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Revenue Committee
February 23, 2017

[LB232 LB236 LB238 LB249]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 23, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB232, LB236, LB238, and LB249. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Brett Lindstrom; and Paul Schumacher. Senators absent: Tyson Larson.

SENATOR SMITH: Good afternoon and welcome to the Revenue Committee public hearing. My name is Jim Smith, I represent the 14th Legislative District in Sarpy County and I serve as Chair of this committee. The committee will take up the bills in the order posted on the outside of the room today. 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 abide by the following procedures. First, if you would please turn off your cell phones and other electronic devices so they do not disrupt the person testifying before us. Move to the chairs near the front of the room. I know everyone is gathered in the back of the room, but if you're going to testify if you could move up so we can move you into the testifier chair relatively quick. The order of testimony will be the introducer of the bill, proponents of the bill, opponents of the bill, those in a neutral capacity, and then closing remarks by the introducer of the bill. If you will be testifying, please complete the green form and hand that 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 have those distributed, please hand those to the pages as you come up to testify. We will need 11 copies of those documents for all committee members and the staff. If you need assistance in making those copies let us know, we'd be more than happy to help you. When you begin to testify we will need you to not only state your name, but to spell it for the record so we can get it into the record correctly. We're going to use a light system today and unless we get an influx of a lot of folks I think we're going to go with a five-minute testimony. Four minutes with a green light, it will then turns to an amber color for the last minute of your testimony, during which time I ask you to wrap it up. And then it will turn to red and if you could please conclude your remarks when you see the red light. 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. The microphone on the table is not for amplification of your voice, it is simply to take your testimony for the transcriber to record that into the record, so it will not project your voice. Let me now 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 then to my left at the end of the table is committee clerk, Krissa Delka. The committee members with us today, I'm going to have them introduce themselves. At the end of the table will be Senator Tyson Larson, who is not here with us.

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

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

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

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

SENATOR SCHUMACHER: Paul Schumacher, District 22, that's Platte and part of Colfax and Stanton Counties.

SENATOR SMITH: And Senator Burke Harr, representing the Omaha area will be here later during the hearings. We do have pages to assist you today and to help us and they are Alexi Richmond from Milwaukee, Wisconsin, and Sarah from Topeka, Kansas. We appreciate both of them for being here and helping us today. Senators may come and go during the hearing today, so please bear with us. They may have other obligations in other committees, so you will see us moving in and out of the committee hearings. With that, we're going to start the hearings. And the first bill up is going to be LB232, to be introduced by Senator Kolterman. It relates to providing a property tax exemption for property leased to the state or a governmental subdivision. Welcome, Senator Kolterman. [LB232]

SENATOR KOLTERMAN: Good afternoon, Chairman Smith and members of the Revenue Committee. I don't know if I've ever been here before, so this is my maiden voyage with you. [LB232]

SENATOR SMITH: Welcome. [LB232]

SENATOR KOLTERMAN: I'm Senator Mark Kolterman, M-a-r-k K-o-l-t-e-r-m-a-n, and I represent the 24th District in the Nebraska Legislature. I'm here today to introduce LB232, a bill that provides a property tax exemption for property leased to the state or governmental subdivision. I'm introducing it on behalf of the Seward city administration. The city of Seward recently purchased the assets of the Seward Country Club, which included a clubhouse and parking lot. It did not include the golf course itself, as the land is owned by a family in Seward. The land was leased to the country club and now it is leased to the city. Since it is not owned by the city, the city has to pay property tax on the golf course land, even though it is being used for a public purpose. Because of the law we are being forced to levy property taxes to pay property taxes. If we were doing a lease purchase, then the land would be tax exempt. It doesn't make sense to levy a tax to pay a tax. It is my feeling that the law should be changed and exempt

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applied to LB232 to exempt from property taxes the property that is leased by the state or governmental subdivision that is used for a public purpose. I know that there are some concerns with this legislation, specifically that it could reduce the tax base. I'm happy to work with the committee to address any concerns to advance this bill. Thank you and I'm happy to try and answer any questions you might have. [LB232]

SENATOR SMITH: Thank you, Senator Kolterman, for that opening on LB232. Questions from the committee? Senator Schumacher. [LB232]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you, Senator Kolterman, for bringing this. The property leased, are we talking real estate or personal property? [LB232]

SENATOR KOLTERMAN: Real estate. [LB232]

SENATOR SCHUMACHER: So this is in a real estate section? And the...I understand this is brought about by the limited case of your golf course... [LB232]

SENATOR KOLTERMAN: Correct. [LB232]

SENATOR SCHUMACHER: ...but this will apply everywhere. What assurances do we have that the lessor will not just keep the rate the same as it would have been had there been property taxes on the property and basically pocket the savings rather than pass them on to the community? [LB232]

SENATOR KOLTERMAN: I believe that...well, first of all, the lease is like a dollar a year. [LB232]

SENATOR SCHUMACHER: Your lease is. [LB232]

SENATOR KOLTERMAN: Yeah. [LB232]

SENATOR SCHUMACHER: But this isn't limited to leases for a dollar a year. [LB232]

SENATOR KOLTERMAN: I know that, I know that. But in our particular case, it's a dollar a year so it's...for about 60 acres of land. And I know that's the negative aspect of this, how it will affect other cities and communities. We talked about maybe even narrowing this to maybe cities

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of the first class or less and with use for purposes of parks and things of that nature. We know that there's some obstacles to get around. I don't know if we can get that far, but. [LB232]

SENATOR SCHUMACHER: Every time something is written with an ability to take advantage of the system, somebody takes advantage of the system. [LB232]

SENATOR KOLTERMAN: Yeah. And I think you're going to hear testimony in opposition that will talk about that. [LB232]

SENATOR SCHUMACHER: Okay. [LB232]

SENATOR KOLTERMAN: I've visited with NACO on this and also the League of Municipalities. We're trying to get to some common ground. [LB232]

SENATOR SCHUMACHER: You know, if we're giving a tax break to the city, that's one thing. If we're giving tax breaks in some kind of an uncontrolled way to everybody else, then why are cities special? [LB232]

SENATOR KOLTERMAN: Senator Schumacher, I'm very much aware of that challenge. [LB232]

SENATOR SCHUMACHER: Thank you. [LB232]

SENATOR SMITH: Senator Friesen then Senator Groene. [LB232]

SENATOR FRIESEN: Thank you, Chairman Smith. I guess when I read this here and it also covers property leased to the state, so I mean the state leases numerous buildings here in Lincoln I think for office space. And so now we would exempt them from property taxes? [LB232]

SENATOR KOLTERMAN: As it is written, that would be correct. And I'm not suggesting that. [LB232]

SENATOR FRIESEN: Okay. [LB232]

SENATOR KOLTERMAN: I know the flaws of the bill already, so. Senator Groene. Whoops. [LB232]

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SENATOR SMITH: Senator Groene. [LB232]

SENATOR GROENE: So you said the city is paying...excuse me. Thank you, Chairman. So you're...the city don't pay the property taxes, the owner pays the property taxes. You said the city is paying the property tax. [LB232]

SENATOR KOLTERMAN: The city is paying the property taxes on the leased ground. [LB232]

SENATOR GROENE: They don't own it. The real estate tax bill goes to the owner. [LB232]

SENATOR KOLTERMAN: Well, and I don't know what is in their lease, but according to what they're...they have to pay...the assessor sends them the bill and they're paying the property taxes so they have to...at the present time, they assess the property tax to pay the property tax. [LB232]

SENATOR GROENE: So I'm small town America, so I build a handball court in a town of 2,000 and it ain't working. The community likes it, so I go down to the city council and I say, would you lease my handball court for 10 bucks? They say, sure. Now nobody pays property tax on that building and I can still charge membership and I can let the employees at the city play handball? [LB232]

SENATOR KOLTERMAN: The way this bill is written, that would be the case, yes, sir. [LB232]

SENATOR GROENE: Thank you. [LB232]

SENATOR SMITH: I see no further questions. Thank you, Senator Kolterman. We now move to proponents of LB232. Welcome. [LB232]

CHRISTY ABRAHAM: Thank you, Chairman Smith and members of the Revenue Committee. My name is Christy Abraham, Christy is C-h-r-i-s-t-y, Abraham, A-b-r-a-h-a-m, I'm here representing the League of Nebraska Municipalities. Senator Kolterman did a nice job of explaining the situation in Seward. The city of Seward also contacted the League to let us know about this situation. We had various discussions about it. That's when so graciously your legal counsel agreed to meet with us to discuss this proposal and we decided putting it in 77-202 was the best place to put it and you will see the language. We understood just this morning that this bill may have a larger breadth than we intended. Certainly, when we were looking at this situation we were thinking about the city of Seward and their golf course situation. But we did learn that it would...as Senator Friesen mentioned, it's going to take in all those properties that the state is leasing and we don't want to take that much property off the county assessor rolls. So

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we would ask that this bill be limited in some way to municipalities for recreational use. And we do believe cities are special, whoever asked that question, so I just wanted to mention that. The other thing I wanted to mention is I did get an e-mail from the city of Seward. And they indicated that in their lease agreement, you're right, the property owner is the one who pays the property taxes and then the city reimburses them. And this year it was \$7,881, so that's the situation of how it works. So I'm happy to answer any questions you might have. [LB232]

SENATOR SMITH: Thank you, Ms. Abraham. Questions from the committee? I see none. Thank you for your testimony. [LB232]

CHRISTY ABRAHAM: Thank you so much. [LB232]

SENATOR SMITH: Next proponent of LB232. I see none. Do we have opponents, those wishing to testify in opposition to LB232? Welcome, Mr. Dix. [LB232]

LARRY DIX: Good afternoon, Senator Smith and members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x, Executive Director of Nebraska Association of County Officials, appearing today in opposition to LB232. We certainly appreciate the situation that the city of Seward is in and I appreciate always having the conversations with Senator Kolterman, which we've had quite a few on this topic. And as you've heard us before from NACO's point of view, we're consistently concerned about the tax base. I think that's a consideration. When we looked at the bill, we started to in our own minds sort of go through, okay, well, what happens? Similar to what, Senator Friesen, you had mentioned, living in Lincoln I think the building, Gold's building probably virtually almost comes off the tax roll because a majority of that space I think is leased to the state of Nebraska. We had a hard time getting our hands around how much of this really is there in the state of Nebraska and how big is this. But I believe we've got our university system that rents some space, which I think would come off the tax roll. I think there are some buildings in Kearney where the university rents. I think we know that the state of Nebraska does have branch offices for many of their agencies around the whole state. And I think when we start to go through this and add it up I think we're going to see that this is a sizable amount that comes off the tax base. We certainly concur with Senator Schumacher's comment about, how would we know that we lower it? The other thing that of course we wouldn't know, even if we narrow it, we as assessors don't necessarily know when somebody...when that lease changes. That lease could change at any point in time and they could stop leasing to a governmental subdivision and then all of a sudden lease to a private entity. We wouldn't have really any idea or no way to monitor that. So I think everyone gets the idea where our opposition is. So with that, I'd be more than happy to answer any questions anybody has. [LB232]

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SENATOR SMITH: Thank you, Mr. Dix, for your testimony. Questions? Senator Schumacher. [LB232]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you, Mr. Dix, for appearing today. And you have a situation of, what happens in a multistory building if a government leases a floor? Do you get a prorate since that floor is not taxed by square footage or... [LB232]

LARRY DIX: I think it certainly would raise some challenges in the assessment process. Although there are some situations where entities will lease portions of buildings and we do have to make a good faith effort to determine that. And an example may be an Elks Club or something like that. A portion of that is used for a charitable use and then the other portion...what's unique about that is typically those entities own the whole building and we're just doing a percentage of it. But in a large commercial building you've got that. You'd worry about what percentage of the common area, the restrooms, the common reception areas, how do you start to slice and dice that up? And it's going to change every time a different lease is signed. So it does become pretty problematic. [LB232]

SENATOR SCHUMACHER: I think like the Workmen's Comp Court, don't they rent a floor or two in some building very close to here? [LB232]

LARRY DIX: Yeah, I think they do. I think maybe Department of Banking is in the Terminal Building. When you start going through it...I'm not sure...many of us come in on Rosa Parkway. There's a building at the base of that that the state stores a lot of records and boxes in. I'm not so sure even that might be private ownership where I don't know that hardly anybody works in the building, but it's used for storage, so you've got a lot of situations. I think as broad as the bill is written I think we would be surprised. [LB232]

SENATOR SCHUMACHER: And even though the city is paying the bill, the design is to keep the city from having to pay taxes to itself so to speak, that bill also is divided among the county and the NRDs and everybody else. [LB232]

LARRY DIX: County, NRDs, schools, every political subdivision that's in that taxing district. [LB232]

SENATOR SCHUMACHER: Thank you. [LB232]

SENATOR SMITH: Senator Groene. [LB232]

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SENATOR GROENE: The way this bill is written I could rent it for one day. [LB232]

LARRY DIX: You could. [LB232]

SENATOR GROENE: And then it would be off the tax roll. [LB232]

LARRY DIX: Right. [LB232]

SENATOR GROENE: That happens a lot. [LB232]

LARRY DIX: Yeah. Yeah. That's what I mean. We don't really know how long those leases run and stuff. [LB232]

SENATOR GROENE: Thank you. [LB232]

SENATOR SMITH: I see no additional questions. Thank you, Mr. Dix. [LB232]

LARRY DIX: Thank you. [LB232]

SENATOR SMITH: (Exhibit 1) Next opponent of LB232. Seeing none, anyone wishing to testify in a neutral capacity on LB232? I see we do have one letter that was submitted for the record on LB232 in a neutral capacity. That was from a Nathan Leach, Lincoln, Nebraska. Welcome back, Senator Kolterman, on closing on LB232. [LB232]

SENATOR KOLTERMAN: Thank you for giving me the time today. I would ask that you just hold this for the time being and give us an opportunity to try and narrow this down. I think you understand the situation. It was the city that asked me to do this. It's very broad. We found that out as we were starting to research it and we will be back with some suggestions. Thank you. [LB232]

SENATOR SMITH: Very good. Thank you. Further questions? I see none. Thank you. That concludes the hearing on LB232. We'd now move to our next bill, LB236 to be introduced by Senator Erdman. It relates to changing the provisions relating to the inclusion of multiple lots in one parcel. Welcome, Senator Erdman. [LB232]

SENATOR ERDMAN: (Exhibits 1-3) Thank you. Thank you Senator Smith, nice to be back. Thank you, committee. I come today with LB236. LB236 was brought to me by NACO. Some of

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the situations that happen over time to time need a clean-up work. And Senator Harr, I'm glad you're here. I'm going to talk about you in a second. [LB236]

SENATOR HARR: I'll be ready on LB190, yes. [LB236]

SENATOR ERDMAN: LB191? Anyway, LB236, as I said, was brought to me by NACO and what this does, it allows property owners to combine unimproved lots in a subdivision...in the same subdivision. LB191 back in 2014 was introduced by Senator Harr to clarify how assessors value vacant and unimproved lots. Some assessors have been using a discounted cash flow analysis that included an absorption rate of the sales of the lots. The legislation that eventually passed allows property owners to file a form--can you imagine that, Form 191--with the assessor to combine two or more vacant lots or parcels or lots. I'm handing out a copy of the form that parcels must be contiguous...a contiguous tract all in the same district...tax district and section. It's an annual election made by the property owner each year by December 31. A problem has occurred when the parcels with taxes due are combined. In some counties the parcels are only combined for tax purposes to get a net present value estimate and in other counties the parcels are physically combined. When they are physically combined and the taxes are due, the combined parcel ends up with a new parcel ID number and the old parcel ID number disappears. The taxes are still due but don't track with the new parcel. And so when they go ahead and look for it that parcel has been removed with it and a new number is placed there. LB236 would prohibit combining undeveloped lots, vacant lots, into a single parcel for taxation purposes if their taxes or their special assessment is certified but not yet due or delinquent or in a tax sale. The property owner and the county treasurer would have to certify that there are no taxes or special assessments that fit into these categories before the lots can be combined. This bill is intended to revisit the valuation issues that were resolved in 2014. This isn't intended. It simply is intended to make sure that all taxes are in order before the parcels are combined so that taxes do not get lost on the Form 191. So I passed out several letters of support as well as the information there that I just read to you. And I would be willing to try to answer any questions. Mr. Dix will testify after me to share his ideas and comments. [LB236]

SENATOR SMITH: Thank you, Senator Erdman, on your opening on LB236. Do we have questions from the committee? I see none. [LB236]

SENATOR ERDMAN: Thank you. [LB236]

SENATOR SMITH: Thank you. We now move to proponents on LB236. Welcome. [LB236]

LARRY DIX: Good afternoon, Senator Smith, members of the committee. My name is Larry Dix, L-a-r-r-y D-i-x. I'm executive director of the Nebraska Association of County Officials,

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appearing today in support of LB236. First of all, we want to thank Senator Erdman for carrying this piece of legislation for us. And I want to just bring you up to date a little bit for a couple of the new members to the committee of sort of how we got here. In 2014, Senator Harr...I believe it was Senator Harr, carried a bill, LB191. And at that point in time we'd worked with the developers. When a subdivision is platted and goes into place a lot of times they'll plat 30, 40, 50, 60 lots at the same point in time. And due to some of the assessment practices we needed to have a way for the developers, even though they plotted those, that then they could combine the lots together, because some of those lots don't sell for a number of years. And thus was created the Form 191, which I think Senator Erdman had handed out, and that was a form prescribed by the Department of Revenue. And really what that form is, is if a developer comes in and says, I have...now I've platted these and the assessor has assigned a parcel number to every one of these lots and the developer comes in and says, these aren't selling quite like maybe I had anticipated. I want to combine them for tax purposes to put them all in a single lot. And the way the language was written is that the assessor shall put them together. And so, which at the time when we had the discussion in front of this committee, everybody signed off on that and thought, okay, that sounds like a logical situation. Well, what happened in reality is, sometimes it's a little bit different than how you visualize it or think happened, but we've had a couple of counties that had issued tax sale certificates. And what had happened was the developer had originally had these 50 lots, 50 parcels and everyone of them had X number of dollars of taxes. And they came in and they paid the taxes on a majority of these lots but not all of the lots. There were a handful, maybe two or three that the taxes were not paid. Then they came back and filed a Form 191 that put them all together in one lot and, therefore, the parcel number became one parcel number when it used to be maybe 30 or 40 parcel numbers. And the treasurers recognize that the taxes were unpaid, but by law the assessor shall combine them. And so it created a situation where now all of a sudden when we go to the tax certificate process we have unpaid taxes on lots that no longer exist because they're put together in one parcel. So in our viewpoint, we thought we would bring forth legislation that would say, prior to completing a Form 191, all the taxes are paid. If they're all paid, then there is no problem. And so that's the genesis of the bill that you have in front of you today. [LB236]

SENATOR SMITH: Thank you, Mr. Dix. Senator Harr and then Senator Schumacher. [LB236]

SENATOR HARR: Thank you. Thank you for coming in here, Mr. Dix. It's nice to talk to you. [LB236]

LARRY DIX: It's good to talk to you. [LB236]

SENATOR HARR: It would have been nice if you'd talked to me beforehand about this bill. [LB236]

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LARRY DIX: I'm sorry. [LB236]

SENATOR HARR: If this bill is such an innocent clean-up bill, the proper structure would be to go to the senator who had introduced the original bill and not to go to another senator. I will tell you right now, I don't know if this is a good bill or a bad bill, I can tell you right now, this is not a consent calendar bill and I'll just leave it at that. [LB236]

LARRY DIX: Okay. [LB236]

SENATOR SMITH: Senator Schumacher. [LB236]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for being here, Larry. Refresh my memory as to what's the advantage for the landowner to, instead of having multiple lots to recombine them. What do they get out of bookwork? [LB236]

LARRY DIX: I think the advantage by putting them back together is that instead of having a multiple, a serious number of tax statements, they reduce it down to a single tax statement. I think also that in these areas where it wasn't developed land where they hadn't completed...they'd laid out the subdivision but really hadn't set that up for sale or they weren't selling the lots rapidly, I think they felt that by putting it together it would give it more of the view that it's one parcel and it may still be farm ground, they may treat it as farm ground then. [LB236]

SENATOR SCHUMACHER: So is it replatted then in the register of deeds' office? [LB236]

LARRY DIX: It is not. LB191 allowed that to just combine it for tax purposes. [LB236]

SENATOR SCHUMACHER: So this is just a bookworking thing and it has no affect on taxes, only affect is to just get one statement instead of many? [LB236]

LARRY DIX: That's...yeah, that's pretty much what, in fact, happens on those parcels. [LB236]

SENATOR SCHUMACHER: And do these parcels all have to touch each other or can one be off in an island off to its side? [LB236]

LARRY DIX: No, I don't believe they have to touch each other. I think if you would take a subdivision, it can be fairly checkerboarded. I think if you had lots 1 through 50, I think you

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could combine lots 1 and lot 5 and lot 7 and 12 and 23. I think that's the way the legislation was approved. [LB236]

SENATOR SCHUMACHER: So really even though it doesn't change the platting of the lot, the legal description of the lot, if somebody would go to that GIS service and type in that parcel number they'd get a...could get anything in the section or block of land, this one, that one, anywhere? [LB236]

LARRY DIX: They could until once Form 191 is completed and the assessor puts those together, then it's going to look a little bit different on a GIS system, but the plat itself is still going to be filed with all those spots. [LB236]

SENATOR SCHUMACHER: And then to undo it if you just wanted to sell off one of those, you just have to go on it and un-191 it? [LB236]

LARRY DIX: That's, in essence, what happens. Once the deed is presented to purchase, say, lot 7, then the deed is presented to purchase lot 7, the assessor gets a copy of it, and then lot 7 is removed from it. [LB236]

SENATOR SCHUMACHER: So what we're doing is a shorthand way of paying the taxes?
[LB236]

LARRY DIX: That's a way to state it. [LB236]

SENATOR SCHUMACHER: All right, thank you. [LB236]

SENATOR SMITH: Other questions? Senator Groene. [LB236]

SENATOR GROENE: So this still stays separate. Thank you, Mr. Chairman. I forgot my etiquette. But anyway, if it still stays separate, the lots, why don't the delinquent tax follow it? You said it doesn't, it becomes a new entity. [LB236]

LARRY DIX: Yeah. The delinquent tax follows that original lot, but in the manner in which LB191 was written is that the assessor shall combine it. So for a tax year, say it's a 2014 tax year, so for the 2014 tax year in the treasurer's office you'll have all those lots. They'll come in and they file this and, say, they're lots numbered 1 through 50, parcels 1 through 50. In the next tax year, in the 2015 tax year, then what you will see are maybe lots 1 through 37 and then a new lot

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numbered 51, which is the big combined number. So then in the treasurer's system that link, so to speak, will be broken. It won't be tied back to it. [LB236]

SENATOR GROENE: It's a software matter, isn't it? I mean... [LB236]

LARRY DIX: The software... [LB236]

SENATOR GROENE: You need to pay your taxes one year before you have an auction. The next statement you have has a total of taxes. [LB236]

LARRY DIX: The software will identify that there are the parcels. The only problem is, once it becomes...gets into the realm of a tax sale certificate, then it becomes very problematic because then the public isn't necessarily notified that there's a tax sale certificate being applied to that particular lot because that particular lot doesn't exist anymore. [LB236]

SENATOR GROENE: Why don't we do this with farmland? I mean, not with farmland, why can't a person just get a statement from the county with a list of all the properties in a total, instead of 15 or 20 different statements? [LB236]

LARRY DIX: Well, I think you would go back to the way the land was deeded, because once a deed is filed then that deed becomes...goes to the assessor and that becomes a parcel. And it's assigned a parcel number. [LB236]

SENATOR GROENE: A letter is sent out with each one. [LB236]

LARRY DIX: Yeah. And I think when you get massive amounts of land...the other thing that if you were to just sort of put it all on one, we also have to be aware that some of those parcel...you may own some of the parcels, but they may be in differing tax districts or NRD districts or things like that. So I think you... [LB236]

SENATOR GROENE: But the county splits that up. I mean, you have to pay a lump sum no matter what. [LB236]

LARRY DIX: Right. I understand that. But it does... [LB236]

SENATOR GROENE: If I get ten statements, which I don't, I get three, but I write one check. [LB236]

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LARRY DIX: Right. [LB236]

SENATOR GROENE: And I told them, I'm going to calculate them and send them and send them to you. Why can't you make a statement like a business does? [LB236]

LARRY DIX: I would say there isn't anything that you couldn't do it that way. I don't think the practice in the years that I've been involved in this since the '70s, it has always been one statement per parcel. [LB236]

SENATOR GROENE: One envelope, one stamp would save you some money, but anyway. [LB236]

LARRY DIX: Well, and the other thing, Senator Groene, I think sometimes you get involved into it where you'll have an ownership, you may have the ownership of those three lots, but on one of those maybe there is another child that owns that with you which...there's just a number of reasons I think over the years, but I think it's more tradition than an impossibility. [LB236]

SENATOR GROENE: Okay, I was curious. Thank you. [LB236]

SENATOR SMITH: Senator Schumacher. [LB236]

SENATOR SCHUMACHER: Thank you, Chairman Smith. But when you issue a tax sale that they advertise for taxes or the tax sales certificate, aren't those done by legal description or are they now all done by parcel number? [LB236]

LARRY DIX: They are done by legal description, but they tie it to a parcel number and so now that legal description is going to look a little bit different than what it did before, because the legal description for that parcel is going to have lot 1, lot 7, lot 9, lot 12, as opposed to before it would have just be lot 1, original town. [LB236]

SENATOR SCHUMACHER: And...but you're saying because of this assignment of parcel the one bad apple lot contaminates the whole parcel? [LB236]

LARRY DIX: If it was one of the ones that was combined. [LB236]

SENATOR SCHUMACHER: But it wasn't combined legally, it was just combined with some form. [LB236]

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LARRY DIX: It was, but what happens within that computer system is it's combined by a parcel number, because inside that computer system it is truly driven by parcel number, not driven by legal description. [LB236]

SENATOR SCHUMACHER: It seems to be a lot more administrative than legal. [LB236]

LARRY DIX: So. [LB236]

SENATOR SCHUMACHER: Okay, thank you. [LB236]

LARRY DIX: Yep. [LB236]

SENATOR GROENE: One more quick question. [LB236]

SENATOR SMITH: Senator Groene. [LB236]

SENATOR GROENE: Follow up on Senator Schumacher, Mr. Chairman. That tax is still due, though. [LB236]

LARRY DIX: The tax is still due. [LB236]

SENATOR GROENE: Yeah. Just because the new parcel was... [LB236]

LARRY DIX: Yeah. [LB236]

SENATOR GROENE: Thank you. [LB236]

SENATOR SMITH: Additional questions from the committee? I see none. [LB236]

LARRY DIX: Okay. And, Senator Harr, once again, I apologize for not bringing that to you originally. Thank you. [LB236]

SENATOR HARR: Thank you. [LB236]

SENATOR SMITH: Thank you for your testimony. Other proponents of LB236. Proponents. In support? In support? Welcome. [LB236]

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TERRY JESSEN: Terry Jessen, T-e-r-r-y J-e-s-s-e-n, I'm from Scottsbluff. I think this is probably a fairly simple thing. I wasn't planning on testifying, but I hear a couple of questions. Senator Groene, if you bought four separate quarter sections in the same section over a period of years, as that owner you can go to the assessor and say, I want to combine those four quarters. But if you have a quarter in section 23 and a quarter in section 22, the assessors I work with will not combine those, so those would be two separate statements. No different where you have a subdivision and lots 1 through 10. And then on the other side of that, if you have a property sold, as an individual seller if you sell a portion of a tract so you'd sell part of that quarter section, then it becomes two separate numbers in the future, one that you own and one that someone else owns. So I don't see any problem with either combining...it's no different than the separation in those few isolated cases where there's a tax sale. It's just the way it is. I don't see any challenges there. So when they are either split or combined, it really doesn't cause any problems in any of the process, either in the collection of the taxes or in the tax sale process. I really don't have anything else really to say, it's just kind of a simple change. Thank you. [LB236]

SENATOR SMITH: Thank you, Mr. Jessen, for your testimony. I see no questions from the committee. [LB236]

TERRY JESSEN: Thanks. [LB236]

SENATOR SMITH: Next proponent of LB236. Seeing none, anyone wishing to testify in opposition to LB236? Welcome. [LB236]

BRIAN DOYLE: Good afternoon, Mr. Chairman. Brian Doyle, B-r-i-a-n D-o-y-l-e, do I need my address? [LB236]

SENATOR SMITH: No. [LB236]

BRIAN DOYLE: No, okay. I'm here on behalf of the Eastern Nebraska Development Council, it's a collection of property developers, residential real estate developers in the Omaha area, with our concern about the effect of this bill. I do want to say I had a nice conversation with Mr. Dix earlier about this and he has...I think he understands some of our concerns. And I've heard the committee, several of the questions have directly related to some of our concerns. I'd also like to thank Senator Harr for having helped shepherd this bill through back in 2014. I won't go through with what the bill does, but what it has done is it has streamlined things for both developers and also for homebuilders who own multiple lots within a subdivision. It's not unusual for a homebuilder to buy five or ten lots in one subdivision. By being able to combine these lots, they get the benefit of having an absorption rate to calculate for their taxes. I think that this bill identifies a issue that is somewhat unfair in that if a developer or a homebuilder with multiple

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lots is not paying taxes on their lot, they can still fill out Form 191 and get the benefit of that. That portion of the bill makes sense to me. If you're going to ask for a benefit from the assessor by combining your multiple home lots into one, you should have paid your taxes on that. That makes a whole lot of sense. The problem that we run into on this bill is language in there that says that if you have special assessments and the special assessments go only to the SID, if you have any special assessments that are due on the property, then you no longer can get the benefit of this. When a developer develops a subdivision at the early stages of the development they levy special assessments on every lot and the developer doesn't necessarily go out and pay those special assessments immediately. They're typically paid either when the end buyer buys them or those specials can be paid over a period of ten years. That's a normal business practice; it allows them to split it into ten installments. The way the bill is drafted right now, it would mean that any new subdivision in the Omaha metropolitan area would be ineligible for this Form 191 because virtually all of them have outstanding special assessments. The SIDs aren't losing anything by not getting the specials paid up front. And the reason they're not losing anything is because specials also accrue interest if you don't pay them. So if I'm a developer and I've chosen to not pay the special assessments, I know I'm going to have to pay them when I sell the lot, I have the option to pay one-tenth each year. If I choose not to pay them, they're actually accruing interest at a rate that's higher than what it's costing the SID. So the SID isn't losing anything by not getting its special assessments. The loser in this is the homebuilder with multiple lots, the developer with multiple lots who says, yes, I know I have to pay my specials, but I want to use the statute and pay the specials over a period of ten years or five years or whatever schedule that is. All of a sudden they no longer get the treatment or the benefit of LB191 and that tax treatment. We certainly understand that this issue has obviously created some logistical issues for the counties, primarily, Douglas and Sarpy County are where most of the SIDs are and where a very large amount of development is occurring. I think to Senator Groene's point, some of this is a bookkeeping and recordkeeping issue more so than a legislative issue. The problem here is the effect of the statute as it's written right now would make it so virtually every developer no longer could get the benefit of this. Every homebuilder that owns multiple lots would no longer get the benefit. I'd be happy to answer any questions. [LB236]

SENATOR SMITH: Thank you, Mr. Doyle, for your testimony. Senator Schumacher. [LB236]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for your testimony. I had gotten the impression from the earlier testimony that this was just a paperwork thing to make it so you didn't get a bunch of bills. Now you're talking in terms of the benefit of the tax treatment. So it isn't just a paperwork thing? [LB236]

BRIAN DOYLE: I think when Senator Erdman introduced the bill, he talked about one of the advantages of combining these multiple parcels is that the county assessors could then use a discounted cash flow analysis in order to determine assessable value. The idea being if I'm a

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developer and I put a hundred lots on the market, I'm not selling all hundred on day one. It's going to take me three, four, or five years. So there was a benefit to developers, a benefit to homebuilders for this bill. [LB236]

SENATOR SCHUMACHER: Explain to me the benefit a little bit. [LB236]

BRIAN DOYLE: Sure. [LB236]

SENATOR SCHUMACHER: I want to understand the economics that we're toying with here. [LB236]

BRIAN DOYLE: The benefit is the county assessor can choose to apply a different methodology on how they assess property. Instead of saying that all or your lots are worth full retail price on day one, they used an analysis that said, look, there's a market absorption rate and over time you're going to sell these lots. You can't put a hundred lots on a subdivision, sell them on day one and make all your money. You have marketing costs, time costs, and that. And so I think that's what Senator Erdman in his testimony was reminding us of. [LB236]

SENATOR SCHUMACHER: So how does the assessor know what time scale to estimate these things are being sold over? [LB236]

BRIAN DOYLE: I would say that's a question for the assessor on how they determine that. [LB236]

SENATOR SCHUMACHER: So, basically, you can make this election even though it's not one tract of land on a checkerboard of land. [LB236]

BRIAN DOYLE: Right. [LB236]

SENATOR SCHUMACHER: You can basically say, well, we're going to not pay full value on each piece, because we know that each piece isn't worth full value today, but will be worth over the next five or ten years or whatever? [LB236]

BRIAN DOYLE: Yes, I would agree with that. [LB236]

SENATOR SCHUMACHER: And by how much of a tax break are we giving them by letting that happen? [LB236]

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BRIAN DOYLE: I don't have an answer for that. [LB236]

SENATOR SCHUMACHER: Okay. Thank you. [LB236]

SENATOR SMITH: Senator Harr. [LB236]

SENATOR HARR: Thank you. And I enjoy Senator Schumacher's question. I will take exception to his last question, because the previous--and correct me if I'm wrong--if I have a hundred lots and I sell the first lot for \$20,000--complete hypothetical--I couldn't turn around and sell all the remaining 99 for \$20,000 the next day, could I? [LB236]

BRIAN DOYLE: Correct. [LB236]

SENATOR HARR: And so it's that time value of money that he talked about. So while one day that one lot may be worth \$20,000 it isn't worth the...the remaining 99 may be worth \$20,000, they're not worth \$20,000 today. Correct? [LB236]

BRIAN DOYLE: Correct. [LB236]

SENATOR HARR: So there is no tax break, because they aren't worth \$20,000. [LB236]

BRIAN DOYLE: I would agree. [LB236]

SENATOR HARR: Okay. [LB236]

BRIAN DOYLE: And what had previously been happening was that the county assessor assesses based on a snapshot in time, a certain day in time, and they were valuing all hundred lots at \$20,000. That wasn't reasonable, in our opinion. [LB236]

SENATOR HARR: Okay. I appreciate it. Thank you. [LB236]

BRIAN DOYLE: Thank you. [LB236]

SENATOR SMITH: Senator Schumacher. Oh, I'm sorry. Senator Friesen, then Senator Schumacher. [LB236]

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SENATOR FRIESEN: Thank you, Chairman Friesen (sic: Smith). So with all the questions, now it's started to kind of ring a bell in my head, I guess. So if you have a hundred-lot development out there and you get the first 20 houses...20 lots sold and they bring \$50,000 apiece, it's around a lake, whatever. So as the housing market really slowed down and suddenly you're sitting there with 80 lots that you weren't moving--and we see that a lot in rural areas and you can't move them--originally they would have assessed all the lots at \$50,000 or roughly. [LB236]

BRIAN DOYLE: Yes. [LB236]

SENATOR FRIESEN: And so by combining those, even though they're not physically combined by description, they're put under one lot number and suddenly they use a different method of valuing them that brings it down or makes it more palatable to hold onto those lots. So then as you do that and then you peel one of those lots off and you just tell them you're going to sell lot number 22, then they assess that lot at whatever a single lot is bringing then, is that...? [LB236]

BRIAN DOYLE: Yes. [LB236]

SENATOR FRIESEN: And the rest of the lots still just stay off? [LB236]

BRIAN DOYLE: Correct. They would still stay then in that group of lots that the county assessor has the option to apply this time-value methodology. [LB236]

SENATOR FRIESEN: So even though somebody may buy one and not build a house, they would suddenly be assessed at a higher value if they're speculating on the lot, it changes ownership. [LB236]

BRIAN DOYLE: Yes, if it was an individual, yes, they would then be subject to the full value. They've been paid a retail price on that lot. It's the homebuilder that buys seven lots in the subdivision or the developer with the 80 remaining lots in our hypothetical, it's those that we're addressing. [LB236]

SENATOR FRIESEN: Okay. [LB236]

SENATOR SMITH: Senator Schumacher. [LB236]

SENATOR SCHUMACHER: I think we're getting into something interesting here. Let's suppose we had, instead of one developer in this block, we had two developers. Okay? And how would

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the assessor compute that? All the lots look the same. From an airplane they all look the same. And would they figure the math based upon both developers sitting with those lots, that there were 200 lots instead of 100 lots and they'd prorate it out? [LB236]

BRIAN DOYLE: So it's...the question I think is how is the assessor calculating the assessments if, say, you have two developers who own in the same subdivision? [LB236]

SENATOR SCHUMACHER: Right, right. [LB236]

BRIAN DOYLE: I believe that each developer--or you could even take a homebuilder with multiple lots in there--they each get treated, you would hope, on an equalized basis with other similarly situated taxpayers. So if it's developer A and developer B they should, in practice or in theory at least, should be treated on an equalized basis. [LB236]

SENATOR SCHUMACHER: I'm thinking real evil thoughts here. [LB236]

BRIAN DOYLE: Okay. [LB236]

SENATOR SCHUMACHER: And it seems that there's some inconsistency and I don't know how to articulate it. But we've got a bunch of lots just like we have a bunch of farms, only farms are bigger, in a bigger area. And we're saying, well, just because the first one sells at a premium, we shouldn't penalize the other ones because if we were to sell them all today the price would go way down. So we're going to feather them out and we're going to say the first one sold, that price should not be applied to all the other lots which is not how we do it in a lot of other things, like farmland. The first one sells, all the lots go up. I got a smile out of you, I knew I would. How is that consistent? [LB236]

BRIAN DOYLE: So the statute in this case only applies to lots that are for resale. It's an economic growth issue. It's about getting houses built in an efficient manner. I understand what you're saying, that your neighbor's farm sells, it's reassessed, all your values go up. We're not saying that development shouldn't be eventually taxed at full-market rate. What we're saying is in those early years of development that you are hurting the development by assessing at a number that is not realistic if you put all hundred lots out and tried to sell them in one day. [LB236]

SENATOR SCHUMACHER: But isn't that the same argument we're facing, we faced yesterday in the agricultural sector, that we've got one that sold and it sold at a premium, but the rest of them really aren't worth that because they flood the market if you turned them all loose? And so,

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God, there seems to be a parallel there. I don't know if I'm articulating it, but I guess I won't take up the committee's time. [LB236]

BRIAN DOYLE: I wasn't there in the Agriculture Committee hearing, so I really can't speak to that. I do understand what you're getting to. [LB236]

SENATOR SCHUMACHER: Okay. [LB236]

SENATOR SMITH: Senator Groene, then Senator Harr. [LB236]

SENATOR GROENE: Thank you, Mr. Chairman. So I got 20 lots that have all got curbs, streets in front of them and I own them. I get charged \$50,000 because they're individual. But if I combine them the property tax assessment division has a different classification for them because they're combined but they're the same property and the same owner. [LB236]

BRIAN DOYLE: It then treats them as a bulk group together and says that we expect, over time, that you're going to be able to sell these, but we don't expect you're going to be able to sell all of them at... [LB236]

SENATOR GROENE: Why doesn't that apply to my 20 lots that I own and I'm getting 20 statements on? It's the same property and the same owner, but is that just a rule by the property tax assessment? That's not in legislation, is it? [LB236]

BRIAN DOYLE: I'm not sure I'm following your question. [LB236]

SENATOR GROENE: Well, the county assessor follows rules from the Revenue Department. [LB236]

BRIAN DOYLE: Right. [LB236]

SENATOR GROENE: The Property Tax Assessment Division. So I'm assuming there's a rule somewhere that says if you...I got 20 individual lots you put the full value on them. I'm the same owner. I go in and fill this form out. Did Senator Harr's legislation a year ago change that, that now we put them together, same owner, same lots and now it's assessed differently? [LB236]

BRIAN DOYLE: Only... [LB236]

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SENATOR GROENE: I'm not criticizing, I'm just trying to figure out how this works. [LB236]

BRIAN DOYLE: Only if your lots are held with the intention for resale. That's actually in the statute. [LB236]

SENATOR GROENE: Well, I own 20 lots and I'm speculating on them. [LB236]

BRIAN DOYLE: And if you contact the county assessor and fill out your Form 191 you get the same treatment. [LB236]

SENATOR GROENE: And this didn't happen prior to that statute passing? [LB236]

BRIAN DOYLE: Correct. [LB236]

SENATOR GROENE: It didn't or it did? [LB236]

BRIAN DOYLE: It did not. Am I... [LB236]

SENATOR GROENE: I'm real confused now. So anyway, somebody will answer it. But I appreciate your candid...I agree with you. It's business inventory, which I will try to fix with LB599. [LB236]

SENATOR SMITH: Senator Harr. [LB236]

SENATOR HARR: Thank you. I think it did happen beforehand. I just don't think it was happening formally across all the counties. I think certain county assessors were treating it as inventory... [LB236]

BRIAN DOYLE: Yes. [LB236]

SENATOR HARR: ...and therefore using the income basis and other counties were using the Schumacher model, we'll call it. [LB236]

BRIAN DOYLE: Yes. I misunderstood the question. I agree. That was, in fact, happening. [LB236]

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SENATOR HARR: Yes. And so in order to have that uniformity, I think that was the reason for the statute so that equally situated property could be treated equally. And it's an income basis, similar to what Senator Brasch is trying to do with Governor Ricketts'...the bill she introduced on behalf of Governor Ricketts, which it used an income formula. That's what this is, just to clarify the record. I don't really have a question for you other than, he, too--since I did mention Senator Brasch--Mr. Doyle is a constituent of mine, so thank you for taking the time to come down here today. [LB236]

BRIAN DOYLE: Thank you. [LB236]

SENATOR SMITH: Other questions from the committee? I see none. Thank you, Mr. Doyle, for your testimony. [LB236]

BRIAN DOYLE: Thank you. [LB236]

SENATOR SMITH: (Exhibit 4) Other opponents of LB236. Seeing none, anyone wishing to testify in a neutral capacity on LB236? We do have a letter for the record sent in a neutral capacity, Nathan Leach, Lincoln, Nebraska. We now invite Senator Erdman to close on LB236. [LB236]

SENATOR ERDMAN: Thank you. And thank you, Senator Harr. That bill we used some in Morrill County, so it did make a difference. But Senator Groene, what happens is when it gets a new parcel number the taxes don't track along with it. And we, as Morrill County commissioners, when someone would come in and they had, as Mr. Jessen testified, they have four sections or four quarters in a section and they got four different tax statements, we instructed our county assessor to make it one document. And basically they tried to do it whatever is in that section as one unit, so that's what they did there. I would suggest that after hearing the testimony on this bill and the opposition, that we need to work with the homebuilders and figure out how we develop something that is appropriate to the SIDs. And I think we can come with that conclusion and we can move forward with this. We just don't want to have those properties come up for sale and find out there's a tax lien against them that no one knew about it and that's what this trying to accomplish. So I think we can accomplish that. [LB236]

SENATOR SMITH: Senator Friesen. [LB236]

SENATOR FRIESEN: Thank you, Chairman Smith. I'm kind of wondering if we could work something out with some ag land here, too. I'm holding quite a few parcels and they could be for sale some day and if I combine them...is that a possibility? [LB236]

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SENATOR ERDMAN: Yeah. I like it. [LB236]

SENATOR FRIESEN: Thank you. [LB236]

SENATOR ERDMAN: Yeah. It's called property tax relief. [LB236]

SENATOR SMITH: Seeing no further questions, thank you, Senator Erdman, for your closing on LB236. And you can stay in your chair because you're going to open on LB238, which is related to changing the provisions of the Nebraska Budget Act, relating to certifying taxable values. [LB236 LB238]

SENATOR ERDMAN: (Exhibits 1, 2) Thank you. And thank you, committee and Chairman Smith. I was remiss in the first time I sat here I did not say and spell my name. My name is Steve, S-t-e-v-e, Erdman, E-r-d-m-a-n. And I come to you today with LB238. And LB238 was a bill also that was brought to me by request of NACO and the county assessors. Adjusting all the county assessors to certify their current taxable value of taxable real estate and personal property that each taxing entity on or before August 20 of each year. The statute does not define how that certification is to occur, so LB238 helps define that. There are three options: by mail; electronically; or by notification...the taxing entity notifying...the taxing entity...where the taxing information is posted on the county assessor's Web site, so they can find it on the Web site. The idea comes about because much of the information assessors provide and receive from the Department of Revenue is done electronically. LB238 would expand this to use the technology to create an option for efficiency for assessors who choose to use it. As the bill says, there's still availability by mail, by electronic transfer, or they can check it on the Web site. So this is just basically allowing those county assessors to distribute information more efficiently and Mr. Dix will testify after me if you have any other technical questions. But it's important as in the smaller counties, some of those entities that we are reaching out to would make it a lot more efficient for us if we could just do it electronically. Any questions? [LB238]

SENATOR SMITH: Thank you, Senator Erdman. Senator Brasch. [LB238]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Senator Erdman, for bringing this forward. I believe recently someone had indicated that not all counties were 100 percent high-speed, reliable Internet. Are they all now on one system that communicates that this could be your... [LB238]

SENATOR ERDMAN: I don't know that they are, but I believe the people they're trying to reach are. [LB238]

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SENATOR BRASCH: Okay. All right. I have no other questions. Thank you. [LB238]

SENATOR ERDMAN: Yeah. It's a pretty simple, straightforward bill. It just basically says that the governing body may, by mail or by electronic or posting on their Web site. And so if some of those people aren't able to get it that way, they can make a request to get it by mail, so. [LB238]

SENATOR SMITH: Very good. Thank you, Senator Erdman. Questions from the committee? Thank you for your opening on LB238. [LB238]

SENATOR ERDMAN: Thank you. [LB238]

SENATOR SMITH: We now move to proponents of LB238. Welcome. [LB238]

LARRY DIX: Senator Smith and members of the committee, my name is Larry Dix, L-a-r-r-y D-i-x, Executive Director of the Nebraska Association of County Officials, appearing today in support of LB238. We want to thank Senator Erdman for introducing this. This is a very straightforward bill, we believe. We just felt that as in counties, we typically have to have authority to do certain things. And typically that authority comes by the way of a state statute. And previously, it would just say that we had to certify these values. And so we felt that we probably should at least clarify that, try to get it into statute. Many times as we're getting to that time of the year, a number of assessors are receiving phone calls from the political subdivisions saying, okay, what's my value? I'm trying to work through budgets and everybody is sort of under that time crunch. And for the most part, a lot of times county assessors were getting e-mails from those political subdivisions asking what their values were. And so the question arose that if we were to reply back to them via e-mail, does that meet the requirement of certifying or if we could take the document--and I think Senator Erdman handed out the document which we fill out--if we could scan that, make that an electronic document and e-mail it back, certainly that is the most efficient way to deliver this information in this day and age. The bill still allows us to mail. If someone would say, I don't have a computer or whatever, we could still mail it. I don't see any reason why a county would ever deny that. They have to get the information to that political subdivision and so that would do that. Senator Brasch, to answer a little bit of your question, I think for the most part I can't tell you that all the counties are high-speed Internet, but I do believe that every county has Internet access. [LB238]

SENATOR SMITH: Senator Schumacher. [LB238]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you, Mr. Dix. I don't know if I've ever seen the language, by mail electronically. I mean, could you do it on the radio?

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Could you flash a signal light? If you mean electronically, shouldn't we say, by e-mail, because electronically...? [LB238]

LARRY DIX: I...I'm sorry. Go ahead. [LB238]

SENATOR SCHUMACHER: I mean, I'm just trying to...that's an odd...how do you do it electronically? Send a shock receipt and signal? What fits the bill? I mean, shouldn't we be more descriptive of what we're expecting? [LB238]

LARRY DIX: Certainly if you would feel that e-mail is the language, we can put that in there. In this day and age I wonder how long e-mail would be the right way. We may have to put tweet and Snapchat and some other technologies there. But I mean we're perfectly comfortable if you would want to change that word electronically to e-mail. I don't know that if this day and age if I were tell you I was going to send you something electronically, I would assume you would interpret it it would be e-mail, but we can certainly make it e-mail. [LB238]

SENATOR SCHUMACHER: Pick up the phone and call. I guess that's electronically, too. [LB238]

LARRY DIX: You could really make that argument if it was a voice over IP world, you know. [LB238]

SENATOR SCHUMACHER: And then the next one, or by notifying the governing body, which then gets to the question, how do you notify? Do you do that by mail, by e-mail, by radio, by telephone? How do you notify them of the new Web site address? [LB238]

LARRY DIX: As opposed to just by placing it on the county assessor's Web site? [LB238]

SENATOR SCHUMACHER: Yeah. The language just doesn't seem to fit. [LB238]

LARRY DIX: Sure. [LB238]

SENATOR SCHUMACHER: Thank you. [LB238]

SENATOR SMITH: Senator Harr. [LB238]

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SENATOR HARR: Thank you, Chairman Smith. And thanks for coming, Mr. Dix. So how is notification made today? [LB238]

LARRY DIX: Notification today is, this form is filled out and it is typically mailed to a taxing political subdivision or taxing body. [LB238]

SENATOR HARR: Okay. [LB238]

LARRY DIX: There are some where the assessor will say, would you like to have us send you... [LB238]

SENATOR HARR: And who do they send it to in that political subdivision so that it...part of it is you have to serve the right person. [LB238]

LARRY DIX: Right. [LB238]

SENATOR HARR: I think it's a service...I think we almost have more of a service question here than a means matter. [LB238]

LARRY DIX: Sure. Typically, within the political subdivisions, the folks that are asking this are the people who are preparing the budget and want to know what their valuation is, their total valuation is for their political subdivision. Now in this issuance of schools, my assumption is we would send it to the superintendent of schools. Now does that typically mean the superintendent of schools is going to open that up or would it be a secretary? Probably the secretary, but that's typically how we would send that. [LB238]

SENATOR HARR: Is the purpose of this bill for the simplification of the county or is it for the person receiving the information? [LB238]

LARRY DIX: I think on both ends. I think both ways, because the people on the other end are going to...if I can...if I will, Senator Schumacher, if we can send it electronically, they'll receive it much faster. Just like if we were to mail it in the city of Lincoln today it will go to Omaha and then come back in a day two and this would be practically instantaneous. [LB238]

SENATOR HARR: Okay. And I guess I understand that if that, let's say I am a school and I say I want it via mail, this allows it but it doesn't require it. Right? [LB238]

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LARRY DIX: Right. [LB238]

SENATOR HARR: So I think there needs to be a fail safe of no matter what it can be sent by, if you don't have the high-speed Internet that Senator Brasch talked about, if I'm the county I can say, well, I sent it to you via radio waves, right? I mean, I think there have to be something that says there's something received it on the other end. And if not, the political subdivision may request mail that shall be afforded to them or will be, since I went on a tirade about shall versus will yesterday. But I think there has to be something that...I mean, you can send whatever you want, but there isn't something on the other side you received it. I think there has to be so that there is a connection there of that communication. I don't have a problem with the concept. I'm probably going to follow Senator Schumacher so we can just work with Senator Erdman to maybe clean up that language a little bit. [LB238]

LARRY DIX: Yeah, and we're completely fine with working to clean that up. [LB238]

SENATOR HARR: Can I get that in writing? [LB238]

LARRY DIX: The whole impetus really was to be able to notify people... [LB238]

SENATOR HARR: In a quicker, easier manner. [LB238]

LARRY DIX: ...in quicker, easier manner. [LB238]

SENATOR HARR: Cheaper, faster, better, that's what this country's made of. So I agree with that. I just think we got to be a little careful. [LB238]

LARRY DIX: Sure. [LB238]

SENATOR HARR: At one point, facsimile was cheaper, faster, better and now it's antiquated. So that gets to some of your comments. [LB238]

LARRY DIX: That's right. [LB238]

SENATOR SMITH: I see no further questions for Mr. Dix. Thank you for your testimony. We continue with proponents of LB238. Other proponents of LB238. Seeing none, anyone wishing to testify in opposition to LB238? Seeing none, anyone wishing to testify in a neutral capacity to LB238? Welcome, Ms. Rex. [LB238]

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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. And we're here in a neutral capacity with a recommendation to basically tighten up the language a little bit. And that's because of an issue that Senator Brasch raised, which is that we do have a number of villages that do not have computer access. The city clerk may have that at home, but they literally have village halls and village board areas that don't have any computer access. So with that, what we would suggest is on page 2, line 7--and this gets to the point that you raised, Senator Harr--to make the language read something to the effect of starting on line 6, the certification may notify such governing body or board (a) by mail, and then inserting the language "if requested by the governing body or board", (b) "e-mail" instead of electronically, or (c) by "listing such certification on the county assessor's Web site where the current taxable values are located" because that makes it clear that if one of our villages frankly says, look, we don't have an ability to get it electronically, they would just simply request that they get it by mail. And in addition, it makes it clear that the governing body making that request has the option of requesting that and then the county would be required to do it that way. Or, I would just tell you, I think our members for the most part would be very happy to have all this electronically, whether by e-mail or on the Web site, but for the smallest of villages, they simply don't have...many of them do not have that. So with that, I'd be happy to respond to any questions that you might have. [LB238]

SENATOR SMITH: Thank you, Ms. Rex. Questions for Ms. Rex. I see none. [LB238]

LYNN REX: Thanks very much. And thanks for Senator Erdman's willingness to work with us, thank you. [LB238]

SENATOR SMITH: (Exhibit 3) Yes, thank you for your testimony. Anyone else wishing to testify in a neutral capacity? We do have a letter for the record submitted in a neutral capacity from Nathan Leach, Lincoln, Nebraska. We now invite Senator Erdman to close on LB238. [LB238]

SENATOR ERDMAN: Thank you, Senator Smith. I will...if you would, look at the bill on page 2 and starting on line 3. The language that's described there is how it was handled before this bill was introduced. That's how it was done and I think that what we're trying to do here makes some sense. Our county assessor in Morrill County in the middle to the last part of August, she would continually get calls from people, what is my value, what is my value, so there were people out there searching for that information. She would not only get that question from the other governing bodies, but she heard it from the county commissioners several times. So I believe what this does, it helps us understand how it can be...how that information can be discovered more quickly. And I would be willing to work with anybody that would be in need of information in a different manner, like request mail if they need to request mail, because this

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does not say how they find out if the information needs to be sent to them. Before I think the county assessor just assumed they mailed it to everyone. And we have in our county a lot of cemetery districts, ditch companies, and those kind of people that need to know what the value is. And so I believe this helps us step a ways forward to making some decisions on how we distribute information. So I'll do what I need to do to clean it up and make it look presentable. And I would have to agree with the electronic thing, because I don't think anybody in this room knows what might be the next form of communication. And if you say e-mail, that may be obsolete next month. Who knows? We're just trying to make a difference to people's lives so that they can get information faster. Any questions? [LB238]

SENATOR SMITH: Senator Harr. [LB238]

SENATOR HARR: Thank you. And thank you for this bill, Senator Erdman. Did you hear Ms. Rex's, from the League of Municipalities, testimony as far as recommended language? [LB238]

SENATOR ERDMAN: You mean as far as requesting the information? [LB238]

SENATOR HARR: No, her recommended change to clarify the language. Did you hear that? [LB238]

SENATOR ERDMAN: Yes, I did. [LB238]

SENATOR HARR: Okay. Is that acceptable to you? [LB238]

SENATOR ERDMAN: Yeah. We need to work together so it will work. Yeah. [LB238]

SENATOR HARR: Okay. Okay, great. Thank you. That's all I wanted to know. [LB238]

SENATOR ERDMAN: One of the things that over time that I've discovered, many times we pass statutes or regulations that one size fits all. Sometimes that's not the case, so we need to make sure that we can make it work. [LB238]

SENATOR SMITH: And I would suggest also, just referencing also other standard language that may already be in statute, I do believe the Department of Revenue does reference electronic as opposed to e-mail. So let's just work through that and make certain we get the right language in there. [LB238]

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SENATOR ERDMAN: Okay. Thank you. [LB238]

SENATOR SMITH: Senator Erdman, you were on the county commission? [LB238]

SENATOR ERDMAN: Yes, I was. [LB238]

SENATOR SMITH: How many years? [LB238]

SENATOR ERDMAN: 12. [LB238]

SENATOR SMITH: Twelve years. You know, there's a lot of folks that have served and currently serve in the Legislature that have worked in local government. I see the former Speaker in the back of the room, Senator Adams back there. I know Senator Friesen up here is a former mayor. I know Senator Campbell was a former county commissioner. [LB238]

SENATOR ERDMAN: Correct. [LB238]

SENATOR SMITH: And I think it's really valuable to us in the Legislature to have folks like you that have worked in local government. You bring a lot of value and a lot of insight, so we really appreciate it. [LB238]

SENATOR ERDMAN: Thank you. I appreciate it. Thank you. I'm glad these bills only took this long today. Tomorrow, my bill may take a little longer. [LB238]

SENATOR SMITH: And Senator Groene. [LB238]

SENATOR GROENE: These are what you call quick and easy bills? [LB238]

SENATOR ERDMAN: Did I say that? [LB238]

SENATOR GROENE: Yeah. [LB238]

SENATOR ERDMAN: I did? [LB238]

SENATOR GROENE: Could I...could they text it to me electronically? According to this, they could. [LB238]

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SENATOR ERDMAN: It's electronic. If you want to get a text, I think electronic includes that. [LB238]

SENATOR GROENE: They could really do that? [LB238]

SENATOR ERDMAN: Yeah, you can send it to your Cyber Dust if you want it. However...all those new things that are out there. [LB238]

SENATOR GROENE: All right, thank you. [LB238]

SENATOR SMITH: Thank you, Senator Erdman. [LB238]

SENATOR ERDMAN: See you tomorrow. Thank you. [LB238]

SENATOR SMITH: All right. That closes the hearing on LB238. And we now open the hearing on LB249. And we invite Senator Harr to open on LB249, which relates to expanding business inventory property tax exemption. [LB238 LB249]

SENATOR HARR: Thank you, Chairman Smith. Members of the Revenue Committee, I am Burke Harr, H-a-r-r, I represent Legislative District 8, and I did not have the privilege of being in government before I came down here as a state senator, but I do have the privilege of having worked in the business sector. And LB249 is one of those bills that help our business sector. It addresses a gap in our personal property taxes regarding construction, agriculture, and manufacturing equipment that is held for rent or lease. Renting heavy equipment, especially in mature markets, is an increasingly common practice. We are talking about bulldozers, trailers, and front loaders. It is big, expensive equipment and it can be more economical to rent this equipment than for an individual business to hold or to buy, because a business can avoid the full cost of purchase and the business can better tailor their use to a particular project and rent only the equipment they need only for the time that they need it. In response to these market forces, equipment dealers and others rent this equipment to end users. But there is currently a gap in Nebraska law in which this equipment is not treated as business inventory that is exempt from the personal property tax. This stymies the development of the rental market by making it more expensive to maintain and use such rental equipment. It also stymies the intent of what business inventory is. Under Nebraska law, business inventory and agricultural inventory are exempt from personal property taxes. Business inventory normally includes inventory that is held for rent or lease. The statute states that however that a business inventory includes personal property owned for purpose of leasing or renting such property to others for financial gain only if the personal property is a type which, in the ordinary course of business, is leased or rented 30 days or less,

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and may be rented at the option of the lessee or renter at any time and the personal property is of the type which would be considered household goods or personal effects if owned by an individual. Therefore, this type of rental equipment that I spoke of, the heavy bulldozers, etcetera, does not qualify as business exempt inventory. Given the nature of this kind of personal property, this tax structure does not make sense. First, this equipment is highly productive. The bill applies expressly to "equipment used for construction, agriculture, or manufacturing." By its nature, this equipment is to put to productive use. Construction, agriculture, and manufacture are exactly the type of jobs and projects we hope to spur in this great state of ours. We should be looking for ways to make it easier, not more expensive to rent this equipment here in Nebraska. Second, this equipment is highly mobile. Companies can move it across state lines very easily and often do, because neighboring states such as Iowa, South Dakota, and Wyoming do not tax personal property. This tax structure creates a competitive disadvantages for those great companies who choose to maintain their businesses in Nebraska. Companies also have an incentive to move their fleet across the river, even if they still do business in Nebraska. This means the jobs associated with maintaining and servicing these fleets and the income from those jobs also move across the river. Other testifiers can speak to the economic impact to this tax structure, but creating this disparity simply does not make sense for our state. LB249 addresses this problem by adding to the types of rental property that qualify as exempt business inventory, stating that business inventory also includes--as I stated--construction, agriculture, and manufacturing equipment that is held for lease or rental. This is similar to a bill we're going to hear very soon from Senator Groene. And so with that, I will end my opening and I would entertain any questions this committee may have. [LB249]

SENATOR SMITH: Questions from the committee for Senator Harr? Senator Friesen. [LB249]

SENATOR FRIESEN: Thank you, Chairman Smith. Senator Harr, when I look at this...I know a lease and a rental is different in terms, more of just a difference in contract. It accomplishes the same purpose, but...would you say, if I lease a bulldozer versus rent one? [LB249]

SENATOR HARR: Yeah, a good question. And there's someone who's coming up after me who knows this better than I, but what I would say is generally a lease is it's similar to a purchase, right? You lease a car and you have to pay the personal...the person who is leasing it pays that personal property tax generally for 30 days or more and it's a change almost in ownership. Right? The bailee/bailor relationship change. [LB249]

SENATOR FRIESEN: But it could be a straight-out lease, not a lease-purchase? [LB249]

SENATOR HARR: Yes. Yes. [LB249]

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SENATOR FRIESEN: But you're talking length of term differentiates it from renting something? [LB249]

SENATOR HARR: Yes, I believe it's term. It's the length of the contract. There is an individual coming...we talked about it and I don't remember. But there is a difference and you are correct in that assumption. [LB249]

SENATOR FRIESEN: That's all. Thanks. [LB249]

SENATOR SMITH: Senator Groene. [LB249]

SENATOR GROENE: I believe the difference between a lease and a rent is you're still responsible if you lease it for the amount of the base. If you lease it for \$100,000 and it's \$300,000 and the company can only sell it for \$150,000, you're responsible for that \$50,000, the difference. I do lease equipment, so anyway versus rent. [LB249]

SENATOR HARR: Thank you. [LB249]

SENATOR GROENE: Rent is a set time. But anyway, your A bill says \$10 million to \$20 million. [LB249]

SENATOR HARR: I know. [LB249]

SENATOR GROENE: So that means convert that into property taxes, TEEOSA is only about 50 percent in the Omaha area, so they're losing \$40 million in property taxes. Is that correct? [LB249]

SENATOR HARR: You know...how do I say this nicely? I disagree with the fiscal note. And I don't know...how do they come up with that number? Did they put TEEOSA into it? Did they say, here's how I assume how much leasing or renting occurs and then work the math out so that they came to that number? That's not in here, so all I can say is, it's a number. Can I say I agree with the number? No. I don't know how they came to that conclusion, so I can't really agree or disagree with any of the numbers to say... [LB249]

SENATOR GROENE: Have you talked to one of the major...Nebraska Equipment is one that was brought up to me--they're in North Platte, too--how much they pay on personal property tax on some of the... [LB249]

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SENATOR HARR: You know some of that is available on the...there is some...the answer is, yes, there is someone coming up after myself that can answer that question as far as how much gross leasing goes on out there of this type to see it. And maybe you two can work out the numbers if you think it's accurate. But I agree with you. Maybe that number is too low. Maybe it's too high. It's just...to me, it's just a number (inaudible). What's that? [LB249]

SENATOR GROENE: There's an awful lot of ag equipment leased five years, seven years, with a purchase option on the end. Does that include those leases, too? [LB249]

SENATOR HARR: Yeah, I mean that's a question we need to answer. [LB249]

SENATOR GROENE: Thank you. [LB249]

SENATOR HARR: Thank you. But I will say this, as markets become more mature you'll see a lot more leasing than you will purchases. And I think under a lease, you are responsible for the personal property, the lessor is. And in a rent the renter is not. [LB249]

SENATOR GROENE: I think you'll see a lot more leasing on a down market. [LB249]

SENATOR HARR: Yeah. [LB249]

SENATOR GROENE: When incomes are not as high, a farmer or business can afford to lease without having to go borrow the entire purchase price from the bank. [LB249]

SENATOR HARR: Right. That's exactly right. [LB249]

SENATOR GROENE: Lease is more popular in bad economic times. [LB249]

SENATOR HARR: I think, yeah. It's a more efficient way, at least. [LB249]

SENATOR SMITH: Senator Schumacher. [LB249]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you, Senator Harr. It seems to me that under the language in the law as it is now there's a huge limiting factor, because the property in order to qualify for this must be of a type which would be considered household goods or personal effects if owned by an individual, a television, a tuxedo, something of that nature. [LB249]

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SENATOR HARR: A dog. [LB249]

SENATOR SCHUMACHER: We're talking small-fry stuff. [LB249]

SENATOR HARR: We love to say dogs, too. [LB249]

SENATOR SCHUMACHER: Dogs, too, okay. But you don't own a dog, you have a dog. Now, with this I don't see anything that wouldn't qualify for this exemption because anything, theoretically, is owned for the purpose of leasing or renting. And then the next element is personal property is a type which in the ordinary course of business is leased or rented 30 days or less. Just about any property could be of a type that in the ordinary course of business is leased for 30 days or less. It doesn't say only those, but of a type that is and just about anything could be leased for that. And may be determined at the option of the lessee or renter. You can just put that language in the lease. And either is personal or a type that would be considered household goods or the personal property is equipment not used, but usable--just about everything is usable for everything--for construction, agricultural, or manufacturing. So this pretty much opens up the door to exempting just about all personal property. I guess the hardest thing would be to prove that you were owning it for purposes of leasing or renting. You could set up a shell corporation to accomplish that. So isn't this just huge? [LB249]

SENATOR HARR: Well, President Trump, huge. I do agree that we probably should...and thank you for pointing that out. I think we probably should change that from "usable" to "used." I think that's a more precise language. [LB249]

SENATOR SCHUMACHER: I think we need to identify just who we're trying to help here exactly. [LB249]

SENATOR HARR: Yep. [LB249]

SENATOR SCHUMACHER: And see if we want to help that who and then narrow it to something in a very narrow category. [LB249]

SENATOR HARR: Yep, I would agree with you. And I do think if we just changed it from...and I didn't read this with a fine-tooth enough comb. Yeah, used for construction, agriculture, or manufacturing. It's those large equipment that we were talking about. [LB249]

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SENATOR SCHUMACHER: I think we need to hone it more than just "used" because that still, even if you say "used" it still leaves a pretty big thing you could drive a truck through I think. [LB249]

SENATOR HARR: Or a bulldozer. [LB249]

SENATOR SCHUMACHER: Probably or maybe a train. [LB249]

SENATOR HARR: Yeah. I will work with you on that. [LB249]

SENATOR SCHUMACHER: Okay. [LB249]

SENATOR HARR: But thank you for that constructive criticism. [LB249]

SENATOR SMITH: Senator Groene. [LB249]

SENATOR GROENE: Thank you, Mr. Chairman. Lease has such a wide term. Most leases are lease to own, so you've got institutions that lease equipment. AgDirect is huge in the business. They're part of the Farm Credit Bank and I believe they pay personal property taxes on it. [LB249]

SENATOR HARR: Yeah. [LB249]

SENATOR GROENE: You're talking millions of dollars of inventory. Does this apply to them? I can see rent. I agree a hundred percent with you with a rental fleet implement dealer, he rents tractors or he rents the loader to a construction firm for a short term. But that lease thing can really get deep. I would think it would. I'm curious what qualifies here as a lease. Lease to own? Most leases are lease to own. Basically, that's the terminology of a lease. [LB249]

SENATOR HARR: That would not be my intent, to use lease to own property. [LB249]

SENATOR GROENE: You know if you have a buy out at the end. You have a five-year lease, you make your payments, at the end of that you can either turn it back or you can make a purchase. [LB249]

SENATOR HARR: Purchase it at a discounted rate, right? That would not be the intent. [LB249]

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SENATOR GROENE: I didn't think it was. More the rental fleet. [LB249]

SENATOR HARR: It's more...yep. The short-term rentals for specific portions of specific projects. [LB249]

SENATOR GROENE: That makes sense. [LB249]

SENATOR HARR: And so we can...I'm appreciating this dialog. We can work to clean that portion up, too, and focus in like a laser. So we can hopefully bring that fiscal note down a little bit. [LB249]

SENATOR SMITH: Other questions for Senator Harr? I see none. Now, Senator Harr, you did not work in government before you came here? [LB249]

SENATOR HARR: Oh, I was a county attorney, deputy county attorney. So, yes, I did. Son of a buck. [LB249]

SENATOR SMITH: We just like to be accurate on our committee, so just want to make sure. [LB249]

SENATOR HARR: What? [LB249]

SENATOR SMITH: We just want to be accurate on our committee. [LB249]

SENATOR HARR: You know, I sometimes try to forget those days. I was never elected, never elected, but proud to serve. [LB249]

SENATOR SMITH: Thank you, Senator Harr. We now move to proponents of LB249. Welcome. [LB249]

TIM HERZOG: Thank you. Okay, hopefully I won't screw anything up. Good afternoon. Hi, I'm Tim Herzog, it's T-i-m H-e-r-z-o-g. Good afternoon, Senator Smith and others. I see you guys already got off into the weeds on lease versus rent, because that gets very confusing. A lot of people confuse rent and lease and lease gets deep, (inaudible). So I'll just tell you who I am. I'm the vice president of Nebraska Machinery or NMC, I'm the vice president in charge of rental services. So all things rental fall under my umbrella. Just give you a brief overview of NMC or Nebraska Machinery, we're a 78-plus-year-old Caterpillar dealership, but we've gotten big into

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equipment rental because that's kind of the growth pattern with construction equipment and distribution of construction equipment. We are the only Nebraska-owned construction equipment rental company that basically covers the entire state. We have locations in Gering, North Platte, Kearney, Grand Island, Lincoln, where we just actually moved into a new rental facility, Omaha, Fremont, Norfolk, and we do have one location in Council Bluffs, Iowa, so we do know the differences between the states. Kind of the rental industry, a review, give you guys a little bit of a kind of what's happening in the rental industry and the distribution of construction equipment. If I start boring you guys and you guys start falling asleep, just wave, because I can geek out on this stuff, I've been doing this for almost doing this for almost 30 years, it's kind of what I do. Construction equipment used to enter the channel traditionally through ownership. A dealer would buy it and then sell it to their end user customers. More and more it's shifting away from that; it's going through different channels, a lot more through on the construction equipment side, through rental, what they call the rental channel. Twenty, twenty-five years ago, 15 percent of all construction equipment entering the market in North America came in through the rental channel. Before the economic downturn it was about 30 percent. Coming out of this, it's 45 percent. The mature spot, probably within the next five to ten years, will be about 65 percent. Two out of every three pieces of construction equipment sold in the U.S. and Canada will actually go into a rental fleet, not into the end user's hands as it enters the market. In western Europe, it's already at 80 percent. So this is what's going to happen, for lots of different reasons. One, banks don't like to loan to contractors anymore. Contractors have figured out, much like the labor pool, they bid a job, they cost account, they go to the union hall or the labor pool, they hire the labor, they're doing the same now with boomless, scissorless backhoes, wheel loaders and dozers, right? They get that piece of equipment for four months, six months, eight months, and they're done with it, it's not on their balance sheet. And that goes back to some of the questions about lease and balance sheet and some of that and the personal property taxes. But what we have is, and why I'm here today is, to talk a little bit about that there's differences in states in personal property taxes. And just to clarify some of the things earlier, I'll jump around and maybe hopefully answer a few of the questions. A rental fleet, when it's put into rental, is then viewed as personal property. When its...my understanding is if it's in the inventory it's not personal property, it's treated differently so it's not subject to the tax. But once it enters the rental inventory, then it's subject to the tax. So again, if my inventory is sitting in Council Bluffs on December 31 is not taxed, if it's sitting in Omaha it is taxed. And that's kind of the difference so that's kind of what we're talking about is how do we get on a level playing field with the markets around us. So that's kind of reeling it back into why I'm here is just to say, hey, other states are kind of here and Nebraska is very much here. And now I'm getting a yellow light, so I'll shut up.

[LB249]

SENATOR SMITH: Continue on if you have some more information. [LB249]

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TIM HERZOG: Yeah. Again, the rental industry is going to grow. And that's kind of what I'm saying, it's going to continue to grow. It's a healthy, viable alternative. All the dealerships can do it, not just dealers but national companies, local companies, you'll see start-ups. And it's a growth industry. And what we, as Nebraskans want, is we want that business to open in Omaha because it's not just personal property tax, but it's sales tax, it's income tax, it's business is flowing in, so we want to be open on this side of the river, not the other side of the river. Recently--and I'm not going to mention company names--but a certain national company closed their rental location in Norfolk and now services out of Sioux City because they can. And other companies house in Council Bluffs and deliver into Omaha, and so that revenue stream doesn't stay in Nebraska and we want to support Nebraska. That's why we're here. [LB249]

SENATOR SMITH: Very good. Thank you, Mr. Herzog, for your testimony. Let me ask you real quickly here, how does Nebraska compare to other states in terms of the percentage of businesses and uses that lease versus purchase and do you see any trends as well? [LB249]

TIM HERZOG: We're a little bit behind as far as the percentage of equipment that's rented versus ownership, which is not uncommon because of our, I mean, the way Nebraska looks. It's an ag state and a sparse population. So we're a little bit behind that curve and that 45 percent. But, again, if you go east, rental is much more prevalent. But, again, you also see the contractor base in the east is a little bit more transient and you're seeing a lot more out-of-state contractors come in versus the west. But it's definitely growing and it will continue to grow. Again, people from a cash flow standpoint, from a balance sheet standpoint, not just contractors, but the farmers, a lot of farmers, ranch equipment, you know to do the maintenance work, the ethanol plants, the industrial plants, I mean it's a growing, viable business. The rental market size--and, again, I'm talking about...and this is kind of rounded numbers, this is from the American Rental Association, IHS Global Data--the rental market size of the state of Nebraska is about \$230 million a year business. Now that's all rental and that would be anything down to some tables and chairs, but that's just to give you an idea of the scale. It's projected to grow anywhere from 4 percent to 6 percent a year from here to eternity. There's no real downturn in the rental industry. We see it growing. We see the new equipment sales actually being a struggle. [LB249]

SENATOR SMITH: Very good. Okay, thank you. Senator Groene. [LB249]

SENATOR GROENE: Thank you, Mr. Chairman. On a \$300,000, \$400,000 piece of equipment, which isn't uncommon... [LB249]

TIM HERZOG: Not anymore. [LB249]

SENATOR GROENE: ...what are you paying personal tax on that? [LB249]

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TIM HERZOG: I think the rate off the top of my head...so when it comes in...remember, it comes in new and then there's a decline in scale, right? So it's at 2 percent or 2.5 percent, I think the first year. And then I think it's a declining scale. I'm not a tax accountant, by the way.
[LB249]

SENATOR GROENE: So you're paying \$6,000 or \$7,000. [LB249]

TIM HERZOG: Yeah, off that piece that first year. And then it goes on a declining scale over time. [LB249]

SENATOR GROENE: Seven years or whatever. [LB249]

TIM HERZOG: Yeah, kind of. It's a six- or seven-year decline (inaudible) multiply. [LB249]

SENATOR GROENE: So rental...it's still inventory. Our rental stuff is, if I'm renting it out for 100 hours, somebody says, I want to buy that, we pick it up and we sell it and we get the guy another piece of equipment. [LB249]

TIM HERZOG: Yep. [LB249]

SENATOR GROENE: It's always for sale. Right? [LB249]

TIM HERZOG: Everything's for sale. [LB249]

SENATOR GROENE: Yeah. It's free market. So that distinguished rent versus lease. When somebody leases it, that's his as long as he makes the lease payment. So four years, five years, six years. And you guys probably don't get involved in leases, you turn that over to a lease company. [LB249]

TIM HERZOG: Yeah. When we sign a lease document, it's off our books. It's no longer our asset. It belongs to the leasing company. [LB249]

SENATOR GROENE: See my concern is that lease company could sit there and say, all of our inventory now is... [LB249]

TIM HERZOG: Yeah and that's a good point when you were talking about that earlier because, again, this is very specific to rental and maybe that's... [LB249]

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SENATOR GROENE: The intent is. [LB249]

TIM HERZOG: I think the intent is rental and I think that again going back to kind of the earlier conversation, people get lease and rental confused and they're very, very, very different. So your point, there's different types of leases. And a lease is not a rent. [LB249]

SENATOR GROENE: So that word "lessee" should probably get removed. [LB249]

TIM HERZOG: It should be omitted, yeah. [LB249]

SENATOR GROENE: It doesn't belong in there. Whoever wrote this original legislation years ago, yeah. [LB249]

TIM HERZOG: I think so. I think when it was originally in, again, I think people kind of interchange that word all the time, but they're completely different. A rental contract, let's say Hawkins is going to rent a 950 size wheel loader from us and they say, it's going to be a six-month rental. And we deliver the piece of equipment. And three weeks down the road something happens to the job, it gets shut down. Well, they turn it back in. Again, if they signed a 36-month lease deal, they're paying for 36 months to the finance company; it's theirs. So that's the difference. It's a legal, binding, financial document. So you're probably correct. We probably...in my opinion, my humble opinion you need to take the word "lease" out because that's a completely different business transaction. This is about an inventory that's isolated and dedicated for the rental fleet, which again when we rent it out we're generating sales tax revenue, too. That's another nice thing, it generates good sales tax revenue. That's why you want to make sure that the companies are inside the state boundaries, because if a contractor picks it up over state lines you kind of lose that revenue base, too. [LB249]

SENATOR GROENE: Before when we were just talking about household goods, personal effects, we weren't really talking about...it was all rental stuff probably. [LB249]

TIM HERZOG: Yeah. Yeah. [LB249]

SENATOR GROENE: And now you start throwing this big equipment in there, that word "lessee," "lease" comes into play. [LB249]

TIM HERZOG: Yeah. [LB249]

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SENATOR GROENE: Thank you. [LB249]

TIM HERZOG: Yeah. Again, I think those words got interchanged. And it happens a lot. It really does. [LB249]

SENATOR SMITH: Senator Friesen has a question. [LB249]

SENATOR FRIESEN: Thank you, Chairman Smith. So I'll just probably cover some stuff again, but the difference between a lease when somebody is leasing property, usually the lessee is responsible for paying property taxes on it and it's for a longer term usually. It could be a year, it could be six months, but typically it's for a year or multiyears. [LB249]

TIM HERZOG: The shortest term I've ever seen was one time when I worked for a manufacturing company. I worked for Volvo Construction Equipment for 13 years and they had a 12-month lease on certain pieces of equipment once. That's the shortest lease period I've ever seen. Usually it's a longer time. [LB249]

SENATOR FRIESEN: So if a piece of equipment is held for lease though, if it's in inventory you're not paying property taxes on it? [LB249]

TIM HERZOG: It's not sitting in the dealer inventory. It belongs to a finance company. [LB249]

SENATOR FRIESEN: Okay. [LB249]

TIM HERZOG: So I don't know, I'm assuming--and I'm going to assume--that the taxes are being paid by...in the financing package. [LB249]

SENATOR FRIESEN: Okay. It would be treated more like dealer inventory, which they do not pay property taxes on. [LB249]

TIM HERZOG: Correct. But it does not sit in the dealer's inventory at that point in time. [LB249]

SENATOR FRIESEN: So when dealers...so if dealers then decide to lease or rent out equipment, they are responsible for personal property tax currently... [LB249]

TIM HERZOG: Yes. [LB249]

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SENATOR FRIESEN: ...if they have to put it into a rental fleet or can they just rent off the lot or how does that work? [LB249]

TIM HERZOG: Yeah. We have to put it into our rental fleet. Equipment sits in new. So it comes in the dealership, it sits in new and we have an annual kind of business plan, a budget and we move certain dedicated assets into our rental fleet. And then we pay it, whether we rent it or not--hopefully, we rent it and it generates good revenue--and we pay personal property tax on that rental fleet. If it's sitting in that new inventory we don't put it in the rental fleet, it sits there until it's sold. [LB249]

SENATOR FRIESEN: Okay. [LB249]

TIM HERZOG: Hopefully, it sells fast. [LB249]

SENATOR SMITH: Any other questions? [LB249]

SENATOR FRIESEN: I think that's all. [LB249]

SENATOR SMITH: Sorry. Other questions from the committee? Senator Schumacher. [LB249]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for your testimony. But as broad as this is, this could apply to leasing space on a Web server. [LB249]

TIM HERZOG: That's why I think it needs to be for equipment rental on construction equipment, but... [LB249]

SENATOR SCHUMACHER: Well, either used or usable, whichever word you want to use. A Web server could be...provide software for manufacturing, it could provide CAD software used in construction. [LB249]

TIM HERZOG: Is that...are we currently paying personal property tax on that? [LB249]

SENATOR SCHUMACHER: I think we are. [LB249]

TIM HERZOG: Are we? [LB249]

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SENATOR SCHUMACHER: I mean, there's just a huge, huge area. [LB249]

TIM HERZOG: But is there...are there rental...are there people actually renting that? [LB249]

SENATOR SCHUMACHER: Yeah, you rent space on a Web server. You rent the use of software. You...boy, this is a lot of stuff that's covered the way this is worded now. I don't have anything further. [LB249]

SENATOR SMITH: I see no further questions. Thank you, Mr. Herzog, for your testimony. We appreciate what your business does in Nebraska. [LB249]

TIM HERZOG: Okay, thank you. [LB249]

SENATOR SMITH: Next proponent of LB249. Welcome. [LB249]

MARK OTHMER: Good afternoon, Chairman Smith. Members of the Revenue Committee, my name is Mark Othmer, M-a-r-k O-t-h-m-e-r, I'm the Nebraska field director for Iowa-Nebraska Equipment Dealers Association. We're a trade association that represents 400 dealer member locations in Iowa and Nebraska. One hundred fifty of those are in the state of Nebraska. I'm certainly not an expert in NMC's business model, so I don't want to go into much of that but I would just say that we are in support of LB249 for the fact that we want to make sure businesses like theirs stays in Nebraska. And we would hope that the committee would see a reason to want that to happen also. Just one quick clarification. And this is probably going to open me up to all kinds of questions, but...so I'm a little careful about what I say. But let's remember that I think what this bill is trying to deal with is how the inventory itself is being held. And the thing that everyone should understand is if NMC, which I think is what they're doing is setting up a separate rental company, capitalizing and depreciating that inventory. That's what makes it subject to personal property tax. Most farm equipment dealers rent from their inventory. They just rent from their inventory that's on their balance sheet and they decrease the value of the inventory. And that has been proven with the IRS and everyone else that that's legal to do that, as long as you record a little bit of income tax or income with those rental payments. So other than that, I don't have a whole lot more to add. But I would be willing to answer any questions that anybody might have. [LB249]

SENATOR SMITH: I see no questions from the committee. [LB249]

MARK OTHMER: Great. Thank you. [LB249]

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SENATOR SMITH: Thank you for your testimony, Mr. Othmer. Next proponent of LB249. Welcome. [LB249]

RON SEDLACEK: Thank you, Chairman Smith and members of the Revenue Committee. My name is Ron Sedlacek, S-e-d-l-a-c-e-k, and I'm here today on behalf of the Nebraska Chamber of Commerce and I also was asked to make sure that the National Federation of Independent Businesses in Nebraska, NFIB, be on record in support as well as the Nebraska Bankers Association, they also wish to be on record, so I signed in for all three. And essentially, this bill was brought to our tax council and they reviewed it and passed it along to our board of directors who asked us to come in and testify in support of the legislation. I'm not going to be redundant with previous testimony. I think Senator Harr did a fantastic job in explaining what the intent of the legislation is and that's what we've been working off of. But there's variations in interpretation and certainly that's justified. [LB249]

SENATOR SMITH: Thank you, Mr. Sedlacek. Appreciate your testimony. [LB249]

RON SEDLACEK: Thank you. [LB249]

SENATOR SMITH: (Exhibit 1) Next proponent of LB249. We do have a letter for the record in support of LB249 from Katie Wilson, representing Nebraska Chapter of Association of General Contractors. We now move to opponents of LB249. Opponents. Welcome. [LB249]

LARRY DIX: Good afternoon. Senator Smith, members of the committee, my name is Larry Dix, L-a-r-r-y D-i-x, Executive Director of the Nebraska Association of County Officials, appearing today in opposition to LB249. When NACO took a look at this particular bill and read it and I think read it quite literally, like all of you read it, and I think as is indicated in the fiscal note, we felt that this would significantly reduce the tax base in the state, especially for personal property. What happens, personal property tax base is reduced, fundamentally you'll see a slight shift of that to real estate. It will move across to that area. Certainly, that's the Legislature's prerogative. You're the folks that set tax policy and we understand that, but that would be one of the ramifications of this. The other thing when we looked at this and we read it very similar to the way Senator Schumacher has been reading it in the fact that it is very, very broad in what it exempts. And when we read it just like you do, Senator Schumacher, is usable for all of those items, we believe it does pretty much eliminate a majority of the personal property tax base. And I certainly don't know that that was Senator Harr's intention, but as we read the green copy that's really what we see. And as you know, we typically are concerned about the tax base. And for those reasons, we're here in opposition today. I'd be happy to answer any questions you may have. [LB249]

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SENATOR SMITH: (Exhibit 2) Thank you, Mr. Dix, for your testimony. I see no questions from the committee. Thank you. Next opponent of LB249. Seeing none, we move to neutral. Those wishing to testify in a neutral capacity. We do have a letter for the record in a neutral capacity, Nathan Leach, Lincoln, Nebraska. We invite Senator Harr back to close on LB249. [LB249]

SENATOR HARR: Thank you. And, again, I apologize for having forgot that I worked as a deputy county attorney. I think part of the reason was because as a deputy county attorney I was represented by Mr. Dix, so I try to forget those times. Right? Anyway, hey, thanks for the testimony today. I want to thank everybody who came here today. I want to thank everyone for their questions. I know what I intended with this bill and I can see the language needs a little work, a little fine tuning, and I look forward to working with this committee because I do think the purpose behind this bill is still valuable. But the language can be worked on, so with that I would entertain any questions you may or may not have. [LB249]

SENATOR SMITH: Remaining questions for Senator Harr? Senator Schumacher. [LB249]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Don't feel bad that the Chairman forgot you were a deputy county attorney. He forgot I was a county attorney. I don't have anything further. [LB249]

SENATOR SMITH: I didn't forget, he forgot. So thank you, Senator Harr, for your closing on LB249. That concludes the hearing on LB249 and our hearings for the day. [LB249]

SENATOR HARR: Thank you. [LB249]

SENATOR SMITH: Thank you all. [LB249]