other counties. The 200,000 distinction was made in 1940 and there isn't any record of why. It makes sense to put it in the assessor's office when you look at what the tax list is. The tax list is a list of each piece of taxable personal and real property in the county. It lists the owner, the value, the levy for each subdivision taxing the property, the amount of tax, and whether or not the taxpayer is delinquent. As I said, only Douglas County has this. Every other county...and the lobbyist for Douglas County, Sean Kelley, will be up right behind me to explain the reason why Douglas County would like to make that change. [LB897]

SENATOR CORNETT: Questions from the committee? Seeing none, Senator Pahls, are you going to remain for closing or are you going to head back to your committee? [LB897]

SENATOR PAHLS: I think I should head back. Okay, thank you. [LB897]

SEAN KELLEY: Good afternoon, Madam Chair Cornett, members of the Revenue Committee. My name is Sean Kelley, S-e-a-n K-e-l-l-e-y, appearing today on behalf of the Douglas County Board of Commissioners. We'd just like to thank Senator Pahls for introducing LB897. The Douglas County Board thinks this is natural for the county assessor to be in control of the tax list. We have no need for the county clerk to be in charge of it. I can tell you the Douglas County Assessor is totally okay with this function and the county clerk is okay with giving up the function. One issue that I'd like to mention, I had discussions with NACO and other assessors around the state; lines 18 through 20, there's some concern that that isn't necessarily being followed appropriately today. So by deleting that portion of statute while we're looking at other portions of the statute would probably make the best sense for all assessors across the state. With that, I'd be happy to answer to any questions. [LB897]

SENATOR CORNETT: Questions from the committee? Senator Pirsch. [LB897]

SENATOR PIRSCH: What's on the tax list then other than the listing of the property? [LB897]

SEAN KELLEY: Jerry Prazan, Deputy County Clerk, is behind me and he will testify. He will probably give you a much more in-depth answer than I could. [LB897]

SENATOR PIRSCH: Okay, thank you. [LB897]

SENATOR CORNETT: Seeing no further questions, thank you, Mr. Kelley. [LB897]

SEAN KELLEY: Thank you. [LB897]

JERRY PRAZAN: (Exhibit 1) Madam Chair and members of the committee, my name is

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Jerry Prazan. I'm the finance division administrator of the Douglas County Clerk Comptroller's Office, here to testify on behalf of Mr. Cavanaugh who, unfortunately, couldn't make it today. He supports LB897. This would essentially make the situation of keeping the tax list in Douglas County the same as it is in the other 92 counties in the state and would allow for some consolidation of services between the assessor's office and the clerk's office. This was an idea that came from the county clerk as part of a broader umbrella of consolidating some of the property tax and property services that are provided by Douglas County and consolidating them into one place. In our handout, you'll have a letter of support from the clerk and also some background into the overall goal of the consolidation of the property services. And to answer Senator Pirsch's question, the tax book is essentially the application of the various taxing districts on an individual piece of property. So that if, you know, my property is taxed by a number of different subdivisions. And these overlapping lines form districts that have a consolidated tax rate. And that is the function of the tax list administration. [LB897]

SENATOR CORNETT: Senator Hadley. [LB897]

SENATOR HADLEY: Thank you. Just a quick question. Just quickly reading the letter, 2.5 FTE. Will there...you're going to be transferring it, right, to the assessor's office? [LB897]

JERRY PRAZAN: Yes. [LB897]

SENATOR HADLEY: Will that put a burden on them to go out and hire 2.5 FTEs? [LB897]

JERRY PRAZAN: Well, they will...there's essentially one person who does the job, a full-time person in our office. And they'll...that person will be transferred over to the assessor's office. And then there are, during certain times of the year, there are some part-time people that would have to help out of the general assessor's staff. Okay? [LB897]

SENATOR HADLEY: Okay. Thank you, sir. [LB897]

JERRY PRAZAN: And one more item, since the bills take effect 90 days after the end of the session, which would not make it in time for next year's budget year, it would be helpful if you could add the emergency clause to this so that it would be enacted into law in time for us to do it all at once in the budget year that will start on July 1. [LB897]

SENATOR HADLEY: Thank you. [LB897]

JERRY PRAZAN: Any other questions? [LB897]

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SENATOR CORNETT: Following up on Senator Hadley's question, over the last couple of years when we've been dealing with TERC, we've heard repeatedly that the Douglas County Assessor is shorter on assessors than some of the other counties. Will the one-time employee be a permanent transfer, and will that be the amount budgeted? [LB897]

JERRY PRAZAN: The one-time, full-time equivalent is the person who needs to do the job year-round. [LB897]

SENATOR CORNETT: And they will be transferred to...along with... [LB897]

JERRY PRAZAN: That is my understanding, yes. [LB897]

SENATOR CORNETT: ...along with the budget, the money for that person? [LB897]

JERRY PRAZAN: Yes. Oh yes. Yes. [LB897]

SENATOR CORNETT: Okay. [LB897]

JERRY PRAZAN: That's why we'd like to get this added as an emergency clause... [LB897]

SENATOR CORNETT: With the E clause. [LB897]

JERRY PRAZAN: ...before the budget year starts, so that we can plan it in our respective budget applications from the assessor and the clerk comptroller. [LB897]

SENATOR CORNETT: Thank you. [LB897]

JERRY PRAZAN: Thank you. [LB897]

SENATOR CORNETT: Next proponent. Are there any opponents? Anyone in a neutral capacity? [LB897]

BETH BAZYN FERRELL: Good afternoon, Chairman Cornett, members of the committee. For the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. We're always here happy to have any kind of antiquated statutes or statutes that don't comply with current practices eliminated. We're pleased to see that. We did have some questions initially, as Mr. Kelley indicated. But we think that the amendment that he was proposing would take care of those concerns, just making sure that each official was doing what they need to do. I'd be happy to answer questions. [LB897]

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SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Is there anyone else in a neutral capacity? [LB897]

RICHARD HEDRICK: I am Richard Hedrick, H-e-d-r-i-c-k. I am for LB967, 45-104.01... [LB897]

SENATOR CORNETT: Sir, sir. [LB897]

RICHARD HEDRICK: ...which just pertains to... [LB897]

SENATOR CORNETT: Which bill did you say you were testifying on? [LB897]

RICHARD HEDRICK: What? [LB897]

SENATOR CORNETT: Which bill did you say you were testifying on? [LB897]

RICHARD HEDRICK: Well, maybe I'm in the wrong place, LB967. [LB897]

SENATOR CORNETT: We're not there yet. [LB897]

RICHARD HEDRICK: We're not on that? [LB897]

SENATOR CORNETT: We're not there yet. [LB897]

RICHARD HEDRICK: Okay. [LB897]

SENATOR CORNETT: I'm sorry. Next person in a neutral capacity. [LB897]

ALLEN SUTCLIFFE: Good afternoon, Senator Cornett and the members of the committee. My name is Allen Sutcliffe, last name S-u-t-c-l-i-f-f-e. I'm the Cass County Assessor in Plattsmouth. And I'm here to testify on behalf of NACO Assessor's Association. And as already previous stated, the position of NACO, my only real comment is that this would be a matter of common sense from the assessor's point of view. As data is also automated these days, it really comes down to just a question of who pushes the button to print these reports out from our standpoint. And so the only real question would be the timely software updates that might be required to convert this over to the assessor's side for their initiation of these printouts and stuff like that. And that's all I have. Questions? [LB897]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you very much. [LB897]

ALLEN SUTCLIFFE: Thank you. [LB897]

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SENATOR CORNETT: Is there anyone else in a neutral capacity? Seeing none, that closes the hearing on LB897. Senator Schumacher, you are recognized to open on LB967. [LB897]

SENATOR SCHUMACHER: (Exhibits 2-3) Thank you, Senator Cornett and members of the committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22. LB967 is a fairly simple measure, at least in wording. It reduces the rate on delinquent taxes from 14 percent to 10 percent. And to give a little recap behind the thinking on this proposed reduction, I will kind of review a little bit of what's been going on, on the floor, with tax deeds and foreclosures. When people don't pay their real estate taxes, the county treasurer advertises in the newspaper; and if there's no money come in, they issue a piece of paper called a tax sale certificate, and the tax sale certificate begins to draw interest at 14 percent or whatever the statute says. It draws interest for a period of, I think about three years, at which time the holder of the tax sale certificate gets to collect the interest and sue either in a foreclosure action or by getting a tax deed to get title to the particular property. The 14 percent interest, as well as the underlying taxes, amount to a first mortgage on a piece of property. So as a practical matter, unless it's a terribly, terribly depressed piece of junk property or something that's full of asbestos or something like this, these things are very good investments. They're good investments for the county, good investments for anybody else; and in today's interest market, 14 percent is just really, really pretty good. What we have in the areas of the state that have got strong economies right now, very little of the taxes go delinquent; and the ones that do go delinquent are people who are in a tough spot for one reason or another and probably, more likely than not, in some of the urban areas currently. When those taxes go delinquent, they're paying the 14 percent either to the county or to an out-of-state...in most cases, out-of-state purchaser. They have large pools go through and buy up these 14 percent interest items. And then when the three years turn up, they put the pressure on the property owner to pay up; and most of them do pay up because it's their house, their livelihood, and they pay that money. That money, that premium, generally leaves the state and does not go to our counties. Now, over time...and philosophically, you look at interest rates. Interest is supposed to represent a fair and competitive return on your money, representing what risk you take; and for the most part, these are low-risk instruments. You will come before first mortgages, you will come before judgments. You are in the driver's seat. So it should be comparable to a 30-year mortgage, for example. In 1981, we began to move into the new era of economy with spend yourself to riches, and interest became a big factor in our society. And the Legislature, if you go back in the history of things...and I have presented and circulated amongst the committee a little snapshot of what things looked like in 1981. And you can kind of see there, where risk and interest rates have crossed the various things, we're pretty much equal. We had interest rates on judgments at 12 percent; delinquent taxes, 14 percent; a 30-year mortgage in that year was 16 percent; the federal funds rate at 16 percent, give or minus; and we'll talk about the workmen's

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compensation interest rate in just a second. But basically, very little spread in that particular range. And the spread begins to diversify in 1988 as the economy and this debt structure of the world begins to shift. And in 2011, if we look at the divergence there on interest rate on judgments, if you sue somebody and lose and can't pay, we're down to a statutory formula that floats at about 2 percent. Delinquent property taxes are still at 14 percent; a 30-year mortgage rate at 4 percent; federal funds rate at almost 0, and that does not reflect what interest should be. Those are all...in fact, the weakest thing is the interest on an ordinary judgment; and the rest of the items there, you're pretty sure you're probably going to collect on. So, we have a spread there from a high of 14 percent to a low of almost 0, a 14 percent spread for about the same amount of risk that's involved in the various things. This proposal is very, very modest; it still leaves a spread of almost 10 percent between the federal funds rate and the rate on delinquent interest. Some might argue that by doing that you're going to attract a few less out-of-state buyers to profit off the people who are finding themselves in a bad way and can't pay their particular taxes. Just remember that whatever they don't buy, the county is going to get the interest on; and to that extent, it's a pretty sound investment for the county. What this says is let's try at least a little bit--and far from being totally successful because we don't want to hit the counties too hard, and because we still want to maintain a marketability of these things--let's take that back down to 10 percent from the 14 percent level. What you found in a situation back in the early years, people found it smarter to not pay their property taxes because if they had to borrow interest at a bank and pay 16 percent and you could get by paying lesser to the county, you'd be a little bit slow if you decided that you would borrow money to pay your taxes. Now we have a reverse situation to the extreme. At some point we may want to have the rate on delinquent property taxes float just like we did on judgments; but we're probably not there today. In the course of preparing this and going over these figures, a proposal was brought to me that said look at what you're also doing with here, is you are having an impact on the interest rates on workmen's compensation judgments. And right now, for some odd reason, other judgments are subject to 2 percent interest, but workmen's compensation judgments are tied into the property tax rate. So when you take the property tax rate from 14 to 10 percent, you're also influencing that item. Some of you may recall that this was an item of floor debate last year as to why the workmen's comp interest on a judgment is disproportionately high. I think there will be some testimony today as to why that may be unfair to have that wide a spread; and so this offers to the committee a way to adjust workmen's compensation interest rates to be more similar to the interest rates on judgments, which is a floating thing, taking into consideration that the workmen's compensation rates are a debt that's basically guaranteed by the insurance companies. I mean they're probably pretty good...if it's owed, it's probably going to be paid; there's not much risk that it's not going to be paid. Perhaps it would be appropriate to adjust that just as any other judgment, but leave that to the committee's thinking on that. So that's basically the idea. Reduce the interest rates on delinquent property tax from 14 to 10 percent if the committee is so disposed to tweak the workmen's comp interest rate, which is tied to the other interest rate, in a manner that

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may be more appropriate to ordinary judgments. I'll be happy to take any questions. [LB967]

SENATOR CORNETT: Senator Schumacher, isn't there a bill in Business and Labor currently to decouple? [LB967]

SENATOR SCHUMACHER: I think that that was...at least there was one discussed. I think it was last year. I don't know if there's a new one this year or not. [LB967]

SENATOR CORNETT: I believe there is the bill in there; and I will express right now that the way the amendment is drafted, it basically is turning this committee...or trying to take jurisdiction from the Business and Labor Committee, and I'm fairly uncomfortable with that aspect at...and...but I'm more than willing to listen. [LB967]

SENATOR SCHUMACHER: Okay. And that struck me, too, when this particular proposal was brought to me, that it may be mixing a little bit of apples and oranges, here, but...and that's why I said I'd bring it to the committee and they can do with it what it wants. [LB967]

SENATOR CORNETT: I was going to...that's...we'll discuss it in Exec Session. Thank you. [LB967]

SENATOR SCHUMACHER: Okay. [LB967]

SENATOR CORNETT: Senator Hadley? [LB967]

SENATOR HADLEY: Senator Schumacher, when I was looking at this, I thought there were numerous provisions that tied this interest rate into many parts of the Nebraska code. Is that...? [LB967]

SENATOR SCHUMACHER: That is correct. I mean I think there's a litany of things that refer back to the delinquent tax thing as setting the interest rates, which is probably another reason to look at this, because at this particular disproportionate rate of interest it's not in the real world anymore. You can't go get a 14 percent interest on a secured investment or a good debt very easily today. [LB967]

SENATOR HADLEY: Sure. I guess I only ask because I know that when I look at it, we had concern about...and I want to say it was 100-and-some-odd, or some different places that reference back, so I just want to be sure that we don't have unintended consequences that we're changing...we change this, and all of a sudden we find out later, down the line, some other interest rate that we didn't want to tangle with becomes changed. [LB967]

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SENATOR SCHUMACHER: In the context of a near 0 percent fed funds rate, the 14 percent almost appears usurious. And you do point out a good thing here: If this bill should move, we probably need to put in language that it won't affect anything in the past. [LB967]

SENATOR HADLEY: Yeah. [LB967]

SENATOR CORNETT: Senator Pirsch. [LB967]

SENATOR PIRSCH: So just kind of a historical understanding, in 1981 your graph shows the 30-year mortgage interest rate was 16 percent. And you presume then...is this based on the presumption why it was at 14 percent then, because it had to be somewhere in that ball park to compete with that? [LB967]

SENATOR SCHUMACHER: Right. What would happen is people would not pay their taxes and...I mean it made no sense to pay your taxes with higher interest rates someplace else. [LB967]

SENATOR PIRSCH: Yeah. And that's true. I've run into a lot of individuals who didn't. So other states, in looking across the 50 that we still have, I believe, you know, Iowa might be at 24 percent or something (inaudible). [LB967]

SENATOR SCHUMACHER: Iowa does have a higher percentage rate. [LB967]

SENATOR PIRSCH: And New Mexico, 18 percent, etcetera. So is that unusual? Or how do we...if the whole purpose with respect to counties is utilizing it to attract that, take the problem of these delinquent taxes off of their hands and place it in, you know, just to get their money today, would this...how does...would this have any effect in terms of our attractiveness relative to other states for this money finding Nebraska? [LB967]

SENATOR SCHUMACHER: Remember, when you bring an investor in from out of state and attract them with a 14 or a 25 or whatever percent interest rate you want to attract them, you are sending your capital, that interest, away from the state and probably never to be here again. And you're putting that cost on the backs of people who probably can't afford the tax bill to begin with under this economy; otherwise, they'd have gone out and borrowed it for a much cheaper interest rate to pay off their taxes. So, you know, what we're kind of doing is taking an investment opportunity to make 10 percent money, or whatever percent it is, away from the county when we send that money out of state. And that's kind of like a savings account for the county. So if a...and we got ahead of ourselves by trying to sell these things off, and a little bit behind the power curve. But this interest rate, I think one of the sympathy factors why it was so high is, hey, it's the county's interest rates. And the county is making good interest on this money; why not let the county do it, help the counties out? But if now we're shipping

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that interest out of state to conglomerates who have come in and basically farmed these people, is it so smart? [LB967]

SENATOR PIRSCH: Thank you. [LB967]

SENATOR CORNETT: Further questions? Seeing none, thank you, Senator Schumacher. [LB967]

SENATOR SCHUMACHER: Thank you very much. [LB967]

BOB HALLSTROM: (Exhibit 4) Chairman Cornett, members of the committee, my name is Robert J. Hallstrom. I appear before you today as a registered lobbyist for the Nebraskans for Workers' Compensation Equity and Fairness, as well as the National Federation of Independent Business, in support of LB967. I've also been authorized on behalf of the Nebraska Chamber of Commerce and Industry to express their support for the bill as well. Senator Schumacher has gone over the background and the intent of LB967 as introduced, as well as the policy rationale behind having a higher rate of interest to provide incentives for individuals to pay their taxes or to provide an incentive for potential investors who are paying the taxes up-front to the political subdivisions so they have use of the money up-front; and then they get an attractive rate of return on that investment either through the foreclosure, the issuance of a treasurer's tax deed, or the redemption of the property. At first blush you might say, where's the interest of the business community in the delinquent real estate tax rate? As Senator Schumacher has alluded to and with respect to the amendment, AM1998, that he's introduced, the workers' compensation interest rate on awards that are subject to appeal is directly linked to the 14 percent interest rate on delinquent real estate taxes; thus the interest of the business community. I will get to the procedural issues to address before the committee, but would like to talk a little bit about the background of why the bill is before the committee. Last session, as Senator Schumacher indicated, there was an amendment proposed on the floor to LB151 that would have decoupled the interest rate on workers' compensation awards subject to appeal from the delinquent real estate tax rate, and tied it instead to the money judgment rate. Now, the difference in those two currently is 14 percent versus about 2.056 percent as of January 19--a significant difference. The business community felt it was unfair to have that type of chilling effect on an employer or employer's right to appeal what they feel is a legitimate appeal. The circumstances under which that interest rate would apply, for example, is when an employer appeals an award and does not get a favorable decision. Fourteen percent from the time they could of or should have paid that money until the final decision is rendered accrues at 14 percent interest. But during the debate there was a discussion as to whether or not, if we were going to make a change in the workers' compensation interest rate on awards subject to appeal, that perhaps we should also look at the interest rate that individual taxpayers are paying. If we're going to make a change for businesses that are insurance companies, let's consider a change for individuals as

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well. As a result, that amendment fell one vote short. But during the course of the debate it was my understanding that the Revenue Committee in part had suggested that they would like to take a look at those two issues and the interrelationship between the two of them. As a result, that is why the bill is before the committee. In order for the committee to properly take up both issues and the interrelationship, Senator Schumacher has introduced the amendment for consideration and action by the committee. With respect to the aspect of the amendment, naturally reducing from 14 percent to 10 percent would have a direct impact on the interest rate on workers' compensation awards; but we feel the decoupling is the more appropriate action to take. We feel that the committee, with all due respect to jurisdictional issues, that the committee had indicated that they wanted to take a look at both issues; therefore, we have the two issues before the committee at this juncture. With respect to the background of the amendment that Senator Schumacher has presented to the committee, and I go into more detail in my written remarks, but I make reference and have an attachment of a Supreme Court case. That Supreme Court case, while it was looking at a different issue, addressed and reviewed this particular statute that ties workers' compensation interest rate to the delinquent real estate tax rate, and determined that the interest rate was to be compensation for the use of money, not a penalty. We have waiting time, penalty fees, and attorney fees for penalties. This is supposed to be interest, and we believe that it is confiscatory at 14 percent. I've also mentioned in my testimony, as Senator Schumacher alluded to, that at the time that the linkage to the delinquent real estate tax rate was made, the interest rates that were applicable in the mid '80s, as some of you may remember, were in the 14, 15, 16 percent, and higher, range; therefore, there may have been some justification at that time for setting that rate. And finally, Senator Hadley, attached to my materials is a chart. There are, to my estimation...and I think that perhaps NACO had provided this to Senator Utter's office when he was working on this issue. By my count, there are 42 statutes that are tied to the interest rate on delinquent real estate taxes. It's interesting to note that 40 of those 42 are other tax rates, other requests for application for exemptions and so forth, for which the policy analysis of saying we ought to have a high rate is probably applicable and appropriate. But with regard to this one, we think it's out of whack with the money judgment rate and would like to see the change made. I'd be happy to address any questions of the committee. [LB967]

SENATOR CORNETT: Mr. Hallstrom, we have discussed this issue a few times. [LB967]

BOB HALLSTROM: Correct. [LB967]

SENATOR CORNETT: And when we discussed it last year, with talking about the Revenue Committee's involvement with this and decoupling, the amendment doesn't just decouple; it references another section of statutes setting the interest rate for workers' compensation, am I correct? [LB967]

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BOB HALLSTROM: Yes, that is what the amendment that was before the body last session did. [LB967]

SENATOR CORNETT: I have to say that I would be in support of decoupling the two and having Revenue work with the tax issue. But I think when you talk about the workmen's comp issue, that is something, if we decouple, that that should be said by the Business and Labor Committee. [LB967]

BOB HALLSTROM: Senator, I don't have any particular exception to that. I think, as I've stated in my testimony, and in working with Senator Utter who was charged with taking this issue to fruition in whatever form or shape, the issue was that during the debate last year some members of the Revenue Committee expressed interest in deciding not to vote or take any action on the amendment; that the Revenue Committee should address and review both issues. I don't disagree. That other issue is before Business and Labor in the form of LB184, that is within the jurisdiction of the Business and Labor Committee. But based upon my understanding of what was said during the floor debate, my workings with Senator Utter, my discussions with other members of the Revenue Committee before this session, that this is the way to get these two issues before the Revenue Committee to carry out that intent. [LB967]

SENATOR CORNETT: And I may be wrong in this, but the time that I remember discussing it with Senator Utter, he wasn't referencing necessarily another section of statute which would set that rate at 2 percent, am I correct? [LB967]

BOB HALLSTROM: Senator, in all of my discussions with Senator Utter...and it's not fair to talk in that respect, but... [LB967]

SENATOR CORNETT: Yeah. I was going to say, because this was immediately after session last year. [LB967]

BOB HALLSTROM: Yeah. Yes. From my discussions as we moved along with Senator Utter, we discussed the prospect of introducing a bill that would come to Revenue Committee for purposes of having the Revenue Committee get the chance to review both issues as they had determined. I had discussions with other individuals. Obviously, as you might expect, if the amendment had been introduced as part of the bill, it probably would have been referred to Business and Labor Committee and... [LB967]

SENATOR CORNETT: I was going to say that would not have come here. [LB967]

BOB HALLSTROM: Yes, and the indication and the intent, from some of the conversations that I had with numerous individuals, was that the Revenue Committee indicated that they would look at that issue, both issues together, and this was the only

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way to get it done that way. [LB967]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Mr. Hallstrom. [LB967]

BOB HALLSTROM: Thank you, Senator. [LB967]

SENATOR CORNETT: Next proponent? [LB967]

KENT ROGERT: Good afternoon, Chairman Cornett, members of the Revenue Committee. I'm here today...my name is Kent Rogert, R-o-g-e-r-t, and I'm a registered lobbyist for the Nebraska Statewide Property Owners Association. We're a statewide coalition of mostly residential homeowners and rental units, and we're here in support of the bill for many of the reasons that Senator Schumacher mentioned before, that most of the time, even though some of my clients do take part in the investment of the taxes that are unpaid, a lot of those are out-of-state corporations, and those folks who can't pay those taxes are just basically sending their money out of state; and we'd just as soon lower that to a reasonable level. [LB967]

SENATOR CORNETT: Senator Hadley. [LB967]

SENATOR HADLEY: Thank you, Senator, and thank you, Senator. I guess it's more of a comment than a question. I did meet with the Buffalo County Clerk to talk about this issue. And a couple things I just want to stress is that, one, is that the county basically is not the recipient of all of this interest. [LB967]

KENT ROGERT: Correct. [LB967]

SENATOR HADLEY: The school district is the one that's going to take the biggest hit by reducing this interest rate, so we need to know that. And secondly, a key can be cash flow for the school districts and counties and such as that. So the primary purpose of this is not to make money; the primary purpose is to get people to pay their taxes. [LB967]

KENT ROGERT: I agree. I guess my return comment, though, would be that if it's an unbearable amount, you're...if it's folks that are having trouble paying anyway, 14 percent penalty can be just kind of like not paying your credit card. You're really getting hit pretty hard, so maybe bringing it down to where people could afford to pay that without getting there. [LB967]

SENATOR HADLEY: Okay, thank you. [LB967]

KENT ROGERT: Um-hum. [LB967]

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SENATOR CORNETT: I'm sorry. Senator Louden. [LB967]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Do you know how many years this has been in effect, the 14 percent interest on delinquent taxes? [LB967]

KENT ROBERT: I would say for quite some time. [LB967]

SENATOR LOUDEN: Say... [LB967]

KENT ROBERT: Back into the '80s at least, I would say. [LB967]

SENATOR LOUDEN: Or maybe back into the '40s or so? [LB967]

KENT ROBERT: I can't be sure. [LB967]

SENATOR LOUDEN: Okay, because as near as I remember, it's been in there for a long time. And the reason for it was so that if somebody didn't pay their taxes, somebody would pick them up and the county would still get their money so they could still operate. [LB967]

KENT ROBERT: Sure. [LB967]

SENATOR LOUDEN: And your school districts, if you ever want to run a Class I district. And when people didn't pay their taxes, you didn't have any money, you had to go write warrants, and that was...I can remember different school districts years ago would have big ranchers in there and those guys wouldn't pay their taxes for a while, and so you'd have to go see that rancher and tell him to pay his taxes so we could operate our school. And so that's the reason I'm wondering, you know, by changing it from 14 to 10, if we're trying to undo something that's probably been a process that's worked for a long, long time. And I guess that's the problem I have with it, and I was wondering if you knew how long that this process had been in place. [LB967]

KENT ROBERT: I don't. But I can say that in my personal experience you see some of these properties that go on to a tax sale, and because the penalties rise so fast, it may be outside of the property value or the owner's interest to even pursue it or pay the taxes, and then just let it go, which ends up costing the county in the end I think probably more because there's no taxes that come in for several years. [LB967]

SENATOR LOUDEN: I mean usually this 14 percent interest, I don't think there's any property that's of any value sitting around anyplace that doesn't have the taxes paid on it at 14 percent interest. I'm sure somebody has picked that up, haven't they? [LB967]

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KENT ROBERT: I think it...and if you're talking about terms of foreclosed on or people that just walk away from abandoned properties or empty lots in towns, if their property is worth maybe \$5,000, and the taxes plus interest gets up to a couple thousand dollars in a few years and they don't have the money to pay it, they'll just walk away from it, meaning...the way our foreclosure process works in Nebraska, it's fairly slow, but it could be an additional five years before any taxes go back on the...and somebody would pick up the property. [LB967]

SENATOR LOUDEN: Now, when you say property value of \$5,000, I don't know if that...I don't think there's probably any property that's included in that. You're talking about probably some property where there's, you know, \$25,000 or \$30,000 worth of taxes that's due here. Somebody, if there's only \$5,000 worth of taxes due their way, it isn't worth the trouble to try and pay that delinquent tax on it unless you're trying to acquire the property. But the bigger ones that...and we've talked earlier about when interest was high, a lot of operations didn't pay their first half of their taxes; they didn't pay it until in September, and then that tax was a delinquent and somebody would pick it up. I've been around some of these, and you don't go pay the taxes on some property if it isn't worth something to start with, and that's what I'm wondering if we're kind of doing something here that would be a detriment to getting the county their money a little faster. [LB967]

KENT ROBERT: Sure. [LB967]

SENATOR LOUDEN: Thank you. [LB967]

SENATOR CORNETT: Further questions? Seeing none. [LB967]

KENT ROBERT: Thanks. [LB967]

LORAN SCHMIT: Chairman Cornett and members of the Revenue Committee, my name is Loran Schmit, and that's spelled S-c-h-m-i-t, and I'm here today representing myself. I just wanted to comment--and I will not comment on...only on the bill. But the question was raised when this was raised, and I was present when it was raised. It was at that time it was 9 percent in the early 1980s. And you might recall that back in the late '70s, Mr. Volcker, a man whose name has been in the news somewhat lately, under President Carter decided to deregulate the cost of money. And the S&Ls at that time, it had a lot of 30-year notes out at 5.5 and 6 percent, and all of a sudden there was chaos within the financial community. And it spread through the S&Ls and a lot of those notes that ag people had signed for 5 and 6 percent went to 16, 18, 22, 22.5, 23 percent. And I had a personal experience and remember that it was a very painful time. And it was kind of interesting because a group of us met with Mr. Volcker and Senator Vickers, who you remember also, asked. And he said, you know, this is causing chaos in the area; what are you going to do about it? He said: Nothing. He said we thought it would

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hit the automobile industries. He said we didn't really think it would hit the agricultural sector; we did not think it would affect the S&Ls. And, of course, the S&L people were going broke right and left. And we came home, and by that time, a few years rolled by, and, of course, it was those kinds of interest rates, as you've said, Senator, it didn't take anyone who was very smart if he was borrowing money at 16 percent to say, well, shucks, I'll let my taxes go at 9. And so there was a lot of discussion. And very frankly, we just all received our real estate notices on our taxes and I'm sure...we know it's not easy to pay taxes. And the counties were in a bad spot, and so we did decide to raise it to 14 percent with every kind of assurance to taxpayers that if and when (inaudible) interest rates would decline, we would drop that interest rate down. There have been several attempts to drop that to a more reasonable rate; and I would frankly like to see it go down to 9, where it was prior to the increase. But the counties, of course, resisted it at that time. But as Senator Schumacher has explained, the counties don't get the money anymore. There's a lineup of people in most of the areas who, immediately upon knowing it was delinquent taxes, are there to take advantage of those. When you can get 3.7 on a CD, a six-figure CD, it makes a lot of sense to go out and buy those taxes. So it isn't, I don't think...and there may be people here from the county who can tell you more adequately than I how much money the counties actually receive because of delinquent taxes, but it would be a very small amount. There are people who are very sophisticated who make sure that that money is not going to the counties; it goes back to the investors. So, I want to commend the people who introduced this bill. I think it's overdue. I think that, you know, the three words we hear most often in politics is it was never intended, and that was what Mr. Volcker said. It was never intended it would turn out this way; it just happened. But we have chaos today in the financial sector worldwide, and I'd like to go back and think maybe way back in the 19...late '70s, that was a trigger for it. But certainly the bill is deserving, and I think it ought to be advanced to General File. Thank you very much. Any questions? [LB967]

SENATOR CORNETT: Senator Louden. [LB967]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, Loran, then you're saying it was in the '70s when it went from 9 to 14? [LB967]

LORAN SCHMIT: No, it was in the '80s when we raised it finally. It was in 1979, I think, that Mr. Volcker and President Carter deregulated the money market. [LB967]

SENATOR LOUDEN: Okay, and that...when interest started... [LB967]

LORAN SCHMIT: That's when it started going haywire, yes. [LB967]

SENATOR LOUDEN: Started skyrocketing. [LB967]

LORAN SCHMIT: Right. [LB967]

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SENATOR LOUDEN: It went from 9 to 14? [LB967]

LORAN SCHMIT: We raised it to 14. [LB967]

SENATOR LOUDEN: In 1980? [LB967]

LORAN SCHMIT: Yes. It was probably in the early '80s, I think, Senator. I couldn't say exactly when, but I know there was a lot of discussion about it. The counties were suffering, as you indicated earlier, because there was a lot of money...in fact, agriculture was not in good shape at that time and there were farmers and ranchers having trouble paying their operations. And so, shucks, if you could borrow money from the county at 9 percent and you were paying the bank 16, 17 percent, sometimes higher, you let the taxes go; and the counties just didn't have money. So there was a legitimate reason to raise it to 14 at that time. But today, as you know, as Senator Schumacher has pointed out, it's a totally different situation, and so certainly this is a very laudable bill and I hope you consider passing it to General File. [LB967]

SENATOR LOUDEN: Okay, thank you. [LB967]

SENATOR CORNETT: Further questions? Seeing none. [LB967]

LORAN SCHMIT: Thank you, Senator. [LB967]

SENATOR CORNETT: Next proponent? [LB967]

RICHARD HEDRICK: Yeah, I tried the state's hearing aid and it doesn't help much. When I first started my... [LB967]

SENATOR CORNETT: Sir, I'm sorry. Could you state and spell your name again? Can...spell your name. [LB967]

RICHARD HEDRICK: Oh, okay. I'd better get my notes. I am Richard Hedrick, H-e-d-r-i-c-k. I am for LB967. I started buying Lancaster County deeds about 15 years ago. There was about 30 or 40 people that were...had us at the Lancaster County Assessor's Office there, and we got such a great deal of the 14 percent and the interest rates were keeping going down. Now, the last time I went to it, there was...had to have it down at a different building and there were 200 people there. Omaha, they have it in their coliseum, and people come in from California to buy the tax deeds. I'm not sure what they're going to do when they get down to...if this goes through and they get 10 percent, if they don't think that's as good of a bargain as they did...as 14. But maybe we'll find out. This is LB45...or not LB. Nebraska state law 45-104.01 was enacted to give the counties more money for delinquent taxes. All tax rates were adjusted by NRS

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45-104.02. Counties complained they could not get enough money, so they enacted 45-104.01. At the time, 14 percent was reasonable. Interest rates are at a historic low rate, and Nebraska's state law 45-104.02 was enacted to change with all interest rates to be fair. The money that was owed in '06 for my condemned property and is in escrow at low rates provided by 45-104.02. The court case has dragged out some six years. To change the interest rates to a higher rate if and when no one would buy the property at 10 percent, this law should be a percentage higher than provided by 45-104.02. The interest rates will not stay this low; politics will change. Thank you. [LB967]

SENATOR CORNETT: Thank you, sir. Questions? Thank you. Next proponent? We'll move to opposition testimony. [LB967]

ALVIN AVERY: Good afternoon, Senator Cornett and committee members. My name is Al Avery, A-v-e-r-y. I live in Grand Island, Nebraska, and I'm here today to oppose LB967. I'm not speaking to the amendment because other than, you know, hearing it today, I didn't see how those two items were coupled together. But I am a purchaser of delinquent tax certificates. When I found out that this bill was being introduced, I contacted the offices of the introducer and cosponsors; and it appears the consensus was that, plain and simply, the interest rate is too high. I respectfully disagree. We are not talking...or, excuse me. We are here talking about delinquent taxes, not taxes due. Furthermore, in most counties in Nebraska, we are given several months after the taxes are due to pay taxes. For example, in Hall County, where I live, our taxes are due at the end of the year; delinquent May and September of the following year. This 14 percent that we're talking about kicks in after that. As a former member of a school board, I understand the importance of real estate property taxes being kept current. This allows school districts and other entities that depend on these funds from the county to fund their expenses. In my opinion, the current rate does two things. Number one, it incentivizes the property owner to pay the taxes in a timely manner. Secondly, it incents individuals such as myself to invest in delinquent tax certificates to maintain that revenue stream for tax entities that depend on this money. These are delinquent taxes, and I feel passionately that since the interest rate should reflect that. If I'm delinquent on my loan at the bank, there is a penalty that is established with that; it's not at the same rate. So in Hall County we're in some great economic times. As such, as I've heard earlier, there shouldn't be any delinquent tax certificates, but there certainly are. It's a convenient for a lot of individuals to let someone else do that so they don't have to go to the bank and pay additional funds, you know, to borrow that money. It was mentioned that there's outside investors from other states coming in. That is true. But by the same token, this rate is not that much different than other states, and the road goes both ways. Investors can come in from out of state and Nebraskans can also send their money to those higher interest-paying states also. So thank you for listening. If you have any questions, I would entertain them. [LB967]

SENATOR CORNETT: Seeing none, thank you. [LB967]

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ALVIN AVERY: Thank you. [LB967]

SENATOR CORNETT: Next opponent? [LB967]

JOHN LINDSAY: Senator Cornett and members of the committee, for the record my name is John Lindsay, L-i-n-d-s-a-y. I appear on behalf of the Nebraska Association of Trial Attorneys. I should, for the record...Bob Hallstrom did not spell his name, so I would say it's H-a-l-l-s-t-r-o-m. I just wanted to correct the record for him. My organization really doesn't have a strong position on the underlying bill. Whether the interest rate is at 14 percent or 10 percent, that is the policy for this committee dealing with delinquent real estate taxes. We are appearing in opposition to the bill because of the filed amendment that I believe is a manner to work around the committee system. I believe this issue is much bigger than an interest rate with the introduction of that amendment. And why do I say that? There's two issues at play, and that's what discussion has been. The first is: What is Nebraska's policy on the interest rate to be paid on delinquent taxes? I would argue that is totally a Revenue Committee issue. I don't think there's any question that jurisdiction for that type of an issue rests in this room. The introduction of the amendment, however, and the discussion about linkage between interest rate on delinquent taxes and interest rate on workers' compensation delinquent payments--a totally different issue. I would suggest to you that the amendment that's been filed is identical to LB...I believe identical to LB184 over in the Business and Labor Committee. They are dealing with that issue. Now I understand a frustration when a bill that you support doesn't come out of a committee, but I don't think that's a reason to start working around the committee system. You can imagine, if we start going that direction, what that will do to our committee structure. Do we want tax policy being determined in Business and Labor Committee, and bills with amendments dealing with tax incentives coming out of that committee? Do we want education policy discussed and dealt with in Health Committee? Do we want highway funding transportation issues advanced from Judiciary Committee? And I would argue that we don't. I have no objection to this committee looking at the rates on delinquent taxes, but I think when we start moving over into the work comp arena, we should leave that to the Business and Labor Committee. I would argue, I guess, that the bill creates problems because of the introduction of that amendment, and would urge strong consideration of the arguments. [LB967]

SENATOR CORNETT: Senator Adams. [LB967]

SENATOR ADAMS: Thank you, Senator Cornett. John, do you recall, or in your preparation for testimony today, did you look at all at the transcript of the debate last year on that bill? I was the one vote, and I was trying to recollect in my own mind what the discussion was between the two players on the floor about where this was going to go, not that we could hold anybody to that; but did you read the transcript at all? [LB967]

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JOHN LINDSAY: Senator, I did not read the transcript. [LB967]

SENATOR ADAMS: Okay, fair enough. [LB967]

JOHN LINDSAY: And my recollection is I think as foggy as yours. [LB967]

SENATOR ADAMS: All right, thank you. [LB967]

SENATOR CORNETT: Mr. Lindsay, the current way the law is drafted, the work comp rate is tied to the tax rate, correct? [LB967]

JOHN LINDSAY: That's correct. [LB967]

SENATOR CORNETT: With the introduction of the underlying bill, if we lower the tax rate to 10 percent, that would lower the work comp rate to 10 percent, correct? [LB967]

JOHN LINDSAY: That's correct. [LB967]

SENATOR CORNETT: You're here in a neutral position or not opposing the underlying bill, but it is the decoupling and setting of a separate rate for workers' comp that you are opposed to, am I correct? [LB967]

JOHN LINDSAY: That is correct. [LB967]

SENATOR CORNETT: So if we lowered both to 10 percent, you might not be happy but you understand the policy behind that because they're coupled currently. [LB967]

JOHN LINDSAY: We prefer the higher interest rate, but we understand that the primary driver of that interest rate is not work comp... [LB967]

SENATOR CORNETT: It's the tax rate. [LB967]

JOHN LINDSAY: ...but is delinquent taxes, and that's within the purview of this committee. In that case, should we have a problem with that, we should be seeking that delinkage over in the committee of jurisdiction, which would be Business and Labor. [LB967]

SENATOR CORNETT: Now, would...well, would the decoupling be in Business and Labor or could...? Decoupling could be here also, just as long as we decoupled and left the rate the way it is, and then next year Business and Labor dealt with the rate. [LB967]

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JOHN LINDSAY: And that...you could leave the rate at 14 percent because... [LB967]

SENATOR CORNETT: I'm just talking about we have the purview... [LB967]

JOHN LINDSAY: Right. [LB967]

SENATOR CORNETT: ...to decouple. [LB967]

JOHN LINDSAY: Pardon me? [LB967]

SENATOR CORNETT: We have the jurisdiction to decouple. [LB967]

JOHN LINDSAY: Oh, any committee has the jurisdiction to do anything. [LB967]

SENATOR CORNETT: But setting that rate would be more of a Business and Labor Committee. [LB967]

JOHN LINDSAY: Yes, I think that's the...Business and Labor Committee is, I believe, charged with the jurisdiction to determine what that interest rate is. [LB967]

SENATOR CORNETT: If we decouple. [LB967]

JOHN LINDSAY: Well, yeah, if you decouple. But... [LB967]

SENATOR CORNETT: Because currently the statute is written where it is based on what we do in this committee. [LB967]

JOHN LINDSAY: Yes. Yes, and the point being that if Business and Labor Committee were to say, you know what, that linkage, we disagree with Revenue Committee that that rate should be lowered. Then Business and Labor Committee could say we think we're going to tie it to something else. And the point being, that's where I believe the appropriate forum is, given the fact that there is a bill identical to the amendment that is in Business and Labor Committee right now. [LB967]

SENATOR CORNETT: Fair enough. Further questions? Seeing none, thank you. Next opponent? [LB967]

RANDY JAMES: Thank you. My name is Randy James. I'm a licensed attorney in the state of Nebraska. For full disclosure, I guess I'm just speaking on my own behalf as an investor in tax liens. I'm also a member who does the legal work for an LLC, which I believe the only two...this is probably the largest servicer of these liens sold when they're not redeemed and the legal work is required. I'm like a secondary market. And to that end, I'm not speaking on these other people's behalf. But I work with investors from

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John and Jane Doe, husband and wife in Red Willow County, and people who invest hundreds of millions of dollars, out-of-state companies. I guess I'm kind of speaking here in a more general, broad context with regard to a series of multiple bills, including LB370 from last session; LB1069, which I think is up later; LB519, which are just various things which are chipping away at giving incentive for people to purchase tax certificates. And I think all of these bills, I'll probably reference LB1069, which is basically where the county would be allowed to sell these at a premium in one lump group, along with this, I think would potentially eliminate 98 percent of the people that buy tax liens and just force it to conglomerates. And there were some statements made as a starting point that, you know, the interest rate is too high and it's all out-of-state investors purchasing them now, so why not drop it and have the county get the money. The delinquent property taxes are used to fund budgets; the counties have the budgets set. The counties, you know, I would think they're not in the game of earning interest. The reason they sell them at tax sales is to fund their budgets, okay? When it becomes...property taxes are sold in arrears, so when the 2012 property taxes become delinquent now, they're not sold until 2014. They begin earning that 14 percent interest at that point. When an investor goes and buys it two years from now, they're paying the county the 14 percent interest that they earned, and then the investor is funding that deficiency in the budget and then if it gets redeemed, then they get the same interest rate. I would disagree with the statement that, you know, why not let the counties have it; most of these are out-of-state investors now. That's not true. These are the records probably from the 2005 through the 2008 tax sales: Platte County, 10 investors; Nemaha County, 15; Lincoln County, 23; Douglas County, probably around 400; Dodge, 20. Most of the people that are doing this, especially in the smaller counties, are local people of not substantial wealth, whether they're investing \$10,000, \$20,000, \$30,000. I would state that it's good to keep local people purchasing tax liens. Otherwise, it's going to lead to some of the other issues that I might address later. Okay. The concept...there was some concepts...and I guess I have no comment about splitting this on the workers' comp; I have no position on that. But the concept where we're trying to compare this to judgment liens, mortgage interest rates. A judgment lien would either be based on a contract, personal injury. A mortgage is based on a note where a party contracted for that interest rate. To me, there is absolutely no relation in even attempting to compare what the Legislature sets the interest rate on delinquent property taxes at. The issue of, you know...these are risky investments, so I would state that 14 percent, for one, isn't competitive with other states, Iowa being 24. I mean, most legislatures in recent years have made it more competitive to induce investors, and I think the totality of all these bills, myself included, I wouldn't invest in Nebraska; I'd just drive over to Iowa. And what that's going to lead to is these, especially with LB1069, is huge conglomerates coming in which have more built-in loss and are going to be willing to walk away from issues at the backside, which is going to lead to people not wanting to pay their property taxes, etcetera. But anyway, there's lots of risk. Most states right now, their redemption period is one to two years. Okay. Nebraska is already three years. So two years after the taxes have become delinquent I can buy them; then I have to wait three more years. If the

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house burns down, I don't get any money. If you have a mortgage on there, then you're going to get some of the insurance proceeds. The reason that the interest rates are higher is to incentivize people to purchase them or to address issues like that. And the people that purchase these have spreadsheets and they have built-in loss, so you are willing to purchase, as Senator Louden had kind of referenced, a house that otherwise you wouldn't purchase, that's going to raise the threshold of what people are even willing to buy at the sales and lead to deficiencies there. You know, from my experiences, I think there are maybe not local banks, but national banks intentionally don't escrow, because from what I've been told it's cheaper for them not to do that. So when you...just by lowering the interest rate that people are willing to invest, so the developers often don't pay their property taxes because it's worth them to keep that cash liquid. So when you keep lowering that bar, it's going to give more and more reason people not to pay their taxes, for one, which I guess would lead to more liens being sold. But I'm not sure that that's, you know, in the best interest of everybody. I mean those are just some of the kind of general concepts. I think in just totality, especially with some of the other bills that are being introduced, I think that the actual effects are going to be distinct. And as somebody that deals with these on the backside, when you break up who is buying the liens, and if it's somebody from Red Willow County buying liens in Red Willow County, and the smaller investor that you are you need the higher interest rates to make it worthwhile, there are a lot of junk properties here, and that's just part of the game. If you're buying those, you might not ever get your money back on that. That's just a straight loss. And when you start incentivizing people, the average person not being able to buy the liens and incentivizing a huge out-of-state conglomerate to be able to control everything, they do not care about resolving possible trouble properties, whereas the husband and wife in Red Willow County again, for example, have incentive to get that money back. I'll be willing to offer and answer any questions if... [LB967]

SENATOR CORNETT: Senator Hadley, then Senator Adams. [LB967]

SENATOR HADLEY: Just a quick question. When I was talking to the clerk...since you deal with a lot of these, what would you say the net return is to the average person who invests in a tax lien? Because you talked about the risk... [LB967]

RANDY JAMES: Sure. [LB967]

SENATOR HADLEY: ...and the fact that some properties may not work out, some liens. But what would you say the average net return is on buying a tax lien? [LB967]

RANDY JAMES: Okay, of you're buying it...again, this is not accounting for any loss of where you might not ever be able to collect, but...and that's a good point, I guess. If you buy it at the 14 percent rate, your effective return I would guess is probably really down around 8 or 9 percent, because the interest is accruing at 14 percent, but then you don't

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have the right to...if you buy the taxes, you have the right to pick up the subsequent taxes in the later years; but you cannot pick them up until the property owner doesn't pay them. And property taxes are paid in arrears in May and September, or thereabouts. Or in Douglas County and Lancaster County, the larger counties, you can't pay all of them until September. So once it became delinquent, it's earning 14 percent; and when you pick it up 5 months later, you have to pay that 14 percent that goes straight to the county, and then you're starting to get 14 percent on what you paid. So I think if you buy a lien and hold it for the three years, I mean I think you're already down probably around 8 or 9 percent effective return. [LB967]

SENATOR HADLEY: I would just say that is fairly consistent with what the clerk told me, that they felt they would... [LB967]

RANDY JAMES: Right. [LB967]

SENATOR HADLEY: They used 9-10 percent. [LB967]

RANDY JAMES: Right. [LB967]

SENATOR HADLEY: But 1 or 2 percent isn't going to (inaudible). [LB967]

RANDY JAMES: Right. [LB967]

SENATOR HADLEY: So it's not exactly the 14 percent when you take in risk of (inaudible). [LB967]

RANDY JAMES: Correct. And I think that, you know, that figure, whether it's 8-10 percent, is without the risk, necessarily, of what you might lose, because there are companies like myself or individuals or some of the bigger groups, you know. By my estimation, over the three-year period, about 2 percent of every lien that's sold, nothing will be done before it gets to the point where you'd have to do a foreclosure request of treasurer's tax deed, and those are generally more the trouble properties. And I would state again that when we get to LB1069, it's good to have diversity of people purchasing liens in local areas. And the average investor again, in most counties, it is, you know, 10-20 people that are from that county. It's not these big, out-of-state places doing it. And they, for the amount of money they're putting up, with the incentive to do something with the properties, have even more substantial risk just in the, you know, amount they're investing. [LB967]

SENATOR HADLEY: I would just make one other comment. Actually, when I looked at this, I went to credit cards and looked at delinquent credit cards, and I think they can charge up to 28 percent on...that if you're delinquent on your credit card, they can charge 28 percent. [LB967]

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RANDY JAMES: Right. And I think one of the issues is...I mean, let's say, so for the counties I have here, there were 3,000 voters. I would guess that 2,995 of them would be here opposing this if they knew about it. But it is just, for the most part, just kind of average Joes that, you know, know how it works and go and buy them. Now, that changes in the larger counties, and some of the other proposed changes I think would change that as well, but... [LB967]

SENATOR HADLEY: Thank you. [LB967]

RANDY JAMES: Um-hum. [LB967]

SENATOR CORNETT: Senator Adams. [LB967]

SENATOR ADAMS: Thank you. I'm just going to think out loud here for a moment. So if I hypothesize, if we agree with the earlier testimony that the interest rate on these things went to 14 percent in the early '80s, when a mortgage rate was 16 percent, then if it had not gone to 16 percent in the '80s, if it had only gone to 12 percent, and today we'd be looking at Senator Schumacher's bill to lower it to 8 or 7, would you then be testifying that that 10 looked pretty good; we shouldn't lower it? [LB967]

RANDY JAMES: Well, I mean, I think that's a fair question; it's all relevant to where it's at, at the given time. But again, I think other states, even states around here, are aggressive in making it more beneficial to wanting people to come purchase property taxes. Like it had been commented before: Iowa, 24 percent. I mean, as to that question, to me, I mean, the context of whatever was going on back then is relevant but somewhat irrelevant; it's the common age. I mean, I think a smart solution which some places do is they have a floor, and then they index it up based off of what the rate might be or with the prime rate or however that's determined. Otherwise, you know, at some point I suspect, you know, rates are going to go back up; and how you're going to be able to keep up with that depending on how they might fluctuate? But I would state, though, that the 14 percent, especially with the actual effective rate at 9 to 8 percent. And you have...if you go buy 20 liens and one of them burns down, you did not make any money out of those 20 liens you bought, if you're doing it on a smaller scale in smaller counties. You know, you limit risks by the more you buy, but... [LB967]

SENATOR ADAMS: Thank you. [LB967]

RANDY JAMES: Um-hum. [LB967]

SENATOR LOUDEN: Question, Senator Pirsch. [LB967]

SENATOR PIRSCH: Just so...and I appreciate. Could you tell me your name again?

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[LB967]

RANDY JAMES: Yeah. Randy James. [LB967]

SENATOR PIRSCH: And Mr. James, are you suggesting that it's...you shouldn't set it at any fixed level in statute; that whatever you come across, it should be a floating based on an index set gauged to some other...? [LB967]

RANDY JAMES: Sure. And I guess my comment again, dealing with the people that I deal with...this might not be a legal term, but if it's not broke, don't fix it; there's no purpose in fixing it. This, with all these other statutes, I mean I would just state that I think it's fine, but if there is some movement to do anything, I think 14 percent is the bottom that it should be, if not adjusted up, if interest rates would rise. [LB967]

SENATOR PIRSCH: And that's, though, based upon 14 percent now, based upon where everything else is, it's relative, right? Is that what you're saying? So if...what would be the formula...what would you tie it to, if you're suggesting a floating, you know, index? [LB967]

RANDY JAMES: I'm not a financial expert, but I've always referred to it as prime or, you know, they have consumer price indexes or...for instance, I believe Colorado does that. I mean there are states that have done that, just to address the issue of do we need to have hearings or new bills every time there is an adjustment in, you know, the underlying interest rates. [LB967]

SENATOR PIRSCH: Okay, thank you. [LB967]

SENATOR LOUDEN: Senator Hadley. [LB967]

SENATOR HADLEY: Just a quick comment. I think if we were to look at a floating rate or something like that, you would have 93 clerks in here pulling their hair out because that means you've got all these different parcels with different rates, and trying to figure out that. It just becomes a logistical nightmare for them to deal with, and that's just a statement. [LB967]

RANDY JAMES: Sure, and... [LB967]

SENATOR HADLEY: I think, in theory, a floating rate would be great; but from a practical standpoint of...in a smaller county and you're the clerk and trying to figure out... [LB967]

RANDY JAMES: Right. And again, I just would like to make clear, I'm not stating I think there should be a floating rate. I'm just stating I don't think it should be changed,

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because, you know, just the comments where, well, you only get 2 or 3 percent on a CD; well, that's guaranteed. These are very risky and you've got your money tied up for four or five years with the potential risk of 100 percent loss. [LB967]

SENATOR HADLEY: Okay. [LB967]

RANDY JAMES: So I...you know, when it actually starts getting effective returns, it's... [LB967]

SENATOR HADLEY: Thank you (inaudible). [LB967]

SENATOR LOUDEN: Now, you invest this land for these people and that sort of thing? [LB967]

RANDY JAMES: I invest money on... [LB967]

SENATOR LOUDEN: Okay. [LB967]

RANDY JAMES: ...an LLC on my own behalf, and then I do legal work for other people. [LB967]

SENATOR LOUDEN: Okay. Now you mentioned something about personal property tax. Which delinquent taxes do you buy? Personal property or real estate? [LB967]

RANDY JAMES: Real estate. I don't know that there's a lot of people interested in...I guess I'm not really even necessarily familiar with how many personal... [LB967]

SENATOR LOUDEN: Oh, well you mentioned personal property, and so that's the reason I asked. [LB967]

RANDY JAMES: Oh, okay. I apologize if I misspoke. [LB967]

SENATOR LOUDEN: And that's the reason I wanted to clarify that, because I thought, yeah, this must be a high roller if he's going out and buying personal... [LB967]

RANDY JAMES: No. No, I didn't even...I mean I've seen occupation taxes sold, but other than that I've never really seen... [LB967]

SENATOR LOUDEN: Okay, thank you. Other questions? Senator Pirsch. [LB967]

SENATOR PIRSCH: Just to clarify. And maybe I heard it wrong, but I thought you had mentioned that, you know, there's a three-year waiting period before such time as you can take action. Did you say that only, in your experience, it's not untypical that only 2

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percent of the properties get to that level where you're having to take action after the three years? [LB967]

RANDY JAMES: I think that would be a fair estimate from the people I've spoken with or, you know, from my own numbers and comparing with it. Now, I think that it might have jumped up a percent or, you know, two, over the last few years, just...and another comment, quick. Again, Nebraska has a three-year period where this is going on, which a lot of other states are shorter, one or two years. And when you have three years, it's not a liquid investment; you can't go pull it out like a CD. It's tied up; you only get your money back if it redeems. So again, that's another reason that...pro rata, I guess, doesn't affect the, you know, effective rate but it does affect the fact that you're tying that money up for at least three years when you put it down; whereas, in the other states, you're going to get it back or know if it's a bad property and such a... [LB967]

SENATOR PIRSCH: And I don't know if you know this because you might be experienced in certain counties but not others, but is it pretty much taken for granted that all tax warrants will be sold, but rather just the prices may vary up at...or are there some situations where tax warrants are left on the table in certain counties? [LB967]

RANDY JAMES: There are, yes. I mean a lot of...again, that's why I think addressing LB1069 later, it's good to have local. Basically, if you're an investor, depending on how much money you have, you set possibly...local people will drive around and check them out. If you have more money, you set dollar thresholds or stay away from certain properties that might concern you. So there are...I think a lot of them do get bought; and again, the higher the interest rate, the more room for risk. So the county is getting money. You start lowering that stuff and changing how things operate, it will undoubtedly raise the bar of where people are willing to purchase, so then the county isn't getting the money to fund its budget, then the county is getting stuck with it at the end of the period and it's the county's obligation to have the county attorney do the foreclosure, etcetera. [LB967]

SENATOR LOUDEN: Other questions? Seeing none, thank you for your testimony. [LB967]

RANDY JAMES: Thank you. [LB967]

SENATOR LOUDEN: Next opponent? Any more opponents? Then anybody in the neutral? [LB967]

BETH BAZYN FERRELL: (Exhibit 5) Good afternoon, Senator Louden, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. We're appearing neutral on this bill because when we look at the 14 percent rate and dropping it down to 12 percent, our

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folks were okay with that. When it gets down to 10 percent, there was a little more heartburn just because of the uncertainties that might arise from that and whether that would, you know, incent people to pay their taxes or incent investors. And it's not just the counties that would be affected; it would be all of the taxing entities because the interest is distributed back to all the taxing entities. With respect to the decoupling issue, I've given you a handout of information that we prepared last year. It may be the same thing as was distributed earlier. It reflects only the statutes that address 45-104.01, which is the language that's being amended by this bill. There are, as you've heard, other statutes that talk about the delinquent tax rate but don't use that particular statutory citation, and there are also cases that cite back to 45-104.01 that aren't included in that handout. If the decoupling that's been discussed would take place, that would completely take counties out of it and we would have no concerns about the bill at that point, if it was decoupled. I would be happy to answer questions. [LB967]

SENATOR LOUDEN: Any questions? Senator Fischer. [LB967]

SENATOR FISCHER: Thank you, Senator Louden. Beth, did I hear you say you'd have trouble with it if it was decoupled? [LB967]

BETH BAZYN FERRELL: If it's decoupled and just the workers' comp is addressed, we are completely out of that, and so we would not have any problem with it. [LB967]

SENATOR FISCHER: Oh. [LB967]

BETH BAZYN FERRELL: With the workers' comp part. [LB967]

SENATOR FISCHER: Thank you. [LB967]

SENATOR LOUDEN: Other questions? I have one, because as I look through your stuff here...and if an inheritance tax isn't paid on time, then it comes in at--and we were doing an inheritance tax--it comes in at 14 percent interest at the present time, then it's coupled onto that 45-104.01, is that correct? [LB967]

BETH BAZYN FERRELL: I believe that it is. [LB967]

SENATOR LOUDEN: Well, I just looked on this little list here, you had here, and I noticed that, I think someplace in here, that delinquent inheritance tax, what they would be assessed at, so that's...when we talk about this. Then if we change this, then do we change all of those issues that are connected to that particular statute, I guess? [LB967]

BETH BAZYN FERRELL: It would. It would change everything that references 45-104.01. [LB967]

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SENATOR LOUDEN: Yeah. Then we'd have to change them all, okay. Okay, other questions? Seeing none, thank you for your testimony. Are there any other, what do you call it...? [LB967]

SENATOR FISCHER: Neutral. [LB967]

SENATOR LOUDEN: Neutral testimony? If not, that closes the hearing on LB... [LB967]

SENATOR FISCHER: Did Senator Schumacher want to close? [LB967]

SENATOR LOUDEN: Oh, does...? Yeah. [LB967]

SENATOR SCHUMACHER: Just real briefly, Senator. [LB967]

SENATOR LOUDEN: Senator Schumacher, sorry about that. Here he is to close. [LB967]

SENATOR SCHUMACHER: Thank you, Senator Louden, members of the committee. I want to thank Senator Schmit for his historical perspective. Some of the things in the environment we operate, we lose a little institutional memory. Even back in the early '80s, when mortgages were pushing up to 15, 16, 17 percent range, the Legislature only raised this, according to Senator Schmit's testimony, from 9 percent to 14 percent; it was still under the mortgage rate. Now, we're seeing mortgages at 4 percent; this is at 14 percent. That's over three times the mortgage rate for what amounts to a first mortgage. And the testimony today was only 2 percent of the purchases; all the rest are paid off, 100 percent principal, 100 percent of that 14 percent interest. Only 2 percent of the purchases go so far as to require the step of threatening a foreclosure action or a tax deed. And in my experience as county attorney--and granted, it was in the '80s and that maybe was a different world, but probably not so much different--it was a rare piece of property that the county did not get its money on. It was a total piece of junk with an asbestos building or something like that. So these are really good investments. And if you look at the big picture, from 30,000 feet and look down, what we're basically doing is sending a good chunk of that premium interest out of state on the backs of people who, for one reason or another, are having a hard time paying their taxes. Thank you. Any questions? [LB967]

SENATOR CORNETT: Senator Fischer. [LB967]

SENATOR FISCHER: Thank you, Senator Cornett. Do you think we should discuss tying it somehow to that mortgage rate? [LB967]

SENATOR SCHUMACHER: You know, that's not a bad idea, either. I mean, you know, we know that the fed is saying it's going to keep it at the near 0 percent rate until the

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end of 2014, provided Bernanke's crystal ball doesn't break. But we did that in judgments. When we look back at the chart here in judgments, and it's floated down to 2 percent there. And these are all reasonable, real-people approaches to things. This thing, I think, got stuck at the 14 percent because for a long while, while you could make money elsewhere in the economy on the stock market and elsewhere, the 14 percent was going to the county and the school and what the heck. But now this may not be going to the county and school; it's maybe leaving the state. And maybe what we need to do is just sober up a little bit and say interest rates is interest rates, and it should be competitive considering the risk and security. And floating is not a bad idea, Senator. [LB967]

SENATOR FISCHER: Thank you. [LB967]

SENATOR CORNETT: Senator Louden. [LB967]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, Senator Schumacher, I said in my years I've tinkered around and about everything except casinos, and I never had to because I fed cattle once in a while. But anyway, buying these delinquent taxes, I mean it isn't just running down to the local courthouse and buy this delinquent taxes. The ideal thing, it's just like going to an auction barn and buying the right critter to make money on, because you have to buy a delinquent property that you know those people are going to come out there at...either in six months or whenever and pay that taxes, could be...unless you really have something in mind, you certainly don't want to pay the taxes and then have to go through the deeds in order to get the property, because more times than not, the property isn't worth the taxes is the reason the tax isn't paid on it, if it's that situation. So I'm wondering are we really making...are we really talking about anything that's important? Because the taxes that people are buying out here has to be about a certain kind or else you're not going to touch them; and if it's 10 percent, there's a whole bunch of these taxes that nobody would bother to take the gamble on--because it is gambling. You'd just as well...you don't know if you're going to buy a cow with a bad eye or not when you're going to buy one of these properties unless you've researched it pretty close. Am I correct on most of my summation? [LB967]

SENATOR SCHUMACHER: Well, Senator, you started off really good ideally, when you talk about casinos. (Laughter) But there is a lot of similarities between these big conglomerates buying large numbers of these things and operating a casino, and the similarity is called the law of big numbers. If you have enough volume, you know where your outcome is going to be; you know how much you're going to lose, how much the players are going to win, how much is going to default. You know that because you've got enough numbers to work with. And this is part of the problem with this because in order to play the game safe, you've got to have a big casino. In this case, you've got to buy a lot of these things, and that's why you can come into Douglas County and Lancaster County and you buy a big chunk of these things, or even some of the smaller

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counties. You buy a big chunk of these things and you don't have to worry about, well, is Mother Jones's place, is it dilapidated or not. You know that about 2 percent you're going to run into trouble and you hire a lawyer to take care of the 2 percent, but you make the 14 percent, and in this market, at three times what the...more than three times what the mortgage rate is on a 30-year mortgage. I think in a former day we'd call that usury. [LB967]

SENATOR LOUDEN: Well, if you're setting it up so that there's going to be a certain loss in there, I mean, you've got to figure that loss in. So now, instead of 14 percent we're down around 11.5 or something like that, if you're going to figure in there's going to be a certain loss in there, wouldn't you be? So if you lower that too much, then do we bring them people in...the idea is to bring the people in to get the money so that your county can operate or your school district can operate with it. [LB967]

SENATOR SCHUMACHER: According to the testimony today, only 2 percent are problems. That's not 2 percent of the 14 percent, that's 2 percent of 100 percent. So you're getting, on 98 percent, your full 14 percent. And the rest, you're going to get something. You may have to threaten them with an attorney, and in a rare case you may lose. But, by gosh, 98 percent. Take that times the 14 percent and you come up with the 13-point-some percent. And it depends on how you figure it, but the larger numbers, the more of these you purchase, the more safe you are. And when the county, back in the age when there was no real incentive to purchase or not purchase this because you could buy an equal investment in a CD or something, the county was the one playing the law of big numbers and it was pretty sure it was going to get 19 percent or 98 percent of the whatever. And they're just pretty high, pretty disproportional to the...and it's on the backs of people who have not fared well in this economy. [LB967]

SENATOR LOUDEN: Okay, thank you. [LB967]

SENATOR CORNETT: Senator Hadley. [LB967]

SENATOR HADLEY: Senator Schumacher, actually this rate is both an interest rate and a penalty rate, isn't it? Because you're paying for the use of the money, which is the interest part of it, but there's a penalty because you didn't pay your taxes on time, correct? [LB967]

SENATOR SCHUMACHER: That's a dangerous word, and here's why it's a dangerous word to call it a penalty. There are certain due process rights which attach when the state imposes a penalty--rights to a hearing, rights to appeal, rights to things like that. And as you mentioned that during the testimony, I seem to recall--and I won't swear on the stack of Bibles over this--that there was an Attorney General's Opinion back in the 1950s or so that did a real careful dance between calling something interest and calling something a penalty because a penalty means you have to go through other steps to

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impose it. [LB967]

SENATOR HADLEY: Okay. [LB967]

SENATOR SCHUMACHER: And so it's an incentive. [LB967]

SENATOR HADLEY: A semantic? [LB967]

SENATOR SCHUMACHER: Yeah, it's semantic, but it's also got legal consequences. [LB967]

SENATOR HADLEY: Okay. The second thing is that we spend most of the time talking about the poor person who hasn't, you know, for whatever reason, hasn't paid their taxes and how much it's going to cost them. But we have school districts that need the money and we have counties that need the money and cities that need the money, and this is a way of getting them their money fairly quickly, and from a cash-flow basis, that could be important to some of the 252 school districts. Is that a fair statement? [LB967]

SENATOR SCHUMACHER: Again, we lived in a culture in which we cashed in on the future and at the point we made these things attractive to investors and they began to sell to the investor, we brought in a surge of money and we got addicted to the surge. And when you decouple from that surge, you've got to pay it back. And darn, we're in a society that just hates that notion. [LB967]

SENATOR HADLEY: Okay, thank you. [LB967]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Senator Schumacher. [LB967]

SENATOR SCHUMACHER: Thank you. [LB967]

SENATOR CORNETT: Senator Wightman. [LB1069]

SENATOR WIGHTMAN: Thank you, Senator Cornett, members of the Revenue Committee. I'm John Wightman. Wightman is spelled W-i-g-h-t-m-a-n; John is spelled the preferred way. I represent District 36. LB1069 would replace the Nebraska current bid-down system for selling delinquent real estate taxes with a process that would allow bidders to offer a premium for parcels owing more than \$500 in delinquent taxes. The county treasurer conducting the sale would be given authority to group parcels for sales; sometimes that's called bundling. For purposes of clarity, each certificate will contain a single sale and lien on one specific parcel of property, but you could bid and you would be obtaining the certificate sale on more than one, and that would be at the discretion of the county assessor, so that...and I did bring this at the request of the county officials,

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particularly in light of other legislation that's being proposed. And for example, let's say the interest moved down to 10 percent from the 14 percent or some other figure. We may have small parcels of property, some that are not very well fixed up. We'd probably be talking largely small parcels of property that they could be bundled; you could put one or two with two or three that looked awfully good to an assessor's office, and then bid them as a unit. And they could bid...start at whatever the amount that you set--I'm just saying it could be coupled with that--and then bid up from there. So, say you did change the law to 10 percent; you could end up getting a higher rate than that, even with a couple of properties that you'd have a lot of difficulty in selling the particular tax sales certificate to. Nebraska law concerning the sales of delinquent taxes should be revised and modernized and allow such things as bidding on the Internet. Nebraska counties need tools to maximize revenues from sources that do not raise property taxes. First, a short review of current law might be appropriate. In Nebraska, unpaid property taxes are a continuous lien on real estate. Instead of forcing the sale of a property subject to unpaid taxes, the county sells a tax certificate that represents the county's right to be paid back taxes, which is a lien on the property. Under current law, tax certificates entitle the purchaser to 14 percent on interest on the amount of taxes due. One of the things you should be aware of is that there's no compounding of that rate. When you buy them, you buy them, and you get straight 14 percent on what you get. If it goes on three years, you end up getting simple interest on all of it; it's not like you were receiving a payment at each time, at each annual payment date. Senator Schumacher's LB967 would reduce this interest rate from 14 to 10 percent per year. At either rate, it is fair to say that the tax certificate purchasers receive a rate of return that is not generally found on other investments in the market at this time. When the tax sale certificate is purchased, the investor would then pay the full tax bill for the property owner. The county uses the proceeds, obviously from the sale, to fund county operations rather than borrowing money. If the debt is paid on time, the tax lien is released and the landowner retains ownership. Twenty-one states use the tax sale certificate process to collect past-due taxes. Current Nebraska law authorizes a bid-down process. Under the bid-down process, the investor willing to purchase the lien, for the lowest percentage of encumbrance on the property, will be awarded the lien. And I'll give you a little example of how this works; I wasn't even aware that this happens until I brought this bill. But somebody can come in and buy up, on behalf of the owner, a 5 percent tax sale certificate and make that tax sale certificate almost unsalable. I don't think it happens very often, but it is allowed under current law. So let's say somebody comes in and buys 5 percent, and probably nobody is willing to buy a 95 percent because they're limited on what their collection rights would be. In practice, few investors will bid on liens for anything less than the full right to the property in the sale proceeds. If anything, a delinquent taxpayer can purchase the lower percentage of encumbrance offered. The remaining percentage interest cannot be sold. What LB1069 would do is to authorize the county to use the bid-up process by allowing tax certificates to be purchased for premiums for parcels owing more than \$500 in delinquent taxes. Under this method, the investor willing to pay the highest premium or purchase price in

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excess above the lien amount will be the winner. Under LB1069, the county retains the premium as a source of badly needed revenue. The premium that the county collects in effect reduces the rate of return or interest rate for the investor, but the premium and the rate of return are determined through an open-market bidding process. Nothing forces the investors to offer a bid that includes a premium. Other changes found in LB1069 grant authority of a county treasurer but are not mandatory. If the bidders are notified in advance, the county treasurer may package or group separate parcels for sale. This will allow more desirable parcels to be grouped with less undesirable parcels so that both types may be sold. LB1069 authorizes but does not require sales to be conducted using an Internet-based auction system. Sales are to be conducted in a round-robin format by drawing lots or by other impartial manners deemed by the county treasurer to provide an equal opportunity for all participants to purchase tax liens. Many states use a computer program that selects the bidders at random. LB1069 does have one requirement. In order to keep the individual parcels and tax certificates transferable for any subsequent sale by the purchaser, separately or in case of a redemption by the owner, separate tax certificates must be issued for each item of real property. LB1069 authorizes changes to update Nebraska law for the sale of delinquent taxes. These laws have not been comprehensively reviewed or revised for many years. Counties need all the tools possible to maximize revenues from the sales. I would urge this committee to advance LB1069 to the floor for debate and passage. I'd try to answer any questions. I know there will be other testifiers. [LB1069]

SENATOR CORNETT: Senator Louden. [LB1069]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Senator Wightman, I noticed on your copy here where you've deleted some of the language and stuff, and I think you alluded to that, that actually if there's some delinquent taxes, you don't have to pay all of your delinquent taxes; you can pay a portion of it, and that taxes actually won't be for sale. The taxes are still due and it will still draw interest, but it doesn't have to be put up for sale. Now, on page 3 here, where you deleted that language, is that what that language is that you deleted? [LB1069]

SENATOR WIGHTMAN: I think it's correct. Let me look at page 3. [LB1069]

SENATOR LOUDEN: And take that out? Hasn't that been kind of a stopgap for some of these folks when they talk about, you know, they have trouble paying their taxes? They can go in there and pay portions of it. And I think you have to pay portions of each individual lot or whatever, I mean, rather than just one section out of a whole ranch or something like that. And I'm wondering if this isn't something that was maybe put in there to help people that were under some type of duress to get their taxes paid. [LB1069]

SENATOR WIGHTMAN: Our bill would eliminate that possibility, so that...I guess that's

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been referred to at times as a bid-down system. I don't think it occurs very often, but I think it has occurred and maybe occurs more often than I know. And perhaps a later testifier could testify as to that. [LB1069]

SENATOR LOUDEN: Okay, thank you. [LB1069]

SENATOR CORNETT: Senator Schumacher. [LB1069]

SENATOR SCHUMACHER: Senator Wightman, as you were speaking and talking of this concept of the county treasurer being able to create a basket of really good ones and a basket of not-so-good ones and kind of trying to sell them at different rates, it occurred to me that that seemed awful similar to the process done with the mortgages before 2008, when the brokerage houses put all the mortgages in a pile and then sold off a premium AAA-grade tranche, and the next one and the next one, until they got down to junk bonds. Instead of putting parcels in there and saying okay, you're buying this tax sale certificate on this farm, does it strike you as perhaps we could do the same kind of thing by putting them all in a bad tax bucket, and then selling off a premium level that was mathematically determined, rather than by parcels? Of this basket of bad delinquent taxes, you can buy a cream level, you can buy the next level and the next level at different rates. Would that be a more efficient way of doing this? [LB1069]

SENATOR WIGHTMAN: Well, let me tell you what my thought as to what my bill would do. I think you would put three or four parcels together, maybe only one bad one and the small one in that group, just to allow you to get rid of some of those, because you've got some that are so favorable as far as the interest rates are concerned that, for example, if you're 10 percent, as proposed in your legislation were to pass, then you'd start at 10 percent. And, of course, they'd be bidding for a higher rate of return by bidding extra dollars on it. And so I don't see them quite being the same because by bundling them and putting two or three together...and maybe bundling is a bad word because maybe it smacks of exactly what you're talking about, so maybe we could use a different term. But it allows the county to sell some of those, at least, that they might believe would be difficult to sell but still somebody would pay the minimum of 10 percent, and maybe even pay a premium to get the two or three good ones with the one that's not so good. [LB1069]

SENATOR SCHUMACHER: From researching this particular thing, what guesstimate would you give to the amount of parcels that the county gets stuck with and doesn't get its tax money out eventually, either through a tax sale foreclosure, which is the way most counties do their...what they get stuck with? How much...what's the loss? [LB1069]

SENATOR WIGHTMAN: I think it would be a lot. I don't know. I'd have to get some figures from the county. My guess is it would be a lot larger number of parcels if you were just to compare numbers, than it would be as a percentage, because I think many

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of those are small ones in small towns. For example, we have towns in my district, a lot of towns that are small, that if you had a vacant lot probably nobody would buy that tax sale certificate. So it counts in the number, but as far as the percentage of dollars it may not be very high. [LB1069]

SENATOR SCHUMACHER: Thank you, Senator Wightman. [LB1069]

SENATOR CORNETT: Senator Pirsch. [LB1069]

SENATOR PIRSCH: I don't know if you know this, but how big, in absolute terms, is this market? Why haven't, you know, banks moved in and...he was, I think, alluding to securitization that's occurred within the mortgage industry. Is there any...and I know there is a secondary market for these things that's emerging. But why has...? Is it just the absolute size of these markets are not big enough to induce...? [LB1069]

SENATOR WIGHTMAN: Quite frankly, Senator Pirsch, I would guess the size is there, but they might be competing against some of their own customers. And I don't think...for example, you're not going to be the most popular person in town, probably, if you go in, in your own town...and that's why they come in from out of town and bid on these things. I just do not think that most people in town or within the county are willing to take the flak. And there are...we have some in Dawson County that do buy these, but they are in there competing against a much larger interest that...I think as an attorney, you'd be aware of that or...oh, you are an attorney. Excuse me, I take that back. (Laugh) [LB1069]

SENATOR PIRSCH: (Laugh) Thanks for that lovely compliment. [LB1069]

SENATOR WIGHTMAN: I think as an attorney who might practice in this area more, you could be aware of the image problem that might result from that. But I think bankers would be very aware of that image problem. [LB1069]

SENATOR PIRSCH: Well...and it's probably a little different. But I guess what I was wondering is more of the larger movement nationwide in terms of...right now, there are larger companies that go in and buy large segments, right, of offerings of counties; but no wholesale securitization, buying the whole lumps and selling them. And is that just because of...well, I don't know if you know the absolute size of the market. Is that the detriment that hasn't occurred on a national level? [LB1069]

SENATOR WIGHTMAN: I think, Senator Pirsch, that it would still get back to local banks buying them. And when local banks are buying them, I think the image is a major issue. [LB1069]

SENATOR PIRSCH: But it wouldn't be local banks at all. It would be, you know, the

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biggest banks in the nation, the same ones involved in the mortgage securitization process. [LB1069]

SENATOR WIGHTMAN: But I suppose if you're going to allow everybody to bid on them, then they're going to have to have somebody run around to these various...unless they're going to buy them en masse; and I doubt that that's likely to happen. [LB1069]

SENATOR PIRSCH: Okay. Well, I appreciate that...your comments. [LB1069]

SENATOR CORNETT: Further questions? Seeing none, thank you, Senator Wightman. [LB1069]

SENATOR WIGHTMAN: Thank you. [LB1069]

SENATOR CORNETT: First proponent. [LB1069]

BETH BAZYN FERRELL: Good afternoon, Chairman Cornett, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and we're in support of this bill. We'd like to thank Senator Wightman for introducing this bill at our request. We've been looking for years, really, about how to encourage people to pay their taxes, and how to also encourage investors when those taxes aren't paid. You've heard a lot of that reasoning here today so I won't get into some of those specifics. But this bill really takes into consideration what happens when people don't pay their taxes, and investors come in. And if there's maybe an inexperienced investor and the bid-down process takes place, the investor really ends up with nothing that they can really do something with, if they would end up having to foreclose upon it. Now certainly, if it's tax sale certificates, if you buy one, it's sort of buyer beware. The investor has to make a decision, a dollars-and-cents decision about the risks that they're willing to take. So that part of it isn't something that the county would be involved in. But we do want to encourage the sale of properties. And by this, if we could add a premium onto that, then the investors who want these sort of premium properties, if they would be willing to pay more for those properties, they would be able to do so. I think this might clean up some of the questions about the bid-down process. If it was a premium process as opposed to the more confusing bid-down process, we really see this as a tool that would help counties get rid of some of these--or I shouldn't say get rid of--but help sell these delinquent properties. And there will be a county treasurer that will follow me that could answer more of the specifics about how the tax sale process works in practice. I would be happy to try to answer questions. [LB1069]

SENATOR HADLEY: Thank you, Beth. Are there any questions for Beth? Seeing none, thank you, Beth. Are there further proponents? [LB1069]

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RICH JAMES: Good afternoon, Senators. I'm Rich James, that's R-i-c-h J-a-m-e-s, and I am the treasurer of Sarpy County. I'm testifying in support of LB1069 for a couple of reasons. For many years, treasurers have been looking for a better method for selling delinquent taxes. As the years have progressed, where I used to have 10 or 15 people show up at my tax sales, now we had, the last couple years, approximately 100 people have showed up to compete for these taxes. Another thing about them is that we've done some cost analysis. And although I haven't done it lately, last time I did it, we estimated it was costing \$25 to \$30 per tax certificate for the county to process these things. And as has been noted previously, the vast majority of the money and delinquent taxes we collect goes elsewhere; it goes to schools and fire districts and cities. Most of that money does not stay at the county. The county gets a \$10 fee for collecting the tax certificate, and it's probably costing us \$25 to \$35 in time and labor and attorneys that get involved in these things. And the third reason I'm in support of this bill is because it introduces the Internet option. My attorney tells me I can't sell these things on the Internet without legislation to allow it. It's basically what the concept is, the way it's done in Colorado and in Florida, is the same thing sort of along the lines of eBay. You have multiple bidders being allowed to bid. There would be some rules, certainly, we'd have. People would have to put some money up, up-front, just to make sure somebody doesn't just get in this and just play games and bid stuff. But having said that, it allows us to use the Internet to more efficiently process these things and perhaps spend less time and county money in the process of doing it. So I'm in support of the bill, and I'd be happy to answer any questions anybody might have. [LB1069]

SENATOR HADLEY: Questions? [LB1069]

SENATOR PIRSCH: I do. [LB1069]

SENATOR HADLEY: Senator Pirsch. [LB1069]

SENATOR PIRSCH: I had thought--and maybe this is mistaken--that Douglas County had moved from a once-a-year-in-the-spring sale of these to an Internet-based sale that was perennial. Is that not correct? [LB1069]

RICH JAMES: Well, we're required to sell anything that has not sold at tax sale any time. After the first 30 days it turns into a private sale. Douglas County, I understand, has indeed done this on the Internet. My attorney tells me I can't do it on the Internet until it's legislated that I can do it on the Internet. [LB1069]

SENATOR PIRSCH: So there's kind of different interpretations right now, perhaps. [LB1069]

RICH JAMES: Yes, sir. Correct, Senator. [LB1069]

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SENATOR PIRSCH: Okay. Well, you know, I have...you probably are not the right individual to ask my further question about this, so I think I'll withhold that question at this time. [LB1069]

SENATOR HADLEY: Senator Schumacher. [LB1069]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony today. Kind of walk me through this a little bit, because somewhere along the line I got lost. Mother Jones doesn't pay her taxes. You send out the notice for May and the notice for September, and she just doesn't show up with her money. And then what's the next step, and at what point does the next step happen? [LB1069]

RICH JAMES: The following February we're required to advertise in the newspaper that property will be sold at tax lien sale if the taxes are not paid off before the sale. [LB1069]

SENATOR SCHUMACHER: And that's this ungodly long list of everybody who hasn't paid taxes in small print, and the name of the person and the description of the property? [LB1069]

RICH JAMES: I don't put the name in the paper. I'm not required by law, but you could do that. Yes, it's that long list. [LB1069]

SENATOR SCHUMACHER: Yeah, the parcel numbers or some of that. [LB1069]

RICH JAMES: Parcel number and dollars of delinquent taxes. [LB1069]

SENATOR SCHUMACHER: Okay. And you run this thing in the newspaper, and lo and behold, Mother Jones doesn't show up. What's the next step and at what point? [LB1069]

RICH JAMES: On the first Monday in March, every treasurer in the state does this, they have their tax lien sale. [LB1069]

SENATOR SCHUMACHER: And how is that conducted, or what...they have a pile of these tax bills that aren't paid. What do they do with them, then, at the sale? [LB1069]

RICH JAMES: Well, the way I do it...and most everybody does it the same way. For many years, everybody just used a round-robin method. In other words, everybody in the room got a number, and whoever was number one had the opportunity to purchase the first lien that's available if they wanted it. If they didn't, then it went to person number two. What has taken place in the past couple of years, is a result of the district court judge's ruling, is we've had investors come in who have requested that things be bid

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down. When you start bidding down, last year I had about 50 people in the room who were willing to bid down to get certain parcels, approximately 20 percent of them, to 1 percent. [LB1069]

SENATOR SCHUMACHER: So describe...and this is where I think I'm getting a little fuzzy on it. [LB1069]

RICH JAMES: Okay. [LB1069]

SENATOR SCHUMACHER: So your Mother Jones didn't pay her \$100 in taxes, or maybe more, \$100,000, whatever--\$100 in taxes, okay? And the old way, the round robin, somebody drew a card that said you're bidder one. And you say to them, do you want Ma Jones's \$100 thing at 14 percent interest? And if he said yes, and then he gave you the \$100, and you gave him a piece of paper that said he had the tax sale on it. Okay, now this bid-down process, what happens now on this bid-down process? I'm lost a little bit. [LB1069]

RICH JAMES: Okay. What happens is somebody says they want to bid something down, and then they're going to offer a percentage--okay, 80 percent or 70 percent or whatever--and then we see who else in the room wants to go lower until we get as low as we're going to get. So if it gets down... [LB1069]

SENATOR SCHUMACHER: It's a percentage of the \$100 certificate? [LB1069]

RICH JAMES: No, sir. They're going to pay the \$100 plus any delinquent interest plus an advertising fee, no matter what. [LB1069]

SENATOR SCHUMACHER: Okay. [LB1069]

RICH JAMES: The percentage that they bid down to is the eventual potential ownership of a piece of property if it goes to foreclosure. So in other words, if you bid 20 percent, you could eventually become a 20 percent owner in Mrs. Jones's property. In other words, you'd own it jointly with her and would own 20 percent of that property if you took it to foreclosure. [LB1069]

SENATOR SCHUMACHER: Okay, so...and Mrs. Jones would get 80 percent and...or after cost and expenses and everything. [LB1069]

RICH JAMES: She would own 80 percent and you would own 20 percent, not unlike a lot of families where there's four kids and the parents die and they each own 25 percent of the property. In that example, Mrs. Jones would own 80 percent and you'd own 20 percent. But we have people going down to 1 percent, so they'd end up being 1 percent owners. [LB1069]

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SENATOR SCHUMACHER: And that's basically...your lien kind of is attaching only to 1 percent of the property owner you're... [LB1069]

RICH JAMES: Exactly. [LB1069]

SENATOR SCHUMACHER: Okay. Now what does this bill do to make that all different? [LB1069]

RICH JAMES: Well, what this bill would do would have them bid, more like bidding any type of auction, is they would bid...they would get 100 percent ownership if it went to foreclosure; but there would be a premium that they'd have to bid in order to get the property. So instead of bidding a percentage of ownership down, you'd be bidding the payment you would make for a piece of property. So if there's \$100 worth of taxes, if the next person in line was willing to bid \$120, \$140, \$150, just like any auction you may have attended, the sky is the limit, whatever they're willing to pay. So the question then becomes who's willing to pay how much? Some properties are premium and they pay a lot. I mean, I've had properties with \$25,000 worth of delinquent taxes. You have other properties with \$400 worth of delinquent taxes. Clearly, the person buying a lien is only going to bid what they think that potential lien is worth. I would think \$25,000 worth of delinquent taxes on a good piece of property is worth more than \$400 on a less-premium piece of property. [LB1069]

SENATOR SCHUMACHER: So they would give extra money above the taxes and the insurance. And then if they aren't paid, they get to go into court in a foreclosure action. And even though the taxes are fully paid, they still get 100 percent of the property? [LB1069]

RICH JAMES: Well, that's because they've paid the taxes. The landowner would have the ability for the three years to redeem the tax certificate. If they did not do that by the end of the period of time after they've been given proper notice, then the tax lien buyer would get 100 percent of the property. [LB1069]

SENATOR SCHUMACHER: And then people would lose all their equity? [LB1069]

RICH JAMES: Yes, they would. [LB1069]

SENATOR SCHUMACHER: I suppose. [LB1069]

RICH JAMES: But about 80 percent of the...in my county 80 percent of the transactions are at 100 percent anyway. [LB1069]

SENATOR SCHUMACHER: What happens if there's a banker sitting in there with a

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mortgage? [LB1069]

RICH JAMES: Well, then if I was the banker I would step in, because he's the secondary lien to the tax lienholder and he would lose his equity and his mortgage on the property. He would lose his interest too. And that's like that today. If they don't step in and redeem the tax certificate, they're required to be notified by law at their last known address, and as long as they haven't moved or changed bank names four times which some of them do. If one, they're receiving notice, then they would redeem the certificate too, rather than let that piece of property go away. [LB1069]

SENATOR SCHUMACHER: Doesn't that seem like...I mean, the county gets a little bonus money, premium money, up on the front end at this auction. And Ma Jones could lose her whole equity if for some reason she can't come up with those taxes at the last minute? [LB1069]

RICH JAMES: That's the way it is right now. Yes, sir. In answer to your question, that's what would happen. [LB1069]

SENATOR SCHUMACHER: That's pretty harsh. Thank you. [LB1069]

RICH JAMES: Yeah. [LB1069]

SENATOR CORNETT: Further questions? Seeing none, thank you. Next proponent? [LB1069]

RICHARD HEDRICK: I'm Richard Hedrick, H-e-d-r-i-c-k. I am in favor of a bill to make the real property tax collection by sale for a more (inaudible). I went to a tax sale in 2010. We had two other people there. They grouped all the tax deeds in one group and sold them all to one person. Two hundred people wasted a lot of time and expense to go to this sale. There was no notification. I did not have my ducks lined up, and the case was not heard by the judge. This is the place to make law, not courts. In doing my research on the court case, I found that objects of the bill should be...the object of the sale of delinquent taxes is to get as much money as possible for the county. A public sale to the highest bidder has been done in the past. The tax bill back...77-1806 was passed back in about 1890, and there is no way of finding out what the Legislature intended. I was looking up eminent domain law, and you could find out exactly what the Legislature intended, as the hearings as we have now, were available to read. There was an argument about whether the enacting person or actually enacting eminent domain could buy property without using it. Omaha came down and complained that they were getting property for their, oh, for a coliseum, and they were kicking the people out after they condemned the property; and they were renting it out and making money on it. And the Legislature said they couldn't do that, so you knew exactly what they intended. The requirements for all taxes and money owed on the property was enacted

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to prevent anyone or corporation from buying their property back without paying the money owed to the county. As mentioned in the bill, the Internet could be used. This would be a modern way for somebody in California to buy tax deeds without coming to Lincoln or Omaha. To get the most money for the county, this should be required by the county treasurer in some way. It should be written for all treasurers to follow the tax law. We shouldn't have one treasurer doing it one way and somebody else is doing it the other way. Allowing the treasurer to group all tax deeds in some manner could lead to fraud, since Lincoln sold all theirs to one person. I'm not sure how they were bidding on it, and I never could figure that out, and I couldn't figure out by my research. No corporation or person would buy all tax deeds for Sargent, Nebraska. Lincoln and Omaha, huge places, probably could sell all their tax deeds, but most towns in Nebraska have too many houses that they are not going to be able to sell. Grouping all town property in Custer County could not be sold. I found that courts where in the...all if they...county treasurers should be trying to get competition for people to buy the tax deeds. It shouldn't be we can sell them all to one person today, but several years from now, things will be back to where they were when I first started buying tax deeds. Thank you. [LB1069]

SENATOR CORNETT: Thank you. Questions? Seeing none, thank you. Next proponent? Opposition? [LB1069]

RANDY JAMES: Hello, my name is Randy James. I'm a licensed attorney in the state of Nebraska, here testifying on my own behalf as a tax certificate investor. And although not testifying on their behalf, I work with small local investors from all across the state, as well as large institutional investors across the United States. Again, not necessarily...I'm viewing all of this in totality of the previous bill that we discussed and some other bills, which are just generally starting to...which will disincentivize people purchasing tax liens and have effects that I think aren't being considered. I'm not necessarily not saying that some of these things couldn't use some work; I just think that the way it's going, if everything is passed as is, it's going to create a lot of unintended consequences. Essentially, again, I disagree with the statements that have been made that the people that purchase these liens are all out of state anyway. Douglas County, Sarpy County, and Lancaster County are different than the rest of the state. My notes here are based off of the list that I've got from treasurers, and Butler County, 5 registered people; Fillmore County, 15. Those are not out-of-state investors; those are local people that are purchasing the liens. Essentially, when...the first issue that I think probably should be addressed is this whole issue of the bid down, the interest. I agree with Mr. James's comments, the Sarpy County treasurer from prior or before. When all of these states started passing all these laws, Nebraska and Iowa, to my understanding, were the only two that ever allowed competition of bidding down your interest that your lien encumbers in the property and...but Nebraska and Iowa have just always had these...the people just did a round robin and voted on them. So my take on it is, in the last few years, especially with Douglas County going on-line, is the people with more

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money can corner the market and buy everything, and that's why they're bidding it down to 1 percent. So, unequivocally, I think that should be addressed, where it's sold at 100 percent interest in the property, because the next two or three years since this has started happening is going to be a complete disaster because people are going to start to get 1 percent undivided interest in property. And the only way to resolve that is to do a partition action, and there is authority from Iowa where judges will not allow a partition on 1 percent. So as an attorney that does this, I will always pay my property taxes. But, quite frankly, if it's a bid down to 1 percent, I think there's a lot of incentive not even to pay your property taxes because nothing is ever going to happen to you. And I guarantee you, at some point one of these large \$25,000 liens that's been sold at 1 percent, somebody's going to figure that out and they're going to say, fine, do a foreclosure on my property that's assessed at \$1.5 million, and you try to ever, you know, collect that money that I'm owed to you. So separating that out, I think that does need to be addressed. As to this whole premium thing, again, I mean, I'm just stating this. I'm not going to, you know, argue on behalf of everybody. But let's say right now, I guess my estimate, there's 3,000 people that purchase tax liens in any given year. If you bundle everything and sell them, especially on-line, that's going to drop it down to 93 people. And most of these people that are doing it are just local people in the community that have done this for years. I don't think any of them know that any of this would be going on, so they're going to be, like, what's going on; you know, what happened here? Because what's going to happen is when you bundle it...again, I'm stating I don't agree that it's out-of-state money buying these now. But when you start bundling it and making it easier, those huge financial institutions that got all the bailout money, that's who's going to buy all these, and they're going to buy every one they can. Whether it's premium or whatever system they can do, they're going to drive their effective return to barely anything, and they'll purchase every lien that they can; and if it's on-line, they'll purchase every lien in every county in the state. The issue of the premium bidding that's been proposed, it's contrasting things here. We want to drop the interest rate to 10 percent, because it's unfair, but the county can sell it at a premium and profit. You know, it goes directly to them that never gets reimbursed. Premium bidding...I'll try to keep this brief. There's five different methods of premium bidding where you get a separate interest rate on the premium you pay. You don't get any interest on the premium you pay; it just goes directly to the county. So the way it's proposed right now with no interest on the premium, there's only two things that are going to happen. Either nobody's going to bid a premium, and that's exactly how Colorado is, and if you read any, you know, investment gurus, nobody bids a premium in Colorado because it's pointless and it disincentivizes people from bidding so much that a lot of counties just don't even acknowledge it, and sell them, you know, the typical ways as has been done in Nebraska prior. Or these huge national conglomerates...and again, so you're going to basically...the 3,000 registered bidders who are actual local people, who are husband and wife that have done this for an investment, they're done. And especially with the Internet, these people will come in, they know how to do it, and they're going to bid whatever they need to do to drop their effective return down, and

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they'll buy every lien they can. And I think...you know, and...so I guess it's a dynamic that obviously it is up for you guys to decide if that's worth the county getting a premium that they just get to pocket, which I think is inconsistent with, well yeah, but it's not fair to, you know, charge 14 percent when you drop that to 10 percent, but then, you know, charge people a premium for the county's profit. But I just think that there's going to...it's going to...the people like me, the local investors, I think there's probably three or four groups in Nebraska that might be able to compete in some of the smaller counties; but the people with hundreds of millions of dollars in cash are going to buy everything when you give them the option to adjust their effective return on whether it's premium bidding or however you do it. So everybody that has knowledge of how this works and has the incentive in the local towns to do something with these properties, the ones that don't redeem, are going to be out of the game; and then these big groups are just going to walk away at the end. They don't have an incentive, they don't have anybody around here because they're looking at this on a national scale. So, you know, if there's some things that need to be adjusted, especially this bid down, I would just state that this is going to affect a lot of people that have been doing this for a long time, and it's just going to...the only people that are going to...the only people that it's going to benefit are huge national banks which do this. And then, for instance, in Florida, they actually bid down. They're starting interest rate is 15 percent. But, you know, the banks can get on-line, they can...it's efficient. They bid down the interest that they're willing to pay to a 0.25 percent because they have so much cash, you know. So again, that's something you guys have to weigh if, you know, there's thousands of local people that do this and it's just going to completely wipe them out of the game. I think there probably could be adjustments, and states handle those issues differently. But I would just state that before wholesale changes are done, in my own interest and everybody I work with, I think there should probably be a lot of thought put into some of these issues. [LB1069]

SENATOR CORNETT: Questions from the committee? Senator Schumacher. [LB1069]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Thank you for your testimony today. Just a couple of questions. You mentioned that there's several groups like yours operating in the state? [LB1069]

RANDY JAMES: Yes. I mean, I think at its heart though--and again separating Douglas, Sarpy, and Lancaster, just because of the bulk--most people are independent. But then, you know, there's different thresholds. There's certain individuals who pool money together and will buy in 50 counties across the state. [LB1069]

SENATOR SCHUMACHER: So, I'm just trying to get you to picture this business that's operating out there. You get a group of people together who want to go buy some tax sale certificates. Is that step one, kind of? [LB1069]

RANDY JAMES: Correct. I mean, I think not in terms of amount bought, but in terms of

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number of bidders. I think the common... [LB1069]

SENATOR SCHUMACHER: Okay. [LB1069]

RANDY JAMES: It's just an individual... [LB1069]

SENATOR SCHUMACHER: So there's a group. Now then, do they buy a bunch of these certificates and then each have an interest in the bunch? Is that how it's done? [LB1069]

RANDY JAMES: Again, I think the majority of registered bidders all across the state are just individuals. [LB1069]

SENATOR SCHUMACHER: Okay. [LB1069]

RANDY JAMES: There are people that have an LLC who, wherever the money is coming from, then they can take the time to organize and send bidders to, say, 30 counties, 25 counties, etcetera, as opposed to...but in the nuts and bolts within the county, the majority of the registered bidders, from my experience, are actually just individuals. [LB1069]

SENATOR SCHUMACHER: Okay, and in your case, though, there are a group of people. [LB1069]

RANDY JAMES: In my...? [LB1069]

SENATOR SCHUMACHER: Yeah. [LB1069]

RANDY JAMES: Yes. [LB1069]

SENATOR SCHUMACHER: Okay, so you got a group of people and then they buy a bunch of certificates. And one of them might own 10 percent of the bunch; and one, 3 percent of the bunch; and one, 50 percent of the bunch. [LB1069]

RANDY JAMES: I think it would just be handled...if, for instance, if it's an LLC, you would just have membership interest in the LLC, and whoever owns what percentage would be entitled to that percentage of the assets. [LB1069]

SENATOR SCHUMACHER: Do you form a different LLC for each vintage of certificates? [LB1069]

RANDY JAMES: I mean, I don't...there's a, you know, a hundred different ways to skin a cat. I think people have different approaches for structuring it, which I...and I think that's

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one issue with the Internet. I know in Douglas County, because I got...with the Internet bidding, there's a company that's never bought liens in Nebraska before; but they formed, I believe, 65 LLCs because now they can just bid on-line and... [LB1069]

SENATOR SCHUMACHER: So, basically, an LLC is formed. It buys a pile of certificates, and then it sells its shares out to interested investors. [LB1069]

RANDY JAMES: Some people might do that. I'm not sure. Whether it's an LLC or a person that buys the tax liens, I don't know that the structure of the investment group...those would vary. [LB1069]

SENATOR SCHUMACHER: Well, the investment group buys securities in the LLC, and the LLC owns a pile of tax sale certificates. Is that how it works? [LB1069]

RANDY JAMES: Again, the majority of...from my experiences, the majority of registered people are just individuals. I do believe there are corporations or LLCs that buy liens, because they're a legal entity that would have the right to do so. [LB1069]

SENATOR SCHUMACHER: Thank you for your answers. [LB1069]

SENATOR HADLEY: Senator Cornett. Mr. James, you know, we have a number of people involved in this process. We have the person who has not paid their taxes; we have the people who are buying tax liens. But we also have the people who count on the taxes to run their organizations--the county, the city, the ESUs, the schools, and such as that. In the priority of things, from a policy standpoint, who should we be most concerned with in developing a policy? Should it be the people who need to receive the taxes to operate, the people who aren't paying their tax bills, or the people that are buying the tax liens? [LB1069]

RANDY JAMES: Sure. I mean, I'm probably not necessarily the most appropriate person to comment on that. I mean, I think all of this...every state, property taxes are a first priority lien because that funds things. So, in that sense, obviously the county is the most important. But there's a lot of residual effects or people that operate, you know, under these statutes, including...and again, what big a percentage is this? But it's a fact. I mean, I probably deal with...let's say this year I'll deal with 500 ones that made it to the end of the period. If when it's localized, I have incentive to deal with those. When a huge national bank...and so then that leads to other effects of...it's not uncommon for what I do is I will get...I just had one in Beaver City. The house had been vacant for seven years. The bank with the mortgage didn't care about it. They just left; they just disappeared. Okay, so when it's localized, people like myself have incentive to do something about that. But as it continues, if things get passed that are going to just make it easier for the huge conglomerates to control everything, that house for Beaver City is going to sit there for another seven years; it's going to fall in on itself. You know,

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those types of issues. So ultimately it comes down to the county generating profit, but there are a lot of other things. [LB1069]

SENATOR HADLEY: Okay, I think that's a valid point. [LB1069]

RANDY JAMES: Sure. [LB1069]

SENATOR HADLEY: But I would say that at the top of my list is the school districts... [LB1069]

RANDY JAMES: Sure. Sure, so it's not... [LB1069]

SENATOR HADLEY: ...and the agencies that count on this money. And when somebody doesn't pay their taxes, either somebody's got to... [LB1069]

RANDY JAMES: Yeah, and it's...and right. And, I mean, that's obviously for other people to make those decisions. I mean, if you start selling them all and bundling, are they still getting paid? Yeah, I mean, if you start bundling good ones and bad ones, the big people that can buy all the good ones aren't going to buy the bad ones, and people like me aren't going to waste my time buying just the bad ones. [LB1069]

SENATOR HADLEY: Sure. [LB1069]

RANDY JAMES: So maybe it's still funding it, but I think it's going to have a lot of unintended consequences that aren't necessarily... [LB1069]

SENATOR HADLEY: Thank you. [LB1069]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB1069]

RANDY JAMES: Thank you. [LB1069]

SENATOR CORNETT: Next opponent? Are there any further opponents? Neutral testimony? Senator Wightman. [LB1069]

SENATOR WIGHTMAN: Thank you, Senator Cornett and members of the committee. I'll try to make this short. I would suggest to you that all of this just puts one more tool in the tool chest, that the counties' various tax entities that are looking for this money. I think it could very easily be coupled with something along the line of Senator Schumacher's bill that maybe drops the rate. I'm not taking a position on that one way or the other, but if you were going to look at both of them, I think it could be combined with that to where they could get rid of some of the tax sale certificates that might otherwise not sell. Sure, there are going to be some mechanical issues that have to be

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worked out with this, but I do think that it gives the counties a chance to recoup some of that loss, perhaps, in being able to sell some certificates they might otherwise not sell. And still, if people are willing to pay a premium for them--and I truly believe they will be paying a premium for some of these--it will give them an opportunity to make up some of that lost revenue. So with that, if anybody has any questions, I'd try to answer them, but... [LB1069]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Senator Hadley, you're recognized to open. [LB1069]

SENATOR HADLEY: Senator Cornett and members of the committee, my name is Galen Hadley, G-a-l-e-n H-a-d-l-e-y. I represent the 37th District. I have the exciting bill to talk about when nobody will buy the tax certificate, because, you know, sometimes the property isn't worth what the taxes are on it. So LB...and I am bringing this bill for NACO, and I have to say it was a bill that Senator Utter was going to bring and I'm very happy to be able to bring it for Senator Utter. LB1093 is intended to focus on one element in the collection of delinquent property taxes. The bill was introduced at NACO's request to address the situation when a property with delinquent taxes has gone through the tax sale certificate process and a foreclosure sale is conducted but there are no bidders. Existing law allows the county sheriff to postpone the sale for any cause but does not provide any guidance after that point. LB1093 specifically authorizes the sheriffs to postpone the sale or readvertise the property and again offer it for sale. If two attempts have been made to sell the property but it has not been sold, and the county does not have a land reutilization authority, the title to the property could vest in the name of the county. If the county chooses not to accept the title, the sheriff would continue to offer the property for sale annually. When conducting the annual sales, the sheriff could group unsold parcels with each other or with other parcels subject to foreclosure sales. This bill points out one of the many unanswered questions related to the collection of delinquent real property taxes. Douglas County operates the state's sole land reutilization commission. It handles delinquent property on behalf of Sarpy and Otoe counties as well. I would be happy to answer questions, and I think there will be someone from NACO that will also speak on this bill. [LB1093]

SENATOR CORNETT: Seeing no questions, thank you, Senator Hadley. First proponent? [LB1093]

BETH BAZYN FERRELL: Good afternoon, Chairman Cornett and members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials and we're testifying in support of this bill. We'd like to thank Senator Hadley for introducing this bill at our request. The bill is intended to set out a process for what happens with those properties that can't be sold when it goes to foreclosure. I think we've talked a lot about how it gets from point A to point B. These are the ones that have gone to a foreclosure sale, no one shows up to

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bid on them, and what happens then. There's nothing in statute that really addresses that, and so this bill would create a process for the sales to continue or the county to have an opportunity to take title to that property if they chose. When we've looked at this issue when it's come up in the past, we've tried to kind of create an analogy with some other kinds of sheriff's sales for different kinds of property. When we looked at personal property that's sold through a distress warrant process, there's language in statute that talks about if the sheriff receives no bid which in his or her judgment is adequate, the sale can either be postponed or the sheriff can secure an alias distress warrant. An alias distress warrant is basically one that has been issued after the first one has been returned without having accomplished its purpose. Another type of sale, a sheriff's sale, is a sale on execution; and it's essentially the same thing. When you look at those statutes, they talk about providing another opportunity to sell the property. So what this bill does is it says if no one shows up to bid on a sale the first time, there is an opportunity to try to sell it again or to allow the county to take title if that's the decision that's made; and if that's not the case, the sales will continue. I would be happy to try to answer questions. [LB1093]

SENATOR CORNETT: Questions from the committee? Senator Schumacher. [LB1093]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Just a couple of questions to kind of clear up something in my mind. Are we talking about real estate or personal property here? [LB1093]

BETH BAZYN FERRELL: We're talking about real estate here. The examples I gave were just some of the other statutes we tried to look at them. [LB1093]

SENATOR SCHUMACHER: So distress warrants are the personal property side of the coin rather than real estate. Is that...? [LB1093]

BETH BAZYN FERRELL: Right. Distress warrants would continue to be the way they are now for personal. [LB1093]

SENATOR SCHUMACHER: Okay. What happens when there's \$1,000 due on a piece of property and the highest bid that the sheriff can get at the sheriff's sale is \$100? Does he have discretion to sell for \$100 or...and then what happens with the taxes if he does? [LB1093]

BETH BAZYN FERRELL: Well, the sheriff can postpone the sale if they choose. I believe that if the bid that is offered is inadequate, they can...well, they could postpone it, and I...that may be all that the authority is there for. [LB1093]

SENATOR SCHUMACHER: Can he sell it for less than the taxes due? [LB1093]

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BETH BAZYN FERRELL: I don't believe so for real property. [LB1093]

SENATOR SCHUMACHER: Okay, so he's...it's got to bring at least the tax bill; otherwise, it sits there. [LB1093]

BETH BAZYN FERRELL: I believe so. [LB1093]

SENATOR SCHUMACHER: Okay. And as it sits there, does it continue to run up taxes? I mean, does it make a bad matter worse every year? [LB1093]

BETH BAZYN FERRELL: Under the constitution, taxes can't be extinguished for 15 years, so it essentially does just sit. [LB1093]

SENATOR SCHUMACHER: Okay, and then this is intended on...what does this do for us? How does it make this old house full of asbestos go away? [LB1093]

BETH BAZYN FERRELL: Well, that's...what we really were trying to figure out what to do with this, and that's what this bill was intended to try to figure out: the next step. We weren't sure what that next step would be because the county really doesn't want those properties that are, you know, contaminated or there's a house that needs to be demolished and there are problems with it, that sort of thing. We looked at whether or not the county could just take that property without some sort of process. But again, the counties don't necessarily want those problem properties. This bill would allow it to continue to be offered for sale; and hopefully, at some point, someone would see a need or a desire to buy that property. But we're totally open to suggestions about what to do after that point. This would just allow the sales to continue until something happens. [LB1093]

SENATOR SCHUMACHER: So this just kind of tries to kick the can down the road until it rolls into a ditch someplace? [LB1093]

BETH BAZYN FERRELL: (Laugh) It does. But as I said, we looked at the other statutes for sales, and it just says to continue offering them for personal property and for sales on execution; and so that's the kind of method that we followed with this. [LB1093]

SENATOR SCHUMACHER: Does the county...I mean, as it sits there, nobody wants the old house full of asbestos, windows broken out, basement...kids like going into the basement and do things they shouldn't do in basements. Who's responsible? Does the county have any responsibility at that point? [LB1093]

BETH BAZYN FERRELL: It would still technically be the property owners. It would still be titled in their names, so certainly counties would have to deal with like the law enforcement issues and that sort of thing that would come with that. [LB1093]

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SENATOR SCHUMACHER: Let's say it was in the city. The city that gets stuck with the idea of putting up a snow fence around it or something like that to keep the kids out. Can bringing a nuisance action to get rid of it at that point? [LB1093]

BETH BAZYN FERRELL: I'm not quite sure how that would work, frankly. [LB1093]

SENATOR SCHUMACHER: All right, thank you. [LB1093]

SENATOR CORNETT: Senator Louden. [LB1093]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, the county or city or somebody can bid that property in for the taxes or whatever they want to buy it for, can't they? [LB1093]

BETH BAZYN FERRELL: Yes. [LB1093]

SENATOR LOUDEN: And they could actually own it. [LB1093]

BETH BAZYN FERRELL: Yes. [LB1093]

SENATOR LOUDEN: And then they could sell it for whatever they wanted to afterwards. [LB1093]

BETH BAZYN FERRELL: Yes. [LB1093]

SENATOR LOUDEN: Because once they buy it, then there is no tax due on it because when a city or county owns it, is that correct? [LB1093]

BETH BAZYN FERRELL: Um-hum, yes. [LB1093]

SENATOR LOUDEN: Because I've seen...oh, like Alliance would bid in properties for what they had the tax against it, you know, against the county. So there's ways that they can go ahead and get that property bought now. They just...all they have to do is bid it in, isn't there? [LB1093]

BETH BAZYN FERRELL: Right. And this is what happens if it isn't bid in. [LB1093]

SENATOR LOUDEN: Um-hum. Yeah. Now, to answer Senator Schumacher's question about what do you do with that old house with asbestos, here a few years ago we introduced legislation for demolition in these towns. If the town owns that property or somebody, why, they can get grant money to demolish that old house so it can't be torn down now. But I didn't know if you were aware of getting rid of some of that property.

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But I'm wondering, do we need this legislation when actually the counties or the cities can bid that in and own it? [LB1093]

BETH BAZYN: Yes and no. The treasurers only offer these...or, I'm sorry, the sheriffs, when they sell these, it would be helpful for them to have some more guidance about what happens if the county or city or another entity doesn't come in and bid them, if they really don't want the property. [LB1093]

SENATOR LOUDEN: Okay, thank you. [LB1093]

SENATOR CORNETT: Ms. Bazyn, I remember, I think it was the counties that opposed the city of Omaha for placing liens on a piece of property where the cities had to come in and demolish said asbestos house, and then the city has to demolish that house at a loss. But wasn't it the counties that opposed that? [LB1093]

BETH BAZYN FERRELL: We opposed the part of that that would give those special assessment liens a priority or make them equal to taxes. That was the part of it that we opposed. Certainly, you know, there's a need to recover those as well for the costs that the city has put into that, but it was... [LB1093]

SENATOR CORNETT: Or the county. [LB1093]

BETH BAZYN FERRELL: Yeah, or the county. But it was the making it a priority or parity with the general taxes that was our opposition. [LB1093]

SENATOR CORNETT: Further questions? Senator Schumacher. [LB1093]

SENATOR SCHUMACHER: In the case of \$1,000 owed in taxes, if the county bids it in, does the county have to bid it in for the \$1,000? [LB1093]

BETH BAZYN FERRELL: I believe so. [LB1093]

SENATOR SCHUMACHER: So then if that's the case, then in fact is there a financial transfer? Say that 80 percent of it was school district taxes. Is there a financial transfer then made from the county "bidded-in" fund to the school district? [LB1093]

BETH BAZYN FERRELL: I do not believe that there is because, I believe...maybe not for the school district. But, for example, the city could go ahead and go and bid in on it, and they could then, you know, recover theirs. [LB1093]

SENATOR SCHUMACHER: Do they have to write a check to anybody when they bid it in or is it just a kind of a game? [LB1093]

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BETH BAZYN FERRELL: I think it's just a sort of a paper transfer. [LB1093]

SENATOR SCHUMACHER: Thank you. [LB1093]

SENATOR CORNETT: Further questions? Seeing none, thank you. Next proponent? Opponents? Neutral? Senator Hadley. [LB1093]

SENATOR HADLEY: I think it's (inaudible) clear, so I'll waive my closing. [LB1093]

SENATOR CORNETT: Okay, that closes the hearing on LB1093. Senator Brasch, you are recognized to open on LB1109. [LB1093]

SENATOR BRASCH: Good afternoon, Chairman Cornett and members of the Revenue Committee. My name is Lydia Brasch, L-y-d-i-a B-r-a-s-c-h, and I represent Legislative District 16. I am here before you today as the introducer of LB1109. As you are well aware, the Missouri River flooding of this past summer caused great devastation in our state and particularly in my legislative district, no doubt jeopardizing agricultural land and therefore production. But what you may not be aware of is that the damage is great, ongoing, and long-term. To put this into perspective for you how much ag land was underwater, I have information from the Farm Service Agency on the number of flooded acres: a total of 104,415 acres. I'll repeat that: 104,415 acres, or equivalent to over 163 square miles. My thoughts were putting this into more perspective. Not the size of a penny or a quarter, but over the size of the entire city of Omaha. Omaha is only 118 miles. We're talking about 163 square miles. Lincoln is only 90 square miles, 90.48. Again, we're talking over 163 miles. That's more than Omaha, more than Lincoln, and this land was flooded for over three months. Could you see these two cities flooded for over three months? Can you imagine what the damage would be? The jobs, the income, the impact that would have? There remains much uncertainty about whether this land will be ready for planting this spring, let alone the ongoing production capabilities of flooded ag land. While any natural disaster can have significant effects on real property, I would like to make the case that this flood event, in particular, brings into question our current standard ag land valuation practices because of the land's altered state impacting production, which may not be entirely addressed in the current system other than that which has been stated by the Department of Revenue through the notices they have shared with you here today regarding LB1109. Certainly the magnitude of the flooding constitutes a statutory change to defined and addressed valuations of flooded land. The assessors in my district have been superb and they have been able to address the flooded ag land accordingly as sand, silt, water, and debris that sits where there was once a crop. However, this is considered an unprecedented flood, unprecedented primarily because of the fact that the water stayed for three long months. This year, the agricultural producers are paying property taxes on their land for valuations set in January as though the land was in production last year. Simply stated, we need to look closer at ag land valuations when the land cannot

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produce as it did prior to the flood. That is why I bring you LB1109. LB1109, while not a perfect or swift response to this issue, does attempt to address the lasting effects of a long-term flood with regards to ag land valuation. LB1109 creates a new classification of inundated land. Inundated land is land unsuitable for growing crops or grazing livestock for two consecutive growing seasons or more to which the produced revenue in the most recent prior year. For land used to produce crops prior to the flood, the revenue in the current assessment year is to be used to determine eligibility and is compared to the lowest dryland capability group. For land use to graze animals prior to the flood, the revenue is compared to the lowest grassland capability group. The revenue must be less than the county average or revenue per acre of the previously mentioned land groups. Eligibility is determined as of January 1, and if the land becomes disqualified on or before December 31, it shall continue to receive the valuation until January 1 of the following year. LB1109 requires a signed application to be submitted to the county assessor for classification as inundated land on before June 30 of the first year in which the land valuation is requested. The county assessor approves or denies the application for classification as inundated land on or before July 15. Lastly, LB1109 provides for protesting before the county board of equalization and appealing the decision to the Tax Equalization and Review Commission. I understand the current law allows the county assessor to create a separate subclass of the flooded land based on its characteristics. However, we have very little research and understanding of the implications of this long-term and unprecedented natural disaster. There is no information on the new soil profile, no market value comparison to draw conclusions upon. Therefore, I believe the shortcomings are evident and the question remains, how do we fairly attribute to this land where production has been dramatically affected or remains in question? And as I said, our county assessors have done very well in valuing the land accordingly with our present system. But going forward I believe we have a gap that needs to be addressed in the valuation process. LB1109 is merely a starting point but merits your consideration all the same. While I am likely the only proponent today of LB1109, I know that agriculture producers in our district are optimistic but they are also realistic as to whether or not they can plant or produce a crop, and what this means for their valuations moving forward is coming to question. Work that's been done to this point: They have sent in heavy equipment into road ditches. Some of you might be familiar with road ditches. Four feet deep, deeper, you can stand in a road ditch. They have been filled with sand. They come in with the graders and they take the sand out. The next wind comes along, they are filled with sand again. There is tons of sand to deal with. When the wind blows in these areas, it's like a sandstorm. On the areas that have been worked on and recovered, when that little seedling comes up and another wind, sandstorm comes through like the Sahara Desert, do you think that seedling is going to survive? There is only a short window of time to plant, you know, and when you can't get that crop in during that window there will be no crop. There is significant revenue from our state that comes from agriculture. With the system that they have, yes, it could be penciled in, you know, how many times that this land was inundated by sand, wind, or water. I wanted to read just briefly, one of our constituents we just checked with the

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other day about, is your land still damaged? "Yes, there currently is still land that has basically a lake running through it. I don't know the exact length of the running water through it, but it runs a long ways through the field from north to south. A lot of ground was cut out and an irrigation pivot is still underwater. I believe there's about 70-some acres my dad will not be able to farm due to this water and not being able to access parts of the field because of it. I hope this helped, Senator Brasch, and thank you so much for your concern. I'll try to take pictures when I'm at home over the weekend." The county extension agent has had calls from the northeast part of our country. They have been impacted by hurricanes. They're looking to Nebraska for some direction on inundated land, what do we do with it? You know, it is an issue; it is a concern. We have done a lot of research with everyone from county assessors to the Revenue Department to the FSA to the...they...the research, you know, that they are doing, you know, not for the lack of trying, but it's challenging. It more than likely will be ongoing. We don't know how much debris there is to go. We don't know how much sand, and we are very doubtful that there will be crop production this year, maybe not next year as well. And what this will do basically is it will take the land for two years that if you can't grow it this year you can...and you didn't grow land last year, that you will be able to file a form that is created by the Nebraska Department of Revenue that states, you know, this is why...you know, the specific information they need. It will go before the assessor. The assessor will accept it or deny it, the same procedure as other protests. You know, it follows the same platform the department does, but this simply creates a land classification that's inundated land. And we have our classification, yes, we do, and it's divided into classes and subclasses of real property. And as you look at the statutes, it lists out that we have irrigated cropland, dryland cropland, grassland, wasteland, nurseries, feedlots, and orchards. And those lands, those written-out clarified descriptions, they reflect appropriate use of the land and the tax commissioner...or Property Tax Administrator, excuse me, uses that to define the land's capability. I would like you to consider this. Again, it's possibly a starting point but it's addressing land that will more than likely be impacted for more than two growing seasons. I'd be happy to answer any questions. [LB1109]

SENATOR CORNETT: Senator Hadley. [LB1109]

SENATOR HADLEY: Senator Cornett. Thank you, Senator Brasch. Just a quick question. Now this doesn't impact the year, though, of the natural disaster, is that correct? [LB1109]

SENATOR BRASCH: It would take effect the year 2013 because it needs two consecutive...it has been...there's already...they didn't plant anything last year. They may not plant anything this coming year. So it's two years of affected land use. [LB1109]

SENATOR HADLEY: But the next natural disaster that happens in, a flood in 2018, it wouldn't impact... [LB1109]

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SENATOR BRASCH: No. [LB1109]

SENATOR HADLEY: I guess my concern is it doesn't impact the year that the natural disaster occurs. [LB1109]

SENATOR BRASCH: It will give them some...that way...our taxes are important to our counties. It gives some out, some consideration to the...and it's not income. You know, our property tax is the only one in the country based on real property, its resale. It takes into consideration that this real property...you know, 2018? No, it...unless the land has consecutively not been...yeah. [LB1109]

SENATOR HADLEY: Okay, I just want to be sure that we don't halfway through a year that the school districts have been planning on taxes, that we're suddenly going to go back and revalue land. [LB1109]

SENATOR BRASCH: That's why we're looking at two consecutive growing seasons. And this was written through Bill Drafting and based on research through South Dakota statutes and also North Dakota statutes, that it was our basis for looking at consideration. And we are being considerate of the school districts and we are...yes. [LB1109]

SENATOR HADLEY: Okay, I just want to be sure that the taxing districts aren't put...you know, because you have a...you know, they have a planning horizon of a year. [LB1109]

SENATOR BRASCH: Right. And their...the districts, when...you know, so what happens? Maybe that's why all these foreclosure laws are coming. You know, what happens when that farmer can't plant? You know, our Nebraska, you know, the net farm income per acre is \$87 per acre, value of production per acre is \$399 per acre. That could go up. There is a significant loss of income but that's not how we value property tax. But we need to...we do take into consideration and why they wrote in classification is to reflect the appropriate use and to...for the Property Tax Administrator to know what the land's capability of. And by calling it inundated land, we know that the land...you know, there's still sinkholes, there's sand, there's scouring, there's...the land's biomass has been significantly changed. You know, some of these people are waiting six weeks to get heavy equipment out. I've heard from the heavy equipment people that we go out there, and the sand, silt, and everything, it plays havoc with our machinery. And we're just trying to put some documentation together instead of penciling in, you know, yes...and what the Revenue Department, what they're saying is, it's already there. Well, let's just strike out, you know, irrigated land. Let's strike out all the classifications perhaps. [LB1109]

SENATOR HADLEY: Thank you. [LB1109]

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SENATOR BRASCH: You know, if we don't want to add one and we don't need any, then we don't need zero. Any other questions? [LB1109]

SENATOR CORNETT: Senator Brasch, I do have a question. A lot...we've heard numerous times now that a lot of counties are up against their lid levies. And with the flooding, these counties are facing some serious fiscal impact. So if we lower their valuation, how are they going to make that money up? [LB1109]

SENATOR BRASCH: Not by foreclosing their farms. I mean they have to...we have to...okay. And this is why we're saying two consecutive seasons. If that...they want to farm. They want to farm in the worst way. Anybody that...you know, I'm married to a farmer. Once it looks like the sun is shining and the ground is warm enough, they'll be out there happily in their tractors, you know, getting out. They're not avoiding planting. They want to keep their farms. They want to...you know, they want to farm. But if there is no money...it's like you tell your kids: There is no money. You know, that's...we're just anticipating what potentially can happen here. The reality is those seedlings are going to come up and there's going to be the sandstorm coming through again. I don't know how many times they've done the road ditches now. And we've talked to people over and over on the impact that is happening. Maybe we'll get...and for some people it might not impact them at all. You know, it's...you can take a look at a piece of land and it's sitting there like an island, totally untouched, kind of the tornado effect, where...but all the land around it like this, you know, one young lady indicated, her parents' land is still affected. They're not sure what they're going to do. But, yes, you know, it's a real problem. But it is a real issue, you know, on making it, as the revenue code says, making it uniform and proportionate. That's what our intention in... [LB1109]

SENATOR CORNETT: Senator Schumacher. [LB1109]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Thank you, Senator Brasch, for bringing this bill. It raises a lot of justice and also interesting issues. When...the key operative language seems to be that it's...when this land, as a result of floods, becomes unsuitable for two seasons and it has to produce revenue from any source which is less than the county average revenue per acre for either the dryland or the grazing categories. So when one makes this application...and then as I read on, whether it stays in that classification until one of three things happens. And one of it, the landowner comes in and says, well, take it off the list; I want to go back to the way it was. Or it no longer qualifies for that in somebody's determination. And then the county assessor can also at some time make determinations. How do you see the mechanism working for the determination...? First of all, what is revenue? Is that gross revenue? Is that net revenue? If the land does not produce net revenue because they built a new building on it? How do we get to that revenue thing? What kind of information can...and from tax records... [LB1109]

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SENATOR BRASCH: It's suitable for growing or grazing. That's what we're looking at: ag land suitable for growing or grazing. Not a building but for grazing livestock, cattle, you know. [LB1109]

SENATOR SCHUMACHER: But one of the things it says here is it's got to be unsuitable for growing or grazing and it has to produce revenue less than county average. So how do we go about doing the math on that? [LB1109]

SENATOR BRASCH: It says for immediate...it compares it to the prior year. In there I believe the language also says the prior year, the year immediately prior to the flood. They can compare the yield, the revenue, the money, the... [LB1109]

SENATOR SCHUMACHER: And I'm trying to look through how the...it seems, you know, good in principle, but then how does it work in reality? I mean, I've got to prove to the assessor that it produced less revenue than the lowest dryland cropland. So is there revenue figures for the lowest cropland for every county that the assessor can compare that to? [LB1109]

SENATOR BRASCH: They do. They have an average. That's where we had the net farm income per acre in Nebraska, and that's just using Nebraska as a whole, but the counties have it. It's \$87 per acre. Value of production per acre...and I'm quoting from, I guess, Burt County here. Burt County said the land...or, all right. No, that's another...this is statewide. But the assessors currently at this point do have a basis that they use for dryland in a value... [LB1109]

SENATOR SCHUMACHER: Is that net revenue or gross revenue, do you know? [LB1109]

SENATOR BRASCH: It's based...I'm not...I'll need to find out, gross or net. [LB1109]

SENATOR SCHUMACHER: And then you need to kind of get the meat into how this works, if you've got to show your tax returns? [LB1109]

SENATOR BRASCH: I can find out whether it's gross or net. But there is revenue. And that's why they classify the land, you know, irrigated land, or highly irrigated. They have different subclasses. Irrigated land typically produces more crops, therefore it brings in more revenue. Whether it's gross or net I would find out. Dryland maybe not so much. There's wasteland. There's classification of land that the department uses. [LB1109]

SENATOR SCHUMACHER: And then does each year the farmer have to show his tax returns broken down on that land, or does the assessor have to...would they have to ask him for his tax returns; do they subpoena them; do they have to produce them to

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maintain the exemption? How does the information go back and forth to maintain the qualification? [LB1109]

SENATOR BRASCH: They use...county assessors, they do go to the land site. They use soil samples. They...you know, whatever classification they have now for the land to be considered. There are current classes and subclasses, and... [LB1109]

SENATOR SCHUMACHER: But what this bill adds is the qualification of a revenue. [LB1109]

SENATOR BRASCH: Is one more. One more. Land that had in a previous year, the first year, it had a substantial. For the prior year, for the flood, they used that as the basis and then what it is the following subsequent two years. [LB1109]

SENATOR SCHUMACHER: Right. But I guess I'm getting...you...one of the elements of this is a revenue production. We don't look at how much revenue something produces now when we value farmland. But this says in order to classify it, it's got to be unsuitable and have less revenue. So how does the assessor or the system, whatever it is, know your revenue unless they have some mechanism where you have to report your revenue so they can compare it to something? I mean that seems to be missing in here yet. [LB1109]

SENATOR BRASCH: Okay. Then that's a starting point for us, then (inaudible). It's not perfect but we will most definitely address that should this move forward. [LB1109]

SENATOR SCHUMACHER: Thank you, Senator Cornett. [LB1109]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB1109]

SENATOR BRASCH: Thank you. [LB1109]

SENATOR CORNETT: First proponent? Opponents? Neutral? [LB1109]

ALLEN SUTCLIFFE: Good afternoon, Senator Cornett and members of the Revenue Committee. My name is Allen Sutcliffe, the Cass County Assessor, Plattsmouth, Nebraska. Last name is S-u-t-c-l-i-f-f-e. I'd like to read just a few of the points that I have. I'm testifying for the NACO Assessor's Association in a neutral position. In general, I support LB1109 and the establishment of a new classification for agricultural land, but I'd like to mention a few points that may need further clarification or change. On page 3, lines 4-15, which includes Section 3(1), the definition of the inundated class is agricultural land that is flooded to the extent that there are no crops or grazing in two consecutive years. This is easy enough to follow, but the measurements described as produced revenue and county average revenue are not so easy to determine and need

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further definition. Since farmers are unlikely to open their books to the assessor, the only other source for these measurements of revenue would be within the Farm Service Agency or FSA, which has been uncooperative with nearly all the county assessors. This lack of cooperation is understandable as we are dealing with personal income which, under current statutes, would enter into the public realm once they are provided to the county assessor. In addition, the prior year of production should be clearly stated as either before being flooded or the year application is made. If the intention is the year prior to application rather than the first flooded year, as suggested by wording in the fiscal note analysis of LB1109, then since ground was unsuitable for growing crops or grazing farm animals, the produced revenue would likely be zero in every case. While unlikely if the intent was to use the year prior to any flooding, please consider that lowland or river bottom land is normally very fertile and is commonly rated in the top three land capability groups. This would then logically always be higher than the average of the lowest group any time crops are successfully harvested and preclude qualifying as inundated land. But again let me point out that any process to determine these revenue amounts would be difficult if not impossible to establish without some FSA support. On page 4, lines 4-7, under Section 4(2)(a), the prescribed forms could probably be incorporated with the current Form 456 special valuation application which would hopefully be a time- and cost-saver for everyone. On page 5, lines 4 and 8, under Section 5(1) and (2), the date of July 22 is used for both the county assessor and board of equalization notice deadline. Consideration should be given to change the July 22 date to July 25, just a three-day adjustment, which is also the current deadline for the board of equalization to decide on property valuation protests. Keeping these very similar deadlines just three days apart doesn't make any sense and may confuse property owners who have filed both protests and inundation applications. This would also put most follow-up protest deadlines in line with each other, making it simpler for both officials and the general public to meet the required time lines. And finally, on page 7, line 12, under Section 7, the phrase "shall value the land" may be better stated as "shall classify the land." That's all. [LB1109]

SENATOR CORNETT: Senator Hadley. [LB1109]

SENATOR HADLEY: Just one quick question. Since you work in this area, what...from a definitional standpoint, what would be your concept of the difference between inundated land and wasteland? [LB1109]

ALLEN SUTCLIFFE: Inundated land, we've...we had a meeting this last fall with a number of the assessors on the Missouri River in Washington County, and one of the points that was made is that when water comes onto land and simply sits there and kills the vegetation and goes off the land, it's a lot different damage to the land than if it actually tries to cut through channels and deposits sand and does other things. And it comes back a lot quicker if it is just something that has water sitting on it. We have a lot of land as I think it was mentioned in prior testimony that we have 4 or 5 or 6 feet of

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sand on it, and so to convert that back into productive farming is a lot more difficult. When it's just sitting on it, the inundated land and stuff like that, it will usually come back after a year or two once the enzymes and bio life in the ground is able to produce the crops again. [LB1109]

SENATOR HADLEY: But I get...then what is wasteland? [LB1109]

ALLEN SUTCLIFFE: Wasteland is land that cannot...was not previously, is not going to ever really be used for producing crops or pasture or grazing land. [LB1109]

SENATOR HADLEY: But couldn't you use the definition of wasteland for that period of time that this land is inundated land? [LB1109]

ALLEN SUTCLIFFE: I think generally what you call it is kind of just a semantic thing. Wasteland should be land that has not been and won't be, and where this land could be again and was previously. [LB1109]

SENATOR HADLEY: So there's no way you would ever put wasteland back into... [LB1109]

ALLEN SUTCLIFFE: No. It's...for instance, along the Missouri in Cass County, we have a lot of steep cliffs and bluffs that are just tree covered and you can't turn them into (inaudible) farmland. So those are more adequately marked as waste. [LB1109]

SENATOR HADLEY: I guess I'm just asking because I just...you know, sometimes if there's a way we can do it under the existing statute vis-a-vis writing a new statute. [LB1109]

ALLEN SUTCLIFFE: I think with the...if you label it as waste, many counties have a very, very small value on wasteland, sometimes \$50 an acre, \$100 an acre. And if you would go to that on waste and call it that, you'd have to put it at that low value when it may not actually be that correct value for it. You might want to have a much higher value. [LB1109]

SENATOR HADLEY: Okay. Thank you. [LB1109]

SENATOR CORNETT: Senator Schumacher. [LB1109]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Thank you for your testimony today. If somebody has a building on a piece of land and it burns down, how quickly can they get their property reassessed to show the building off of it? [LB1109]

ALLEN SUTCLIFFE: First of the year. We have instances where a house may burn

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down in February, they'll rebuild a new house and be in it by November, and so the very first of the next year they're paying taxes on that new value of house and they will not have a year without value. [LB1109]

SENATOR SCHUMACHER: Suppose it takes them three years to build the new house, to clean up the old mess and build a new house. They would get a "no house" valuation for those three years? [LB1109]

ALLEN SUTCLIFFE: On the first of January following the house being gone. And whatever was there, if there's no house at all, no foundation, it would be a no value for the improvements. They'd still get the land value. [LB1109]

SENATOR SCHUMACHER: So how does this conceptually deal different from this situation in which the crop-growing house has been burned down for three years? I mean can't they just come in and say, well jeez, you know, this land is unproductive; it's now comparable to a piece of wasteland for at least three years; we're going to value it kind of accordingly? [LB1109]

ALLEN SUTCLIFFE: I think it's going to tie in somewhat to the intent what they're going to do with the land afterwards. They could sell it and it would be recreational land and be \$500 or \$1,000 an acre. If they do work on the land for a year or two, it might go right back into that same productive land. [LB1109]

SENATOR SCHUMACHER: But during that period, it's like the place with the house burned down that hasn't been rebuilt yet. Its goodness is gone temporarily. [LB1109]

ALLEN SUTCLIFFE: Right. [LB1109]

SENATOR SCHUMACHER: And so can't you just say, well, you know, this is the land with a piece of land for now; it doesn't...its fair market value during this period is darn little, and just value it that way? [LB1109]

ALLEN SUTCLIFFE: I think without this classification that is exactly what the assessors along the river are doing. They're marking that value down. They're probably not changing the classification at this point to wait and see what the property owners do do with it. They might leave it as dry, but instead of full value they'll mark it down appropriately to maybe a third of the value or to something equal to a waste value for the time being. [LB1109]

SENATOR SCHUMACHER: So if it's six and one-half dozen of the other, what does this gain us? [LB1109]

ALLEN SUTCLIFFE: I think it's a way that you can track valuations and come up with a

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way to equalize land better. You might be able to compare inundated land throughout rather than just all these different values of what the dryland is. [LB1109]

SENATOR SCHUMACHER: But hopefully we've learned something from this whole experience, and this is a once in a, hopefully, longtime situation. [LB1109]

ALLEN SUTCLIFFE: I don't know that that's a once in a lifetime. We happened to have a few...if you've heard of the Weeping Water Creek in Cass County? Many times there will be a large thunderstorm come through at a critical time of the year that will flood a large portion of the area downstream of Weeping Water Creek. And there is a number of...there's probably 300-500 acres easily on the south end just before it reaches the Missouri that get flooded from a flash flood of some kind, and this might be a useful classification for those. [LB1109]

SENATOR SCHUMACHER: So you see this then as not necessarily limited to the present flood, but if I'm along the Loup River and I get...you know, if I...high water and sand comes over my duck pond or whatever, and that it would apply to me too. [LB1109]

ALLEN SUTCLIFFE: It could if it precludes your planting a crop and raising and producing a crop that year. [LB1109]

SENATOR SCHUMACHER: Thank you. [LB1109]

SENATOR CORNETT: Further questions? Seeing none, thank you very much. [LB1109]

ALLEN SUTCLIFFE: Thank you very much. [LB1109]

SENATOR CORNETT: Is there anyone else in a neutral capacity? Senator Brasch. [LB1109]

SENATOR BRASCH: Very briefly. I just wanted to thank him for his testimony and good input. I do appreciate that and I do appreciate the work of the assessors, and some good questions were raised here. I would be willing to work with the Revenue Department, the assessors, anyone moving forward. But I think we will see a reality here of land that is truly inundated. And perhaps we'll lead the country. You know, they're calling our extension department saying, so what's up; you know, what do we do? We're looking for something, a starting place. And as far as Senator Schumacher's question, you know, you're right. The revenue isn't what we do...but it's obvious if someone did not get a crop that year. I mean, just like the last year that they...maybe revenue does not even need to be a part of the question. When that land is still sitting under sand, you know, you don't see the stubble of cornstalks or beanstalks or, you

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know, it's evident when land has not been farmed and a harvest has not taken place. That's very visual to any assessor. So thank you so much for your time and consideration. Thanks. [LB1109]

SENATOR CORNETT: That closes today's hearings. [LB1109]