

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

Revenue Committee  
January 23, 2014

---

[LB697 LB733 LB867]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 23, 2014, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB697, LB733, and LB867. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: None.

SENATOR HADLEY: Welcome to the Committee on Revenue. We appreciate your being here today. It's a nice crowd today, there must be something going on today in Revenue, so I appreciate that. Sometimes it gets a little lonely like yesterday was in here. My name is Galen Hadley and I represent the 37th District which is Kearney and part of Buffalo County. And I'm lucky enough to be the Chair of this Revenue Committee. To my left is Senator Paul Schumacher from Columbus; and then Senator Pete Pirsch from Omaha; and we will be joined by Senator Kate Sullivan from Cedar Rapids. As you know, those of you who have been here before, people get up and leave and come back because we're all introducing bills in other committees, so don't feel offended if somebody comes in and then leaves while you're talking because that's the way it goes. To my far right is Senator Burke Harr from Omaha; and he'll be joined by Senator Janssen from Fremont; Senator McCoy from Omaha; and to my left is Senator Hansen from...McCoy, then Senator Hansen from North Platte. Our committee counsel is Mary Jane Egr Edson, to my right. Bill Lock is the research analyst. And to my far left is our committee clerk, new with us, Krissa Delka, and we really appreciate the job she is doing for us. Our page is Drew from Broken Bow. He will help you...remind you to...if you have handouts or such as that he will help you. Please turn off cell phones or put on vibrate in the hearing room. The sign-in sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you're testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clipboards in the back of the room to sign if you do not wish to testify, but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or representative will present the bill followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. We do record this and we have a written record of everything that is said in the committee so we really need to have your name pronounced and spelled so that we can get the transcript correct. If you have handouts, please bring 10 copies. If you have only the original, we will make copies for you. Give the handouts to the page to circulate to the committee. We will take the items in order. We will start with Senator Tyson if he...am I right...Larson, I didn't get the last part out, Senator Tyson Larson. (Laughter) Senator Larson, is this your first time before the Revenue Committee?

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

Revenue Committee  
January 23, 2014

---

SENATOR LARSON: No.

SENATOR HADLEY: Oh, I was hoping we could indoctrinate you to the proceedings. Welcome.

SENATOR LARSON: Thank you, Senator Hadley and members of the Revenue Committee. I'll be rather short. LB697 is a rather easy bill. I am Senator Tyson Larson, T-y-s-o-n L-a-r-s-o-n, and I represent District 40 from O'Neill. And I'm here today to introduce LB697. LB697 is a fairly straightforward bill. It would require that the county treasurer from each county to forward to the Department of Revenue its list of real property subject to sale due to the delinquent property taxes on that property. The Property Tax Administrator for the department would then publish a compiled list on the department's Web site. The information sent by county treasurers would be what the treasurers are required to publish now including the amount of all delinquent taxes against each item and a description of the property. The purpose of this bill is to allow individuals interested in tax delinquent property subject to sale to have one location to view all those properties. Right now that information is largely kept on the county level. There are a few ways for interested purchasers of these properties to find out about eligible properties aside from contacting each county to see what is currently subject to sale. The Web site will make that information more widely available and in one place for all counties across Nebraska. Thank you and I'll take any questions. [LB697]

SENATOR HADLEY: Are there questions for Senator Larson? Yes, Senator Hansen. [LB697]

SENATOR HANSEN: Thank you. Senator Larson, is the time line the same as prescribed above this? Two, three weeks prior to the sale? It should be on that... [LB697]

SENATOR LARSON: Yes, essentially the way that it is written it just...right now everything is published through newspaper and whatnot and we didn't change anything with the time line or anything of that nature. It just says: The county treasurer shall forward an electronic copy of the list to the real property to the Department of Revenue and they shall publish it in one place. We didn't change any of the time lines. [LB697]

SENATOR HANSEN: Okay, thank you. [LB697]

SENATOR HADLEY: Seeing no other questions, thank you, Senator Larson. Are you going to stay for closing? [LB697]

SENATOR LARSON: I'll stay. I don't know if... [LB697]

SENATOR HADLEY: Okay. First we'll start with proponents. Are there any proponents

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

Revenue Committee  
January 23, 2014

---

to LB697? Opponents to LB697? Neutral for LB697? Senator Larson, would you like to close? [LB697]

SENATOR LARSON: Real quick, as I said, this is...I view this as a transparency bill that will localize everything. You know, a lot of small counties in rural Nebraska, they have liens on some of their properties and they advertise them in the paper like they're supposed to, but there's properties out there going unsold because sometimes people don't necessarily know or have enough information or there's not enough bidders there or whatnot. So, hopefully, this can bring more interest in the sale of these properties and help fund county governments a little more. Thank you. [LB697]

SENATOR HADLEY: Any questions for Senator Larson? Thank you. [LB697]

SENATOR LARSON: Thank you. [LB697]

SENATOR HADLEY: Just so I know...we have been joined by Senator Janssen and Senator McCoy. Next we will go to LB733. Senator Schumacher. [LB733]

SENATOR SCHUMACHER: Senator Hadley, members of the committee, I'm Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature. And I'm off to a great start this year. Yesterday, I had the first bill in the Banking Committee that drew opposition, and I think I might have the first bill in the Revenue Committee that draws opposition. [LB733]

SENATOR HADLEY: That does not exactly shock anybody on the committee, I don't think, Senator Schumacher. (Laughter) [LB733]

SENATOR SCHUMACHER: This bill is brought on behalf of the Nebraska County Officials Association and the assessors. And what triggered it was an effort back in 2011 by the Department of Revenue to set up a certification and education process for the folks in the county assessor's office that have the job of mass appraisal and coming up with the appraised value of homes which makes property owners...homes and other property, which makes property owners so happy in the state of Nebraska. The Attorney General said: It would certainly be appropriate for the Legislature to provide for a mass appraisal designation for persons in this field and to authorize a tax commissioner or Property Tax Administrator to establish the educational and experience criteria for such designation. Unfortunately, absence creation of such a delegation by the Legislature and a statutory delegation of the authority to the commissioner or to the administrator to implement educational and experience qualifications for that designation, there is currently no statutory basis for the adoption of the mass appraisal designation rules of the Department of Revenue was proposing and, thus, that idea went into standby. The assessors are charged with coming up with the value of lots and lots and lots of property in their county. And they use a summary procedure by which they follow rules

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

Revenue Committee  
January 23, 2014

---

and follow procedures that are designed to kind of reach statistical averages and statistical distributions of the value of property. Unlike when you hire an appraiser to appraise a piece of property in a private matter where they go out and compare a particular piece of property to similar properties in a similar market and come up with an income and sales and construction cost estimate and then determine which one of those is the best and charge a fair amount for doing such an appraisal, these things are mass produced. And the assessors in hiring the people to do that work under them have not had the guidelines or an educational curriculum and certification so that the people under them have got the basic skills, as represented by a certificate issued by a state authority, to credentialize themselves, particularly, on appeal of any tax assessment. And so they worked really hard to come up with this proposal which basically sets out three levels of certification, each one requiring more experience and more education than the others. They're designed only for the mass appraisal environment for property tax appraisal purposes, not to compete with private appraisers in the private marketplace, and are attempting to do what the Department of Revenue attempted to do before the Attorney General told them they did not have the proper authority in order to put those regulations and rules into effect in 2011. The bill is fairly detailed. It lays out the criteria for each of the three levels of appraiser and what they have to do in order to qualify and be credentialized. As I understand it, assessors do not have to do this. If they don't want to use this system, there's no rule in this particular bill that says they must use this particular system. And it's a tool that's available. It hopefully will bring some uniformity in the appraisal system on a mass appraisal basis. And it certainly was originally intended not to be a competition or any type of degradation of the folks who do the private appraisal business. I know there are folks from the County Officials Association and assessors who will follow me in testimony and who explain the intricacies of the particular legislation. If there is any questions that I can answer, I'll be happy to take them. [LB733]

SENATOR HADLEY: Are there questions for Senator Schumacher? Seeing none, thank you, Senator Schumacher. [LB733]

SENATOR SCHUMACHER: Thank you. [LB733]

SENATOR HADLEY: We've been joined by Senator Sullivan from Cedar Rapids. Thank you. Proponents, would the first proponent please come forward. [LB733]

BETH BAZYN FERRELL: Good afternoon, Chairman Hadley, 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. This bill, as Senator Schumacher indicated, really deals with the first part of the whole property tax picture: how to set the value on a particular piece of property. And this is intended to create a credential just for mass assessment for ad valorem purposes. It's not intended to address any type of fee appraisal that would fall under the appraiser act. I can go into more detail, but I think

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

Revenue Committee  
January 23, 2014

---

you'd rather hear from the assessors that are here. So I'll conclude and offer to take any questions, but I may defer them to the folks that follow. [LB733]

SENATOR HADLEY: Are there any questions for Beth? [LB733]

BETH BAZYN FERRELL: Oh, may I add one thing? [LB733]

SENATOR HADLEY: Yeah. [LB733]

BETH BAZYN FERRELL: We'd like to thank Senator Schumacher for introducing the bill on our behalf as well. [LB733]

SENATOR HADLEY: Okay, thank you, Beth. Okay. Next proponent. [LB733]

MARILYN HLADKY: (Exhibits 1, 2 and 3) Good afternoon, Senator Hadley and members of the Revenue Committee. My name is Marilyn Hladky, M-a-r-i-l-y-n H-l-a-d-k-y and I'm here today representing the Nebraska Association of County Officials and the Nebraska Association of County Assessors. Ms. Ferrell alluded to, and also Senator Schumacher, to this had been previously tried to be put into statute and the Property Tax Division actually had regulations drawn; they had a hearing on it; they went to the Secretary of State. The Secretary of State approved them and when they got to the Attorney General's Office, the Attorney General's Office said there wasn't any statutory authority for them. Part of my exhibits is that letter from the Office of the Attorney General's that went to Doug Ewald saying that...why they couldn't do it. And on the last page I'd like to read in part of what they were saying. It says: In reaching this conclusion...meaning that they don't have the authority...we do not suggest that the board...and the board that they were talking about in the letter is the appraisal board...is the appropriate regulatory agency for such a designation. The board statutes clearly pertain only to the licensing of real property appraisers and do not reach any regulation of persons engaged in mass appraisal. It would certainly be appropriate for the Legislature to provide a mass appraisal designation for persons in this field and to authorize a tax commissioner or the PTA to establish the educational and experience criteria for such designation as it has in the case of the certification of county assessors. Unfortunately, absent creation of such a designation by the Legislature, a statutory delegation of authority to the tax commissioner...or Property Tax Administrator to implement educational and experience qualifications for that designation, there is no current statutory basis to adopt those regulations that they had. Many counties cannot afford to have full-time appraisers on their staff, so they contract with different individuals or companies that assist them in setting values. Several counties share values. In fact, I do have a certified general appraiser I share with four other counties. He's promised me through the end of 2014 and then he's probably going to retire. And I'd like to say that LB733 creates a very separate credential from the Mass Appraisal Act and it is to be strictly used for mass assessment valuations. It's getting harder to find

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

Revenue Committee  
January 23, 2014

---

people in this field and these credentials would be extremely helpful in the mass assessment field. They could not do any fee appraisals and, hopefully, this would widen the pool of people to help us. It would also help with appeals to the Tax Equalization and Review Commission. The difference between fee simple appraisal and mass appraisal is that when a fee appraisal is done there are three to five comparable sales that are chosen and those sales are adjusted to arrive at the best estimate for the subject property. In mass appraisal, that's the process of evaluating groups of sales as of a given date using standard methods, employing common data, and allowing for statistical testing. Sales are used to run statistics to set land values, depreciation, and other economic and functional factors. What is used on the sales to achieve statistical measures as is required in statute, is then applied to the unsold properties. We gather all the data on properties through our six-year inspection requirement to confirm as best that we can that we have the most accurate data on each property. Some of the key points are is the mass assessment credential would not be an appraiser's license. We are not trying to infringe upon the Appraisal Board as they are separate credentials used for a different process and purpose. The educational hours required for mass assessment credential is similar to the Nebraska Appraisal Board, but will be streamlined strictly for mass assessment. These hours of education will also have to be approved by the Property Tax Administrator and the Mass Assessment Board. The assessors have always been overseen by the property assessment division rather than the Appraisal Board. Property tax creates and the directives and regulations for the assessors to follow are rules then to be guiding us. Having two agencies could cause a lot of conflict between the two and then the assessors are stuck in the middle for having that. Assessors are qualified, elected officials. We are required to hold a state of Nebraska assessors certificate; we're required 60 hours of continuing ed every four-year term; and the property administrator annually does statistical analysis on each county. She puts it in what's called a Reports and Opinion of the Property Tax Administrator. Our statistics have to reach statutory measurements, if not, we're called into TERC; TERC gets the report, and then we're adjusted. So we have a lot of pressure on us to reach all of our statistics that we're required to do. The only part of USPAP, which is the part that the Appraisal Board uses, which is the Uniform Standards of Professional Appraisal Practice that we must comply with is Standard 6 which deals with mass assessment. Otherwise, the assessors and staff are exempt from the appraisal act. This would be a great opportunity for people within the assessors office to obtain their mass assessment credential for additional credibility within the office. And it's also a great opportunity to benefit not only the assessors office, but the people that we serve. This may not be perfect, but you have to take a first step somewhere to get started and then changes that will probably be needed as we go along and start implementing it. Thank you very much today for your time and consideration, I greatly appreciate it. And I'll try to answer any questions. [LB733]

SENATOR HADLEY: Are there questions? Senator Hansen. [LB733]

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

Revenue Committee  
January 23, 2014

---

SENATOR HANSEN: Thank you, Chairman. Is mass assessment all done in the office? I mean, if you don't go out and look at the comparable sales, you just rely on the information that you get from...I don't know where you get it from for sure, but is it all done in the office then? [LB733]

MARILYN HLADKY: No, no, no it's not. We're required to go look at all of our properties so every property is looked at within a six-year cycle. [LB733]

SENATOR HANSEN: Six years. [LB733]

MARILYN HLADKY: And then like I've done Seward for 2014, we have visited every single property, documented what we've seen for externally, because, you know, most people aren't home anymore with both spouses working, but no, no we go out and verify sales when they happen, go out to the property, see what change has been done. No, it's a combination of going to the properties and then the analysis in the office. [LB733]

SENATOR HANSEN: So will the mass assessor do that now then? [LB733]

MARILYN HLADKY: Well, they're under this...they would be... [LB733]

SENATOR HANSEN: Replace the work that you do now? [LB733]

MARILYN HLADKY: Yes, they could. They'd be strictly under the authority of the assessor for what the assessor would want them to help do. But this would give them more credentials and more education to help to set some of those values. But ultimately, those values come back on the shoulders of the assessors totally responsible for those values. [LB733]

SENATOR HANSEN: And one final question. Can you still share with other counties that mass assessor? [LB733]

MARILYN HLADKY: With this mass assessment? We, as assessors, look for that to happen that somebody with a mass assessment credential that still work in other counties, yes, share them. [LB733]

SENATOR HANSEN: Thank you. [LB733]

SENATOR HADLEY: Are there other questions? Senator Sullivan. [LB733]

SENATOR SULLIVAN: Thank you, Senator Hadley. So I think you mentioned that you contract with an individual now to help you. [LB733]

MARILYN HLADKY: Yes, I do. [LB733]

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

Revenue Committee  
January 23, 2014

---

SENATOR SULLIVAN: And so in...with this legislation, then that person would also have to be credentialed, is that correct? [LB733]

MARILYN HLADKY: No, because he holds a certified general license through the Nebraska Appraisal Board. But all he does is mass assessment. So he doesn't go out and do any fee simple or anything, but he's still, probably, required to follow the guidelines of the appraisal. [LB733]

SENATOR SULLIVAN: This particular person is. But you said he was going to retire. So, if this legislation were to pass and you had somebody continue to help you, that individual would have to be credentialed? [LB733]

MARILYN HLADKY: Yes. [LB733]

SENATOR SULLIVAN: Okay, very good. And then you indicated now where you get...you are required as an assessor to get continuing education. [LB733]

MARILYN HLADKY: That is correct. [LB733]

SENATOR SULLIVAN: Do you anticipate the education required to get this mass assessment credential is...would be...or is..could be similar to what you currently have to get? [LB733]

MARILYN HLADKY: Yes, we have to do 60 hours and I know there's...with the three different levels of this mass...mass assessment specialist, I want to say the first one is 60 to get that credential, the second one is 120, and to get the third credential you would have to have 180 hours of education. [LB733]

SENATOR SULLIVAN: And then one final question, you indicated also in your testimony something about this would help you in dealing with TERC, in what way? [LB733]

MARILYN HLADKY: A lot of times when you go to TERC, the other...the appellant, the people that are appealing, will bring in their attorneys, they'll bring in appraisers, and, you know, sometimes it's just the assessor that goes and then when you have these people that are credentialed and have some of the knowledge, too, that we as assessors have, that just gives some more credibility to what we've done in the office and how we set our values. [LB733]

SENATOR SULLIVAN: Okay. Thank you. [LB733]

MARILYN HLADKY: Thank you. [LB733]

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

Revenue Committee  
January 23, 2014

---

SENATOR HADLEY: Are there other questions? Marilyn, are mass appraisals used in all 93 counties, to your knowledge? [LB733]

MARILYN HLADKY: To the best of my knowledge, I'm not sure about Lancaster and maybe Douglas, but, yeah, I mean, they may take out their computer systems and they allow them to select different ones, but yeah, the analysis like for residential, we use a pool of two years of sales and see what those values are and what they're selling for in relationship. And if my meeting is at 90 and I have between 92 and 100, I take that group of sales and see what we have to do to it. Is the land values too low? Is our cost pricing too low? And then we apply that to that grouping of sales and set depreciation and economic factors and then when I reach those group of sales to be between the 92 and 100 percent, then that same economic and those other factors get applied to the rest of the properties in a specific and market area. [LB733]

SENATOR HADLEY: Thank you. Are there any other questions? I just wanted...I know you've testified many times before this committee and I always want to thank you for all of the good information that you bring to us in the assessment area, so I just really appreciate your help. [LB733]

MARILYN HLADKY: Well, thank you very much. Thank you very much. Thank you. [LB733]

SENATOR HADLEY: Thank you, Marilyn. Next proponent. [LB733]

LYNN MUSSMAN: (Exhibit 4) Good afternoon. My name is Lynn Mussman, L-y-n-n M-u-s-s-m-a-n. I would first of all like to say that I support the testimony that was given by Marilyn Hladky, the Seward County Assessor. But in addition to Marilyn's comments, I would like to state that I am one of the counties that have recently lost their appraiser because of the issues that we are facing. I was elected into office in 2011 as the Fillmore County Assessor. And at that time I had a full-time deputy, a clerk, and a part-time contracted appraiser that assisted in my review and pickup work. In 2011, my contracted appraiser received a letter from the Nebraska Appraiser Board stating that he was not qualified to work within the county. In November of 2012, my deputy retired from her position and my clerk moved on to a better paying job. Since that time, two more letters have been written by the Nebraska Appraiser Board and I have had to hire, train, and educate new staff while still trying to do my job. We're a small county. I know that many county boards face budget restrictions and we are no different. These restrictions do not allow small counties to have full-time appraisers on staff. As an assessor, I follow all the regulations, directives, and statutes that are set forth to us by the Department of Revenue, Property Assessment Division. With that in mind, I'd like to say that county assessors should be allowed to hire the staff necessary to assist in that valuation process of all properties. LB733 would allow us to serve the people to do the

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

Revenue Committee  
January 23, 2014

---

job that I was elected to do. I'd like to thank you for your time and your consideration on this bill. [LB733]

SENATOR HADLEY: Are there questions for Ms. Mussman? Seeing none, thank you very much. [LB733]

LYNN MUSSMAN: Thank you. [LB733]

SENATOR HADLEY: Further proponents. [LB733]

ALLEN SUTCLIFFE: (Exhibit 5) Thank you, Chairman and members of the committee for hearing us today. My name is Allen Sutcliffe, S-u-t-c-l-i-f-f-e, and I am the Cass County Assessor. I agree and support the comments you have heard so far in support of the Mass Assessment Act. I would like to add a real example of why this bill is important. Ms. Lori Huebner and I started working in the Cass County Assessor's office the same day in 2003. She had a registered appraiser's certification while I did not, which in the beginning was beneficial but ended up being too burdensome to maintain in the ad valorem, mass appraisal environment we work. To begin with, only half of her work hours were credited towards renewal of her certification because the Appraisal Board did not deem them related to their requirements. This, along with requiring reports that are not generated or used in the ad valorem assessment process, required her to do independent work using her own time and money just to maintain a fee appraisal-based certification. Ms. Huebner eventually allowed her registered appraiser certification to lapse as it gave her no benefit in her job and only cost her personal time and money. The clear fact is that the Real Appraiser Board is solely a fee appraiser credentialing office. It has not shown any interest in addressing through courses or curriculum the needs and interests of ad valorem appraisal which occurs in all 93 counties of Nebraska, as well as in all the surrounding states. County assessors and the property assessment division have all urged the Appraisal Board for many years to fill this need, but they have failed to take any positive actions. This is where Nebraska assessors, who are this state's mass appraisal experts, have researched many other states' actions to see how ad valorem appraisal was addressed, which led us to the drafting of the Mass Assessment Act before you now. It should be highlighted that all along the property assessment division and its forbearers provided and encouraged numerous mass appraisal courses for the benefit and improvement of county assessors. They are in the best position with their assessor certification program to expand and thus include ad valorem/mass appraisal education and certification. In conclusion, the Mass Assessment Act is necessary to move the critical element of ad valorem tax assessment, via mass appraisal, forward in Nebraska on a more professional and capable level with a uniform and effective program. Thus I urge you to vote for the passage of the Mass Assessment Act and thank you for your time. Any questions? [LB733]

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

Revenue Committee  
January 23, 2014

---

SENATOR HADLEY: Are there any questions for Mr. Sutcliffe? Seeing none, thank you. [LB733]

ALLEN SUTCLIFFE: Thank you all. [LB733]

SENATOR HADLEY: Do we have any further proponents? Welcome. [LB733]

JANA SMITH: (Exhibit 6) Thank you, sir. Senator Hadley and members of this committee, my name is Jana Smith, J-a-n-a S-m-i-t-h. I'm the Nemaha County Assessor and I support the testimony that was given by Beth Ferrell, the legal counsel for NACO; Marilyn Hladky, the Seward County Assessor; Lynn Mussman, Fillmore County Assessor; and Allen Sutcliffe, Cass County Assessor. I am another assessor who lost an appraiser due to the Nebraska Real Property Appraisal Board letters. Fee appraisal and mass appraisal are not the same. More income can be made by a fee appraiser than one doing county mass appraisal. Consequently, fewer people choose to use their...I misspoke here, I said general certified and it's supposed to be certified general appraiser license for mass appraisal work. This creates a shortage of credentialed appraisers helping assessors, thus placing us between a rock and a hard spot. I support this LB733 for your consideration and thank you for your time. Is there any questions that I may answer? [LB733]

SENATOR HADLEY: Are there questions for Ms. Smith? Seeing none, thank you; we appreciate your coming. [LB733]

JANA SMITH: Thank you. [LB733]

SENATOR HADLEY: Any further proponents? [LB733]

VICKI HASKELL: Senator Hadley and committee, my name is Vicki Haskell, V-i-c-k-i H-a-s-k-e-l-l. I'm the Jefferson County Assessor. I would like to urge your support for LB733 pre Beth Ferrell, Marilyn Hladky, Lynn Mussman, Allen Sutcliffe, Jana, they have all spoken my thoughts also. I, too, have lost an appraiser because of the credentialing of the Nebraska Real Property Appraiser Board. As mass assessment, we do different than what the fee appraiser does on this. I'm not going to bore you with repeating what the previous testimony has been, but I urge your support for this bill. Thank you. [LB733]

SENATOR HADLEY: Are there questions? I have a quick question, Ms. Haskell. [LB733]

VICKI HASKELL: Sure. [LB733]

SENATOR HADLEY: If you can't find someone, what do you do? You have to do the

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

Revenue Committee  
January 23, 2014

---

appraisals, correct? [LB733]

VICKI HASSELL: Yes, we do, yes, we do. And we have to do it to the best of our ability with all the information that we can possibly obtain. [LB733]

SENATOR HADLEY: Okay. [LB733]

VICKI HASSELL: And we do ask other assessors on difficult properties. [LB733]

SENATOR HADLEY: Okay, okay. Thank you. Senator Sullivan. [LB733]

SENATOR SULLIVAN: Thank you, Senator Hadley. All your colleagues and yourself indicated that you'd all received letters. [LB733]

VICKI HASSELL: Yes. [LB733]

SENATOR SULLIVAN: So do you think that's happened to the majority of assessors across the state? [LB733]

VICKI HASSELL: I know that it has happened to a number of assessors on it. We're a small county; we cannot afford to have a full-time appraiser on staff. [LB733]

SENATOR SULLIVAN: Thank you. [LB733]

VICKI HASSELL: You're welcome. [LB733]

SENATOR HADLEY: Thank you. [LB733]

VICKI HASSELL: Thank you. [LB733]

SENATOR HADLEY: Are there any other proponents? Seeing none, we will now start with opponents. Let the first opponent come, if there is one. Welcome. [LB733]

TYLER KOHTZ: (Exhibit 7) Good afternoon. My name is Tyler Kohtz, T-y-l-e-r K-o-h-t-z. I'm the director for the Nebraska Real Property Appraiser Board. I would like to begin by thanking Chairperson Hadley and the members of the Revenue Committee for this opportunity to speak on behalf of the Nebraska Real Property Appraiser Board concerning LB733. The Real Property Appraiser Board was established as the Real Estate Appraiser Board on January 1, 1991. It is charged with administering and enforcing the Real Property Appraiser Act and the Appraiser Management Company Registration Act. The board's primary functions are to issue and renew appraiser credentials, develop and implement standards for appraiser credentialing, and register and renew registrations for appraisal management companies. Also, the board

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

Revenue Committee  
January 23, 2014

---

approves appraiser qualifying education, appraiser continuing education activities, investigates and adjudicates grievances, and disseminates relevant information to the public, credentialed appraisers, and appraisal management companies. Credentialed appraisers spend years learning the profession of appraising. They have to complete education and experience adequate to establish a foundation for an individual to render an opinion of value in an accurate and nonbias manner. And I had my testimony passed out and included with that is an exhibit. If you could turn to the third page of that. What I have here is what's required to become a certified general real property appraiser. And if you turn to the second page, exhibit A-2, I'd like to just touch on a couple components of that. The first is the postsecondary education requirements. In order to become a certified general appraiser, you have to have a bachelor's degree or you have to have 30 hours...semester hours in lieu of a bachelor's degree. And that's actually going to change as of January 1, 2015. They're required to have a bachelor's degree in order to obtain a certified general credential. So the requirements become continuously more stringent as the years pass. The second component of that is the qualifying education. And if you look at that, there is 300 hours listed there. It begins with Basic Appraisal Principles, Basic Appraisal Procedures, and progresses up through General Appraiser Report Writing and Case Studies. The idea of this is to build a foundation for an individual to be able to render an opinion of value. And it does it in a progressive manner. In other words, it establishes the foundation that this individual use throughout his professional career. On the next page, exhibit A-3, I just want to touch on the experience. An applicant for the certified general real property appraiser credential must complete no fewer than 3,000 hours of appraisal experience. So just to give you an idea, there's a lot of work that goes into becoming a credentialed certified general real property appraiser. The board is also concerned that this bill may create public confusion between appraisal and assessment. LB733 defines who is eligible to develop a mass appraisal, but the required education and experience for the mass assessment credential is more tailored towards the work of an elected county assessor. Credentialed appraisers are also responsible for meeting strict, legal, and professional obligations. The Uniform Standards of Professional Appraisal Practice, also known as USPAP, is the quality control standards applicable to real property appraisal practice. USPAP is developed by the Appraisal Foundation as authorized by the United States Congress as the source of appraisal standards and appraisal qualifications. The International Association of Assessing Officers, also known as IAAO, is one of the appraisal sponsors of the Appraisal Foundation. The board's rules and regulations incorporate USPAP, specifically Standard 6, Mass Appraisal Development and Reporting, is what we're referring to here. LB733 which requires no adherence to Standard 6 of USPAP would allow an individual that may have no foundation of real property appraising nor an understanding of the Uniform Standards of Professional Appraisal Practice set property values for ad valorem tax purposes. Allowing property values to be set without the specialized knowledge needed to assess such values does not serve the best interests of the public. The standards outlined in LB733 for mass assessment credentials to adhere to are minimal and vague compared to the already

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

Revenue Committee  
January 23, 2014

---

established standards found in the Real Property Appraiser Act. I would imagine that you hear a lot about property taxes and the size of the government from your constituents. Property values have a direct impact on taxes used to fund schools, police departments, fire departments, and local governments. The work by the county assessor is important because property assessments must be fair and equitable which is also why it's important that they're set by county employees exempt from the Nebraska Real Property Appraiser Act or credentialed real property appraisers. LB733 results in government growth and unnecessary duplication. The real property appraiser profession is already regulated by the board and there is no need for another separate board to regulate one part of the real property appraiser profession. Finally, the funding and operation model is not sufficient to support a state program as outlined in this bill which would likely result in taxpayer money being used to support the program where credentialing and administrative fees fail. This may result in a financial liability for the state of Nebraska, and, ultimately, for its citizens. Real property appraisal practice is already regulated through the Real Property Appraiser Act and county employees are already exempt from the act. I would like to also point out that LB733 requires an appraiser representative on the board and that board member is to serve at the discretion of the other members. This is neither fair nor equitable either. It appears that the intent of LB733 is to exempt those that contract with counties for appraisal services for ad valorem tax purposes from the Real Property Appraiser Act. The Nebraska Real Property Appraiser Board believes that LB733 does not serve the best interest of the citizens, nor credentialed appraisers, and opposes this bill. Thank you for this opportunity to appear before you. And if you have any questions, feel free to ask. [LB733]

SENATOR HADLEY: Thank you, Mr. Kohtz. Are there questions? I guess...that the comment was made that the...your group has neither courses nor curriculum for mass appraisals. Is that a fair statement? [LB733]

TYLER KOHTZ: There are continuing education courses. In terms of qualifying education, there...the foundation that is established through the courses outlined are meant to cover all of the levels of appraising. So not specifically to mass appraisal, no. But in terms of experience and how that education plays out...or how that education is incorporated, yes, it is applicable. [LB733]

SENATOR HADLEY: Okay. Another question, the comment was made by a number of the assessors that people who are working with them had received letters, basically, I guess, terminating their designation as an appraiser. Is that correct? [LB733]

TYLER KOHTZ: Not really. What has happened is the board used to have a credential called the "registered appraiser." And that has been sunsetted. And some of the people that were doing work for counties for this setting for mass appraisal held the registered credential. Instead of moving on to the certified general credential, these individuals

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

Revenue Committee  
January 23, 2014

---

chose not to go any further. And once their credential was sunset, they were not operating within the law any longer. [LB733]

SENATOR HADLEY: And who made that decision to do away with the, what did you call it, the...? [LB733]

TYLER KOHTZ: Registered appraiser. [LB733]

SENATOR HADLEY: Registered appraiser. [LB733]

TYLER KOHTZ: I don't know the history behind the reason why it was sunsetted. I know that there were some issues with the scope that was allowed through that credential. It was very broad and allowed individuals to do more work than what was intended. [LB733]

SENATOR HADLEY: Okay. What...I guess, what would your group suggest as the solution to the problem we're hearing...or we heard from the assessors of trying to find people to help them in this mass appraisal process? [LB733]

TYLER KOHTZ: Well, one thing that has been mentioned already is that county employees are exempt. So they can hire individuals to do this work and it would not be a violation of the Real Property Appraiser Act. In terms of the hiring for contract employees or nonemployee contract workers, it's the board's position that these individuals should be qualified as certified general appraisers because of the education and experience that they have. [LB733]

SENATOR HADLEY: Okay. Any other questions? Thank you, we appreciate your coming in. [LB733]

TYLER KOHTZ: Thank you. [LB733]

SENATOR HADLEY: Thank you. Next opponent. [LB733]

TOM KUBERT: (Exhibit 8) Good afternoon, Senator Hadley, members of the committee. My name is Tom Kubert, that's T-o-m K-u-b-e-r-t. I'm currently vice chair of the Nebraska Real Property Appraiser Board. I'm also president of Great Plains Appraisal Incorporated located in Lincoln, Nebraska. For over 20 years, I've been active in both the appraisal and assessment fields. I currently hold the certified general credential from the Nebraska Real Property Appraiser Board. I also hold a county assessor certificate in the Department of Revenue through the Property Tax Division. Both credentials are issued under the state of Nebraska. I believe that I would qualify under this bill for the certified assessment specialist, the highest credential within the bill. I understand the issues at hand. I understand the issues that assessors face in completing their jobs and

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

Revenue Committee  
January 23, 2014

---

that sometimes consultants are needed to assist in the setting of values and that both assessors and taxpayers are counting on these consultants to provide a professional, fair, and equitable assessment. However, I believe that LB733 fails to increase the probability of professional, fair, and equitable assessments. I'm here today to ask you not to advance this bill. I oppose LB733 for the following reasons. I believe it increases the cost to the state without corresponding benefits. I believe that there's an increased risk to the tax base statewide. I believe that LB733 creates a double standard for taxpayer valuation experts in assessment disputes. I believe it creates confusion between certified appraisers and certified assessment. I believe that there is lack of adequate education, lack of adequate experience, lack of adequate examination related to the mass assessment credential. I believe that there is a failure to limit the scope of services provided by each credentialing level. I believe that there is a failure to require professional competency in setting those assessed values. There has been much discussion today about education and whether that education is adequate for mass appraisal. As I told you, I'm a certificate holder with the Department of Revenue for the assessor certificate. My continuing education, according to Title 350, Chapter 71, specifically Reg. 71-004.01C references the source of continuing education for assessors as being those courses approved by the Nebraska Real Property Appraiser Board. There are plenty of classes for assessors to take. My further opposition is that this bill fails to limit the services of mass assessment to public entities. It says that when you earn this credential you may use this credential in the assistance to an assessor. It does nothing to stop you from going out and doing other assessment services. There's no limitation on the services to be provided. I can get this credential, have a contract in Lancaster County for assessment services. I can then go to another county and represent a taxpayer under the wording of this bill. I don't think that's the intent of the bill, but that's the loophole that people will find. And I think that that puts our tax system at risk. I also think that this clearly leads to unfair competitive trade advantage in the assessment appeal business because of people who can go out without a credential, without experience, without education and provide this service to taxpayers. I think that will be confusing. Public sector employees, including county assessors, are already exempt from the existing Real Property Appraisal Act. But LB733 extends this exemption to the five to ten private contractors who are currently ignoring state statute. This appears to be legislation to benefit the few while increasing the risk to the state. The exemption from the Real Property Appraiser Act is a disservice to taxpayers and the over 650 individuals who currently hold credentials to appraise property in our state. If the assessment industry desires increased accountability through proper levels of education, more extensive required experience, and thorough examination and a viable alternative to LB733, is for the assessment field to be removed from the current exemption to the Real Property Appraisal Act. Duplication of regulatory services within state government is not efficient and does not increase the reliability nor credibility of our state property tax system. I'm here today, as you know, in opposition to LB733. It increases both the expenses and the regulatory environment of our state without a corresponding benefit to the taxpayers. I thank you for your time today. I thank you for

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

Revenue Committee  
January 23, 2014

---

your service. And I would entertain any questions that you have. [LB733]

SENATOR HADLEY: Are there questions? Senator Hansen. [LB733]

SENATOR HANSEN: Thank you, Mr. Chairman. Tom, your first bullet point on your first page, can you expand on that a little bit about why there would be, or could be increased expense to the state? [LB733]

TOM KUBERT: I believe that in the Nebraska Appraiser Board, our budget runs between \$300 and \$350 per credential per year to regulate. The fees in this bill are set at \$100. I do not think that is adequate to provide regulatory oversight. [LB733]

SENATOR HANSEN: Why not increase cost to the county rather than to the state? [LB733]

TOM KUBERT: In what way, sir? [LB733]

SENATOR HANSEN: Well, your first bullet point says increase cost to the state. Why not increase cost to the county if they don't use a real appraiser? [LB733]

TOM KUBERT: Well, much of LB733 relies on the Department of Revenue. You'll see that they're in charge of setting all the regs, all the administration, all the meetings, and all the notices. I'm unclear on where the enforcement costs are passed through. And I believe there is a fiscal note attached to this bill that puts the cost at about \$14,000 a year; that's about \$70 per credential holder that they've estimated. I think that's not enough to administer this bill. I think there's additional costs that have not been considered. [LB733]

SENATOR HANSEN: Okay. Thank you. [LB733]

SENATOR HADLEY: Mr. Kubert, a county assessor, are they not, basically, responsible for the work done by their employees and any contract personnel that they would hire? [LB733]

TOM KUBERT: Ultimately, the buck does stop with the county assessor. This is similar to...we allow people to hire whoever they see fit to hire and the regs within the Department of Revenue allow a county assessor to hire who they see fit. The question is, is that person qualified in the eyes of the state of Nebraska to provide that service? And in the eyes of the state of Nebraska under existing statute, they need to be credentialed in order to provide that service. [LB733]

SENATOR HADLEY: Okay. I would like to go back to a question that I had asked earlier. There was, before these people that we've heard about that got the letters

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

Revenue Committee  
January 23, 2014

---

terminating their... [LB733]

TOM KUBERT: Correct, they had cease and desist letters. [LB733]

SENATOR HADLEY: Yes, cease and desist, and again, what was the reasoning that we did away with that classification? [LB733]

TOM KUBERT: I believe that was in the legislative bill in 2008 because the registered scope of services for the registered appraisers in our state, this was a credentialing level that we formerly had. The credentialing level allowed you to set values for one to four family homes up to, I believe, \$100,000. And what we had were people all through our state, in all sectors to be fair, they were just taking this registered license and they were going out and doing all kinds of banking work and estate work. And the \$100,000 and the scope of services that the Legislature had set out meant nothing to them. And so that registration...that was sunset. And that was something that the federal government did not recognize the registered level so we matched ours with the credentialing levels of the federal government through the Appraisal Qualifications Board. And we do match that today. [LB733]

SENATOR HADLEY: Okay. Would you agree that there would be increased costs to the counties if they have to get this outside help and it has to be somebody that meets your requirements who is normally involved in fee appraisal that now the counties have to compete for that person who is involved in fee appraisals to get them to go to work for the county? [LB733]

TOM KUBERT: In all cases in the market you can hire someone who is not credentialed and they'll probably do it cheaper than someone who actually earned the credential. [LB733]

SENATOR HADLEY: Okay, but in... [LB733]

TOM KUBERT: I believe there is a cost savings by using unqualified individuals. [LB733]

SENATOR HADLEY: Okay. Are there other questions? Thank you very much; we appreciate it, Mr. Kubert. [LB733]

TOM KUBERT: Thank you for your time. [LB733]

SENATOR HADLEY: We appreciate your coming up. Other opponents? Looks like Mr. Peters has been to the same doctor that I've been to, doesn't it? (Laughter) [LB733]

WILLIAM PETERS: Mr. Chairman, members of the committee, yes. (Laughter) My

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

Revenue Committee  
January 23, 2014

---

name is Bill Peters, P-e-t-e-r-s, Bill, B-i-l-l. I'm here representing myself, though I'm registered for other purposes. I'm testifying because I've had a lifetime of working in the field of property tax and am interested...more than interested. At any given time I have many, many property tax cases pending. Today's subject is...addresses only a small part of our ad valorem process. And really a somewhat small part of just the appeal process. The issue regarding the appraisers extends beyond what this bill addresses. However, I'm opposed to this bill. By creating a credential does not solve the problem of hiring people. It takes money. If the assessors don't have the money in their budget, I don't care what the price is, they can't hire them. There have been cease and desist letters from a number of different parts of the ad valorem process, not only for county-hired folks, but for citizen-hired folks, taxpayers. I've represented them all. But I think what is important to remember when we're talking...whether it's mass appraisal or fee appraisal, there is one goal and that's come close to actual value. It's not to determine some other value. But our standard is actual value. The fee appraisal approach is different until it's challenged. Then the fee appraisal and the mass appraisal start to get in each other's road, you might say. The mass appraisal is mechanically something that the assessors have done forever. It's become more apparent, more utilized with modeling and the computer. In fact, our court cases long ago recognized that a mere difference of opinion didn't count. The bill also provides that there will be a committee under Section 11 to, I believe, administer the act. Then in Section 22 says the tax commissioner shall as rules and regulations. I can see a bit of a conflict there. Secondly, I would observe if we want standards for people doing tax appraisal work, there's nothing that prohibits the Department of Revenue from issuing guidelines. They don't have to be regulation and cross the Attorney General, but they can still give the counties some guidance and some assistance. The show cause cease and desist letters are causing problems. This is an issue that has to be addressed. My thought is that it's not being addressed in this bill, this bill makes it a suggestion. Either the county board is in charge or the Department of Revenue is in charge, but it should encompass more than just how the county values a piece of property for the assessor to decide whether or not they want to use it. That's all this bill provides for. I think there are so many other issues that it's worthy of an intense review by this committee which isn't done during the session. My suggestion would be that the certification language be removed from this bill and that simple language be developed that says that the provisions of the Nebraska Appraisal Act shall not apply to ad valorem purposes...ad valorem taxation. That solves many of the issues that aren't covered, as well as those that are covered in this legislation. Hopefully, that would not be a permanent solution. Starting two years ago, there were meetings held between all parties to try to come up with an answer to this very issue. That did not progress very well. In fact, it didn't go forward at all. But, hopefully, this would encourage the development, whether it's by the tax commissioner or by the appraisal board of regulations that are workable and reasonable, not only for the counties, but for the taxpayers. That's where I do most of my work, for the taxpayer. It's quite simple: on a homeowner comes in, I simply say--you can't afford me. But here's how to do it and I give them my short course. A small

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

Revenue Committee  
January 23, 2014

---

business comes in, a friend, he's going to have to have an appraisal. Well, what's that going to cost? Well that depends, but we're going to start looking right now because there are a...not many appraisers available. But the cost will run to take a tax case, you better have \$5,000 cash to get started if you're a small business. You get into more larger properties, bigger properties, now we're talking about \$10,000, \$15,000, or more. And there are many properties in Nebraska, but I don't think we should expect our assessors to be able to appraise. They are really complicated. In fact, a good share of the appraisers, licensed under the Nebraska Appraisal Act, can't handle them. And you have to find the real specialist and those folks...they're well off. So there's this whole area that needs to be addressed. This is one solution, but I suggest that it's not the solution that we need. Thank you. [LB733]

SENATOR HADLEY: Thank you, Mr. Peters. Are there questions for Mr. Peters? Seeing none, thank you very much. [LB733]

WILLIAM PETERS: Thank you. I'll limp back to my chair. [LB733]

SENATOR HADLEY: We very much appreciate your giving us your wealth of knowledge in this area. Are there other opponents? Are there...anyone in the neutral position? Senator Schumacher, would you like to close? [LB733]

SENATOR SCHUMACHER: Thank you, Senator Hadley, members of the committee. I think it's fairly obvious from the testimony that we've heard that we're almost dealing with two different things. We're dealing with a mass appraisal done under the guidance of the county assessor for the purpose of assessing taxes. Like a triage that a civil defense organization might undertake after a tornado. It's very necessary. It has to be done en masse. And you can't fly dozens and dozens of doctors out to do it. On the other hand, the fee appraisal, as we've heard, is a very expensive thing to do, it's expensive surgery. Doctors are needed. We've heard figures of \$5,000 just to get started. What if you did that on every piece of property? Wow, talk about that bill for the county. This is an effort by the county assessors to deal with a problem that they have. They need personnel that have got a credential to do the mass appraisal. And they supervise them at their level. If we do not act, we're going to leave them in a bit of a lurch. This bill is probably not the end all, but it is certainly a beginning toward giving them a credentialized supply of assessors or appraisers to go out and do a very limited thing in the field for the purpose of taxation. It's not a turf battle with the folks who charge \$5,000 to get an appraisal started; it's not an effort to cut into anybody's business. It's just about doing the people's business at the county level in some rational way. And the letters have gone out and I've seen several of them that basically say: if you don't stop working for the assessor, we're going to turn you over to the county attorney. Poor county attorney, he's busy with amber lights. (Laughter) But you're going to get turned over to the county attorney and he can decide whether or not he's going to prosecute you for a Class III misdemeanor up to 90 days in jail. We have a good

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

Revenue Committee  
January 23, 2014

---

proposal before us. I would encourage the committee to consider it. And I'd be happy to take any questions. [LB733]

SENATOR HADLEY: Questions for Senator Schumacher? Senator Schumacher, you may not be able to answer this, but is this primarily a concern of the smaller counties in the state versus Douglas or Lancaster or Sarpy to your knowledge? [LB733]

SENATOR SCHUMACHER: I know that it's a concern in the smaller counties. You don't have the resources of people available in order to draw on and you...to have a credentialized population of...to bring those workers in from. This is certainly a big tool to the smaller counties. I would guess it also is to the larger counties, but I can't speak authoritatively as to that. [LB733]

SENATOR HADLEY: And I...it seems to me that we're putting the assessor, potentially, in a very difficult position too, because they're responsible for the assessment in their county that's being judged by people above them and, of course, by the taxpayer through TERC. And so they're, basically, responsible for the person who is helping them do the mass assessment, so they certainly want to hire the best person they can and that they can afford. [LB733]

SENATOR SCHUMACHER: And I think there's another thing that came out a little bit in the testimony is the conflict of interest issue. If you require them to be fee appraisers and you have to use fee appraisers, then is a fee appraiser who works for a county preempted from doing private work against the county in another county or even in the same county? We get into all those issues. We're dealing with two different levels of care, two different levels of credentials, two different tasks. A fee appraisal...and probably most of you have seen them, is a fairly nice document that starts out with the subject property, does comparisons, pictures, analysis, all kinds of disclaimers as to what is not being said, and they're expensive. And so I think we're dealing with apples and oranges here. But the primary thing is that we've got to assess property as fairly as possible when you got to do a whole county's worth and to keep the property tax money coming in. [LB733]

SENATOR HADLEY: Thank you, Senator Schumacher, we appreciate it. With that we will close the hearing on LB733 and we will start with LB867 and I will turn the Chair over to Senator Schumacher. [LB733]

SENATOR SCHUMACHER: Senator Hadley, welcome to the Revenue Committee. [LB867]

SENATOR HADLEY: As I said yesterday, the most outstanding committee there is in the Legislature, potentially in the United States. (Laughter) [LB867]

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

Revenue Committee  
January 23, 2014

---

SENATOR JANSSEN: Always more fun when the Chairman is gone...oh, wait.  
(Laughter) [LB867]

SENATOR HADLEY: My name is Galen Hadley, that's G-a-l-e-n H-a-d-l-e-y, I represent District 37 and I'm here with LB867. LB867 clarifies the authority of city governments to examine information at the Department of Revenue on the local option sales and use tax. In 2012, the Legislature enacted LB209 to allow city governments to go to the Department of Revenue to review sales tax information for businesses within the city to determine whether the local option sales tax was being paid and properly allocated to the city. This includes review of permitholders and the sales taxes they collect. The city could then work with the department to correct any errors. The law allowed a city employee to make the examination, but provided that the employee was under strict confidentiality requirements and could not reveal any confidential information to anyone. LB867 makes two clarifications to the law passed in 2012. LB867 clarifies that the examination includes use tax information. We in essence,...and in addition to the sales tax information. When we passed LB209 we left out the use tax. The bill also allows this information to be examined by either a city employee or an individual who contracts with the requesting municipality to provide financial accounting or other administrative services. The individual would be under the same confidentiality requirements imposed on the employee. There are certain small cities that, for example, would contract with a CPA to be their financial officer. And what this would allow them to do would be to use that person to be the representative, but they would come under the same confidential requirements. With that, there are a number of people, I think, that want to testify. I think this was just an oversight on our part when we did LB209 and this corrects it and gives the cities better information with which to collect the correct taxes. I'd be happy to answer any questions. [LB867]

SENATOR SCHUMACHER: Any questions for Senator Hadley? Thank you, Senator Hadley. [LB867]

SENATOR HADLEY: Thank you. [LB867]

SENATOR SCHUMACHER: Proponents for LB867. [LB867]

DOUGLAS KINDIG: (Exhibits 9 and 10) Well, good afternoon, Senator Hadley and members of the Revenue Committee. I'm Douglas Kindig, K-i-n-d-i-g, mayor of the city of La Vista. I appear before you today on behalf of the United Cities of Sarpy County: Gretna, Papillion, Springfield, and La Vista. We would like to thank Senator Hadley for bringing forth LB867 which would make necessary revisions to LB209 of 2012 which was advanced by this committee, approved by the Unicameral, and signed by the Governor. The changes embodied in LB867 are essentials to the cities I represent here today. It will give our cities and cities throughout Nebraska the information we need to more adequately prepare our budgets and develop long-range financial plans. When I

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

Revenue Committee  
January 23, 2014

---

appeared before this committee during the Tax Modernization Committee hearings, I discussed the impact that a \$2.5 million reduction in our sales tax receipts had on our budget. While I will not restate that issue here today, I do want to reiterate that cities need to have access to sales and use tax information from those businesses remitting sales and use tax within our jurisdictional boundaries. Municipalities need to understand their sales and use tax revenues, just like a family or business needs to know their income in order to plan their budgets. The ability to access sales and use tax data will allow us to monitor the trends and anticipate irregularities that may show up later in terms of sales and use tax refunds which impact our budgets. We believe that LB867 accomplishes our objectives and as a result it is the highest priority for La Vista and the United Cities of Sarpy County this legislative session. I hope you will advance LB867 to General File. And I've also provided you a copy of the process my financial director goes through to obtain the sales tax numbers available to us at this time. Thank you, Chairman Hadley and members, for your attention. I'll try to answer any questions you may have. [LB867]

SENATOR SCHUMACHER: Any questions for Mr. Kindig? Senator Janssen. [LB867]

SENATOR JANSSEN: Thanks for coming, Mayor. I believe, actually, to look at this thing, this was my priority bill from two years ago that we've changed. I think it was Abbie Cornett's actual bill; but I prioritized. [LB867]

DOUGLAS KINDIG: Correct. [LB867]

SENATOR JANSSEN: Do you think with the changes in this...it seems very minor and like you said an oversight in the original bill that this would create an exceptional amount more work involved with compiling this data? [LB867]

DOUGLAS KINDIG: You know, my opinion, it wouldn't take a lot more work to be able to compile this data. But I think this helps us get the information we need now to be able to plan our budgets. I think for right now this is what we need. If things need to be, maybe, tweaked a little later, that may be something. But for right now, we need to have this for our financial planning. [LB867]

SENATOR JANSSEN: It seems fairly simple, something that's already being done. [LB867]

DOUGLAS KINDIG: I think as Senator Hadley said, we kind of overlooked the use tax. [LB867]

SENATOR JANSSEN: Yeah. [LB867]

DOUGLAS KINDIG: So really, that's what we're asking for is just to be able to see that.

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

Revenue Committee  
January 23, 2014

---

[LB867]

SENATOR JANSSEN: Sales and use tax. [LB867]

DOUGLAS KINDIG: Yeah, sales and use tax. [LB867]

SENATOR JANSSEN: Usually runs together. So yeah, it probably was an oversight. [LB867]

DOUGLAS KINDIG: Yeah. At the time we weren't aware that some of the businesses, especially in Lincoln, Nebraska, they pay use tax instead of sales tax. [LB867]

SENATOR JANSSEN: I'll blame Senator Cornett on that, not me; settle for prioritize. [LB867]

DOUGLAS KINDIG: I would understand, Senator. [LB867]

SENATOR JANSSEN: Thank you, Mayor. [LB867]

SENATOR SCHUMACHER: Senator Sullivan. [LB867]

SENATOR SULLIVAN: Thank you, Senator Schumacher. And thank you for your testimony. Just one question about the confidentiality, does the person coming in have to sign anything as to a confidentiality, or is that just understood? [LB867]

DOUGLAS KINDIG: Senator, I don't know the answer to that question. [LB867]

SENATOR SULLIVAN: Oh, okay. [LB867]

DOUGLAS KINDIG: I know that if I were to ask my finance director, she would tell me, no, I'm not going to tell you. So she doesn't share that with us, but it does help us with financial planning. But I don't know if they have to sign that or not, Senator. [LB867]

SENATOR SULLIVAN: Okay, all right, thank you. [LB867]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. [LB867]

DOUGLAS KINDIG: Thank you. [LB867]

SENATOR SCHUMACHER: More proponents. Welcome to the Revenue Committee. [LB867]

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

Revenue Committee  
January 23, 2014

---

CASSIE SEAGREN: (Exhibit 11) Thank you. Good afternoon. My name is Cassie Seagren, C-a-s-s-i-e S-e-a-g-r-e-n with the city of Omaha. Economic development is often a public/private partnership that requires investment dollars from local municipalities and governmental agencies. To make the case to mayors, city councils, and other elected officials that these funds should be designated for economic development and growth, one must first understand the risks and the rewards. Business decisions are no different. Oftentimes, they have the potential to affect many individuals, as well as communities, both positively and negatively. When a business makes a decision to locate in Nebraska, they know with some certainty the calculated risks they are taking, as well as the rewards they will reap. One may ask wherein lies the problem? If a business chooses to locate or expand their operations in Nebraska, we see this as a win, a sign of positive economic growth. But long after the groundbreaking and ribbon cutting are over, many Nebraska communities are left with the biggest risk of all: trying to maintain the balanced budget while attempting to plan for various refunds that they may owe through the Nebraska Advantage Act. LB867 provides an avenue for municipalities to obtain this information. This is why the city of Omaha does support LB867. In the handout that I've provided, you can see the wild swings that we...can tend to have with not only the sales tax refunds, but as well as collections coming in. By being able to get a full picture of what is actually out there, this will help us maintain our budget. And with that I would entertain any questions you may have. [LB867]

SENATOR SCHUMACHER: Any questions from members of the committee? Seeing none, thank you for your testimony. [LB867]

CASSIE SEAGREN: Thank you. [LB867]

LYNN REX: Senator Schumacher, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Thank you very much for the opportunity to be here today. And also thanks to Senator Hadley for introducing this important piece of legislation. As is already noted, this is, basically, to clarify LB209 which passed in 2012. And we thank Senator Cornett for putting that in and Senator Janssen, you, for prioritizing that measure. I do think it was an oversight at the time that this was enacted. You'll note that this does two things. Again, expressly states that we can look at all use tax information, not just sales tax information. And also that includes a Form 2, because that's a separate form for use tax, as I understand it. We really want to thank the committee counsel also for all of her work in helping to shape the legislation and make it as accurate as possible here. So we do appreciate that. We think this is critical information for municipalities to have. I think there's other information, as well, municipalities need, but, certainly, this is a very, very important measure for us. And, again, I think when LB209 passed it had an A bill attached to it with \$35,000, as you may remember. And so I would think that that...hope that that would be adequate to address whatever else is needed with this. I mean, I don't have any great understanding of computer work over at the Department of Revenue, but all of

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

Revenue Committee  
January 23, 2014

---

this, obviously, is on computer and it is an IT issue. So with that I'd be happy to respond to any questions that you might have. And, again, really appreciate Senator Hadley introducing this. We hope the committee can advance this bill. We also want to thank the tax commissioner and her staff for meeting with us and working on this issue as well. [LB867]

SENATOR SCHUMACHER: Any questions for Lynn? I just have one. Do you...from the city's perspective or from what has been learned from the commissioner's perspective, see this taking a whole lot of time, a whole lot of extra burden? [LB867]

LYNN REX: I really wouldn't and for this reason: to date, as I understand it, there...I mean, the Department of Revenue has indicated to at least one or two of our cities that there are really just a handful of cities that have made the effort to go in and look at this. But I do think it's important information for municipalities. And as more and more of these refunds become apparent, more and more cities are getting more and more concerned about what their sales tax data really is. And so they're going to need to look at this information. But, Senator, it's all on computer. So I think it would be a much different question if we're doing everything by hand. But, certainly, they're not. And we would hope that this would not be any great burden at all actually. [LB867]

SENATOR SCHUMACHER: Thank you, Lynn. Any other questions for Lynn? Thank you. [LB867]

LYNN REX: Thank you. And again, there was an appropriation with LB209. So, there was \$35,000 put into that at that time. [LB867]

SENATOR SCHUMACHER: Was that a full FTE? [LB867]

LYNN REX: I really can't tell you. I will tell you that the amount that...in LB209A was \$35,365 from the General Fund for FY2013-14 to the department. And it says total expenditures for permanent and temporary salaries and per diems from funds appropriated in this section shall not exceed \$19,554 for FY 2012-13 or \$26,590 for FY 2013-14. So I would imagine \$26,000, certainly, is not a full-time person, I would not imagine that. I can't imagine you would need that kind of a person...that much time to do this at this point. I mean, on the front end I could see where you might need some programming, but after that, I would think that it would be simply a matter of the computer time. My understanding from what's been handed out to by Mayor Kindig is the process for an individual to go and look at this. It does take a staff member, obviously, to have them sign the documents. And in answer to the question, yes, they do have to sign a confidentiality form. I did ask Kim Conroy, Tax Commissioner, whether or not that had to happen. I'm sure it did and it does. So they do make them sign a confidentiality. So there is some contact with, obviously, Department of Revenue person. But I don't think it's anything extensive. That would be my view. But then again,

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

Revenue Committee  
January 23, 2014

---

I'm not the one over there, so. Be happy to respond to any other questions. [LB867]

SENATOR SCHUMACHER: Any other questions? Thank you, Lynn. [LB867]

LYNN REX: Thank you very much. And again, thank you, Senator Hadley. [LB867]

SENATOR SCHUMACHER: More proponents. Seeing none, opponents to LB867. Seeing no opponents, how about anybody in the neutral position? Nobody in the neutral position? Senator Hadley. [LB867]

COMMITTEE MEMBERS: (Inaudible). [LB867]

MARY EGR EDISON: Kim's coming up; the commissioner. [LB867]

SENATOR JANSSEN: Department of Revenue. [LB867]

SENATOR \_\_\_\_\_: Sit down, Senator. Sit down. (Laughter) [LB867]

SENATOR \_\_\_\_\_: Mr. Chairman, please take your seat. [LB867]

COMMITTEE MEMBERS: (Inaudible.) [LB867]

SENATOR HADLEY: That's easy for you to say, it's just a little tougher for me to do. [LB867]

SENATOR SCHUMACHER: Welcome, Commissioner. [LB867]

KIM CONROY: Thank you, Senator Schumacher, Chairman Hadley, members of the committee. My name is Kim Conroy, I'm the tax commissioner, last name is spelled C-o-n-r-o-y and I'm here in just a neutral capacity to explain a few of the details behind the bill and why the fiscal note looks like what it does. LB209 was passed and we've had some experience with it over the past year in particular. It's created a lot more work for the department than what we thought it probably would. We don't just have a computer where we can press a button and easily get the information for a city. The bill in LB209 said sales tax information and it had to be for a business that was located within that city. And that was what we started when we looked at it interpreted sales and use tax. In reality, if a business has a sales tax permit, they're filing a Form 10 with us and if they have any use tax that goes along with that, that is also on the Form 10. So there was no way for us to separate out the use tax on that form and the sales tax. So if the business did have a location in the locality, we were not able to separate out all of it. What we couldn't provide was for those businesses that had a location in the city, but did not have a sales tax permit. And as you heard earlier in testimony, many of those companies are incentive companies. Many of them are service-based types of

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

Revenue Committee  
January 23, 2014

---

companies; many of them don't sell at retail. Many of them have no need to have a sales tax permit. They remit use tax however. And when the cities first started coming in, we said under the act, under LB209, we did not have authority to give you just use tax information. And that was what, I think, led to some of this bill. I don't think it was just a clarification. The process that the department has to go through when a city comes in is fairly detailed. As was testified to, there are steps up front for the designated city employee. They have to go through with their city for that to be approved for them to go through that certification process with the city; they have to go through information with us on confidentiality; and they also have to sign a confidentiality agreement before they come in. Many cities have a...they'll have different things they want to look at when they come in. We have had cities that want to look at every business in their city and not just once a year, but maybe quarterly coming in and looking at information. What we have to do since it's limited to within the location of the city, we have to be able to try to limit what we give them to just those...that are located in the city. And that's not as easy as it sounds. And I won't get into it. We can get into it more. So it takes several people within the department looking at that, putting the information together. We work with the cities when they come in. We follow up with information for them. Sometimes we find businesses that are not licensed because of the cities, and that's good. We then work with those businesses to get them licensed for sales tax purposes. But it does take quite a bit of time. And this is one of the fiscal notes when we actually have the experience behind this with having cities coming in getting us a good idea of how much time it's going to take. So that leads more to my second point of what the fiscal note relates to. It's on page nine of the bill. The language that was added is very broad and it says that we're not just looking at businesses that are located within a city anymore for the sales or use tax, but now we have information regarding any person liable for the use tax and the amounts remitted by such person which are allocable to the requesting municipality. The department believes this is going to do a couple of things. Think about all the different types of businesses in your localities that don't collect sales tax: law firms; engineering firms; I don't know, maybe even banks; lots of different types of companies don't have to collect sales tax. But most companies at one time or another are going to be liable for remitting use tax. And not just companies, any person, it's even individuals would be liable for remitting use tax in the locality. When we saw this language, we said: wow, I mean my staff was going--that vastly expands the pool of information that we're going to have to draw, correlate, analyze, present to the cities and give to them, that was our concern for adding another person because not only is it the amount of information, it's also, we think, we're going to have a lot more cities come in that are going to have access to that use tax information for all of these different types of companies, along with the incentive companies. That's why we had a fiscal note for this bill. And I would certainly take any questions you have about LB209 or the LB867 in front of us. [LB867]

SENATOR SCHUMACHER: Any questions for the commissioner? I have just a couple. Originally, your view that this legislation was to give some predictability to when a city

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

Revenue Committee  
January 23, 2014

---

might get hit with an adjustment because of the Advantage Act or similar programs. [LB867]

KIM CONROY: Senator, I don't think that was the entire intent around the incentive programs. I think it dealt with...I mean, we've had many conversations with Sarpy County cities, and sometimes it dealt with a retail operation that moved from one municipality to another. [LB867]

SENATOR SCHUMACHER: And whether they were getting their correct sales tax? [LB867]

KIM CONROY: Right, right. And then it has kind of evolved into the incentive companies, to a certain extent, but I think at first it started to make sure that the department was correct...was correctly collecting and then remitting taxes to the cities. And then for them to be able to see what the impact would be if a retailer in their location decided to move out or move in. [LB867]

SENATOR SCHUMACHER: And what I gather from your testimony is that you view this particular piece of legislation as opening up fishing expeditions for cities looking across and saying, well, business X, let's see what they pay, and oh my gosh, they must owe a use tax, so we should go after them. Is that what (inaudible). [LB867]

KIM CONROY: Senator, I don't think it's...we don't...we've had good working relationship with the cities, I think. I don't think it's opening up a fishing expedition for them. Of course, they're trying to get more information and we'll work with them on that, but it's just...this language that I read to you just so vastly expands the amount of information available to them that we just...we don't see how we can handle it with existing resources. [LB867]

SENATOR SCHUMACHER: And so basically the city might ask for...I want to see what Company X is paying for use tax and then you'd have to provide them with that information and they could take a look at if that company was submitting use tax or how much use tax they're submitting? [LB867]

KIM CONROY: Yes, I believe they...and they do ask that on specific businesses for the sales tax. So that could be the same with the use tax too. [LB867]

SENATOR SCHUMACHER: I don't have any other questions. Does anyone else on the committee? Any follow-up questions? [LB867]

KIM CONROY: Thank you. [LB867]

SENATOR SCHUMACHER: Thank you for your testimony today. Any other folks in the

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

Revenue Committee  
January 23, 2014

---

neutral capacity? Senator Hadley. [LB867]

SENATOR HADLEY: Senator Schumacher and members of the committee, I think this is an important bill. And I do think, after sitting on this committee for...this will be the sixth year, we have heard a lot from cities about trying to get a handle on when some of these incentives might come back to pay...that they have to take it out and I think the more information we can give them. The idea of checking to see about particular companies, I can't remember whether it was last year or the year before, but I believe in Senator Hansen's district there was a firm that felt that they were outside the city, maybe a country western store, I can't remember, that was outside the city, but then they determined they were in the city and they were not collecting. So maybe these are the kind of situations that could come about. Since the confidentiality is there, I think it is very appropriate we do this. And I think it's up to us to help the cities get this kind of information for their planning purposes. They're budgeting the same way we are and we have the ability to probably do a real good job of estimating the sales taxes we're going to get because we see a lot of the data. So I think this is just a good bill and I hope the committee will support it as we go on. I'll be happy to answer any questions. [LB867]

SENATOR SCHUMACHER: Any questions for Senator Hadley? Thank you, Senator Hadley. [LB867]

SENATOR HADLEY: Thank you. [LB867]

SENATOR SCHUMACHER: That concludes the hearing on LB867. [LB867]