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Revenue Committee  
January 21, 2010

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[LB877 LB878 LB879]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 21, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB877, LB878, and LB879. Senators present: Abbie Cornett, Chairperson; Greg Adams; LeRoy Louden; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: Merton "Cap" Dierks, Vice Chairperson; Galen Hadley.

SENATOR CORNETT: (Recorder malfunction)...to my left, Senator Cap Dierks from Ewing will be joining us in a little bit. Senator Greg Adams from York. Senator Hadley is out of town so he will not be joining us today. To my far right is Senator Pete Pirsch from Omaha; Senator Utter from Hastings, and Senator Louden from Ellsworth. Senator White I believe will be joining us, from Omaha. Our research analysts are Steve Moore, to my right, and Bill Lock, to my left. Erma James is our committee clerk. Our pages are Abbie Greene and Ryan Langle. Before we begin the hearings today I'd advise everyone to please turn your cell phones to either off or to vibrate, and pagers also. 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's sheet to the committee clerk. There are also clipboards in the back of the room to sign if you do not wish to testify but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or representative of the bill will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have opportunity for closing remarks. As you begin your testimony, please 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. Please give the handouts to the pages to circulate. With that, we will open the Revenue Committee hearings today. And, Senator Adams, would you mind taking the Chair? [LB877]

SENATOR ADAMS: Sure. [LB877]

SENATOR CORNETT: Good afternoon. My name is Abbie Cornett from the 45th Legislative District. LB877 is a bill introduced on behalf of the Tax Commissioner and Property Tax Administrator, their desire to clarify and strengthen their enforcement and administrative powers. I have agreed to bring this issue to the committee. The bill allows the Property Tax Administrator broad authority to appeal or challenge county board actions and Tax Equalization and Review Commission actions. The language used is "any action or decision." This is a broad authority to appeal all officials orders, but also other actions or decisions. Language is added to make it clearer that in filing an appeal property owners must provide a legal description of the property rather than a physical description. The Tax Commissioner and his staff would also have broad authority to

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review homestead exemption applications broader than they do today. This broader authority to review extends to those applications already approved by county officials and filed by the Revenue Department. A taxpayer may also ask the Tax Commissioner to review an application denied at the local level. The Tax Commissioner is exempt from filing fees for appeals to TERC. County officials are currently exempted. The cost of appeals filed by the Tax Commissioner are to be paid by the state rather than subject to TERC determination. With that, I will turn the questions over to the Tax Commissioner on this bill, and I will be happy to answer any at the end of the hearing if you have any. Thank you. [LB877]

RUTH SORENSEN: (Exhibit 1) Good afternoon, Chairman Cornett and members of the Revenue Committee. For the record, I am Ruth Sorensen, that's R-u-t-h S-o-r-e-n-s-e-n, and I am the Property Tax Administrator for the state of Nebraska and appear before you today in support of LB877. As Chairperson Cornett described, we are broadening our appeals of the county board decisions--county board of equalization--and the Tax Equalization and Review Commission that relate to valuation and equalization of real property in the state of Nebraska. It also will broaden our scope of reviewing homestead applications. At this time we just review for income requirements and no other further requirements. There's also another provision in here that's going to change the implementation of soil surveys that the county assessors currently go through. And if you would allow me, I will go through each of the sections of the bill and just kind of give you a quick summary of them and then I'd be happy to take questions thereafter. I do just want to indicate that I did speak to the Nebraska Association of County Officials yesterday, and they are in support of this bill...or they weren't going to be testifying on it. With regard to Section 1, this is the section that will allow us to appeal any decision or action of a county board of equalization and the Tax Equalization and Review Commission with regard to exemptions and also real and personal property. This is a technical correction. When the Department of Property Assessment and Taxation was merged into the Department of Revenue in 2007, LB334 seemed to indicate in 77-701 that the Tax Commissioner only had standing at...on July 1, 2007, at 12:01 a.m.; when we are now opening this and that the Tax Commissioner will have standing now that the property assessment division has been incorporated into the Department of Revenue. Section 2, this relates to classes and subclasses of agricultural land when there is a soil symbol survey that is issued by the...and I believe it's the USDA...or USDS...when they issue the surveys. Right now, currently in statute the assessors have to implement that soil survey within one year or the next assessment year. And what happens is with the new technology these days, these soil symbol surveys are being implemented much more quicker than, when the past, when the statute was enacted. So the assessors are having a difficult time keeping up with changing these symbols from alpha to numeric or whatever type of symbols that are changing. So what we would like to do is open this up and not make it a requirement that it be implemented that next assessment year, because if you have a quick fix it may take a little bit of time because it may affect a number of soils in the county. So we are asking that this be changed to just leave it as

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the discretion of the Property Tax Administrator as to when these soil symbols should be implemented by the individual counties. Sections 3 and 4, this is...we are adding legal description to 77-1502 and 77-1507. That is for protests that are filed or any omitted property. Currently, there are times that the description on a protest is not adequate, so we are just adding the word "legal" there, and then also the physical location of the personal property. Section 5, this is the area that affects homestead exemptions and allows us to review the applications for items other than income requirements. And then Sections 6, 7, and 8 relate back to Section 1 of this bill. It is the...those are the sections that authorize us to appeal to the TERC and that there be no filing fees and that the costs of any appeals would be at the cost of the state. With that, that's a quick summary of the bill and I would be happy to take any questions from the committee at this time. [LB877]

SENATOR ADAMS: Thank you. Committee members, what question? Senator Utter. [LB877]

SENATOR UTTER: Thank you, Senator Adams. And Ms. Sorensen, thanks for testifying on this bill. As I look at this, it appears to me that we are granting some pretty broad authority to you, as the Property Tax Administrator, and to the Tax Commissioner of the Department of Revenue to set some policy things here. And it seems like we're expanding the authority. If that's so, I guess my question would be why? And if it isn't so, help me to understand, if you will, why. [LB877]

RUTH SORENSEN: You are correct, Senator, that it is expanding what currently is in the statute. The Tax Commissioner has the authority of oversight of all revenue laws in the state of Nebraska. So by adding the Tax Commissioner, this is just an enforcement of that, what the Supreme Court has ruled. Also as far as the Property Tax Administrator, as an oversight agency we hear of actions or decisions or determinations that are made that could affect the uniformity and proportionality of the property in the state of Nebraska. And if there is nobody that will step forward to file that appeal, we would be the one that would take on that responsibility. [LB877]

SENATOR UTTER: But as I read the wording, it sounds like that there doesn't appear to be any ground rules as to when you would file those appeals. And I know you're a nice lady but the next Property Tax Administrator may not be. And I'm just wondering what would be the ground rules that you would use to decide when you're going to implement these new powers that would be granted by changing this law. [LB877]

RUTH SORENSEN: Well, currently what happens is I have field liaisons that are in the counties or out in the state, and they hear of different items that...or different decisions that are being made by their county boards of equalization or an order that has come from the Tax Equalization and Review Commission. And at this time, if there is something that is blatant that needs to be corrected, there is no action that's taken and

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then it's just left. So right now, in the bill, what I envisioned was to continue as the oversight agency and, when you hear of these instances, to be able to have the ability to step in and make the corrections...or make the appeals. But right now, we have the nine assessment offices and we are the county assessor in those offices, so we have that authority in the nine offices currently. But with those going away by 2013, we will no longer have that authority in any of the counties. [LB877]

SENATOR UTTER: I think that's all for now. Thank you. [LB877]

SENATOR ADAMS: Are there other questions? Senator Pirsch. [LB877]

SENATOR PIRSCH: I'm sorry, could you just kind of give me an example. There's been certain instances in the past and I'm trying to acclimate myself to understand some of the possible concerns that are problems that have existed in the recent...or in the past, so all that would be...that this kind of structure, restructuring, would be helpful for. [LB877]

RUTH SORENSEN: Well, an example that would come to mind is if the Tax Equalization and Review Commission, during statewide equalization, implements an adjustment to a class or a subclass of property, and the assessor does implement that. If the county board then comes in, they can take action if they have protests in front of them to reverse those actions. And then only those persons that have protested will get the benefit of the county board of equalization. If you did not protest, you have no other option available to. [LB877]

SENATOR PIRSCH: I see. [LB877]

RUTH SORENSEN: So if we hear of something like this, then we would have the authority to file some appeals. [LB877]

SENATOR PIRSCH: Okay, thank you. [LB877]

SENATOR ADAMS: Senator Louden. [LB877]

SENATOR LOUDEN: Yes. Thank you, Senator Adams. And Ms. Sorensen, as I think Senator Utter has talked about, you're a nice lady and you probably are. But I can't say that for every Tax Commissioner I've ever seen, so we'll know where I'm coming from...Property Tax Administrator, I should say. Anyway, when you...on your section in your sub...Section 1(4), and the Tax Commissioner or Property Tax Administrator may appeal any actions of a county board, and so forth. And who do you appeal those actions to when you appeal them? Do you appeal them or do you change them? [LB877]

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RUTH SORENSEN: The appeal of a county board of equalization action would be to the Tax Equalization and Review Commission. And then a final decision of a Tax Equalization and Review Commission would be to the Court of Appeals. [LB877]

SENATOR LOUDEN: Well, you're...according to the way this is written, you can appeal a decision to the TERC committee, is that correct, the way that's written here? [LB877]

RUTH SORENSEN: That's correct. To the Court of Appeals. [LB877]

SENATOR LOUDEN: Okay, then when you appeal the TERC committee's decision, who do you appeal that to? [LB877]

RUTH SORENSEN: Court of Appeals. Any decision made by the commission is appealed to the Court of Appeals. [LB877]

SENATOR LOUDEN: Okay. Then that's what this does then, is give you authority to take any action that you see that the county board or anybody like that takes to the TERC committee, then this gives you authority to take it to the Court of Appeals? [LB877]

RUTH SORENSEN: Well, we would, first, if it were an action of a county board of equalization, we would take it to the TERC board--the Tax Equalization and Review Commission... [LB877]

SENATOR LOUDEN: Well, I know, but... [LB877]

RUTH SORENSEN: ...and a decision would be made there. And then if the decision from the...if it's a decision from the Tax Equalization and Review Commission, that would go the Court of Appeals. [LB877]

SENATOR LOUDEN: Now, you can't do that now? [LB877]

RUTH SORENSEN: Only in exemption cases we can intervene. [LB877]

SENATOR LOUDEN: I mean, say that again? You can do that now? [LB877]

RUTH SORENSEN: In the nine state offices we can take those actions. [LB877]

SENATOR LOUDEN: Why, then, do you need more legislation, if you can already do that now? [LB877]

RUTH SORENSEN: Because there was LB121 passed last year that the nine state-assessed offices are going...are being reassumed by the counties. So by 2013,

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we won't have that authority any longer. [LB877]

SENATOR LOUDEN: Is that bad? [LB877]

RUTH SORENSEN: I don't think I have an opinion one way or the other as to whether it's bad. [LB877]

SENATOR LOUDEN: Okay, because I was going to say, it depends on which side of the appeal you were on as to whether or not it was bad. And I've been on other sides of that. Anyway, I'm wondering, as has been mentioned before, how much authority you're given. Now you're taking that out...or you're taking out the part where you can be substituted...the Property Tax Administrator can be, what, substituted for somebody in a legal litigation. Is that correct? [LB877]

RUTH SORENSEN: That's correct. That's been interpreted that the Tax Commissioner had standing on July 1, 2007, at 12:01 a.m. So any subsequent actions he did not have standing in. [LB877]

SENATOR LOUDEN: Okay, but...and you're willing to live without that then and have this over here in the other part of the law? [LB877]

RUTH SORENSEN: We have written this so that the Tax Commissioner would have the standing now, despite...and taking out the language that I think it was probably just an oversight in drafting it, in LB334 in 2007. [LB877]

SENATOR LOUDEN: I see. And then as you get down to Section 2, you know, before the county assessors, they have to utilize. And before, it was "implement" soil surveys. And that was kind of important when they, those soil surveys come out. And I see you have it in there, they'll utilize it, but that doesn't mean they have to implement it. Should there be a date that it has to implemented by a certain length of time rather than just not do it at all? Because that's what happened when we had our guidelines, you know, in part of this, what, along about 77-13-something where you've got the 12 guidelines. And I remember when a Property Tax Administrator plumb did away with them, and that made quite a difference in our valuations on some of this ag land out here in rural areas. [LB877]

RUTH SORENSEN: Well, we are...the language "and implement" is stricken from the current language. But when this was drafted, the USDA, the Natural Resources Conservation Service would issue paper soil survey maps. We've gone away now, in technology in 2009 and 2010, that now it's all electronic and it's a much quicker update and it's making it very difficult for the assessors to implement in the next assessment year. So what we've added is that they'll utilize them and it's going to be at the direct direction of the Property Tax Administrator as to when those soil symbols should be

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implemented for assessment practices. [LB877]

SENATOR LOUDEN: You're telling me you've got a different kind of soil survey now? Or we're going through another soil survey? [LB877]

RUTH SORENSEN: There was one issued in 2007. Yes. [LB877]

SENATOR LOUDEN: And is it going to be any different than what was issued before when they went around and measured and dug samples out of all the ground and measured them? [LB877]

RUTH SORENSEN: They did go through and do that, but now it's an electronic version of...you don't get the paper maps any long and it's done electronically. And it's sent out. And then they have real quick patches...if they found a mistake, they quickly fix that mistake and we have to notify the assessor. And the assessor is still implementing what was issued in 2007. Now they've got another patch that may affect what they've just done and it just makes it very difficult to get it done in that next assessment year. [LB877]

SENATOR LOUDEN: Now this new soil survey, is this something that the counties are going to have to do? Do they have to re-soil-survey the county again, all these counties again? [LB877]

RUTH SORENSEN: Well, the USDA did the...the NRCS of the USDA did the soil surveys, and they create the soil symbols. And then we have them converted into land classification groupings and then we send it out to the assessors, and then they use those as a tool to inventory their agricultural land. [LB877]

SENATOR LOUDEN: I understand that. But I'm wondering if it was...if that soil was surveyed and tested once, why it has to be done again, and why the problem with implementing this if it's already been done once? That dirt shouldn't change that much in the last 10 or 15 years. Twenty years, I think was the last soil survey land. [LB877]

RUTH SORENSEN: Well, this survey is going from an alpha to a numeric symbol. It's not necessarily changing the soils. And I...we would have...I don't know why they're changing it from an alpha to numeric. [LB877]

SENATOR LOUDEN: In other words, it won't be "Valentine" and "fine" anymore? It'll be number 27 or something? [LB877]

RUTH SORENSEN: It very well may be. [LB877]

SENATOR LOUDEN: And will that change our valuation? [LB877]

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RUTH SORENSEN: It should not. It's only a tool for inventory. [LB877]

SENATOR LOUDEN: Okay. Now actually this all something in your bookkeeping that if the survey isn't going to change, it shouldn't make any difference when they have to implement it. [LB877]

RUTH SORENSEN: Well, for uniformity of proportionality and the way then we come into measure agricultural land, it is important to have consistency. [LB877]

SENATOR LOUDEN: Okay. Thank you. [LB877]

SENATOR ADAMS: Are there other questions? Senator White. [LB877]

SENATOR WHITE: When we did a couple of trips a mile west of LeRoy's home, one of the concerns were that the poorer soil samples in fact were increasing faster than some of the better quality soils. It's speculative because they're scenic (inaudible) buttes. What, if any, impact would this have on an assessor's ability to say, yeah, well, that kind of soil sample is paying more but it really can't support the same number of cattle. In other words, that's an issue already. What, if any, impact would these changes have on that? [LB877]

RUTH SORENSEN: This would have no impact on that. The assessors should only use this as inventory. It's not a valuation tool. [LB877]

SENATOR ADAMS: Are there other questions? Seeing none, thank you for your testimony. [LB877]

RUTH SORENSEN: Thank you very much. Appreciate the opportunity. [LB877]

SENATOR ADAMS: Are there other proponents? [LB877]

WILLIAM PETERS: Chairman, members of the Revenue Committee, my name is Bill Peters, B-i-l-l P-e-t-e-r-s, Suite 320, 411 South 13th, Lincoln, Nebraska. I'm appearing here on behalf of myself in an individual capacity and not representing any particular client. I like to think, representing all the taxpayers of the state. This is a property tax bill and it's quite important. There's an argument that says, why should the state be concerned about this? The state does not collect property tax. The problem that we have is that it's the property tax that drives state expenditures and is the cause of significant revenue expenditures. Whether it's a homestead exemption or it's a valuation in state aid calculations, there's significant interest in the state in maintaining the property tax system functioning as your laws intend. It is my opinion that this bill doesn't change a thing. It just makes it clearer to some present folks. Constitutionally, the state



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has had the right to intervene. As a constitutional element, the Tax Commissioner is in charge of the administration of the revenue laws of the state--not some revenue laws, but all revenue laws. I view these statutes more as those implementing. One of the first landmark cases--and I forget the year--was the Odd Fellows case out in Douglas County; whereas, I recall Douglas County Board exempted the Odd Fellows Hall and there wasn't statutory authority to do it. So the Tax Commissioner took them to the Supreme Court and that's the Odd Fellows case. Quite honestly, the first case I handled when I graduated from law school in--I passed the bar in June of '64--was the Platte Valley case, Platte Valley Academy, where the county assessor and the county board had held the farm buildings of the Platte Valley Academy to be taxable property. Platte Valley appealed that issue to a district court and the district court said that those farm buildings were exempt, at which time the Tax Commissioner decided that he ought to appeal that issue having not been involved in the case up to that point, and the newest attorney in the Attorney General's Office got the case and that was myself and my first introduction to the Odd Fellows case. We appealed that district court decision to the Supreme Court. And I might add, we got part of it reversed. So I am in support of the authority of the Tax Commissioner to enforce the laws. You must remember that in property tax, you know, there's the old city/state concept. Well, we have the county/state concept. There are 186 jurisdictions interpreting the law that you pass with regard to property tax, as an example. There's a county assessor in each county and there's a county board. That's hundreds of people. I think it's important that there is some point at which if there is a bad decision that the Tax Commissioner has the discretion to take the issue to court. While I was Tax Commissioner I declined that invitation several times. I had no desire to challenge the tax exempt status of the union hiring halls in Omaha, seeing as which Governor I was serving, but I would have had that authority. It's a discretionary authority or that has been a discretionary authority, and I'm quite confident it will only be used for the most important cases. One part of the bill I have some concern with and will perhaps be suggesting an amendment, and that is requiring the legal description on the protest. I'm concerned that would be a trap for the taxpayer. There has to be enough description, though, for the county to know which piece of property people are whining about. But I think that we can perhaps improve that language a little bit using either the parcel number or the legal description on their valuation notice, which is not always, quote, the legal description. And with that I believe that would conclude my testimony. I'd be happy to answer any questions. [LB877]

SENATOR ADAMS: All right. Thank you, sir. Are there questions for this testifier?  
Senator White. [LB877]

SENATOR WHITE: Thank you, Bill. One of the concerns I have is it allows an appeal...what I understand is the allowance of a homestead exemption now. Is that appealable at this time or has it been in the past? [LB877]

WILLIAM PETERS: Well, it's appeal...just the homestead is an appealable issue--the

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denial. [LB877]

SENATOR WHITE: The denial is but is the granting? [LB877]

WILLIAM PETERS: The granting, it's a question of whether you interpret if the Tax Commissioner has inherent authority or requiring the county assessor to file the appeal from the county board. And, you know, that brings... [LB877]

SENATOR WHITE: Let's talk about that. Traditionally, what's the law been as you understand it? [LB877]

WILLIAM PETERS: I always thought the Tax Commissioner had the authority but seldom did it. [LB877]

SENATOR WHITE: So you thought it was implied in the position. It simply... [LB877]

WILLIAM PETERS: By virtue of the constitution. [LB877]

SENATOR WHITE: Are you aware of any cases when they did it? [LB877]

WILLIAM PETERS: No. [LB877]

SENATOR WHITE: Okay. So as far as we know...I mean, I'm in ignorance here. As far as we know, it's an open question. [LB877]

WILLIAM PETERS: It's an open question. I think this, one thing this bill does is it makes it certain. And remember, every homestead that's allowed is paid for by the state government by General Fund sources. [LB877]

SENATOR WHITE: Right. [LB877]

WILLIAM PETERS: And also an unfair denial. And I believe the Property Tax Administrator testified that an applicant... [LB877]

SENATOR WHITE: But the homeowner can appeal that now, can't they? [LB877]

WILLIAM PETERS: Yes. [LB877]

SENATOR WHITE: Okay. Thank you. [LB877]

SENATOR ADAMS: Other questions? Thank you, sir. Next proponent. Any other proponents? Then we'll move to opposition. Is there anyone who wishes to speak in opposition to the bill? Is there neutral testimony? [LB877]

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BOB WICKERSHAM: Senator Adams, members of the committee, my name is Bob Wickersham. I am a chairperson of the Tax Equalization and Review Commission. I appear as a neutral witness with regard to LB877. My testimony would relate to a couple of different aspects, however. And, one, I think that the committee, in the testimony of the two persons who have already made their presentations, heard hints of something that I think we may as well tell you about. The commission in two different orders has determined that the Tax Commissioner does not, under the current provisions of the constitution or the statute, have inherent authority to appeal county board decisions. Now obviously we wouldn't have made any decisions about whether or not the Tax Commissioner could appeal decisions of the Tax Equalization and Review Commission, but we have twice held that the Property Tax...or that the Tax Commissioner does not have inherent authority to appeal decisions of the county board. One of those decisions is final; it was not appealed. One of those decisions is still open; that is, it could be appealed to the Court of Appeals. Now regardless of what you think about the issue of whether or not the Tax Commissioner or the Property Tax Administrator has or should have authority to appeal decisions of a county board to the commission, or from the commission to the Court of Appeals, let me point out a couple of things about the provisions of the bill, as they stand, and the difficulties that either county boards...and maybe it's a bit awkward to speak on behalf of county boards, but I think they would have some of the same concerns about administering or implementing the bill, as drawn, as the commission would have. First of all, the provision allows the Tax Commissioner or the Property Tax Administrator to appeal decisions or actions of the county board or the Tax Equalization and Review Commission. Now if you're wondering what an action is or you're wondering what a decision is, I would say that that's something for you to be legitimately concerned about, because those are, whatever they are, that's what can be appealed. Now, in the context of the county boards, there are statutes that talk about actions of a county board that are appealable. There are statutes that talk about decisions of a county board that can be appealed. Those are in different sections but they are fairly tightly drawn and they all relate to really what is a final decision of the county board. What decisions did they finally make on a protest, on a complaint, however the matter came to them, it is literally their final decision. But there are other things that in all fairness you might also characterize as an action or a decision that county boards of equalization take. They, for example, award appraisal contracts. Now those appraisal contracts relate, as the limiting language in the statute indicates, to the valuation or equalization of real property; at least, arguably they would. I don't know whether that would be appealed or not, but if the commission had to decide that issue, it might be a difficult one. The county boards also issue, in certain procedures, notices of value. These are independent of the assessor's value. They issue notices of value that a taxpayer can then protest and the county board can decide whether their noticed value is accurate. Is the issuance of that notice an action? Would that be appealable? It wouldn't make any sense to appeal that, I understand that, but is it appealable under the language in the bill? Maybe it never would be, but is it

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appealable and do you want that kind of broad language? Now, at the commission level, their appeals can be taken from actions or decisions of the commission. Current law allows aggrieved parties to a final decision of the commission to appeal to the Court of Appeals. Since the language in the bill relates to decisions and actions of the commission, it doesn't conform to the standard that's in 5019--final decisions--in other words, the last thing that the commission had to say about an appeal or a petition that is before us. But we may issue many orders or actions before we ever get to the final decision. We issue discovery orders, for example. People come to us and say either I want to be able to implement some discovery or they want to resist some discovery. We issue those orders. Are those to be appealable? I'm not sure. They're clearly decisions. They may also be characterized as actions, but they're not final because it isn't the final say of the commission on the merits of the appeal. The language in the bill could perhaps be fixed so that it was made plain that all that was intended was to be able to file...to appeal from final decisions of the commission. But I don't think that's clear in the existing language. Now there is another issue and it has directly to do with implementation of the bill. If the Property Tax Administrator and the Tax Commissioner are to have the right to appeal from decisions of the county...actions or decisions of the county board and action or decisions of the Tax Equalization and Review Commission, how is the Tax Commissioner and/or the Property Tax Administrator to learn of the decisions that they might want to appeal? That would seem to me to assume some process where, particularly from the commission's standpoint, where we give notice to the Property Tax Administrator and to the Tax Commissioner either before or after we have taken an action or a decision that we might appeal. So at that point it becomes quite important for us to know what an action or a decision, as might be interpreted from the statute, is, because we'd have to tell them that something was going to happen or something had happened and they might have a right to appeal. Because, remember, they aren't...they haven't been there during the course of the proceeding. They don't...they wouldn't necessarily have any other way of finding out what we were doing or that they might have a right of appeal. We would certainly ask that the committee consider ways to tell us how to implement the bill. The other difficulty is that it says that decisions of the commission can be appealed. It doesn't say to whom those appeals should be taken. And because it doesn't fit the language of 5019 for final decisions, can the appeals that would be taken, be to the Court of Appeals or should they go someplace else? And what is the time frame for filing an appeal? Appeals under 77-5019 have to be filed within 30 days. Now if 77-5019 is supposed to be the applicable appeal section for appeals by the Tax Commissioner and the Property Tax Administrator, we would appreciate an amendment that specified that so that it's clear that those are the...that's the place you go and that's the time frame in which you do it. The issue...there are other issues that are raised in the bill and perhaps they touch on practical considerations of the persons who were originally interested in the issue, either the county board or the owner of property. Now, particularly in the context of an appeal from a decision of the commission, if you're in the position where neither one of the parties has made a decision to appeal from the commission's decision, and the Tax

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Commissioner or the Property Tax Administrator appeals, what position are you in? Do you have to hire a lawyer? You would hope perhaps that the Property Tax Administrator or the Tax Commissioner had appealed on your side. But what if they have appealed on the other side? Aren't you put to a burden that you might not otherwise have been incurring? Now that raises an interesting prospect, I think. If I were the losing party in an appeal to the commission, and wanted it appealed but didn't want to pay for it, who would I go to? I would try to see that the Property Tax Administrator or the Tax Commissioner lodged the appeal and bore all the expense of the appeal. I think that creates an interesting dynamic within that office that is not present at the moment. Maybe it's a dynamic that they can handle and resist, but it would still seem perhaps that the best judge of whether something should be appealed is the judgment of the parties--the people who are directly affected in the proceeding--and whether they believe it is worth an appeal, whether they believe it is worth the time and trouble to hire lawyers and incur the expense of an appeal. There are other aspects of the bill that I think could be assisted with amendments, but they're rather technical in nature and I'd be happy to furnish those to your analyst if you think that's appropriate, otherwise I'd be happy to try to respond to questions. [LB877]

SENATOR ADAMS: Thank you, sir. Are there questions for this testifier? Yes, Senator White. [LB877]

SENATOR WHITE: Thank you, Commissioner. If I have been making notes, your first criticism or concern is the bill does not define interlocutory versus final for purposes of appeal, and that needs to be done. Is that correct? [LB877]

BOB WICKERSHAM: I would suggest that, sir. Yes. [LB877]

SENATOR WHITE: Yeah. And that's good policy on any appeal. Right. Next is you have a concern about whether the Tax Commissioner will have notice of the decisions of, in your case, TERC. And do you publish decisions now? [LB877]

BOB WICKERSHAM: No, sir. We deliver copies of our orders to the affected parties. We will deliver copies to other people at request, but we routine...as a matter of routine, we do not. Now... [LB877]

SENATOR WHITE: Do you compile them and keep them available for reference... [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: ...for other people? Is that in the State Library? [LB877]

BOB WICKERSHAM: We have been furnishing copies to the State Library, Senator, but

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we have stopped. Well, if I may. I understand your concern. The opinions...or the order...I shouldn't say opinions. I'm sorry, that's not correct. The orders. The orders are not indexed. [LB877]

SENATOR WHITE: Okay. [LB877]

BOB WICKERSHAM: There's nothing like Westlaw, Lexis. I mean,... [LB877]

SENATOR WHITE: I understand. I'm just wondering...are they compiled and available for public inspection? [LB877]

BOB WICKERSHAM: You could...yes. Now we stopped doing that because the State Law Library said that nobody came and looked at them, and it was a substantial burden in the commission to get them up there. I mean, we are very busy. I don't want to make excuses but it just... [LB877]

SENATOR WHITE: Well, just to address a concern. [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: I mean, there's two levels here. One is it's a concern when anything is being...a public decision is being made, they're not publicly compiled and available for inspection. Whether or not the public is interested or not is a different issue, right? [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: So if we made a change in the law that said such decisions shall be compiled and promptly copy placed in the State Law Library or other source for public inspection, then it's on the Tax Commissioner to review them. Would that, on that narrow issue, address your concern? [LB877]

BOB WICKERSHAM: Well, if that was the provision of statute and if that was deemed to be adequate notice that you could then begin the running of an appeal period, fine. But, I mean, you've got to have a place to start the running of an appeal period. [LB877]

SENATOR WHITE: I am grateful for your precision and your thought, Commissioner. I'm not disputing that. [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: I'm literally trying to take your concerns and see if we can address them. [LB877]

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BOB WICKERSHAM: All right, sir. [LB877]

SENATOR WHITE: So without being too much trouble, if...it shouldn't be your position that you've got to advise the Tax Commissioner everything they ought to worry about. If they're just publicly filed at a certain place and then that's on the Tax Commissioner's responsibility to have somebody review them and see if they're worried--that's on them--would that solve your problem on that? [LB877]

BOB WICKERSHAM: If the statutes make the...Senator, I'm not trying to quibble...but if the statute... [LB877]

SENATOR WHITE: No, if the statute started the statute running from the date of filing. [LB877]

BOB WICKERSHAM: If the statutes say that, I think that's it. And if that's what...and if that's what we're supposed to do, we will. [LB877]

SENATOR WHITE: Okay. But I mean it's not just if you're supposed to; it's whether it's workable. My concern is more pragmatic. If you put a file...and it doesn't have to be the State Law Library. It could be in your own office. But once they're filed and available for public inspection, either on a Web site or in paper, and the time for appeal runs from that date that they've available,... [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: ...can you live with that? [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: Okay. [LB877]

BOB WICKERSHAM: And let me make another suggestion, Senator. We have at various times discussed creating the ability to place all of our decisions on the Internet so that they're accessible in that fashion. We have incurred substantial cost barriers to doing that. That is probably the most desirable thing... [LB877]

SENATOR WHITE: You should consult the Treasurer. He's a wizard, I'm told. [LB877]

BOB WICKERSHAM: Excuse me? I'm sorry, sir. I did not hear you. [LB877]

SENATOR WHITE: I said you consult the State Treasurer. I'm told he is a wizard at those things. [LB877]

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BOB WICKERSHAM: Oh. Well, he may be. But we need...I'd think we'd need both dollars and a wizard. Maybe we can hire a wizard with the dollars. I'm not sure. [LB877]

SENATOR WHITE: Well, in any event, that becomes a cost. [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: But if they're publicly available and we run it from that date, that (inaudible). [LB877]

BOB WICKERSHAM: Yeah. [LB877]

SENATOR WHITE: Then you also make a good point about what status is the Tax Commissioner. If the law was changed to say that they shall have the right to appeal as though they were an aggrieved party; in other words, no greater or lesser rights than an aggrieved party, with the right to intervene, you know, obviously post-your decision, would that address that concern? [LB877]

BOB WICKERSHAM: Yes, sir. Because then you're tying it to the 5019 provisions and... [LB877]

SENATOR WHITE: Yes, and that same procedure that... [LB877]

BOB WICKERSHAM: ...and you're in the ballpark. [LB877]

SENATOR WHITE: Yeah, they're an aggrieved party. So we can clean that up. [LB877]

BOB WICKERSHAM: Senator, I might suggest one other thing that I think you touched on, and that is whether you appeal as an intervener or you appeal as a party. I think there are distinctions that can be made in that regard, as well. [LB877]

SENATOR WHITE: So that...and we could say they have a right to intervene and appeal...and just file a notice of intervention and then file an appeal as though they are an aggrieved party and the same time periods permitted to an aggrieved party. [LB877]

BOB WICKERSHAM: The distinction that I would point out is that an intervener can only participate after someone else has appealed. [LB877]

SENATOR WHITE: Okay. Well, we could give them...what you would say then is if they have, let's say, 30 days from the publication of a decision or action by TERC, and they would have 30 days to file just a statement they are intervening and then any necessary papers to appeal from that point as though an aggrieved party. So we're look...we're



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talk...and these are important issues. Believe me, I understand how important. I'm just trying to get to the essence of your complaints. [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: Okay. Then we talked about whether or not they would be unduly importuned to intervene for the private economic benefit of an aggrieved tax holder. But the AGs...that's the situation we have with the Attorneys General now. I mean, if for example, I have a constitutionality issue, I can...I have to advise the AG right now, and he can intervene or not. Oftentimes, in private disputes, there are all kinds of consumer protection acts and other things where I very well may be also begging him to intervene and handle this fight for me against this company. I mean, that's just part and parcel or state government, is it not? [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: Okay. [LB877]

BOB WICKERSHAM: And all I wanted to do was to point out that... [LB877]

SENATOR WHITE: Yeah, it is an issue, but... [LB877]

BOB WICKERSHAM: ...that you place that dynamic in the Tax Commissioner's office... [LB877]

SENATOR WHITE: In play. [LB877]

BOB WICKERSHAM: ...and the Property Tax Administrator's office. [LB877]

SENATOR WHITE: All right. Now if I've heard what you said, you don't have a problem with TERC being reviewed, then? [LB877]

BOB WICKERSHAM: No. [LB877]

SENATOR WHITE: The concept that a decision by TERC could affect the whole state, which the Tax Commissioner has an obligation to protect the viability of the state tax structure. And, of course, you follow the point that...for example, school aid funding can be driven heavily by assessors' decisions, whether it is a granting a...or more directly even, a granting of a homestead exemption. That directly impacts the state General Fund and the budgets, correct? [LB877]

BOB WICKERSHAM: Yes, sir. I think, if I might, I would place my considerations in a slightly different context. I don't believe that the commission issues orders or decisions

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with the backdrop of the state's fiscus in mind. [LB877]

SENATOR WHITE: But shouldn't they,... [LB877]

BOB WICKERSHAM: No, sir. [LB877]

SENATOR WHITE: ...given the constitution requiring equalization. [LB877]

BOB WICKERSHAM: Senator, if I might explain. I do not think that we should be concerned about the state's fiscus in our decisions. What we should be concerned about and what I think we are concerned about is that we follow the law. [LB877]

SENATOR WHITE: Well, and part of the law is that property tax be equalized across county borders, correct? [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: And that...that is not just so that I pay the same taxes, but also taxes I do pay to the state are equally...or unfairly dispersed among the state according to the standards of the law. [LB877]

BOB WICKERSHAM: Okay, Senator, perhaps I haven't been quite clear. I don't think that the commission would ever issue a decision simply because it benefited the state. [LB877]

SENATOR WHITE: Oh, I'm not saying that. [LB877]

BOB WICKERSHAM: And that's my only point. [LB877]

SENATOR WHITE: What I am saying is reasonable minds can disagree. [LB877]

BOB WICKERSHAM: Yes, sir. [LB877]

SENATOR WHITE: For example, the commissioner could approve a homestead exemption that the state says grants unfair advantage to Douglas County and penalizes 92 other counties, 91 other counties that don't see the homestead exemption under those terms, and say, well, you might, the commission might be okay with that. And the State Tax Commissioner might disagree and say we need to reevaluate this at a statewide level. [LB877]

BOB WICKERSHAM: Okay. And again... [LB877]

SENATOR WHITE: Because your decision will only affect that county. [LB877]

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BOB WICKERSHAM: That's correct. [LB877]

SENATOR WHITE: Okay. But a Court of Appeals decision would require every county to adopt the same standard, so you'd get more of a statewide standard. [LB877]

BOB WICKERSHAM: That's correct. [LB877]

SENATOR WHITE: Okay. So...I mean, I just want to make sure you're not uncomfortable as a commissioner with TERC being reviewed by a court that can enforce a statewide law. Correct? [LB877]

BOB WICKERSHAM: No, sir. [LB877]

SENATOR WHITE: Good. Good. Okay. It was most helpful. Thank you. [LB877]

BOB WICKERSHAM: All right. [LB877]

SENATOR ADAMS: Are there other questions for this testifier? Yes, Senator Louden. [LB877]

SENATOR LOUDEN: Yeah, thank you, Senator Adams. Well, as I look at this bill from a landowner's point of view, Senator Wickersham, is this... [LB877]

BOB WICKERSHAM: Senator, I'm sorry. I'm a commissioner. [LB877]

SENATOR LOUDEN: Commissioner Wickersham. Is this set up so that this is going to give a bigger advantage to the Property Tax Administrator rather than the landowner? Because, I mean, over the years we have passed legislation that it seemed to be in the favor of the administration of the taxes on the end of it; whereas, we've taken some of the benefits that some of the landowners could receive or some of the things that were in statutes have been done away with that was to our advantage as a landowner, and they've been given to the Property Tax Administrator. This section...subsection (4) in Section 2, does that give the Property Tax Administrator more authority than what they already had? [LB877]

BOB WICKERSHAM: The...okay, Senator, I'm trying...I have to...I think I need to be careful about how I respond because, in part, sometimes issues could come to the commission. And if I make comments now that look like I'm pre-deciding something, I can't do that, so I think I need to be careful. When you...the Property Tax...let me...I... [LB877]

SENATOR LOUDEN: Well, it could be answered yes or no. [LB877]

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BOB WICKERSHAM: Well, let me try to respond by saying that the statutes are clear that the Property Tax Administrator, when they're acting as the assessor in a county, currently has authority to appeal decisions of the county board to the commission. Now that's when they're acting as county assessor. There is no comparable language for situations in which the Property Tax Administrator is not acting as the county assessor. The only thing that comes even close is the authority of the Property Tax--of the Tax Commissioner now, I believe--to intervene in appeals that concern the exemption from taxation of property. Those are the only statutory provisions that at the moment I can think of that lend anything that even has the flavor of the authority that is in this bill--the statutory provisions. [LB877]

SENATOR LOUDEN: Okay. Thank you. [LB877]

SENATOR ADAMS: Other questions? I guess not. Thank you, sir. [LB877]

BOB WICKERSHAM: All right. Thank you. [LB877]

MIKE GOODWILLIE: Good afternoon, Senator Adams, members of the committee. My name is Mike Goodwillie, G-o-o-d-w-i-l-l-i-e. I am with the Douglas County Assessor's Office and we are located at 11422 Miracle Hills Drive. I'm testifying in a neutral capacity on LB877. There are two issues I'd like to touch on. The first and main one that I came down here for was the change to the language in 77-1502 that would require the party filing a protest with the county board of equalization to provide their legal description on that protest. Quick, anybody, can you recite me your legal description of your property? And my point for asking the question is I think protests to the county board are sort of the ultimate pro se do-it-yourself endeavor. And I think requiring that taxpayer to get what might be sometimes a fairly lengthy legal description, when that property could be adequately identified by their address--123 Main Street, for example--I think it's overly formalistic and I think it's a trap for the unwary, especially because a sentence or two later the existing language of the statute provides that a county board shall dismiss protests for failure to contain an adequate description. Now, as a practical matter, I don't know how many boards are going to do that. But if, for example, a board was of a mind to favor one taxpayer or, more importantly, disfavor another taxpayer who wasn't smart enough to or savvy enough to put down their full legal description, that would be a mechanism to do that person out of their protest. And I think we've had lots of discussions over the last few years about making the CBOE process a little more user-friendly. I think this is sort of at odds with that philosophy, and I say that, knowing that there are certainly some assessors that would like to see this added to the law. And Revenue probably did that, the request. I guess we would disagree with the assessors that are of that position. I just think this...it's more formal than it needs to be. I think all that ought to be required is a description that would adequately inform the board of what property is being protested. The other issue I'd

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want to touch on just briefly, and I'm going to draw on my time as agency counsel for the Department of Property Assessment and Taxation, to touch on the whole Tax Commissioner/Property Tax Administrator right to appeal. Currently, 77-202.04 limits the ability to protest the grant of an exemption by a county board of equalization to the county assessor only. I think Commissioner Wickersham has it right. Under certain circumstances the Property Tax Administrator may intervene in an appeal by an assessor of such an action. But, quite frankly, what I think the addition of this appeal ability does is it may enable the department to pursue county board decisions that, for whatever reason, assessors may be unwilling to do. In my time as agency counsel I'd like to have a nickel for every time an assessor called me and said, our county board granted an exemption that, you know, just blatantly shouldn't be granted, you know, because...well, just because they could; and do I appeal and risk antagonizing the board that approves my budget every year? That's a hard choice, I think, for some assessors. And what this would enable, for good, bad, or indifferent, I think, is under those circumstances the PTA could take those to TERC. Now whether they choose to do that and under what circumstances, or not, that's kind of up to their philosophy and their budget and their staffing level. And to touch on...I guess in finishing up, to touch on Commissioner Wickersham's point of how would the PTA know? Trust me, I think if the county board decision was viewed as egregious enough by the assessor, yeah, the PTA would know, because that assessor would burn up the phone line, saying, you know, I can't take this up for whatever reason but here's a good one. So with that, I would entertain any questions that you might have. [LB877]

SENATOR ADAMS: All right. Thank you, sir. Are there questions? Senator Utter. [LB877]

SENATOR UTTER: Just so I understand, should a county board authorize an exemption for the payment of taxes that was improper? Is the appropriate place that an assessor would appeal that, would that be to TERC? [LB877]

MIKE GOODWILLIE: Yes. Currently, by law, the only--and I mean only--entity that can appeal the grant of an exemption by a county board of equalization is the county assessor. And, yes, that would go to the Tax Equalization and Review Commission. [LB877]

SENATOR UTTER: Thank you. [LB877]

SENATOR ADAMS: Senator Pirsch. [LB877]

SENATOR PIRSCH: So you're...in that respect, you think it might be a good counterbalance to perhaps egregious decisions made by county boards of equalizations? [LB877]

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MIKE GOODWILLIE: I think it would provide a mechanism to review some decisions that might be a little bit over the top, that for whatever reason an assessor is unwilling or unable to take on. So, in that regard, I guess if it's important to review the actions of the Tax Equalization and Review Commission, it probably is equally fair to review those of the CBOE. I once heard a war story about one assessor called and was kind of at her wit's end because during county board season a gentleman made a very impassioned argument to reduce the value of a particular piece of property, okay? And then when he got done making his argument, he got up from the table where they had the taxpayer sit to argue their protest, and then he walked around the other side of the table and sat down and voted to reduce the value as a member of the county board. Now leaving aside some of the ethical issues in that, that assessor felt pretty intimidated about taking that one up when the board reduced the value. I think it's that kind of thing that it might be useful for the PTA or the Tax Commissioner to be able to take up. [LB877]

SENATOR PIRSCH: Okay. Thank you for that answer. Is there anything with respect to your first comment which is with respect to the formality of listing the particular parcel of property, is there anything...is there any merit in what some, you say some assessors are saying they like the legal description of the formality of it. Is there really anything in there that you need as a practicality, or is it...does it put an undue hardship...can that argument be made as opposed to a street address (inaudible)? [LB877]

MIKE GOODWILLIE: You know, I've got to think for the vast majority of protests, individuals protesting the value of their home, the street address is probably adequate. I think if it were me and I were going to amend 77-1502, the language I would suggest is that the taxpayer need to provide a description adequate to identify the property being protested. And that may be short of any...and in most instances that will probably be short of the full legal description. [LB877]

SENATOR PIRSCH: Okay. Thank you, Mike. [LB877]

MIKE GOODWILLIE: Certainly. [LB877]

SENATOR ADAMS: Other questions? Thank you, sir. [LB877]

MIKE GOODWILLIE: Thank you. [LB877]

SENATOR ADAMS: Is there other neutral testimony? [LB877]

JIM CUNNINGHAM: Senator Adams and members of the committee, good afternoon. My name is Jim Cunningham. That's C-u-n-n-i-n-g-h-a-m. I'm the executive director of the Nebraska Catholic Conference, which represents the mutual interests and concerns of the Archdiocese of Omaha and the Dioceses of Lincoln and Grand Island. I'm testifying in a neutral capacity just to share with you a couple of observations. I've had

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the good fortune of knowing, for quite a number of years, all three of the prior testifiers, and I have high regard for them and I've learned a lot from them. I've been monitoring exemption legislation for quite a number of years and so I want to share with you a couple of general observations. First of all, it seems to me that this is a pretty extreme and substantial change in public policy in terms of the first section of the bill that grants broad authority to the Property Tax Administrator to appeal any exemption decision, and I also realize it has to do with valuation and equalization decisions, as well. It seems to me that that's a pretty significant change in policy because it makes the Property Tax Administrator a party, essentially, in every application for exemption and every decision on exemption; whereas, the current law is structured so that there are appeals. And then Mike Goodwillie cited the statute that does authorize intervention by the Property Tax Administrator in any appeal that is taken. I also want to share the observation that the state does have pretty significant rule and reg authority with regard to exemptions, and interprets the statutes which are enacted as a result of the enabling provisions in the State Constitution with regard to exemptions. So there is a role of the state, a pretty significant, substantial role of the state in terms of policy regarding exemptions. And then also one of my other reasons for testifying is just to share with you the fact that I only had a chance to review this bill this morning and so I'm not familiar with all the issues that might exist, but I would like to use this record to preserve an opportunity perhaps to share additional comments in the days ahead. One issue that comes to mind for me, and maybe it's an issue that exists now that I just don't know the answer to, but obviously in the exemption area, the traditional exemptions for religious, educational and charitable properties, we're talking almost exclusively about appeals of decisions to grant exemptions. And it...I wonder about if there is an appeal by the Property Tax Administrator on the granting of an exemption, who is the respondent? Is it the county board of equalization? Or is it the party that applied for and was granted the exemption? And if it's the county, because it was the county that granted that exemption...or the county board, then what rights or opportunities are there for the property owner to be involved as a party to that appeal? Maybe there's an answer to that already with respect to the county assessor appealing a decision to grant an exemption. I'm just not familiar with it, and I certainly hope to have the opportunity to look into that. With those comments, I would close, just to share those observations with you as someone who looks at these issues over a long period of time from the perspective of exempt organizations and exempt property owners. Thank you. [LB877]

SENATOR ADAMS: Thank you. Questions? Senator White. [LB877]

SENATOR WHITE: Mr. Cunningham, by virtue of the fact you're testifying as a neutral, I take it you're not opposed to this law? [LB877]

JIM CUNNINGHAM: Not at this point in time, Senator. I have had no chance to talk with any of our officers or board members about it. [LB877]

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SENATOR WHITE: And you would agree that there may be concerns in individual counties that, in your case, you represent the Catholic religion, that some religious in one county area where it's predominantly of a different religion may not get equal treatment. I'm sure that the Catholic Church supports equal treatment for all faiths. [LB877]

JIM CUNNINGHAM: I think the laws are clear that if you satisfy the ownership test, the use test, the other tests that are applied to the exemption, then you're entitled to a decision that's rendered fair and justly on the basis of what the law is. [LB877]

SENATOR WHITE: Whether your church is in Scotts Bluff County or Douglas County, correct? [LB877]

JIM CUNNINGHAM: Sure. I mean I think the law is clear as to the tests that have to be satisfied. And obviously there's some interpretation based on the facts of every situation, but indeed the law sets the standards for what is...the Legislature has set the standards for what the requirements are to be exempt. [LB877]

SENATOR WHITE: Well, as you read the law, I hope you contemplate the concept that we, as a state, have an interest in making sure that all religions are treated the same all across the state; that local prejudices that might exist in one county or another, that there be a mechanism on a statewide level that those rights can be vindicated without undue pressure. I hope you'll talk to the bishops. I know some. I think they'd support that concept from what I know of them. [LB877]

JIM CUNNINGHAM: I agree. I think the law says what it says and everyone is entitled to just treatment under the law. That's true. [LB877]

SENATOR WHITE: Thank you, Mr. Cunningham. [LB877]

SENATOR ADAMS: Other questions? Thank you, sir. [LB877]

JIM CUNNINGHAM: Thank you, Senator. [LB877]

SENATOR ADAMS: Any other neutral testimony? Senator Cornett. [LB877]

SENATOR CORNETT: Thank you. I wasn't originally going to close on the bills, but on this one I will because a couple of things need to be answered. One, the Tax Administrator is more than willing to work on an amendment and agrees that we need to look at language that says final actions or decisions. If you look at the bottom of page 2, line 22, between any, and put...insert "final." Secondly, legal description. We can change that language to whatever: parcel, address, whatever... [LB877]



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SENATOR WHITE: Adequate. [LB877]

SENATOR CORNETT: ...is adequate for identifying the property. In regards to the county boards, at least as far as I know, and I was informed yesterday, the county boards informed the Property Tax Administrator that they were in support of this bill or the concepts behind this bill. I spoke to the Tax Administrator. What they are looking at in regards to the appeals language for the Property Tax Administrator is they would be looking at appealing decisions based on uniformity and proportionality, so exactly what Senator White brought up. We're not looking at individual tax appeals, but if in a county that something is...an exemption is granted that is unwarranted and is not uniform with the rest of the county, to be able to bring that before the appeals process. Also in regards to the questions brought up by the gentleman from the Catholic Conference, yes, if the Tax Administrator files an appeal, the county board could respond to that appeal, but also the property owner can insert themselves into that process at any time. But we are more than willing to work with the committee on the amendments to this bill. [LB877]

SENATOR ADAMS: Questions for the senator? Seeing none, then that will close the hearing on LB877. And Senator Cornett, LB878. [LB877 LB878]

SENATOR CORNETT: Good afternoon, members of the Revenue Committee. I am Abbie Cornett, representing Legislative District 45. I have introduced LB878 on behalf of the Nebraska Department of Revenue. LB878 is the department's e-government bill. It is primarily intended to facilitate cost savings for the department by various means. Many of the bill's provisions are technical in nature. A representative of the Department of Revenue is here today to testify about the bill and answer any questions you may have about it. I will tell you the main thrust of LB878. LB878 sets forth a statement of legislative findings and intent that the Department of Revenue implement a comprehensive and mandatory electronic filing and payment system for all state programs and fees administered by the department as deemed practicable and necessary for the proper administration of the Nebraska Revenue Act of 1967, and it authorizes the Tax Commissioner to take action to implement such electronic filing and payment system. The changes made by the bill would be operative by January 1, 2011. With that, I will direct any questions, because this is a technical bill, to the Tax Commissioner. Thank you. [LB878]

SENATOR ADAMS: All right. First proponent. [LB878]

DOUG EWALD: (Exhibit 2) Senator Adams, members of the Revenue Committee, my name is Doug Ewald, D-o-u-g E-w-a-l-d. I'm the Nebraska Tax Commissioner representing the Department of Revenue. I appear before you today as a proponent of LB878. The Governor and the Department of Revenue are committed to using technology to make government more efficient and more services available 24/7. LB878

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recognizes the importance of electronic services, electronic government, and supports the department's efforts to gradually integrate state tax programs into an electronic government platform. First of all, this bill would...I'm asking for the Revenue Committee and the Legislature to support the department's efforts to gradually implement electronic filing requirements--this is the filing of returns--for all tax programs. Obviously, today we have electronic filing for individuals. That's the big one that we have today. In the near term, this would be limited to sales and use and withholding tax programs. Over the long-run, e-file services could be available for lodging taxes, financial institution tax, corporations, partnerships, and those type of business returns. What we would do in this situation was we look at where we can have the greatest impact, initially, for efficiency, and bring that program on at that particular point in time. I would like to emphasize that it would take a little bit of time to do this, obviously. It's being done with existing department resources. We envision this process taking its time over several years, but once complete we think the benefits to the state and the taxpayers would be significant. Electronic filing and electronic government offer taxpayers an easy and convenient way to file tax returns, make payments on-line, and receive refunds via direct deposit. In addition, e-file and e-government will eventually allow the department to reduce resources and temporary staff dedicated to the processing of paper returns. As specifically stated in this bill, it authorizes the Tax Commissioner to reduce electronic payment thresholds below the current \$20,000 limitation. This is the electronic funds transfer where you have a tax that's due. Once a taxpayer meets that minimum threshold, we tend to mandate that they do the electronic payments on-line. In 2001, the Legislature gave the commissioner the authority to require payments of any tax program over \$100,000. In 2006, they lowered it to \$20,000. This would further reduce that threshold. Now let me put things in perspective for you. While it's \$20,000 a day, we're currently at \$25,000. We've been working our way down over the years to see where we can have the biggest splash bringing groups in, slowly, gradually, as we can take them on board, so this isn't something where we would be going to \$500 overnight. We can't do that. With respect to W-2 filing dates, this bill changes the date employers must file W-2s with the Department of Revenue, from March 15 to February 1. This proposal will assist the department in reducing the time it takes to process taxpayer refund claims by limiting the time the department must hold a return in order to validate the taxpayer's wages against the employee W-2. The earlier the department can verify a taxpayer's wages, the earlier the department can process the taxpayer's return and, obviously, issue their refund. This is a...it's kind of a hot button at the federal level, as well. The IRS, there's a GAO study that came out that this is a major IRS issue, where the IRS is issuing refunds without any support for those refunds. So this, accelerating that, those W-2s to us in an electronic format, allows us to do that matching up front and to get the dollars out to the taxpayers quicker. The W-2 filing threshold: This would require more employers to file their W-2s electronically, as well. It allows the department to process taxpayer refunds or returns faster, for faster refunds, by requiring the electronic filing of W-2s. The department can reduce administrative costs associated with paper filings, such as hiring temporary employees, and may potentially allow the department to

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reduce staffing requirements for mail handling and data entry personnel. As of 2008, employers furnishing 250 or more W-2s must file them electronically. This would lower the threshold to 50 W-2s. Now that being said, we also had a bill last year that said if you are a practitioner and file 250 or more individual income tax returns, we want to see those electronically. We have received requests for waivers from that this year and we've granted taxpayers' practitioners a one-year reprieve in several instances to allow them time to get up and running with that program. The last item in this bill is interest on refunds. Obviously, we want more returns filed electronically. And in order to encourage electronic filing and reduce costs associated with paper returns, this bill would change the deadline for processing paper returns, from 90 to 180 days, if the return is otherwise capable of being filed electronically. These changes are necessary to account for gradual staffing reductions and, as a consequence, the potential delays of processing paper returns over the next several years. Our budget in the Department of Revenue, one of the things we did in our LB1 in the special session is we reduced the amount of temporary employees. This year we cut our temporary staff in half. Next year they are eliminated in their entirety with respect to when we open mail and get things processed. Obviously, it's not a big issue for us early in the tax season, but when you get in that middle of April time frame, things can get a little bit more involved and complicated. With that, that concludes my testimony. I'd be more than happy to answer any questions. [LB878]

SENATOR ADAMS: Thank you, Doug. Senator Utter. [LB878]

SENATOR UTTER: Thank you, Senator Adams. Mr. Commissioner, the lowering that threshold from \$20,000 to 500 bucks, even though it's going to take a period of time to get there, is that going to...in your opinion, is that going to work a hardship on some small taxpayers? How did you arrive at the \$500 threshold? [LB878]

DOUG EWALD: The \$500 threshold is what's in a number of other states today. Now, that being said, we're not going to get there overnight, and a good example of that is in 2005 we were at \$100,000; '06, \$72,500. During the course of '06, it reduced from \$72,500; \$56,000; \$45,000; \$31,000 in '07; \$31,000 in '08. Today we're at \$25,000. I don't...it's going to take us awhile to get to that level, obviously. And because of that, it's going to take us some time, maybe a little bit of hand-holding, I guess if you will. We don't want to make it a hardship on anyone, but at the same time we know that that's where we're trying to move. [LB878]

SENATOR UTTER: Well, I congratulate you on your efforts to reduce staff and reduce the...particularly, your temporary staff. And I think those are all moves that I would agree with and in the right direction. So I thank you for your testimony. [LB878]

SENATOR ADAMS: Senator Pirsch. [LB878]

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SENATOR PIRSCH: Kind of the same question with respect to will it present a hardship...or may it present a hardship to require businesses to file their W-2s with the department, moving up that date of March 15 to February 1? [LB878]

DOUG EWALD: Well, I think that most businesses...I know I got mine from the state today as far as my W-2 goes. And if you have an electronic file out there, they have some sort of electronic file that they use to generate the W-2s. I think it's a matter of batching those W-2s and submitting them to the states in the appropriate format. And I've talked to several practitioners on this issue and they actually support that because we're in the process...or they're in the process of gathering that information and compiling that data in January. They would just as soon push that button and have it done with at that point in time and not have it sit around. So from that standpoint I hope that it's not a burden. [LB878]

SENATOR PIRSCH: Thanks. [LB878]

DOUG EWALD: But I mean, once again, we would...if somebody, it is a burden, we would...you know, if you need a hardship or something like that, you know, today you can write me a letter and say, okay, because of this I think I can get there, this far, or, you know, at that particular point in time. But we really would like to see them sooner and the real reason for that is so we can validate the individual income tax returns. And honestly, it prevents quite a bit of fraud. [LB878]

SENATOR ADAMS: Senator White. [LB878]

SENATOR WHITE: Thank you, Mr. Commissioner. I have no problem with carrots for people doing ETFs. I am concerned about a payment on a number of levels. One, is there is a provision that cash issued by the United States is legal tender for all debts public and private. So if someone shows up at the office with cash, tenders it to you, what you're saying here is that's not legal tender; we can fine you for using cash. That worries me for a lot of reasons, not the least of which is that there are people who literally don't want you to know particularly--and they could be dead honest--don't want you to know where they bank. They don't want you to have access to a bank account. They may not have access to a bank or a bank that has ETF funding. And, believe it or not, in a lot of the rural parts of the state, increasingly there are counties without financial institutions in them. So the idea of penalizing people for using what is acknowledged to be a legal tender for all debts public and private, gives me grave concern. Can you address that? [LB878]

DOUG EWALD: That's a...I can address that. That's already in statute, honestly, Senator. If you're...today, if you are supposed to be filing electronically and you refuse to do that, you get issued a \$100 penalty. [LB878]

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SENATOR WHITE: So if that was wrong then, it's right now, because we made the mistake before? [LB878]

DOUG EWALD: No. What I am saying is that penalty exists in statute today. That policy has been set by the Legislature that we're going to penalize you \$100 if you don't follow the prescribed... [LB878]

SENATOR WHITE: And what I'm saying is I'm not sure that was a good decision and I'm asking you to tell me why the state should be in the business of telling someone that uses legal tender and promptly presents cash to the state, that they should be penalized for that. [LB878]

DOUG EWALD: Well, I think in most cases, if you're...the ones that we've seen that are using cash, they aren't prompt. Okay? Right. [LB878]

SENATOR WHITE: But you have provisions if they're not prompt. [LB878]

DOUG EWALD: Right. [LB878]

SENATOR WHITE: You can fine them for being late. You can fine them for all kinds of things. But here we're talking simply about a person whose decision to use legal tender rather than an electronic funds transfer...and I'm asking...I mean, I understand it's already in statute. I'm asking you what is the justification for that? [LB878]

DOUG EWALD: Well, I think it's an efficiency. It's an efficiency of government. We're trying to reduce our costs and... [LB878]

SENATOR WHITE: But there are many things that are rights to privacy, things like that, that lead to inefficiency, believe me. Getting search warrants--really inefficient. (Inaudible)...if you have a company that simply wants to pay you cash and they are doing everything legally, why shouldn't they be able to do that, other than, well, we could save some money from the state? [LB878]

DOUG EWALD: I would hope it would save them...their time is worth more money than, you know, than coming down to the Department of Revenue, which has, you know--they have to obviously determine that--but I hope their time is more important to them to be able to establish a relationship with their bank and to push a button. [LB878]

SENATOR WHITE: This is just maybe my own personal issue, but I find it disconcerting that if you get on a plane and you want to buy a soft drink or a lunch, they won't take your cash. We're herding people into a different system that is moving away from a cash-based society, and should the state be involved in that effort? [LB878]

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DOUG EWALD: I guess that's a policy decision for the Legislature. They are there, to a certain degree, today. And this bill tries to, obviously, take that a little bit farther. [LB878]

SENATOR WHITE: Thank you. [LB878]

SENATOR ADAMS: Are there other questions? Thank you, Doug. [LB878]

DOUG EWALD: Thank you. [LB878]

SENATOR ADAMS: Next proponent. Opponents. Is there any neutral testimony on this? Seeing none, Senator Cornett. [LB878]

SENATOR CORNETT: Thank you, Chairman Adams. I will waive closing on LB878 and I will move on to LB879 if you're ready. [LB878 LB879]

SENATOR ADAMS: We're ready. [LB879]

SENATOR CORNETT: Good afternoon, Senator Adams and members of the Revenue Committee. My name is Abbie Cornett and I represent the 45th Legislative District. I have introduced LB879 on behalf of the Nebraska Department of Revenue. It is the department's annual bill designed to strengthen or enhance various statutes governing tax administration and enforcement. In general, LB879 would do the following: allow the Nebraska Department of Motor Vehicles and the Nebraska Department of Revenue to enter into agreements to disclose certain information to the Department of Revenue to assist in carrying out its duties; allow the Nebraska Department of Revenue and the Nebraska Department of Labor to publish a list of delinquent taxpayers who owe taxes or fees, including interest, penalties, and costs in excess of \$20,000 for which a notice of lien has been filed in accordance with the Uniform State Tax Lien Registration and Enforcement Act, and allow the list to be posted on the Web site of either department; exempt from statutory rules governing confidentiality of certain information, including confidentiality of tax return information, the disclosure of information to the Nebraska Department of Labor necessary for the administration of the Employment Security Law and the Contractor Registration Act. If you remember, we passed two forms of the Contractor Registration: one that was drafted to the Department of Revenue and one which was drafted to the Department of Labor. Last year, this committee gave the responsibility to one of the departments. We did not allow them to share information both directions at that time, and that's what this provision is about. Create an additional penalty for nonfilers of withholding tax; authorize the Tax Commissioner to abate interest on motor fuel tax payments; simplify sales and use tax refunds for purchases made by contractors under the Nebraska Advantage Act; incorporate amendments made to the Streamlined Sales and Use Tax Agreement through December 31, 2009; conform various administrative deadlines to the Administrative Procedures Act; and change the source of funding compensation for assistants and expenses of the Office of

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the State Athletic Commissioner. I thank you for your valuable time and consideration of LB879. The department has technical amendments that they wish to offer and we'll be handing those out to the committee later. With that, this is again a technical bill from the Department of Revenue and I will turn the questions over to the Tax Administrator. Thank you. [LB879]

SENATOR ADAMS: All right. Thank you, Senator. First proponent. [LB879]

DOUG EWALD: (Exhibits 3 and 4) Senator Adams, members of the Revenue Committee, my name is Doug Ewald, D-o-u-g E-w-a-l-d, Tax Commissioner of the Nebraska Department of Revenue. As you heard the opening with Senator Cornett, this bill does a number of things. To start off, with respect to information sharing, this bill would facilitate information sharing between the Department of Revenue, the Department of Labor, and the Department of Motor Vehicles under several circumstances. With respect to the Department of Labor, we would amend the Department of Revenue's confidentiality statutes to allow Revenue to share certain information with the Department of Labor to assist with unemployment insurance investigations and enforcement of the Contractor Registration Act. Unemployment insurance investigations: Currently, the Revenue cannot share information related to our investigations with the Department of Labor. If auditors discover a business, for example, misclassifying an employee, we cannot give the Department of Labor that information. However, the Department of Labor can now share information with the Department of Revenue. This change will facilitate a greater working relationship between the two agencies and, among other things, help us determine the extent of worker misclassification in Nebraska. This also supports the findings of the LR185, the Business and Labor Committee's interim study with respect to this issue. This also allows us to assist with enforcement of the Contractor Registration Act--last year, LB162 consolidated registration requirements for construction contractors with the Department of Labor--and simplify fee remittances for both agencies. However, both agencies still need to work together to ensure that contractors are meeting the requirements for both agencies. The proposed sharing of information in this bill will assist both agencies in that effort. With respect to the Department of Motor Vehicles, this bill would allow DMV to share information about Nebraska drivers with the Department of Revenue. This will allow the Department of Revenue to compare DMV records against our own income tax records, and verify Nebraska drivers are filing income tax returns in the state of Nebraska. I believe this will be a simple query. It would help supplement other efforts by the department in verifying legitimacy of first-time income tax filers and locating delinquent taxpayers. LB879 also requires the Department of Revenue and the Department of Labor to compile a list of the state's most delinquent taxpayers and allows a list to be published on their respective Web sites. This is a practice that exists in several other states and they found it successful in encouraging delinquent taxpayers to pay their debts to the state. Sixteen states in all have this particular feature. And as was said, this is with a tax lien. Obviously, it has to be...it's in excess or tax debts in

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excess of \$20,000. Obviously, a tax lien is already part of the public record so it's something that's not private. We would be basically putting part of what is considered to be the public record out there in another location. This bill also allows the Department of Revenue to impose an additional penalty for employers that do not remit amounts withheld from employees' paychecks after those payments become due and final. Currently, there are penalties for failure to file a return or for filing a return late. These penalties are essentially the same. LB879 adds the ability to impose an additional penalty for employers that fail to remit amounts withheld. The penalty would be separate and distinct from any penalty imposed for failure to file a return or filing a late return. A similar penalty already exists for sales tax filers. Now with respect to this particular provision, the...we believe there's a slight amendment that needs to be added here that basically states that this only applies to this section, and that would be withholding. Because the way it's written now it would assume that you could do it for all types of taxes. We think it needs to be with respect to or specific to withholding taxes. Another provision in this bill: Simplify sales tax refunds for Nebraska Advantage applicants. Under the Nebraska Advantage Act, a taxpayer with an agreement is entitled to a refund of the sales tax on qualified investment. This works quite easily when the taxpayer pays the tax directly on the purchase of qualified investment because the taxpayer has all the invoices and other backup to show the amount of tax that was paid in Nebraska. However, in situations where there is a construction contract, the tax is often paid by the contractor...the general contractor and the subcontractors. Because the taxpayer may not have direct access to those invoices and other documents that belong to these contractors, the department's review of the company's investments and the company's ability to provide such documentation is complicated. This bill would simplify the process for the sales tax refund claims on qualified investments for projects involving construction contractors. These changes will make it easier for the taxpayer for substantiate refunds and also make it easier for the department to audit and approve the refunds in a timely manner. The method for determining the sales tax refund would be expanded to include construction contracts that involve both buildings and machinery and equipment. The amount of the materials would be presumed to be one-half the amount of the contract, and the contractors would provide a statement regarding the percentage of the materials on which tax was paid. We also believe that there is a slight amendment in Section 14 that's due or should be made with respect to this particular component, where we talk about we need to...items that may be "but not incorporated into" a project. It's very technical but we think it makes this section quite a bit clearer. The next item is motor fuel interest abatement. This should have been changed in 2007, because in 2007 the Tax Commissioner was granted the authority by the Legislature to abate interest on everything but motor fuel. So this is one item we didn't catch at that point in time, so this would allow motor fuel assessments the same treatment as other tax programs. We also have an annual update to the Streamlined Sales Tax Agreement. This changes the date of incorporation for the Streamlined Sales Tax Agreement, which is similar to our annual update for changes made to referencing the Internal Revenue Code, and also makes minor changes to certification requirements of



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certified service providers. Another action here is that it amends several sections of the Revenue Act to conform with the Administrative Procedures Act, the APA. Under the APA, any person aggrieved by an administrative decision may appeal that decision to the appropriate district court within 30 days of the decision. Several statutes within the Revenue Act do not conform with the 30-day limit as required by the APA. The proposal would correct the remaining statutes under the Revenue Act that do not conform to the APA. The last item is the State Athletic Commission. This would change the funding of the State Athletic Commission from the Charitable Gaming Operations Fund to the State Athletic Commissioner's Cash Fund. In 1993, the funding of the State Athletic Commission was moved to the Charitable Gaming division because of a financial shortfall in the State Athletic Commission Cash Fund due to declining revenues from boxing and professional wrestling events. Today, the State Athletic Commissioner's Cash Fund has sufficient revenue to support the expenses of the commission. This is due to the increase in revenue from ultimate fighting events over the last couple of years. With that, that concludes my testimony. I'd be more than happy to answer any questions. [LB879]

SENATOR ADAMS: Thank you, Doug. Senator White. [LB879]

SENATOR WHITE: Thank you. Mr. Commissioner, I have a series of them. If we look at your handout and we look first at sharing information with the Department of Motor Vehicles, and you talk about whether people driving Nebraska cars are filing Nebraska income taxes. And I really don't have a problem with the sharing of that kind of information, but is it reciprocal? Because often we find, in Douglas County, a lot more people are driving Iowa-licensed cars, even though they live in the city, they work in the city, and they're paying taxes in the city. Is that a reciprocal provision so the DMV can ensure that people who actually live here are licensing their cars here? [LB879]

DOUG EWALD: That is a good question. I don't know that it's addressed in here and I don't know if it's... [LB879]

SENATOR WHITE: Would you have an objection if that's made reciprocal? [LB879]

DOUG EWALD: I think it should probably be reciprocal from that. We want the Nebraska taxpayers paying the right amount of tax: no more, no less. [LB879]

SENATOR WHITE: All right. And would that...now we turn to the "Wall of Shame" which I do have concerns with. A lien can be filed and yet still be disputed in court, correct? [LB879]

DOUG EWALD: Yes. [LB879]

SENATOR WHITE: Okay. So you could have an issue with a business that has a court

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case pending, and you filed your lien and it's in the filing where everyone kind of ignores them. And then it's going up to the courts. And not you, but a less scrupulous person could say, well, let's get some pressure; I want that money. That business does a lot of business with schools and they're fighting us; let's just put it on the Wall of Shame and really start nailing them. Isn't it true that can be used improperly to force people into compromising lawsuits where they may have a legitimate claim because they don't want the public fallout of pursuing a legitimate appeal through the courts? Does that strike you as good public policy? [LB879]

DOUG EWALD: Well, I would hope that...I mean it says it allows the list to be published. It doesn't say it has to be published, obviously. And... [LB879]

SENATOR WHITE: But doesn't that strike you as susceptible for abuse? I might not like that guy who is appealing but I like that guy, so this guy's name goes up on a Web site that's public, and everybody can say he's a deadbeat even though he hasn't been adjudicated to be such, even though that (inaudible) be done; but this guy, you know, he's not a jerk, he worked with us, we'll leave him off. [LB879]

DOUG EWALD: Well, I think that we would want to make sure that they had exhausted all their legal remedies, and at that point in time they were a... [LB879]

SENATOR WHITE: But we've talked right now that it doesn't require that. It only requires a lien. [LB879]

DOUG EWALD: Right. It would be a...it would be under the Uniform State Lien Registration and Enforcement Act. [LB879]

SENATOR WHITE: So it could be pending in court. And don't you think that's a little unfair, that you guys...? I mean, you take your position; they take their position. You might be wrong. [LB879]

DOUG EWALD: Right. [LB879]

SENATOR WHITE: They might not owe that money but they go up and get a reputation for not paying their taxes. [LB879]

DOUG EWALD: Well, like I say, it would be, obviously, discretionary. We wouldn't want to taint anything that was continuing in a legal environment, one way or the other. And with that,... [LB879]

SENATOR WHITE: You might not,... [LB879]

DOUG EWALD: Right. [LB879]

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SENATOR WHITE: ...but, remember, the laws aren't passed just for you. They're passed because people...men change. Laws shouldn't. [LB879]

DOUG EWALD: Sure. [LB879]

SENATOR WHITE: Okay. Then the third one...so if, for example, that were amended not to allow it being publicly posted on that Web site until such time as all judicial appeals are exhausted, would you have a problem with that? [LB879]

DOUG EWALD: No. [LB879]

SENATOR WHITE: At that point, I mean, there are adjudicators owing the money,... [LB879]

DOUG EWALD: Right. There... [LB879]

SENATOR WHITE: There's public opinion anyway. [LB879]

DOUG EWALD: Correct. [LB879]

SENATOR WHITE: Okay. And then the State Athletic Commission. If we change that--and I'm glad they have the money, you know, now--does that change who gets to audit them? Because I think the charitable gaming is under the Attorney General. I think they have the right to audit any charitable organization. Does this move who has the power and right to audit them? [LB879]

DOUG EWALD: I don't believe so. It just changes the funding. The APA audits the charitable gaming and it's part of the lottery today: lottery and charitable gaming. So the APA... [LB879]

SENATOR WHITE: Okay. So that's public auditor anyway. [LB879]

DOUG EWALD: Correct. [LB879]

SENATOR WHITE: I know charities are separately subject to audit by the Attorney General. [LB879]

DOUG EWALD: Um-hum. [LB879]

SENATOR WHITE: And I just wanted to make sure if that's going to have an impact on who would have jurisdiction to do an audit. [LB879]

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DOUG EWALD: I don't believe so. They come in and audit the Department of Revenue on an annual basis. They take a look at the Athletic Commission at the same time. That's still...that doesn't change. It's a matter of what fund we're pulling the dollars out. [LB879]

SENATOR WHITE: Okay. Thank you. [LB879]

SENATOR ADAMS: Other questions? Senator Utter. [LB879]

SENATOR UTTER: Thank you, Senator Adams. Commissioner, how do you arrive at the \$20,000 figure on the Wall of Shame thing? It says the list only includes names and addresses of taxpayers with debts exceeding \$20,000. [LB879]

DOUG EWALD: Right. I believe that was a...I don't know for 100 percent, but I believe it was a survey of other states and other practices that are out there across the country. [LB879]

SENATOR UTTER: So... [LB879]

DOUG EWALD: It's kind of a benchmark to go...to start with. [LB879]

SENATOR UTTER: That's not to say that it shouldn't be \$10,000 or it shouldn't be \$30,000 or... [LB879]

DOUG EWALD: Correct. [LB879]

SENATOR UTTER: ...or some other figure. [LB879]

SENATOR WHITE: A dollar. [LB879]

DOUG EWALD: Right. Or a dollar, like he said. [LB879]

\_\_\_\_\_: A dollar. [LB879]

SENATOR UTTER: Well, you're not going to buy ads in the newspapers, I assume, to... [LB879]

DOUG EWALD: No, we don't have that in the budget. [LB879]

SENATOR UTTER: ...to publish those names and figures. So it would appear on a Web site. And if you owed...I guess if you owe \$10,000, is just as bad as owing \$20,000. [LB879]

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SENATOR WHITE: Yeah, or a dollar. I mean, if you owe it, you owe it. [LB879]

SENATOR UTTER: Yeah, you owe it. That's true. So I had a question in that regard. One further question. With sharing a lot of information back and forth, are there privacy issues with regard to federal privacy statutes that we're getting close...I don't know whether we're getting close to here. Are there any concerns in that regard? And, particularly, with the sharing of Social Security numbers, those type of things? [LB879]

DOUG EWALD: There are state confidentiality that pretty much mirrors the federal, that our people in Revenue and their corresponding counterparts, in whether it's Labor or the Department of Motor Vehicles, have to abide by within the state. Obviously, you get caught, you're subject to prosecution in that particular situation. And I know all of our employees, every year, and I imagine it's the same for other agencies, have to...they have some accountability that they have to sign off on, that they know that that is within their...you sign off and attest to that you understand that you're operating with confidential information. And there's penalties out there if that's divulged where it shouldn't be. [LB879]

SENATOR UTTER: Thank you. [LB879]

SENATOR ADAMS: Other questions? Seeing none, thank you, Doug. [LB879]

DOUG EWALD: Thank you. [LB879]

SENATOR ADAMS: Other proponents? [LB879]

CATHERINE LANG: Good afternoon, Senator Adams and members of the Revenue Committee. My name is Catherine Lang, Catherine with a C, Lang, L-a-n-g, commissioner of the Nebraska Department of Labor. I appear before you today in support of LB879. The provisions of LB879 that pertain specifically to the Department of Labor are found in Sections 5, 7, and 13. I think it has already been adequately explained to you what those provisions do. In sum, Section 5 will allow the Department of Labor to join with the Department of Revenue in publishing a list of, for our situation, employers with liens for unemployment taxes filed against them in excess of \$20,000, and who are not under a repayment plan with the Department of Labor. The Department of Labor presently has three delinquent employers who would meet that criteria. Section 7 and 13 of the bill would complete the circle of information sharing between the two departments by authorizing the Department of Revenue to share information from its sales and income tax records with the Department of Labor for the purpose of enforcing the Contractor Registration Act and the Employment Security Law. The Department of Labor does have the authority to share information from its unemployment program with the Department of Revenue under existing law. This will allow the Department of Revenue to share information with us, and we believe this helps eliminate the

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information gap that we did discover as we were implementing the joint contractor registration filing. And with that, I'd be happy to answer any questions. Thank you. [LB879]

SENATOR ADAMS: All right. Are there questions? I guess not. We're going to let you off the hook. Other proponents? Are there opponents to the bill? Neutral testimony? If not, Senator Cornett, you're...Senator Cornett waives closing. That will end the hearing on LB879 and apparently ends the hearings for today. [LB879]