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Revenue Committee  
November 09, 2009

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[LB13 LB15]

The Committee on Revenue met at 11:00 a.m. on Monday, November 9, 2009, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB13 and LB15. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; LeRoy Louden; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: None. []

SENATOR CORNETT: Good afternoon and welcome to Revenue. I'm Senator Abbie Cornett from Bellevue. To my left is Vice Chair, Senator Dierks from Ewing; to his left is Senator Adams from York; Senator Hadley from Kearney. To my far right is the newest member of the committee, Senator Pete Pirsch from Omaha; Senator Dennis Utter from Hastings; Senator LeRoy Louden from Ellsworth; and Senator Tom White from Omaha. Legal counsel is Shannon Anderson; Bill Lock, on the far end, is committee research analyst; and Erma James is committee clerk. Before we begin the hearing today, I advise everyone to please turn your cell phones to either off or vibrate while in the hearing room. The sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clip boards at the back of the room to sign in if you do not wish to testify but would like to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or their representative will present the bill, followed by the proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and staff. If you only have the original, we will make copies for you. Please give the handouts to the page to circulate to the committee. With that, we will begin the Revenue Committee hearing for today. Senator Pahls, you are recognized on LB13. [LB13]

SENATOR PAHLS: Thank you, Senator Cornett. Members of the Revenue Committee, appreciate you giving me the opportunity to speak to you today. I just received, within the hour, the ruling from the AG that this does not meet the call. And I understand that. My intent is not to try in any way to get people to push this bill forth, but is to continue on that continuum of education what we need to be doing in the future. The bill was written in a very...I have to give my staff and the Bill Drafters, they wrote this bill in a very simplistic manner so we didn't have to spend hours trying to going through everything. But if it would pass, we'd have to go back and probably there would be more pages involved. Again, I think you know the reason why I'm in front of you, because I want to continue again with this concept. Indirectly, I want to make you famous. My goal is to make everyone of you sitting around this...the table here is to make you famous because you could be one of the first group of senators who says, hey, in the state of

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Nebraska the potential of no longer having property tax, the potential of no longer having income tax, or the potential of not every year when you renew your tags on your car, your license and you write that check, and for those of you who have nice, expensive vehicles that probably is a pretty snazzy amount. I'm going to give you, hopefully, eventually, sometime before I retire from this body the opportunity to develop some legislation that would allow those things to happen. And I think if we start analyzing what has happened to us in the past, you're going to say, hmmm, we do need to take a look at that. Now the bill that I'm talking about today, if we would do this, basically, one year, one year it would be less than a penny for the exempted taxes, those that are exempted right now, for less than a penny we could almost cover our shortfall, it's that powerful, it is that powerful. And what I've done today, I brought a couple of items because I know you're probably getting tired of seeing me. But this represents, if you look at them you'll see some skeletons there. I'll give that to the people in the back. The skeleton, these are the people who are not exempt. We're starting to wear them out. We're starting to have them say, hey, when is enough, enough? So this represents the two billion. Now we're going to get to those people who are on the other end or the sacred cows. Cow is a little tired (laughter), and there are three of them, representing those sacred cows that we need to be taking a look at. What I am saying is if in this just one year, in one year if we charge these sacred cows less than a penny we could cover our deficit or close to it. Again, I'm saying it's that powerful. These two billion people are worn out. Now what I think is interesting, because you have received letters from groups who are saying, hey, leave well enough alone. The interesting thing about it is, and those for the most part would be the chamber of commerce and the Cattlemen, I understand where they're coming from. But you know, if I were a business person and I was in this two billion I would not be happy. You're not representing me. You're representing these people because you don't want to see any changes. But I'm sitting over here and I'm doing more than my fair share. And what I'm trying to...some people say all we're doing is moving taxes around. Yes and no. If we would remove these exemptions and reduce the other taxes, then I don't think there is that much of a deal to cry about. But again, I think it would be great in the state of Nebraska if we could say that we do not have the income tax or property tax or a combination of that, again, the power of tax exemptions. I'll just give you a couple more things before I turn this over for questions. Why is it that this group has not been served? This group has been served by the property tax exemptions. It seems to me that we ought to have five cows up here or none or very little. The ironic thing about it is, and I'm going to even get to the nonprofits, because I know we have some of those people here, eventually they're going to, if we keep cutting back on our relief at the state level, that will eventually catch up with them. Now again, it's been brought up to me about sales tax exemptions. You really need to take a look at it because it's unfair. I'm just saying let's take a look at all groups and see where this is...where everything would fall. We know this summer or early summer the Supreme Court ruled on the...for the concrete company that says if you have a machine you bring it in and build it, it's the same thing as buying a machine outside. The sad thing about it is the Supreme Court

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doesn't have a fiscal note going. So we don't really know what that's all about. Now what I want to talk about one more thing is we have five bills right now in front of our...the body. So we have another one brewing. The power of those people, and I'll just be honest with you, what I think is rather ironic you hear or you read in the paper the Corn Board is really upset with pulling the money from their checkoff. I'm not saying there's anything wrong with being upset with that. But if we do with...if we allow a bill to be passed this year that in its second year, it's on Final Reading right now, that in its second year it will be guaranteeing a \$2 million loss for our state revenue. That's a lot more than just what the Corn Board is going to be donating, you might say, if the Governor gets his way. Here's another thing, too, I just looked at last year. We passed, in LB9, two bills dealing with mineral oil, wood, and corn for fuel. That's going to generate a loss of \$232,000 in another year. So when you're on the floor complaining that we're making cuts on staff, whatever in the Legislature, I'd say, well, maybe you ought to think about some of these exemptions that we have made in the past. In fact, if we'd go back to the year 2000, and just say we're going to eliminate all the exemptions, that would be over \$9 million. Now, if you look at the history, it seems like we are becoming more liberal when it comes to giving these sales tax exemptions over the last few years. Usually, it's a roller coaster and in the bad times, of course, the exemptions are harder to come by. But if you look at the past history, it seems like we're becoming more generous. The only question I have is I'm over here, guys. You keep moving everything over here. I suffer all the more. So that said, these little things start growing. I think every one of you, because I received an e-mail, somebody is requesting an exemption, one of us to carry a bill dealing with heating oil. I think if you look in your e-mail we just got it this last week or so. Somebody wants heating oil to be exempted. So I'm thinking to myself, heating oil, we already exempt airplane fuel, why not? I mean, if we can exempt fuel, why not heating oil? Where do you stop? Or florist, where if you're a florist, how does that get in there? And you've heard me say this before, let's say if you wash your clothes in a laundromat, exempt; you wash your car you're not. I think that we do need a full investigation, that's why I'm asking the Revenue Committee to take a really serious, hard look at this to see what this is all about. Here's another thing, I don't know if last time I talked to you if I brought this up. Most of you, you know, through our mailings, like political mailings and things like that, there are companies who do that and they generate it for you. In the state of Nebraska they pay a sales tax. Well, one of the people that I know, through the Millard Business Association, told me that he's been paying sales tax exemptions. He found out that several of his competitors in the state of Nebraska weren't. So he said and he talked to the Department of Revenue, he turned them in. He said, it's fair for me, it has to be fair for them. But he says, the sad thing about it is if somebody would go over to Council Bluffs they wouldn't have to pay it. So that's an argument that's used a lot of times, well, out of state they don't. But where do you stop? There has to be a template or we say let's do away with them all. In fact, if you do away with them all, I figured if everybody paid their fair share it would be less than 2 cents on the dollar. But the reason why, and I've talked to some groups, the reason why some groups are a little leery of some of this is because they'll

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say, you'll say now 2 cents on the dollar, you have a whole bunch of new senators in there, they'll move it up. They even want to go through the petition process on dealing with some of these taxes. That way we would not be, you know, allowed in a few years to bring those exemptions back. I'm just asking for us all to take sort of a fair, fair look at this. And not just listen to certain groups of people who are trying to save themselves. And do I blame them? Of course not. But if you're over here and you're in the business world, I wouldn't know why the guy who wants me to sponsor a bill dealing with mailings, why he or she does not have a right to be over here. But what we've done over the last few years, we keep adding. And it sounds good. I mean, how can I argue against using mineral oil, or wood and corn for fuel? Pretty hard to argue against that. Every one of those would be pretty hard to argue and just say this is unfair. So again, what I'm trying to do is, you know, continue the process of urging the Revenue Committee to look at sales tax exemptions, I know overall all policies, tax policies. But I do think this is very powerful. You know, it would be nice to move if not all three of them over here to be fair to these groups of people who are getting, believe it or not, thinner because we keep removing people from that group and putting them over here. Again, getting back to the meat of my bill, I understand that, you know, this bill will not go beyond this committee. But it's just to be able to bring this concept up again. And I don't...I have received several letters of groups that are opposed to this, which makes sense. So I'm assuming that there may not be a lot of discussion on it now. But I'm asking everybody to be prepared for it next session, if not. Thank you. [LB13]

SENATOR CORNETT: Questions from the committee? Senator Pirsch. [LB13]

SENATOR PIRSCH: (Microphone malfunction) Is your thought that ultimately (inaudible). [LB13]

SENATOR PAHLS: Well, part of this, thank you, Senator. Part of this, there will be so much push-pull back from the lobbyists. So that's going to be hard to say this one, or this one, or this one. But I think if the committee can legitimately come up with say, these are the four guidelines that we need every one of these to fall under, and stay away from being lobbied into changing that, which could be difficult. But again, you could take that process, take some of these away. Or you could go from the other one, every one that can legitimately be taxed at a lower rate would be another option. [LB13]

SENATOR PIRSCH: (Microphone malfunction) And that would be the purview of this committee (inaudible). Right now I would hazard a guess there are literally tens of thousands of (inaudible). How would you go about...how would you (inaudible). [LB13]

SENATOR PAHLS: Well, I think, to be honest with you the Department of Revenue and my office has worked with them and also your own staff are pretty smart about all of this. If they could be honest with you and say, these are some areas that we really...I mean, let's think about it, let's be fair about it. I think they...and if we would listen to

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them, I think we would be surprised at those that might be recommended to be, you know, a second chance. And if not, be fair about it and charge every one a low, low percentage, whatever that percentage would be, with the promise that it will not be extended. Because I have a history of all of the...how the sales taxes have gone up and down, mostly up, over the years. And I can see where the public would say, yes, this year it will be 2 percent...2 cents, and three years from now it's going to be 4 cents because you're going to want that dollar. To me it's a doable project. And it's going to need the power of the Revenue Committee. I mean, let's face it, you know, otherwise this will be stonewalled like it has been in the past. But if you as a committee, and I would be more than willing to help of course. [LB13]

SENATOR PIRSCH: (Microphone malfunction) (Inaudible). [LB13]

SENATOR CORNETT: Senator Louden. [LB13]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Thank you, Senator Pahls. We've been in on your discussion. Oh, don't put all your dolls away just because I'm going to speak. (Laugh) [LB13]

SENATOR PAHLS: No, no, no, I just, you know... [LB13]

SENATOR LOUDEN: As you...as my observation has been, there's about categories in this sales tax. And you've only got two there, those that can and those that...or those that do and those that don't. But usually, wouldn't you agree that mostly your sales tax it's either on purchased consumer goods or purchased production goods? And that would include healthcare and that sort of thing. Those are the exemptions on purchased production goods and healthcare for the most part. Are there any exemptions that fall outside of some of those categories? [LB13]

SENATOR PAHLS: I would have to really think about...because what you would classify as an agricultural person, everything would be exempted for the most part. [LB13]

SENATOR LOUDEN: On your production part. [LB13]

SENATOR PAHLS: Well, right. But let's say that you, as in water you're not taxed. But I pour it out of my faucet, I'm taxed. I mean, where's the relation, where's the fairness there? [LB13]

SENATOR LOUDEN: Now is it...your water bill, you pay a sales tax on your water bill? [LB13]

SENATOR PAHLS: It's my understanding, yes. [LB13]

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SENATOR LOUDEN: Okay, I didn't know... [LB13]

SENATOR PAHLS: I could be wrong, but that's my understanding. [LB13]

SENATOR LOUDEN: Okay. But it's mostly, it's your consumer goods you purchased and groceries aren't at this present time included in those deals. But when you get back into when you have a sales tax on everything and we do away with property tax, how do you intend to fund your local governments if you don't have any property tax? [LB13]

SENATOR PAHLS: Well, just like we do, right now the property tax relief that we get from the state department, they found a way, from us, they found a way to get that back to the local subdivision. And that could be all set up. There are people back there who do this type of thing for a living, where you and I may sit down and argue about this, but the value of your house, the amount of money that would generate as a property tax, that money would flow back from the state. [LB13]

SENATOR LOUDEN: No, but I'm wondering how would Sioux County get back money out there to operate their county if all the sales tax goes east and very little sales tax is generated in Sioux County, are they going to get back just what they contribute or is the city of Omaha going to help support Sioux County out there so that they don't have to pay any property tax? [LB13]

SENATOR PAHLS: Well, right now, to be honest with you, three or four of the counties do give a lot of the sales tax right now. I mean, to be honest with you. No, if there's a property tax at your...in Sioux County, whatever that property tax would be, that money would be generated back to you from the relief of all these other taxes. [LB13]

SENATOR LOUDEN: Then it would be, whatever they would decide their property tax levy would be, then they would be entitled to syphon that back from the State Treasurer? [LB13]

SENATOR PAHLS: Yeah. You know it almost, this is really almost funny, because then people would want their property taxes to go up. [LB13]

SENATOR LOUDEN: Yes, they would. [LB13]

SENATOR PAHLS: Well, but you see there could be a system. But I would like to have that problem, to be able to present that to a group of statisticians or actuary type people who could probably figure that out for us. [LB13]

SENATOR LOUDEN: And I was just wondering, when you get all of this money, what do you put in there to control spending on the top? Because that's a problem now with property tax on some of your school funding, there's no control on the spending. It's just

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set up on how much they can levy. So I'm wondering, you know, I'm wondering how you're going to implement it. I think it's a great idea. It sounds like a real pie in the sky, you know, and everybody should jump on board. And just one guy at that ICON that said he believes that because he can only sell a calf for \$525 and that's all the sales tax he'd ever pay is \$25 a head. But I don't know if that would...exactly has everything included on your situation there. [LB13]

SENATOR PAHLS: And you have some very, very good questions. And that shows, that tells me that those are the types of questions that should be asked by this group and your staff. If this is really true, if this is going to work out, instead of I think, or my gut tells me, this information could be found out. [LB13]

SENATOR LOUDEN: Well, it has to be answered long before you ever get into that. I mean that's for sure. And I don't know if that's possible. It's kind of like the theory of relativity, I don't know if you can find the answer to that or not. [LB13]

SENATOR PAHLS: But I think if you could not find the answer to that then you would have a legitimate, say, hey, you know this is pie in the sky. But we're not even doing that, we're not even attempting...we just attempt each year to pass more. I'm saying you're right. You're saying, hey, Pahls, you're really flying pretty high there right now. Well, then my challenge to myself and to you is then let's really, truly analyze this. Instead of saying we're going to make...I'm going to say do bad to the farmer, do bad to the businessman, do bad to the whatever group, the nonprofit. Before we do that, let's take a serious look at that. I don't think we have. If we have, I've not run across anybody who's told me you know we've already analyzed all that stuff and it just doesn't work. [LB13]

SENATOR LOUDEN: Well, I agree. Okay, well, thank you, Senator. [LB13]

SENATOR PAHLS: Thank you. [LB13]

SENATOR CORNETT: Senator Utter. [LB13]

SENATOR UTTER: Thank you, Senator Cornett. Senator Pahls, in your perfect world, and notice I said your, because obviously there's folks sitting around that probably have a different perfect world idea than you do. But in your perfect world you would tax food, medical expenses, pharmaceuticals, those type of things and then I assume have provisions for some type of a rebate to give relief to folks who are...that this really works a burden on? [LB13]

SENATOR PAHLS: Yes. If we were going to eliminate all the exemptions, and those would be two major ones, we do need to help those people in need. Keep in mind, before '87 we did tax food. And it is ironic, one of the things I'm hearing more support for

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than I ever thought was let's tax food, which is not something I'm saying just let's go out and do. But there would be a...you do need to take into account those people who are in need. [LB13]

SENATOR UTTER: Also, how do you envision the local option sales taxes fitting into this picture? [LB13]

SENATOR PAHLS: Well, to be honest with you right now several mayors want me to support a sales tax increase in their cities. And I'm saying it's really ironic, I'm trying to fight that. They see me as wanting to generate more monies for their programs. And I'm saying, generate more money to reduce all the other taxes. But again, that would be something that we'd have to analyze to see. That's what my bill was about initially last session was to put sort of a stop, take a look and listen before we move on, you know, sunset those. As I felt a lot of them with the power of the lobbyists would have been moved on eventually anyway. Because notice how many of our bills this past year that we moved on, Nebraska Advantage Act or some of those, even though they were sunset, we're not afraid to move that sunset on for the future. [LB13]

SENATOR UTTER: Thank you. [LB13]

SENATOR PAHLS: Yeah, thank you. [LB13]

SENATOR CORNETT: Further questions? Seeing none...first proponent. Is there anyone here in favor of the bill today? Okay, we'll move to opponents. First opponent, please. [LB13]

JOHN WOOD: Madam Chairman, members of the committee, my name is John Wood. I'm the executive director for the Airport Authority here in Lincoln, Nebraska. And I'm speaking in opposition to the bill. I've just got a few bullet points. Currently, Nebraska levies a tax on aviation fuel, it's 5 cents a gallon on aviation gasoline, and 3 cents a gallon on jet fuel. In addition to that, and I didn't have time to look the numbers up, but the feds also levy taxes on aviation fuel, and that's something in the neighborhood of 15 or 20 cents a gallon. So there's plenty of taxes levied on aviation fuel today. The tax, the proposed sales tax on aviation fuel couldn't be targeting an industry that is worse off in this recession than aviation. Airline traffic is down. Airlines are cutting costs everywhere they can. Passenger traffic is off. The last thing they need is to see the cost of their fuel go up. That could affect future service throughout Nebraska if the airlines have to pay additional costs. General aviation is also hurting. As an example, Duncan Aviation here in Lincoln, which is a major employer in town, was forced earlier this year to lay off hundreds of people for the first time in their history because of the problems in the general aviation community with the recession. In fact, right now on the ramps at the Lincoln Airport we've got a number of corporate aircraft that are parked in storage for lack of use. That's how bad that industry is hurting. Our general aviation operators



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compete for cross-country fuel business with operators in other states. Airplanes are very mobile, unlike trucks that are on the Interstate, they don't have to come across Nebraska, they can fly across South Dakota or Kansas and they can stop there and get gas if they need to. So they're having to compete with other states. If the prices go up here, they may be forced either to absorb that cost internally by keeping their final price of fuel the same and just absorbing the additional tax or take the risk of losing those sales to other states. Overall, the effect could be that there would be lower fuel sales in Nebraska. And you might actually lose money because of the fuel taxes you're already collecting, if fuel sales go down you're going to lose the fuel taxes in addition to any sales tax. You could end up with lower tax revenue overall. Just as an example, in Lincoln my operators tell me they have about \$5.5 million in fuel sales in the last year. This would represent an additional \$36,000 in taxes to them. I'd be glad to answer any questions. [LB13]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB13]

SENATOR LOUDEN: Yes. Well, thank you for your testimony. Do other states have a fuel tax on aviation fuel? [LB13]

JOHN WOOD: They have fuel taxes. I'm not aware of any state that doesn't have fuel taxes. [LB13]

SENATOR LOUDEN: Is it comparable to... [LB13]

JOHN WOOD: I don't know about sales tax. [LB13]

SENATOR LOUDEN: Okay. Is it comparable to what Nebraska has? [LB13]

JOHN WOOD: There again, I don't know that answer, but my guess is that it's fairly comparable around the country. There's going to be variations, but it's fairly comparable around the country. [LB13]

SENATOR LOUDEN: And what's that tax money used for? Is that for support of the airport and aeronautics? [LB13]

JOHN WOOD: In Nebraska the money generated off fuel taxes goes to the Department of Aeronautics. They use that for their internal operations and they also use it to supply grants to airports around the state. [LB13]

SENATOR LOUDEN: Okay, thank you. [LB13]

JOHN WOOD: So they split it up. [LB13]

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SENATOR CORNETT: Seeing no further questions, thank you. [LB13]

JOHN WOOD: Thank you. [LB13]

SENATOR CORNETT: Next opponent. [LB13]

JEFF LAKE: Good morning. [LB13]

SENATOR CORNETT: Good morning. [LB13]

JEFF LAKE: My name is Jeff Lake. I'm the chief operating officer for Duncan Aviation and I'm here to talk about the... [LB13]

SENATOR CORNETT: Sir, could you spell your name for the record, please. [LB13]

JEFF LAKE: Yes, Lake, L-a-k-e, and Jeff is J-e-f-f. Here to talk about the exemption that we have, the sales tax exemption on sales tax, the flyaway rule on aircraft sales, and then also on services that Duncan performs on aircraft while it's here. Currently, the exemption allows no sales tax to be charged on a sale of an aircraft or services for nonresident aircraft as long as they fly away after ten days after the work has been performed. Duncan Aviation is unique to Nebraska. Our competitors aren't here in Nebraska, they're all over the state and all over the world. Currently, about 2 percent of our revenue comes from the state of Nebraska, about 18 percent actually comes from outside the country, from foreign countries all over the world--Russia, China, South America, Canada, I mean, just about any country in the world comes to Duncan Aviation. If it is a Nebraska company that brings the business here, they do pay sales tax. It's just that exemption for nonresident sales tax. As I mentioned, our competitors really aren't in Nebraska. We don't really have another business like Duncan here in the United States. It's a very highly capital industry, a lot of training, a lot of liability, so it's very unique. Our competition is the OEMs, the manufacturers of the aircraft and some other companies like Duncan. Those companies are in other states. Those other states have similar exemptions to Nebraska. They have the similar sales tax exemption for purchases of aircraft and also for services. So if an aircraft doesn't come to Nebraska, they can easily go to Kansas, Colorado, Wisconsin, Missouri, those other states that have a similar exemption as Nebraska does. An aircraft, obviously, is highly mobile. They can fly here in a matter of hours, it can be, you know, in Delaware or in Oregon that doesn't have any sales tax on aircraft either. Kansas isn't very far away. It's just...in fact, from a general aviation aircraft, a jet aircraft you're talking 35 minutes to get to Wichita. So there's really not much of a difference when it comes to an aircraft and go to Lincoln, Nebraska, versus Wichita or to somewhere in Colorado, St. Louis, Missouri, those other states that we compete against. So again, we are competing against...if we were all on the same playing field it would be easy, you know, we'd all be paying sales tax. But unfortunately, we're not all on the same playing field. Those other states have

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the sales tax laws that they have. And unless all the states can come together and have the same sales tax laws, we need that exemption to survive, basically. Our industry is also a very low margin industry. You wouldn't think it would be being aviation. But our effective labor rate is in the neighborhood of \$70 an hour. Most car service centers get much better than \$70 an hour. Our margins are very low. But as I mentioned, our capital costs are very high and our training is very high. So if sales tax is imposed, for us to compete we would have to basically eat that sales tax in our pricing. And Duncan just simply doesn't have the margins to be able to do that. The other thing, as I mentioned, these companies that come in from all over the world and other countries they're bringing people with them. So currently, right now we have probably 55 to 60 aircraft in our facility. Again, very few if any of those right now are from Nebraska. Those all bring people with them. They bring pilots, director of maintenance, other crew members, and they are here in Lincoln, most of the time during the duration of that work. We have customer dinners every Wednesday night and there are 25, 30 customers there. And that's just the ones that come to that dinner. But those people are here at restaurants, at hotels, they're buying things from our retail organizations. Again a lot, especially right now with the currency as it is, we've got all these foreign customers coming over and they're buying things like crazy here and taking it back home. So there is an awful lot of ancillary business that comes along with that for the state of Nebraska. As I mentioned, the big thing for us is really the pricing disadvantage. We are competing every day and one of the first questions that our customers ask us is, what's the sales tax laws in Nebraska? I am constantly faxing the exemptions form to our customers all day long regarding sales tax because it's a big number, especially on a purchase of an aircraft, you could be \$10 million, \$15 million, \$20 million on an aircraft. That sounds like a lot of good sales tax revenue, but obviously that's a big concern for our customer. If they have to pay that sales tax, they will go to another state where they don't have to pay that sales tax. As John mentioned, it's been a tough economic time for us. You know, as John mentioned, Duncan did lay off about 300 employees, about 200 of those were here in Lincoln, the other 100 were in Michigan. Our business dropped much more than that. We reduced employee levels by about 15 percent, however, our business is down 25 to 30 percent. And we ended up keeping those employees, we didn't drop 25 to 30 percent of our employees, we kept those employees because we are very family oriented, very employee oriented. So we kept those employees. We're having to do that with reduced salaries, reduced pay...work weeks right now. But we kept our staffing as much as we could, but we had to lay off some of those people. So right now with the margins the way they are, the industry as it is, enacting a sales tax on our industry here would be a big concern for us and it would be very damaging for Duncan. So any questions? [LB13]

SENATOR CORNETT: Yes, Jeff. How many companies like yours are there around the country? [LB13]

JEFF LAKE: Around the country, well, first of all our main competition would be the

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OEMs, the manufacturers of the aircraft. And the major OEMs, there's probably about seven or eight major OEMs, it's companies like Cessna, Gulfstream, you know, Beechcraft. A lot of the companies like that are down in Kansas. Most of the manufacturers are in Kansas. We also have some international manufacturers, like Falcon Jet, they're out of France. And so that's our main competition. And of that, like I said, there's probably around eight. And then other companies similar to Duncan, there's, you know, there's anywhere...now there's different aspects. Like somebody might just do airplane work, or somebody might just do maybe avionics work. If you added all that up there would be a lot of those kind of companies. But major facilities like us, there's probably in the neighborhood of, besides the OEMs, another 10 to 12 companies like that, that are major. [LB13]

SENATOR CORNETT: Do you know if any of those are located in states where they impose sales tax? [LB13]

JEFF LAKE: Like I said, most all of those have exemptions similar to us. Kansas has almost a verbatim exemption. And again, the OEMs in Kansas reside in Wichita. Wichita has been decimated by this recession. You probably heard they've laid off upwards of 20,000 people in Wichita. But yes, the other states, Missouri has a similar exemption, Colorado has a similar exemption. So the states that we compete in have the similar exemption. [LB13]

SENATOR CORNETT: So I was going to say, so what you're stating is to remain competitive, you have to keep the sales tax exemption. [LB13]

JEFF LAKE: Yes, yes, I mean...because again, they can fly easily, it's not like driving your car. It's the matter of an hour flight, 35 minutes to Wichita. And again, you know, part of this is upwards of \$45 million, \$50 million of revenue comes from outside the country. Those places, they can easily fly to any of these locations that I'm talking about. And they have the same exemption laws that we do here in Nebraska. [LB13]

SENATOR CORNETT: Senator Pirsch. [LB13]

SENATOR PIRSCH: (Microphone malfunction) I just wanted to make sure I got this (inaudible). So 98 percent of your business comes from either outside of Nebraska (inaudible)? [LB13]

JEFF LAKE: Right, roughly. It's anywhere from, right now it's about 2 percent but maybe in a good year it's, you know, 3 or 4 percent. [LB13]

SENATOR PIRSCH: (Microphone malfunction) So very illustrative (inaudible). [LB13]

JEFF LAKE: Um-hum. [LB13]

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SENATOR PIRSCH: (Microphone malfunction) Do you have any opinion just in general about a tightening...say we were to exclude your (inaudible) type of transactions. But do you have any opinion on the more general matter of tightening of exemptions (inaudible) exclude industries say such as yours? [LB13]

JEFF LAKE: Outside of the aviation industry? [LB13]

SENATOR PIRSCH: (Microphone malfunction) Yeah, do you have any opinion on that? [LB13]

JEFF LAKE: You know, I don't because I think that everybody is going to have a case similar to us. I mean everybody that gets up here is going to have a reason for those exemptions. And I, you know, quite honestly, even though I know a lot of those exemptions, to say that I have a good opinion, I'd have to be in your shoes and hear their case, you know, to get both sides of the story before I'd really say what exemption merited an exemption and which did not. [LB13]

SENATOR PIRSCH: Thank you. [LB13]

SENATOR CORNETT: Further questions from the committee. Seeing none, thank you very much for your testimony. [LB13]

JEFF LAKE: Thank you. [LB13]

SENATOR CORNETT: Next opponent. Are there any further opponents? [LB13]

JIM CUNNINGHAM: Madam Chairman, members of the committee, my name is Jim Cunningham and I represent the Nebraska Catholic Conference. I understand that the bill is outside the call and that Senator Pahls does not intend to push forward with it. My only purpose for testifying is to protect the record and to be on the record to restate our opposition to the repeal of exemptions that are provided for churches and schools. And you've heard from me previously and I'm sure that as the issues proceed you'll hear from me again. But our opposition is still in place with respect to this bill and also to state our opposition to any reinstatement of the sales tax on food. That is a position that we have held even prior to the days that the tax was repealed, we were advocates for the repeal. And we feel that the sales tax being regressive, the impact of that sales tax on food is most direct with respect to the poor. And that's been our traditional position. Thank you. [LB13]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB13]

JIM CUNNINGHAM: Thank you. [LB13]

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SENATOR CORNETT: Next opponent? Are there any further opponents? Is there anyone here to testify in a neutral capacity? Senator Pahls, you're recognized to close. [LB13]

SENATOR PAHLS: Thank you. And I appreciate the people who spoke in opposition. In fact, that's one of the reasons why I used the...when I said heating oil or fuel, aviation fuel. I was trying to get a point across because I didn't know that we had a couple of people who would be speaking on that, not that I'm picking on that, those groups. But why is one fair, one not? Because I'm sure that we...Duncan Aviation is a tremendous asset to the city of Lincoln and the state of Nebraska. But what about those people with the heating oil? Also the Catholic groups should also be, and I'm sure they are, concerned about those people. So they should be pursuing tax exemptions for those. This leads me to show you where we really have to take a serious look at this. It cannot be bantering back...I shouldn't say bantering, I'm sorry for that, talking back and forth on this issue. We need to really analyze this, sit down behind the scenes. And like I say, I'm willing to discuss this and see if we can't find a remedy to this situation. Again, keep in mind Duncan Aviation they're under stress now because the economy is. But if we would do away with these exemptions, it would also give them income tax or property tax. It's not like we're going to take everything away and not give things back. And again, if I'm over here in this group that's not getting exemptions, why not? If I happen to own a restaurant, why not? Where is the chamber on those organizations is what I'm saying. And again, Senator Cornett, I'm really willing to work with you guys. Thank you. [LB13]

SENATOR CORNETT: You're welcome. Questions from the committee? Seeing none, that closes the hearing on LB13. Senator White, you are recognized to open on LB15. [LB13 LB15]

SENATOR WHITE: (Exhibit 1) Before Senator Pahls leaves, I want everyone to know, I've never had to follow the Muppet's before. (Laughter) Madam Chairman, members of the committee, I am Tom White. I represent Legislative District 8. I want to thank you for your patience here. This is a bill that the Attorney General has indicated in part falls outside of the scope of the call. I do not intend to push the bill in whole or in part beyond this committee. And would expect that the committee, given the Attorney General's ruling, should at the end of this hearing vote to indefinitely postpone it. But it does raise an issue that is particularly critical and it is one I've tried to talk about for a time but merits careful consideration. Madam Chair, with your permission, I have maps I would like to have passed out to members of the committee. [LB15]

SENATOR CORNETT: That would be fine. Tim, would you mind? Thank you. [LB15]

SENATOR WHITE: What is coming around is the estimated population change in

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Nebraska counties from 2000 to 2008. And what you will notice that almost all counties, with the exception of those on I-80, suffered net population losses of substantial amounts. They run as high as 13 percent in some counties. This has followed a national trend since the late twenties. They used to say, how do you keep them on the farm after they've seen gay Paris? Reality, however, is not anymore whether our rural youth choose to leave their homes and agricultural lifestyle but they cannot possibly afford to stay. Even those who inherit land or, as one rancher told me the only two ways to come into ranching or ag now is inherit it or marry it, even those find it incredibly difficult to stay on the land. The underlying problem, and this is a crisis for Nebraska as we know it, is that the value of land exceeds the price that people are willing to pay for the land, exceeds the amount of money the land can produce, even worked by a very careful, skilled rancher or farmer. As long as that economic reality exists, and it's existed for a long time now, that the commodities that they produce off that land cannot pay off the land, much less support a family, you will of necessity see continued depopulation of our rural communities. This will change an entire state and an entire lifestyle. Each of our children that leaves the state is not only a personal tragedy for the families involved, that split them up, that take them away from their homes, their parents, their communities, it is an economic loss of devastating proportions. I would ask you all to think about what it costs to educate just one child for one year. It averages between \$7,000 and \$15,000 per year per child, K through 12, depending on the district that they live in. When that child, at the age of 18 or even more expensive at the age of 21 or 22, when they've graduated from a state supported university or college, chooses to leave the state or leave their communities, it is a devastating loss of invested capital as well as a devastating loss of the future potential of that community. We're really on the tipping point. We have counties now that are so depopulated, I'm sure you know that there are small towns that don't have enough young people to man an emergency fire rescue unit. Our volunteer fire departments are seriously depleted because again of a lack of young people. Now we cannot change all of the economic pressures that are on our rural communities. But there is something we can seriously do to change it, and that is to at least not make it worse. What we have done as a matter of policy in this state for years, since the 1980s, when we dropped the valuation of ag land below that of homes and businesses, is unwittingly but actually made it cheaper to be an absentee owner of Nebraska land, and more expensive to live on the land and work it. And that is exactly the opposite of what we need to do. We need to make it much more affordable for people who actually want to live on the land and who will work it to choose that lifestyle and make it happen. Now there's not a lot of things we can do. But the biggest tool we have is our tax policy. With the current proposal of the cash refund for taxes for everything but homeowners, huge amount of our state income and sales tax is sent out of state. Now this has been characterized, my proposal, as anti-rural. In fact, nothing could be further from the truth. Though Ted Turner is certainly a poster boy, between our valuation of dropping the ag land to 75 percent, and the cash back, he will get more than \$1 million of our state money over the last two years. Now that income tax and sales tax is overwhelmingly paid by people who live in Nebraska. And we are shipping it

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directly out of the state. This is absolutely counter to any economist's, conservative or liberal, advice on what a state should do to promote its own economy. You never ship money out of the state. You try to keep it in the local economy. And yet we're doing that as a matter of policy. At the same time, we are making it much more attractive for Mr. Turner to purchase land in Nebraska and much more expensive for someone who lives here. Let me give you an example. Should Mr. Turner locate, and he can locate his residence anywhere he wants, so should he choose Wyoming, he pays no income tax at all. And yet he will compete in bidding for land with someone who will try to raise corn, beans, or cattle and who, if they do have a profitable year, will have to pay state income tax in Nebraska on that. Now Mr. Turner's income doesn't come from his ranches, it comes from other economic activities, activities not located in Nebraska. They don't buy goods here. They don't really pay our taxes. What we need to do and what I have proposed that we do, oh and let me finish something else. This does not just apply to Mr. Turner. McDonald's Corporation, the hamburger people, every corporate store gets a cash rebate. The trains--Burlington Northern, Union Pacific, they get cash rebates, big skyscrapers in Omaha, my district, gets cash rebates. Walmart, Kawasaki Motors got \$40,000, I think, the Lincoln Journal reported, almost \$40,000. Huge amounts of money in a crisis time. And we're burdening our people and making them less competitive. What this bill was proposed to do was to stop the cash bleed now, but it was never intended to stop there. And I urge you to start thinking about this. I believe what instead we should do is make owning property as an absentee landowner expensive but very affordable if you're willing to work it. And what you do with that are earn property income tax credits tied to the property tax you paid here, that you're eligible for and that can be refundable, which means even if you have a losing year you can get money back, tied to the amount of property tax you pay. What this will do is in a measure at least, and it would be constitutional, tell our young people and our rural communities, we understand the crisis that you're in, and we are going to adjust the state tax policy to turn it around. It is particularly difficult to recognize the tens of millions of dollars right now, at a time we're in a terrible crisis, we're looking at cutting education funding for children, are flowing out of the state unnecessarily. I want to thank you all for your kindness and for your consideration of this matter. I trust that we will consider to continue to talk about and understand the real crisis that's facing the rural areas and how we have not encouraged it. We have not helped it, to solve it, we've encouraged the crisis. Remember, these population declines occur despite our efforts to be very favorable to agriculture and it hasn't worked. We need to look at a different method. Thank you, Madam Chair, thank you. I will, of course, answer any questions. [LB15]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Senator White. [LB15]

SENATOR WHITE: Thank you. [LB15]

SENATOR CORNETT: Are there any proponents? Is there anyone here to speak in



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favor of LB15? Opponents? Neutral testimony? Senator White, you're recognized to close. [LB15]

SENATOR WHITE: I would urge each member of the committee to take this map with you and look what it means for the future. Look at your districts and recognize that we have a moral obligation to our people to do what we can to turn that around. And please understand, we are not only in the rural areas. This committee, over my objection several years ago, got rid of greenbelt exemptions for small farms of 20 acres. The only area of agriculture growing, the only area where a small person or a person of no means can get into agriculture is in small organic farming, and that is producing farm to table types of goods near urban areas. And we took that exemption away. We need to seriously look at what we are doing to agriculture and to our children's opportunities to participate in that industry. Thank you. [LB15]

SENATOR CORNETT: Senator Dierks. [LB15]

SENATOR DIERKS: Thank you, Senator Cornett. Senator White, looking at your map I had just received last week the most recent report on poverty stricken counties in the nation. I saw a list of the 250 most poverty stricken counties, and 250 of the most wealthy counties in the nation. The most poverty stricken county in the nation is Blaine County. [LB15]

SENATOR WHITE: Yes. [LB15]

SENATOR DIERKS: And among the top 25 are, I'm sorry, it's Loup County. And then also you have Loup, Blaine, Thomas, Hooker, Grant, and McPherson, all right in a row there. [LB15]

SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: They are all cattle country. [LB15]

SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: All they produce out there is cows and calves... [LB15]

SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: ...grass. [LB15]

SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: But there's no corn and no other manufacturing. [LB15]

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SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: Why is it that our state's cattle producers are among the poorest in the nation? [LB15]

SENATOR WHITE: We have a couple of things going on, Senator. First of all, the way we have taxed the land, you know, we are 47th, I believe, in state aid to schools. That is the reason why the property taxes are so high is the primary reason. But in addition to that they're being forced into unfair competition. They are not getting fair market forces applying to the people buying their product. We have been inundated with subsidized foreign beef. We have had national policies that have been hostile to the small and independent rancher, producer and farmer. And the culmination of those, coupled with the taxes have produced the kinds of numbers that you've discussed. I mean these are areas poorer than Appalachia. I mean they are truly Third World levels of income. And if you look at the population outflow in those areas that you just mentioned, Senator, Blaine lost almost...well over one-fourth of its population in one decade, Thomas lost one-fifth, Loup lost 13 percent, Grant lost almost 19 percent of their population in an eight-year period. I mean, what we are dealing with is a human crisis, an absolute staggering crisis. We are not rewarding their labors and we're actually, on the state level, making it worse. It doesn't matter how hard that rancher works. It doesn't matter how good that rancher is, how productive he is, how well he takes care of the land, what he's willing to sacrifice. We have set up a deck of cards, he cannot win. And we need to reshuffle that deck. [LB15]

SENATOR DIERKS: We had the opportunity the last...two weeks ago, I guess, to hold some hearings, this committee did, in Hyannis and in Scottsbluff. [LB15]

SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: And the majority of people that testified were ranchers. [LB15]

SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: And every one of them was telling us that they were going to have to leave, they couldn't afford to be here any longer. [LB15]

SENATOR WHITE: And they weren't joking. And it's not that they want to, Senator. You know, it's not like the kids don't want to be on the ranch anymore. There are a lot of young people who would like to stay in agriculture but simply cannot. [LB15]

SENATOR DIERKS: Thanks, Senator. [LB15]

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SENATOR CORNETT: Senator Adams. [LB15]

SENATOR ADAMS: Senator White, in your response to Senator Dierks you made a list of several things. And, I guess, my question is, do we need to add to that list the way in which we determine the value of land for tax purposes? [LB15]

SENATOR WHITE: Yes, Senator, and that's a good debate, one we need to have. Let me tell you my thinking just on that. If...property tax has to be valued fairly across the board. In other words, I can practice law in Omaha and buy my ranch because I like horses, and not make a nickel on it and subsidize it. That does nothing to reverse the trend of what we're seeing here on this map or the destruction of a way of life and the depopulation of that area. We end up with people who live there who are surfs. They work, not on land they own, they work as very poorly paid people on land someone else owns. The only way, I believe, that we're going to be able to effectively deal with this as a state is to tell folks who are willing to put their back and their labor and their sweat into the land that we will give them very favorable income tax benefits, which we are entitled to discriminate against constitutionally, but keep their property taxes high. What this does is make it very expensive for me or someone from out of the state, relatively expensive, to buy the land but not live on it. It makes it much more affordable, let's say not affordable, possible, maybe possible for a young person who wants to stay on the land and work on it. Because we should acknowledge right now that we have a crisis. Our average farmer's age is over 56 years. We're losing ranchers. We're losing incredibly important skills. We should look at this as an incredible economic crisis for the largest industry in the state, revamp our income and sales tax to reward those for the labor in that industry, and I would suggest not our property tax. Because in the end, even if we drop our property tax to zero, I as a person with a separate income that didn't rely on the land to produce a profit could outbid anybody working that land that had to look to the land to pay for itself. That is the economic reality that we cannot fix. And we have to stop fixing it by saying just by dropping property taxes it will fix it. It won't. Because what will happen is as it gets cheaper to own that land, more outside income sources will come in, they will drive the valuation up higher because they already don't care about it as an economic prospect. It's a...and we're building a classic bubble, by the way, on the land, the economists would tell you because people are bidding far more for the land than the land can pay. I mean, that's a bubble. It's been going on, there's a lot of reasons for it. We can talk about that, the devaluation of the dollar, the thought that the like kind exchange, federal program, there are a lot of different reasons for it. But as long as that exists we cannot keep our young people on it. The only thing we can do is tell them if you will go into this area and you will labor in this industry and try to buy your own land, then we will treat you favorably on an income and sales tax basis. That we can do. And that we can help try to balance the playing field, help try to keep our communities viable, try to keep our young people in this industry. [LB15]

SENATOR CORNETT: Senator White, just one quick question. What would you do with

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the ag land valuation now that we have it set at 70 percent? Would you go back up to full valuation or would you leave it where it's at? [LB15]

SENATOR WHITE: Personally, for me I would do this, I would say that property taxes you pay, it's going to be a deduction for everybody. It's a tax. But it becomes a credit for...literally a credit against tax as opposed to a deduction against income. And I'd even make it refundable if you live on that land and you work it actively and it's your full-time job. What that means is that if I buy land, I might be able to deduct the property tax. And I would limit property tax deduction only to income derived from the land. What I would do is literally transform our income tax system, telling people if you're living and working on this land, even if you lose money, you will get actual refunds from the state commensurate with what you've paid on property taxes. In other words,...but to qualify for that you have to live on it and work on it. And we would look at...the devil is always in the details. We would look at what it would cost, it's doesn't have to be a dollar for dollar proposition. What that does is the basic...my basic goal again is make it affordable to dedicate yourself to living and working on it, make it expensive to just own it and not live on it or work it. [LB15]

SENATOR CORNETT: Okay. I'm sorry, I may have missed this. What would you do with the exact valuation, because we're... [LB15]

SENATOR WHITE: Personally, I would... [LB15]

SENATOR CORNETT: Go back up to 100 percent on ag land? [LB15]

SENATOR WHITE: If we had the other provision in place. [LB15]

SENATOR CORNETT: As a point of the component. [LB15]

SENATOR WHITE: Yeah, if the other provision...and the reason for that is let's take me as an attorney. I don't think it's in the state's best interest that I take profits from the practice of law in Omaha to buy a ranch in competition with a young family from that area that wants to try to live there, raise their kids there, go to school there, shop in the town, go to church there, okay? So I would say to them on the income tax side, if we put this credit system in place or we work out a system, we could look at Minnesota, there are many different systems, Senator, where we're going to really encourage you economically to stay and work in agriculture on the income tax side, then I would return it to full valuation. That way people who are living on the land and working it, or if you're retired, you've had a history of living on the land and working it, you don't get hurt economically. We need to, though, adjust. Would I discriminate against absentee landowners? Absolutely, I would. [LB15]

SENATOR CORNETT: You would separate out the people that were retired and no

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longer... [LB15]

SENATOR WHITE: If they spent their life on that land they shouldn't get hurt. [LB15]

SENATOR CORNETT: How...okay, we'll worry about that later. [LB15]

SENATOR WHITE: Remember again, it's the devil in the details kind of thing. But, yes. [LB15]

SENATOR CORNETT: Senator Dierks, I'm sorry. [LB15]

SENATOR DIERKS: Just to point out that my question wasn't just something that happened recently. This information that I just quoted to you for Holt County was just received in 2008, the fall of 2008. But in the fall of 2000-2001, Holt County had per capita income of less than \$5,000. [LB15]

SENATOR WHITE: Yes, sir. [LB15]

SENATOR DIERKS: This year it's a little bit less than \$8,000. I mean it's been ongoing. So, I mean, look at all these years that have gone by and some of them are still hanging on with their...I don't know how. [LB15]

SENATOR WHITE: I don't either. And, Senator, you and I have shared a worry about this for many years together. We both are very worried about the overall impact. You, too, I think, are concerned that international conglomerates basically want to get control of the means and production of red meat and grain. And they're well on their way. And absentee landlords are how they do it. [LB15]

SENATOR DIERKS: Thank you very much. [LB15]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Senator White. [LB15]

SENATOR WHITE: Thank you for everybody's courtesy. [LB15]

SENATOR CORNETT: That closes the hearings for today. [LB15]

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Disposition of Bills:

LB13 - Indefinitely postponed.

LB15 - Indefinitely postponed.

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Chairperson

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Committee Clerk