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Revenue Committee  
January 20, 2017

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[LB63 LB77]

The Committee on Revenue met at 1:30 p.m. on Friday, January 20, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB63 and LB77. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Brett Lindstrom; and Paul Schumacher. Senators absent: Burke Harr and Tyson Larson.

SENATOR SMITH: Good afternoon, everyone. And we're going to get started. Welcome to the Revenue Committee public hearing. My name is Jim Smith. I represent District 14 in Sarpy County and I'm the Chair of the committee. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding, I ask that you follow the following procedures. First, please turn off your cell phones and other electronic devices. Those that are wishing to testify, once someone is in that seat if you would move to the front of the room so we can facilitate your movement into that chair quickly. The order of testimony will be introducer of the bill, proponents of the bill, opponents, those wishing to testify in a neutral capacity, and then closing remarks by the introducer. If you will be testifying, please complete the green form and hand it to the committee clerk when you come up to testify. If you have written testimony, or exhibits for the committee, and you would like to distribute it to the committee, please hand them to the page to distribute. We will need 11 copies for all committee members and staff. If you need assistance in making those copies, just let us know. When you begin to testify, we ask that you please state and spell your name for the record. Please be concise. We will use the light system. We will provide...when the light is green, you have four minutes to provide your testimony. The light will turn to amber for one minute, and then once it turns to red, we would like for you to please wrap up your comments, if you have not done so already. If you would like your position to be known but do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. Please speak directly into the microphone so the transcribers are able to hear your testimony clearly. The microphone is not for amplification. It is for the recording of your testimony and the transcribers. That's why we ask that you spell your name as well. So I'd like to introduce the committee staff. To my immediate right is legal counsel, Mary Jane Egr Edson; to my immediate left is research analyst, Kay Bergquist; and to my left at the end of the table is committee clerk, Krissa Delka. Committee members with us today will introduce themselves, but I will first introduce Senator Larson. He is absent today but he would at the end of the table, and then next to him.

SENATOR GROENE: Senator Mike Groene, District 42, Lincoln County.

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SENATOR LINDSTROM: Senator Brett Lindstrom, District 18, northwest Omaha.

SENATOR FRIESEN: Curt Friesen, District 34, Hamilton, Merrick, Nance, and part of Hall County.

SENATOR BRASCH: Senator Lydia Brasch, District 16, Cuming County, Burt County, and Washington County.

SENATOR SCHUMACHER: Paul Schumacher, District 22. That's Platte, parts of Colfax and Stanton County.

SENATOR SMITH: And Senator Burke Harr may be joining us a bit later. He represents Omaha. Our pager...our pages are Alexi from Milwaukee, Wisconsin, and Sarah from Topeka, Kansas. We appreciate them helping us today. So please remember that senators may come and go during our hearing as they may have bills to introduce in other committees. And lastly, we are an electronics equipped committee so you may see the members of the committee referencing electronic devices for information. We receive our information both in paper and electronically, so please do not be offended by that. And with that, we will begin our hearing on our first bill, LB63. That was introduced by Senator Scheer and I believe Senator Scheer has a representative introducing that bill today. The bill relates to eliminating a sales and use tax exemption relating to political events. Welcome.

LAURIE WEBER: Thank you. Chairman Smith, members of the Revenue Committee, my name is Laurie Weber. That's spelled L-a-u-r-i-e, Weber, W-e-b-e-r. I'm a research analyst for Speaker Jim Scheer, here to introduce LB63 on his behalf. He asked me to extend to you his apologies for being unable to be here himself. He had a previous engagement. LB63 eliminates the sales and use tax exemption currently in place for prepared food, food, and food ingredients sold at a political event by ballot question committees, independent committees, and political party committees, and also it eliminates the exemption for fees and admissions charged for such political events. Senator Scheer introduced this bill at the request of former Senator Dave Bloomfield who is here to testify in favor of LB63 following this introduction. And with that, I'd be happy to answer any questions you may have. [LB63]

SENATOR SMITH: Thank you for introducing the bill. I do not see any questions from the committee. [LB63]

LAURIE WEBER: Thank you. [LB63]

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SENATOR SMITH: Thank you. And I assume you're waiving closing? [LB63]

LAURIE WEBER: Correct. [LB63]

SENATOR SMITH: Okay. Thank you. All right. We now would like to move to proponents of LB63, those wishing to testify in support of the bill. Welcome, Senator Bloomfield. [LB63]

DAVE BLOOMFIELD: Thank you and good afternoon, Chairman Smith and members of the Revenue Committee, former colleagues all. I'm here today representing myself in what I believe to be the majority of the people of the state of Nebraska. I'm here to support Speaker Scheer's LB63. Those of you who served on this committee last year may remember a similar bill coming before and passing out of this committee at that time. That bill, LB689, did not make it to the floor of the Legislature during last year's short session. I repeatedly asked Speaker Hadley for a speaker priority on it, but did not receive one. As we neared the end of the session, Senator Scheer had a bill that we believed this could have been easily amended into and he agreed to do so. At that time, then Speaker Hadley informed us that if we did attempt to add LB689 to Senator Scheer's bill, that it would not be allowed to move forward. Two things became suddenly very clear that day, the power of the Speaker, and the fact that Senator Hadley did not like my bill. (Laughter) I withdrew my amendment and asked Senator Scheer to consider introducing the bill again this year, and being a man of his word, it is before you now. This idea came about because two years ago I had a bill which asked for a sales tax exemption on food sold by service groups such as the American Legion, the VFW clubs. That bill died in committee because it was feared that other service groups, like the Lions Club and the Eagles, would ask for the same exemption and that it could create unfair competition against for-profit restaurants and night clubs. I wasn't convinced but at least it was a reason. It was while doing research on that bill that I found out that politicians had long since passed such an exemption for themselves. Being a veteran, that put quite a twist in my tail. So, this bill came the following year. I firmly believe that Nebraska is better than that. A few hours ago we, as Americans, inaugurated a new president who the people asked to go to Washington and drain the swamp. Well, when veterans have to pay taxes, the politicians don't, it would appear that we here in Nebraska might have a bit of a marsh too. I'm asking each of you to remove this exemption and lower the swamp just a little. It's a right thing and a fair thing to do and it might even create a little much needed revenue. I assure you that no wetland animals will be harmed, but I suppose a few career politicians could get their feathers ruffled a bit. Thank you, and I'll try to answer any questions you might have. [LB63]

SENATOR SMITH: Thank you, Senator Bloomfield. Do we have any questions from the committee for Senator Bloomfield? Senator Brasch. [LB63]

SENATOR BRASCH: Thank you. I just want to welcome you back. [LB63]

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DAVE BLOOMFIELD: Thank you. [LB63]

SENATOR BRASCH: I understand you're position on this and looking at them equally is, in my belief, a good thing too. And at this point, you know, we are looking at exemptions that may need to be removed. I'm always entertained by your words. I've always told you that. I think when the gentleman retires from postcards from the edge, you've got a job there, so. [LB63]

DAVE BLOOMFIELD: There's no rose in the middle of this onion either, Senator Brasch. (Laughter) [LB63]

SENATOR BRASCH: That's right. That is my favorite. So, thank you. Good to see you again. [LB63]

DAVE BLOOMFIELD: Thank you. [LB63]

SENATOR SMITH: I see no...oh, Senator Schumacher has a question for you. [LB63]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Good to see you again, Dave. [LB63]

DAVE BLOOMFIELD: You too. [LB63]

SENATOR SMITH: Well, I...oh, Senator Groene. [LB63]

DAVE BLOOMFIELD: Here comes trouble. (Laughter) [LB63]

SENATOR GROENE: No praise here, buddy. But anyway, thank you, Senator...Chairman. If anybody liked questions it was you...you and I in Government Committee, so I'll honor you with one. So somebody...I've never done this, so I don't know anything about it, but I lot of...I get these little cards in the mail that said \$1,000, come to dinner, give five hundred bucks. Now are we going to charge sales tax on the \$1,000 or the \$5 hamburger they give you? [LB63]

DAVE BLOOMFIELD: I believe if you are paying by the plate, you will be paying by the plate, not the food. [LB63]

SENATOR GROENE: So they'll separate that in a hurry. [LB63]

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DAVE BLOOMFIELD: I would imagine. There you are going to go down to a donation and a meal. [LB63]

SENATOR GROENE: It says a thousand dollars and then another five bucks for the hamburger. [LB63]

DAVE BLOOMFIELD: Yeah. [LB63]

SENATOR GROENE: All right. But that's what you're... [LB63]

DAVE BLOOMFIELD: Well, my whole gripe on it is on the very fishy side of it, sometime back political people thought it was just a good idea to exempt themselves and not the veterans, but it comes back to be an aggravated as a veteran, and the fact that I think it's wrong. [LB63]

SENATOR GROENE: So if you have a caterer come in, you are paying... [LB63]

DAVE BLOOMFIELD: You're going to get a little too techie on me there, Senator. [LB63]

SENATOR GROENE: If a caterer comes in, you're probably...whoever sponsors it is probably paying sales tax to the caterer already. [LB63]

DAVE BLOOMFIELD: And whether you could ask for an exemption from that caterer, would that be one of the details for it done? [LB63]

SENATOR GROENE: No, it shouldn't, Senator. They probably are now. Thank you. [LB63]

DAVE BLOOMFIELD: And I don't believe there are a lot of people at this low level--and I'd say that was all due respect to the senators--that are taking advantage of this. But it's...you know, I think maybe some parties are. [LB63]

SENATOR SMITH: Senator Schumacher. [LB63]

SENATOR SCHUMACHER: Thank you, Chairman Smith. So, did I understand your response to Senator Groene, if you have a \$25,000 plate dinner, do we get...would this be charged on a twenty-five grand? [LB63]

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DAVE BLOOMFIELD: My understanding is that it would be unless they split it up and say you're paying \$50 for the dinner and the other \$24,950 is a donation. [LB63]

SENATOR SCHUMACHER: So would that...so in order to get by with just charging the tax of fifty bucks, that would have to be printed on the advertising or something? [LB63]

DAVE BLOOMFIELD: I would think so, yeah. [LB63]

SENATOR SCHUMACHER: Thank you. [LB63]

SENATOR SMITH: Seeing no further questions, thank you, Senator Bloomfield. [LB63]

DAVE BLOOMFIELD: Thank you. [LB63]

SENATOR SMITH: (Exhibits 1 and 2) Good to see you. We now continue with proponents of LB63, those wishing to testify in support of LB63. We do have some letters for the record. First, we have Renee Fry representing OpenSky Policy Institute, sent a letter in support, as did Sarah Curry, representing the Platte Institute. Now you don't see that very often. (Laughter) Next, we will move to opponents, those wishing to testify in opposition to LB63. Seeing none, those wishing to testify in a neutral capacity on LB63. Seeing none, the closing was waived and that concludes our hearing on LB63. We now will move to LB77 introduced by Senator Sue Crawford of Sarpy County, and LB77 deals with changing the provisions relating to access to sales and use tax information by municipalities. Welcome, Senator Crawford. [LB63]

SENATOR CRAWFORD: Welcome. Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Senator Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt, and eastern Sarpy County. I'm honored to be here today to introduce LB77 for your consideration. LB77 makes a simple but important change to the Nebraska Advantage Transformational Tourism and Redevelopment Act, or NATTRA. For those of you who are unfamiliar with the Nebraska Advantage Transformational Tourism and Redevelopment Act, or NATTRA, which was introduced by my predecessor to the Legislature, Senator Abbie Cornett, and passed in 2010, this legislation allows cities following a vote of the people to commit a portion of the local option sales and use tax to either a new project or redevelopment project. I would note that the sales and use tax is only the local option sales tax within that area being developed and does not implicate state sales or use tax. LB77 would provide that in cases where municipality has adopted the Nebraska Advantage Transformational Tourism and Redevelopment Act, the Nebraska Department of Revenue shall provide the municipality, via secure means, electronic copies of the sales and use tax returns for

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retailers located within the redevelopment area. Municipalities play an important administrative role in NATTRA and as administrators of the NATTRA program, it is crucial that these municipalities have timely access to accurate sales and use tax return information. The current process for getting this information involves municipalities sending someone to the Department of Revenue Office to write down all the necessary tax information on a piece of paper and then return back to municipality. This requires municipality to spend tax dollars to send someone down to copy all the information and this method also creates room for human inefficiency and error in the information that's taken back to municipality. I introduced a similar bill in the form of LB1021 during the 2016 session and I thank the committee members who were here at that time, excellent questions asked by committee members during that hearing were valuable as we worked on this issue after the session. During this past interim, I worked with representatives of United Cities of Sarpy County, and with Commissioner Tony Fulton and his staff to prepare the legislation that's before you today in LB77. I'd like to thank the Commissioner Fulton for his work on this issue and attention to this issue. This year's bill directs the tax commissioner to determine the manner in which the secure transmission will go to the requesting municipality. Commissioner Fulton will provide testimony today so I will allow him to discuss the protocol that will be used to securely transmit this information to municipalities. The individual receiving the information on behalf of the municipality is still bound by the same requirements that an employee of the Department of Revenue is bound by when it comes to confidentiality. This bill really just changes the transmission of the process of how that information gets to the municipality. It provides a new means, I should say, on how that information gets to municipality. I will also note that representative of United Cities, Mr. Jeff Kooistra, city administrator from the city of Gretna, will follow me in testimony in order to give the committee some perspective on why LB77 is necessary to add another means. As the city of Gretna is one of only two cities that have adopted this economic development tool, he has a wealth of knowledge and expertise about its implementation, and some of the issues that they are facing with limited, timely access to sales and use tax return data. For the record, the city of La Vista is the other city that has adopted NATTRA for its 84th Street corridor project. I appreciate your time and attention to this issue, Chairman Smith, and I will try to answer any questions that you may have. [LB77]

SENATOR SMITH: Thank you, Senator Crawford. Do we have questions from the committee for Senator Crawford? Senator Groene. [LB77]

SENATOR GROENE: Was this...this isn't LB840 on a big growth fund? [LB77]

SENATOR CRAWFORD: No, it is not. [LB77]

SENATOR GROENE: This is separate. [LB77]

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SENATOR CRAWFORD: Correct. [LB77]

SENATOR SMITH: Seeing no further questions, thank you, Senator Crawford. Will you remain for closing? [LB77]

SENATOR CRAWFORD: I will, yes. [LB77]

SENATOR SMITH: Thank you. We now move to proponents of LB77, those wishing to testify in support of LB77. Welcome. [LB77]

JEFF KOOISTRA: (Exhibit 1) Thank you. Good afternoon, Chairperson Smith and members of the Revenue Committee. My name is Jeff Kooistra, K-o-o-i-s-t-r-a. I serve as the city administrator for the city of Gretna. Why I'm here to speak in support of LB77 primarily on behalf of Gretna. I also represent the United Cities of Sarpy County which includes the cities of Papillion, La Vista and Springfield, who also support this proposed legislation. We appreciate Senator Crawford's introducing LB77 at our request. The city of Gretna approved by vote of the citizens a 1.5 percent sales tax. The city also approved LB1018 which allows the city to commit this sales tax and that is generated from a development to be paid to the developer as an incentive for a specified project. The city of Gretna agreed to this incentive to redevelop the Nebraska Crossing Outlet in 2013. Our agreement is not to exceed 10 years. The 1.5 percent sales tax is levied throughout the city and it is remitted to us from the Revenue Department monthly in one payment. It is our responsibility to separate the amount that is owed to the mall developer and the amount that comes to the city. The city's authorized person is presently required to come to the Revenue Department to obtain the needed information and to make this separation. This separation is accomplished by totaling the sales tax generated by 70-plus businesses at the Outlet Mall. This is a tedious and time-consuming task. Presently, the city's certified person is required to manually write all this data down from information supplied by the Revenue Department at their offices. This information includes gross sales, net taxable sales, city sales tax, and city use tax for each store requested. We ask that this data be available to our certified person in an agreed upon secure format and that this information be sent to our designated person. Presently, our designated person needs to arrange a time with the Revenue Department to come to their office to view the data requested. This takes the city's certified person one-half day including driving time. For communities in the western part of the state, this would require possibly an overnight stay. By passing this bill, our limited public funds can be better utilized while still maintaining the confidentiality and security of the sales tax data. We want to thank you for your time and consideration this afternoon. We also would like to publicly thank Commissioner Tony Fulton and his staff for working with us, and with Senator Crawford to develop this version of LB77 that was address this concern in the version that was introduced last session. We



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respectfully request that you advance LB77 as currently drafted. I would be happy to try to answer any questions you might have. [LB77]

SENATOR SMITH: Do we have any questions from the committee? Senator Groene. [LB77]

SENATOR GROENE: What was the other community besides you that's taken advantage of this? [LB77]

JEFF KOOISTRA: La Vista is going to. They're redeveloping their 84th Street corridor. [LB77]

SENATOR GROENE: And there is mention of here in Nebraska Advantage Act. Is this a section of that act? [LB77]

JEFF KOOISTRA: Yes. [LB77]

SENATOR GROENE: It is. Thank you. [LB77]

SENATOR SMITH: Senator Schumacher. [LB77]

SENATOR SCHUMACHER: Thank you, Senator Smith, and thank you for your testimony. When you get into, you're talking about how you separate things out, the income generated within the shopping center area, and that raised a question in my mind. Will you need additional data or how will you handle, let's say, one of these stores in the shopping center area decides to sell on-line, and will you get that tax? Will the community in Nebraska, that that person lives in get the tax? The person that's out of state, will they have to pay the tax and how will you know? Are you going to need that data too? [LB77]

JEFF KOOISTRA: Well, if there's a local option of sales tax attributed to that sale even if it's on-line, then we would need to know that information. I think the Commissioner probably can answer that better than I can since he deals with that on a daily basis, I'm sure with all the retailers in the state. But, you know, if there was a local option sales tax on that item that was sold, of course, want to know what that was, so. [LB77]

SENATOR SCHUMACHER: I mean, I'm thinking like with some out-of-state vendor, particularly if we have...we pass this single tax Internet sales, I was under the impression that the tax rate of where the person, the purchaser was at would apply, but if they had a city that never did sales tax, if you go 5.5 percent, but if you had one that was eating the full amount, it would

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be whatever, 7.5 percent of whatever, and it wasn't where the sale took place, but where the purchaser was at. [LB77]

JEFF KOOISTRA: And that's probably taking place today and so that information is already being developed and the Commissioner probably could answer that. This doesn't really address that issue. It's probably being...it's a good question, but I probably can't answer that. I'm sorry. [LB77]

SENATOR SCHUMACHER: Well, I just wondered if you knew the information or if this is comprehensive enough for you to get what you need, or what we might need to need? [LB77]

JEFF KOOISTRA: I think what they supplied to us at the Revenue Department has been very adequate. It's been very good for what we need it for. It's just a matter of how we get it, that's the biggest issue, so. [LB77]

SENATOR SCHUMACHER: Thank you. [LB77]

JEFF KOOISTRA: Thank you. [LB77]

SENATOR SMITH: I see no further questions. Thank you, Mr. Kooistra, for your testimony. [LB77]

JEFF KOOISTRA: Thank you very much. [LB77]

SENATOR SMITH: We continue with proponents of LB77, those wishing to testify in support of LB77. Welcome. [LB77]

LYNN REX: Thank you, Senator Smith, members of the committee. My name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We're here today in strong support of this measure. I think Mr. Kooistra outlined the reasons why this is important and especially for those municipalities, the two that are involved in this and have to separate that information out. It's critically important that they have that and we really do appreciate Senator Crawford introducing this bill. We appreciate the hard work of the tax commissioner and the cities involved in this. I'd be happy to respond to any questions that you might have. [LB77]

SENATOR SMITH: Thank you, Ms. Rex. Questions for Ms. Rex? I see none. Thank you. [LB77]

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LYNN REX: Thank you very much. [LB77]

SENATOR SMITH: Next proponent of LB77? Seeing no additional proponents, we move to opponents. Anyone wishing to testify in opposition to LB77? Seeing none, those wishing to testify in a neutral capacity? Welcome, Commissioner. [LB77]

TONY FULTON: Thank you. Thank you, Chairman Smith, members of the committee. My name is Tony Fulton, T-o-n-y F-u-l-t-o-n and I am the Tax Commissioner for Nebraska here to provide neutral testimony on LB77 which would provide a limited exception to the usual requirement that confidential tax information always be viewed on the premises of the department. This bill would allow the individual who is certified by a municipality to view confidential sales tax return information to request to receive the information electronically, if the municipality has an agreement in effect under the Nebraska Transformational Tourism and Redevelopment Act. As you know, the Department of Revenue takes protection of confidential taxpayer information very seriously. It's the bedrock of voluntary compliance and it's crucial to our efficient and effective operations. Many of you may also remember Senator Crawford's bill from last year, LB1021. Over the summer, Senator Crawford met with me and other employees of the department to discuss her concerns, and as a result, LB77 is much narrower than was LB1021. By limiting its scope to only those cities with an agreement under the NTTRA, only two cities currently which we touched on earlier, Gretna and La Vista, will be able to receive sales tax information electronically. Another concession agreed to by Senator Crawford is that the data will be secured in a manner as determined by the tax commissioner. At this point I've not decided the entirety of the protocol by which we would protect this data, but at a minimum we would use encryption technology for the transmission of the data and we would also provide a reminder to that certified individual receiving the data that he or she is still bound to protect the confidentiality of the data. There are other technological considerations that we'll undergo, but just being frank, we haven't thought through the entirety of the protocol. But certainly there will have to be some type of encryption for the information. Senator Crawford, in listening to and serving her constituents, presented us a real world problem that needed to be solved and so we collaborated with Senator Crawford to solve it and that ultimately is the upshot of the bill that you have before you. One final limitation in LB77 to point out, so that I pointed out to you in this bill is that it's limited to sales and use tax information and so I just...I want to be clear particularly in front of this...your committee, my testimony would not be the same even with the protections I touched on earlier if the information being sought was income tax data. While the department takes protection of confidential sales tax data just as seriously as the protection of income tax data, outside access of any kind to federal income tax data is prohibited not only by state but also federal law. So these were some of the things that I considered as we were sitting down to talk with Senator Crawford. And ultimately these limitations in the bill and her agreement to introduce the bill in this form provides a venue by which I think we can work

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something out in the event that you guys here in the committee move this thing forward. So that's the end of my testimony. Any questions? [LB77]

SENATOR SMITH: Senator Friesen. [LB77]

SENATOR FRIESEN: Thank you, Chairman Smith. Commissioner Fulton, good to see you here. I know in the past cities have always asked for a lot of information when it came to sales tax in order to try and determine different revenue and whether businesses were paying in or not, or...those were questions at least came up years ago when 1.5 percent was first implemented. So with this data here, is the data that they're requesting, is it broken down already into specific areas, or are you presenting general sales tax information for the whole area? Is it just concerning this program? [LB77]

TONY FULTON: There is specificity to the data that is being viewed. The way the process works, I think it's actually touched on in the bill. It's...in the existing language of the statute, I guess I should say, that's presented in the bill. There is an individual who is certified to the department on behalf of a municipality to come and view the information, but there is specificity to the information and that's why we are so concerned about the confidentiality of the data. [LB77]

SENATOR FRIESEN: So does that data by the city need to be broken down further? Is that why they want access to it, or is the total not good enough? I mean, if you would report the total amount of sales tax, is that not be what they're after, or do they need it broken down further? [LB77]

TONY FULTON: I don't know for certain, but my assumption is they need to have more than just an aggregated data, otherwise they wouldn't be asking for the bill. I'm not positive, though. That might be a question for the city. [LB77]

SENATOR FRIESEN: Okay, so what makes this program different from other sales tax programs that are out there, some that recoup sales tax revenue? There's other programs out there. Is this one any different than any of those? [LB77]

TONY FULTON: Yes. Yeah, I suppose we could...yeah. I think it would be prudent...yeah, we should...I need...there's a lot of detail that would be involved in that answer, I guess. Probably not able to do it here. [LB77]

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SENATOR FRIESEN: Because, I mean the question that came up a little earlier, I mean, talking about on-line sales, obviously that sales tax go to the buyer versus the seller when you're doing it on-line. Is that correct? [LB77]

TONY FULTON: Say it again. [LB77]

SENATOR FRIESEN: If you do an on-line sales from one of those locations, the 1.5 percent if it's collected it goes...if it's collected at the buyers end when it's an on-line sale, is that correct? [LB77]

TONY FULTON: The retailer is collecting the on-line sales, on-line sales tax. [LB77]

SENATOR FRIESEN: Right, but it would be according to the buyer's rate, correct? If it's on-line sale shipped to another location. [LB77]

TONY FULTON: Right. [LB77]

SENATOR FRIESEN: And if I'm purchasing on-line from inside this area, the sales tax comes back to my location, right? [LB77]

TONY FULTON: The location of the purchase. [LB77]

SENATOR FRIESEN: Okay. [LB77]

TONY FULTON: And I do...I brought a couple of individual colleagues of mine from the department who might be able to answer questions, with more specific questions if the committee would like that. [LB77]

SENATOR FRIESEN: Okay. Thank you. [LB77]

SENATOR SMITH: Senator Schumacher, and then Senator Groene. [LB77]

SENATOR SCHUMACHER: Thank you, Chairman Smith. As I understand what the proposition is before us is when the city generally throws on a sales tax it's for everything within its jurisdiction and that tax rate applies. But what they need this information for is because for a sub-area within their jurisdiction near the shopping center, in whatever zone that gets a special deal within the jurisdiction, they need to know those numbers in order to determine the amount

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of kickback from the shopping center fee. And that's why the aggregate won't work. Am I warm there? Is that kind of what moves on? [LB77]

TONY FULTON: I believe that's...yeah, I believe so. [LB77]

SENATOR SCHUMACHER: And then on the data. You transmit this file over, whatever, by e-mail or encrypted fashion, somebody on the receiving end unencrypts it and it either sits on...is there any rules or do you contemplate any...sits on that person's laptop, or it sits on a city's server which then may be backed up over the cloud to a server in Timbuktu. Any...you intend on addressing in the bill's issues if this is really necessary to be secured? [LB77]

TONY FULTON: We will address those issues and I think I even used the term Timbuktu when we were talking about this. (Laughter) That's the type of thing, in the event this...the committee moves this bill forward, I...as this was presented to me, I tried to look at it, you know, reasonably. And what I said...I think what I said, another thing I said was we can put a man on the moon but we can't come up with a way to safely get this data because I understand the hardship that's being experienced by these individuals from...you know, who are miles away. So this is limited in fashion, it's limited in nature. There aren't a number of cities utilizing it now. It just seemed to me that this is something I believe we can get across in a secure way. So certainly encryption is going to be part of it. We'll communicate with the individual. Again, this has not been fully thought out, but I've given some thought to it. We'll communicate to the individual who will be...who is certified by the department to verify that indeed that's the person who is receiving the information. We'll need to verify in some way that it's not being uploaded to Timbuktu. Those are things that technology exists to do this and we'll obviously want to do it in such a way as to not cost a lot of money to the department, but this is limited such that I believe we can do that. [LB77]

SENATOR SCHUMACHER: What is the underlying reason for keeping the sales tax information confidential? I can understand...I'm with you on the income tax, but so what? What's the reason for not just, a motion is on what page? [LB77]

TONY FULTON: Well, there's a certain...it can go deeper than this, but there's a certain confidence that is engendered in those taxpayers understanding that their information is confidential. So I suppose...there could be...so that's underlying, I believe, philosophically what we're talking about. So I'll proffer some ideas as to how this might be a concern to an individual taxpayer who is a business. And we talked about this in our discussion in the Department. I also own a business and I don't necessarily want to have competitors understanding what kind of sales I do during certain times of year. You know that might be one example, but generally this is...we protect...this committee is well-aware, we protect taxpayer data, taxpayer information. It's

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confidential. We treat it that way, and so that's why we go to great lengths to maintain that confidentiality and ostensibly it might appear that it's overkill, we don't feel that way. And I've only been in the Department one year and this has been impressed upon me in the Department. I'm also Joe citizen and I can tell you that there's a certain amount of confidence engendered in a tax system that's voluntary, which is what we have in Nebraska. We have to protect that. [LB77]

SENATOR SCHUMACHER: Isn't the real reason that we can go to the moon--or once upon a time can go to the moon--and have difficulties with this is one's done by engineers, the other one's done by politicians? (Laughter) [LB77]

TONY FULTON: No comment, Senator. (Laughter) [LB77]

SENATOR SMITH: Senator Groene. And you check both of those boxes, don't you? [LB77]

TONY FULTON: True, true statement. [LB77]

SENATOR GROENE: Thank you, Chairman. Tell me if I'm wrong, but the Advantage Act has a lot of sales tax paybacks, but on most of them, you guys figure out what they paid and then you send that business a check and the city never sees it. I think there was a conflict here a few years back where the cities were budgeting expecting this sales tax and all of a sudden you took it away from them, and they never knew it that it was going to be taken away. But in this case, this is a local agreement. You're paying the city the sales tax and then they have to calculate how much goes to that development is the way I understand it. Is that correct? [LB77]

TONY FULTON: And this...this is not a part of Nebraska...Nebraska Advantage Act. [LB77]

SENATOR GROENE: The word Advantage Act is used in here. [LB77]

TONY FULTON: I believe it's a different part of the statute. [LB77]

SENATOR GROENE: Different Advantage Act. But am I correct, that's two different...? [LB77]

TONY FULTON: Correct. [LB77]

SENATOR GROENE: Do you know which companies have applied for the Advantage Act and then you figure how much sales tax they paid and then you send it back to them, and cities in the past have said, well, wait a minute. We budgeted this money, we expected it, and it disappeared

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when you sent us the check. This is different. The city does it, makes a local agreement, you've sent them their normal sales tax and then they have to calculate how much to give to the business. Is that correct? [LB77]

TONY FULTON: I believe so. [LB77]

SENATOR GROENE: So wouldn't it be a lot simpler if they sent you a list of the businesses and then you went through and calculated how much they paid and you send them the lump sum? That sounds to me like the simpler way to do this. [LB77]

TONY FULTON: That sounds simpler, Senator. [LB77]

SENATOR GROENE: I should have wrote the bill. (Laughter) Anyway...but I think that would be a lot simpler. [LB77]

TONY FULTON: There could be some other things. You're making me think on the fly, which is dangerous. [LB77]

SENATOR GROENE: But they sent you the 70 businesses' names, and said, can you tell us as an aggregate how much they paid last month in sales taxes, that's the number. This confidentiality is maintained. [LB77]

TONY FULTON: That's right. [LB77]

SENATOR GROENE: And it's an aggregate number. If you're honest, you're honest. Thank you. [LB77]

SENATOR SMITH: Thank you, Commissioner Fulton. I don't see any further questions. [LB77]

TONY FULTON: Thank you. [LB77]

SENATOR SMITH: Anyone else wishing to testify in a neutral capacity on LB77? No. All right. I see no further testimony in neutral capacity. Senator Crawford, would you like to close on LB77? [LB77]

SENATOR CRAWFORD: Thank you for your attention to this bill. And again, I appreciate the attention of the returning committee members from last year. That was helpful in moving



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forward on the bill. I was mostly in closing going to try to make sure we wrapped up and answered any questions that were still remaining. I believe Senator Schumacher and the tax commissioner answered Senator Friesen's question. This is a...the sales tax needs to be broken out because this is a case where the revenues from the sales tax on the development specifically go back to the developer, and so it needs to be separated out from the Gretna. The city municipality returns more broadly. And also as you asked, it is different because in this case the municipality does have a role in administrating the program and so they need to know that, have that information to play that role and play their part in making sure that those incentives are delivered. And I appreciate and thank Tax Commissioner Fulton for developing this protocol in terms of making sure that the information is secure and it's something that works for his office and works for the municipalities. And so I appreciate his work on moving forward in that way. Whether or not...but the most important pieces to make sure that the information is provided in a timely manner and that it's done in a way that's sufficient and effective for the municipalities and the Department of Revenue. If there are concerns with the committee wants to consider whether another mechanism is valuable, we could have that conversation. Our effort with the bill was to make a small but very important change in that transmission to take advantage of electronic transmission and security means to make that process one that works better for municipalities without adding too much added responsibility or work on the part of the Department of Revenue. So, I urge your action on this bill and would be ready to answer any other questions if you have any. [LB77]

SENATOR SMITH: Thank you, Senator Crawford. Do we have any remaining questions from the committee? I see none. [LB77]

SENATOR CRAWFORD: Thank you. [LB77]

SENATOR SMITH: Thank you for introducing LB77. That concludes the hearing on LB77 and that concludes the hearings for today. Have a nice weekend. [LB77]