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Revenue Committee  
February 04, 2010

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[LB972 LB976 LB1008 LB1078 LB1097]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 4, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB972, LB976, LB1008, LB1078, and LB1097. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; LeRoy Louden; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: None. []

SENATOR CORNETT: Good afternoon and welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue. Senator Dierks, Vice Chair of the committee, will be joining us shortly. To my left is Senator Greg Adams from York and Senator Galen Hadley from Kearney. To my far right is Senator Pete Pirsch from Omaha. Senator Utter will be opening on the first bill. Senator LeRoy Louden will be joining us as will Senator Tom White. Our research analysts today are Steve Moore to my right and Bill Lock to my left. Erma James is our committee clerk. The pages today are Abbie Greene and Ryan Langle. Before we begin the hearings today, I'd please ask everyone to turn your cell phone to either off or vibrate. Sign-in sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, a sheet needs to be completed for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your sheet to committee clerk. There are also clipboards at the back of the room if you do not wish to testify, but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or representative will present the bill followed by proponents, opponents, and neutral testimony. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies for the committee and staff, if you only have the original, we will make copies for you. Please hand those copies to the pages for distribution. With that, we will open the hearings. Senator Utter, you are recognized to open on LB972. []

SENATOR UTTER: (Exhibits 1, 2) Thank you very much. Good afternoon, Madam Chairman and colleagues. My name is Dennis Utter, spelled U-t-t-e-r, and I represent District 33 of the state Legislature. I'm here today to introduce LB972 which would simply make some changes as to when local government budgets are filed with the State Auditor and the county. The bill seeks an extension of ten days from the current dates. Currently, budgets must be filed by September 20th, and LB972 would change that date to September 30th. This bill was brought to me by the city of Hastings and the Nebraska League of Municipalities, seeking, if you will, a little wiggle room in there between the time in which they receive from the County Assessor the notices of valuation and the time that they have to get the budget to the County Clerk. Now, frankly, I thought this was a simple, mundane, a slam dunk bill, but I have since

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discovered that this mule has got a little kick to it, and so, it probably isn't going to be quite as easy as I thought it should be. I want to...I'm not going to get in very deep into the bill because I do have folks here from the League of Municipalities and there's also representatives here from NACO, and I'll let them get into the technical parts of it. Joe Patterson, who is the Hastings City Administrator, was also going to be here to testify today, but because of extremely slick road conditions out in the Hastings area all morning, why he has faxed me his testimony, and I've had that distributed to you. Also distributed to you is a kind of a time line that outlines at least visually for you to see when these events that happen in this budget process all happen. I would just like to read for you a couple of the paragraphs out of Mr. Patterson's testimony. He said the problem with the current filing date is that the County Assessor does not certify the city's property values until August 20. In most cases, cities are compelled to present their budgets to their elected officials and citizens before the community's property values are known. Most city councils meet twice a month. The Hastings City Council meets on the second and fourth Mondays of each month. They also meet on Wednesday preceding the second council meeting of each month for their monthly work session. During the month of August, they meet over a three-day period to review the proposed budget and to take comments from staff and the public. If you look at the attached August 2010 calendar, you can see that this would take place without knowing the property values or the property levy request. With the passing of LB972, the city councils would have the certified valuation figures in advance of the budget presentation and subsequent budget work stations. And I think that pretty well outlines the problems that they're faced with. I frankly see this as an exercise, if you will, in governmental unit cooperation and an opportunity for us maybe to stretch that time line a little bit to give everybody an opportunity to do the best job that they can with their budgets and to make the job of budgeting and governing as easy as possible. With that, I'll be happy to take the simple questions. The hard questions I'd just as soon you'd save for the folks that will follow me. [LB972]

SENATOR CORNETT: Questions from the committee? Senator Hadley. [LB972]

SENATOR HADLEY: Senator Cornett. Senator Utter, I was just absolutely shocked that this didn't have a fiscal note, but I want to thank you for that (laughter). [LB972]

SENATOR CORNETT: Further questions from the committee? Seeing none. [LB972]

SENATOR UTTER: (Laugh) Thank you. [LB972]

SENATOR CORNETT: We'll open the hearing to proponents. [LB972]

GARY KRUMLAND: Senator Cornett, members of the committee, my name is Gary Krumland. Last name is spelled K-r-u-m-l-a-n-d. I represent the League of Nebraska Municipalities in support of LB972. As Senator Utter said, the bill is relatively simple in

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that it changes the date that local governments are required to file their budget statements with the State Auditor and with the county from September 20th to September 30th. And the reason for that is that it's a very short time frame that for cities to do the budget when they get the numbers, they need to figure out what the property tax levy is going to be. If you look at the budget time line that Senator Utter handed out, there are three dates that local governments have to deal with. Generally, what a city does, at least, is begin their budget in June or July to start getting ready for the next year. The city's fiscal year starts October 1st. The problem is that they generally can't finalize the budget until they get the property values from the assessor so they know what effect the budget is going to have on the property taxes and on the levy. And so they generally cannot finalize it or did not finalize it until they get those, and those are due on August 20th. A lot of situations, the assessor is able to get them estimates or at least good numbers before then so they can do it, but if, for whatever reason they don't receive those numbers until August 20th, then they would have to recalculate the budget or finalize the budget based on those numbers, depending on the effect on property taxes. Generally, they're very careful about trying not to raise property taxes unless they know what their...you know, that is an informed decision. The next date is September 20th, and this is when the budgets have to be filed with the auditor and with the county. In the meantime, though, once they've gotten the numbers from the assessor, then they finalize the budget with those numbers. They're required to give notice to the public five days in the newspaper, hold a hearing, make changes if there's changes, and they've got to give notice to the public. There's quite a bit of activity going on in that short period of time, and so the September 20th date is a fairly short time period to do that. The budgets generally do two things. They let people know what the local government is going to spend, and they also are used to tell the county how much they need from the property taxes, so they can set the levies. A few years ago when some of the levy limits and budget lids were put in, those two functions were separated. The property tax request now is due October 13th, so under the law, a local government could get their budget in on the 20th, but still have several weeks after that to get the property tax request in. Practically, though, most of the local governments do both of those processes at the same time, so they submit the property tax request at the same time that they submit the budget on the 20th. They have to have separate procedures. They have to have separate notice, separate hearings, but they generally do that at the same meeting, so that all of that...those issues are brought before the public at the same time. If the bills are submitted by the property...excuse me, if the budget statements are submitted by September 20th, the counties generally have...County Board of Equalization who sets the levies generally is able to meet at the last meeting in September. And so I guess the concern that we have been told or the problem here is that if the cities or all of the political subdivisions have until the 30th to submit their budgets, then that would require a special meeting of the County Board of Equalization sometime after that to set the...because they have to set theirs by October 15th. I guess we do think, though, that it's very important to give as much time as possible so that the local governing bodies can make informed decisions, and this little extra time would be

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very helpful for them to do that. I just will mention, I think two years ago, the Department of Revenue brought an amendment that changed the August 20th date to August 25th, and they didn't pursue it, but it did cause me some concern because it's already a very short period and to shorten it another five days would have been really...put a burden on local governments. So with that, I'd be happy to answer any questions. [LB972]

SENATOR CORNETT: Senator Pirsch. [LB972]

SENATOR PIRSCH: Thanks. I appreciate the opportunity to just ask you, currently right now with the...the current date September 20th is the time line by which you have to have that information which...are there things since you begin to kind of gather your, I guess, start your budget or plan for your budget in June and July. Are you able to glean through informal means meaningful information such that you can get relatively accurate and so by the time that the county has officially or formally gives, you know, gives you that information that you can...that you're usually within the ballpark? [LB972]

GARY KRUMLAND: It depends on the locality. A lot of times the assessor will work with the local governments and is able to give those numbers or at least approximate, you know, very close estimates. And so, the local governments can proceed. Sometimes for whatever reason, they don't get them until the 20th, and then that's when it really causes a problem. [LB972]

SENATOR PIRSCH: And I appreciate that. I'm trying to get an understanding of the accuracy of what kind of hardship would fall. In some cases, you're saying that they're not getting that information until the formal due dates. [LB972]

GARY KRUMLAND: The 20th or sometimes I guess, I've heard, and that it's mailed on the 20th, so they get it a day or two even after that. [LB972]

SENATOR PIRSCH: Would this apply...the scope of this...I'm trying to say in terms of bringing back the day, would that apply not...I mean, to cities but also... [LB972]

GARY KRUMLAND: Well, the way...the budget act applies to basically all political subdivisions, so all political subdivisions would do that. Now, I will say there are various tax request dates, tax certification dates where people submit information for those, and none of those are changed by the bill. So the current days that people have to have information in to the county to set their levies aren't changed by this. [LB972]

SENATOR PIRSCH: Thank you. [LB972]

SENATOR CORNETT: Senator Adams. [LB972]

SENATOR ADAMS: Thank you, Senator. Gary, I think you've already answered part of

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my question, but as I speak to superintendents I hear of a similar problem, and it depends on what county you're in. Some superintendents can pick up the phone; county assessor will give them a reasonable ball park number on valuation, understanding it's not the final deal. They go ahead and build budgets. Others, the county assessor won't take the phone call till 8 o'clock on the 20th, and so you kind of partially answered it. What about the other end? Do we...if we move these dates, do we have any problem with the auditing end, the time frame? [LB972]

GARY KRUMLAND: Not that I know of, at least with cities, I don't think there's a problem. I mean, it will put a burden on the County Board of Equalization because they would have to hold a special meeting if these budgets come in after their last meeting of September. But at least for the cities, well, and political subdivisions have various fiscal years. Cities start October 1st, but others start at different times, I should say. [LB972]

SENATOR ADAMS: Thank you, Gary. [LB972]

SENATOR CORNETT: Senator Hadley. [LB972]

SENATOR HADLEY: Thank you. Gary, just so I'm sure. And Mr. Patterson, he talks about municipalities. Are these cities of the first class...I mean does this bill impact Omaha as well as Axtell, Nebraska? [LB972]

GARY KRUMLAND: Yeah, it would be virtually all political subdivisions, and so including all classes of cities. [LB972]

SENATOR HADLEY: Do you think it impacts larger versus smaller more, or is it across the board that there's a...? [LB972]

GARY KRUMLAND: I would say it'd be across the board, but probably like Senator Adams mentioned, if a local government, school, village, city, gets fairly accurate information early, then they can do it. But if they don't get it till very late, it's harder to...it squeezes the time. [LB972]

SENATOR HADLEY: I was thinking more of complexity. Okay. Thank you. [LB972]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB972]

GARY KRUMLAND: Um-hum. [LB972]

SENATOR CORNETT: Next proponent. [LB972]

JACK CHELOHA: Good afternoon, Senator Cornett and members of the Revenue

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Committee. My name is Jack Cheloha, and that's J-a-c-k, last name is spelled C-h-e-l-o-h-a. I want to testify in favor of LB972 on behalf of the city of Omaha, and I want to thank Senator Utter for bringing this bill. The city of Omaha, by our city charter runs their fiscal year on a calendar year basis, so we begin on January 1st, and then by charter, the mayor has certain requirements to present his budget to the governing body which would be the city council. I think it's roughly...it typically happens in July, and then due to these dates that are in statute, we...you know, progress through our budget, you know, much as the Legislature does hear testimony from our various departments, and ultimately, we craft our budget. In the meantime, because about, you know, 30 to 40 percent of our budget is paid for by property tax, we're very interested, and we follow what the county is doing regarding valuations and appeals of valuation, typically, valuation increases by citizens. And then the county will have their meetings and ultimately rule on these protests, if you will, and then we come about where some of the preliminary projections on property tax given to us at the start of our budget season in July may change, you know, somewhat dramatically in Douglas County, at least, due to the number of appeals or based on activity of the assessor. We are able to cooperate and work with our county assessor in Omaha. You know, I don't know if, you know, there's no statutory requirement, but just because of the nature of the county assessor's practice, he tries to give us a good ballpark. He does answer the phone, Senator Adams, at least in our county and tries to work with us. But we think in the end, if we could gain this extra ten days, it would be helpful to the city of Omaha, and particularly in the year 2009 when we were working on our 2010 budget, Omaha had significant gaps in terms of expenses versus the revenues coming in just because of a large downturn in sales tax and other factors. And so a million dollar change in revenue on the property tax was really...it would make it even more significant and harder to balance our budget, and so any extra time that you could give us which this bill does, would give our legislative branch, you know, more time to craft a budget that balances as required. So for those reasons, we're in favor of LB972. [LB972]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Jack. Next proponent. Are there any further proponents? We'll move to opposition testimony. Are there any opponents? [LB972]

BETH BAZYN FERRELL: Chairman Cornett, members of the committee, for the record, my name is Beth Bazyn, B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm an assistant legal counsel of the Nebraska Association of County Officials. We are certainly not unsympathetic to the challenges that come with preparing a budget. The time lines are tight; there's just no way around it. They are tight, and it's sometimes difficult to get everything to fit within the calendar that's set out. However, we would like to note, as Mr. Krumland said, that this bill, as it's proposed, would require some counties to have a special meeting of their board of equalization in order to address the changes that are proposed by any of the political subdivisions. We would also suggest that it may be a better policy move to look at the whole calendar as opposed to just changing a date here or there. In 1997, NACO

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created a group within our association of treasurers, assessors, clerks, county board members to look at the whole calendar. We prepared a calendar that worked with what we thought would be possible, shared it with other political subdivisions, and we came to kind of a conclusion about a budget calendar. That was 12 years ago. Things have changed since then, obviously, but that may be a better approach than to just sort of piecemeal and look at isolated dates here and there to work out changes if some need to be made to the calendar. I'd be happy to try to answer questions. [LB972]

SENATOR CORNETT: Senator Pirsch. [LB972]

SENATOR PIRSCH: Just have a question. You're saying you developed a calendar 12 years ago that would allow for the subdivisions and NACO maybe to both think that they had more adequate time. Was that paradigm from 12 years ago...would that allow for...right now my understanding is that there's only a 30-day window or period by which aggrieved property owners can appeal their...did that 12-year plan 12 years ago encompass broadening that appeals period or did it affect it in any way? [LB972]

BETH BAZYN FERRELL: It...things have changed since then in a way that the calendar works. As Mr. Krumland indicated, at one point they were together, the levy and the budget requests. So, you know, things have really shifted around since that time. [LB972]

SENATOR PIRSCH: Okay. So it's not apples and oranges then, but do you think that there is room that exists today then for, I guess, meeting counties' needs and the subdivisions' needs and perhaps even bumping out the period that, you know, to elongate the 30-day period for aggrieved property owners who think that their property has been unfairly valued. Do you have a position on that or? [LB972]

BETH BAZYN FERRELL: In some cases there may be a need, but I think probably most of the situations come from what you've heard where there's a lack of communication between the assessor and the subdivision. And in those cases, it may be best to just address that locally rather than make a legislative change. [LB972]

SENATOR PIRSCH: Uh-hum, appreciate your testimony. [LB972]

SENATOR CORNETT: Further questions from the committee? Senator Utter. [LB972]

SENATOR UTTER: The August 20th date is (inaudible), and then I understand the complexities of the property tax protests and all these things does put the assessor in a crunch...everybody's in a crunch time. Is there any give, do you think, in the August 20th date? Is there five days in the August 20th date that if it was August 15th instead of August 20th? [LB972]

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BETH BAZYN FERRELL: That may help for purposes of getting the certified values for the budgets. However, when you start looking at the other parts of the calendar, it's sort of like squeezing a balloon. You know, if you squeeze here it's going to create a situation somewhere else... [LB972]

SENATOR UTTER: You've talked with Larry Dix. He told me that same thing (laughter). [LB972]

SENATOR WHITE: Maybe Larry talked to her. (Laughter) [LB972]

BETH BAZYN FERRELL: Yes (laugh). [LB972]

SENATOR CORNETT: Further questions? Seeing none, thank you. Are there any further opponents? Is there anyone here to testify in a neutral capacity? [LB972]

SENATOR UTTER: I had purposely pared the list of people testifying for and against this to one each, and so we could move right along. I'd just like to point out that...that I think one of the things that would probably help in this whole process would be for maybe everyone to be just a little more flexible. I've heard of some counties that won't even give the figures...the assessor won't even give the figures over the phone, or you can't go pick them up. They mail them on the 20th, and that adds another day or two before the subdivision gets it. And I think this type of inflexibility in government, quite frankly, gives everybody a little bit of a black eye where substituting some cooperation in the face of some bureaucratic nonsense would be very helpful and maybe would make this work out for everybody. But I do think it is a problem for the cities and the villages, and if we can figure out a way for them to get some more time in this process, I think it would be very important. Thank you. [LB972]

SENATOR CORNETT: Questions from the committee? Senator Adams. [LB972]

SENATOR ADAMS: Senator Cornett, you are to open on LB976. [LB976]

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'm appearing here today as the introducer of LB976. I introduce LB976 after discussions between my office and the State Auditor's Office. The auditor and his staff are responsible for enforcing the local government budget lid laws and also the levy or property tax rates. The auditor's office corresponded with my office that a clarification of this section of budget law was necessary. The provision being changed by this bill involves clarifying local voters' power to alter the budget lid by a community-wide vote. The elected governing body of a local government must annually comply with the restricted funds budget lid that allows a 2.5 percent growth by board vote and an additional one percent growth rate by super majority vote of the elected board. Growth



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rates higher than this amount and, therefore, budgets larger than currently provided can be obtained by a vote of the citizens of that local government. These can be votes taken at a regular or special election or they can be votes taken at a special board meeting where a required number of registered voters are in attendance. The second voting procedure described by some as the town hall meeting is allowed by the lid law. This is done in order to save some small populations and small budget governments the cost of a ballot or special election. The language that is clarified by this bill is a provision which allows the town hall meeting vote for a budget increase. The language that is added by this bill is found on page 5 of the bill. The language added refers to the voter approved budget of restricted funds for the ensuing year or ensuing years. This ensuing year or years language is found in paragraph three of the current statute, but not found in the section. This caused some confusion on the part of the local governments as to the status of their approved budget increases. The bill ends this confusion by adding the ensuing year languages to the law, clarifying that both methods of voter approval allow for a permanent increase in the size of the budget. It is my understanding that the auditor's office approves of this language that we have added to this section. I also understand that by adding the new language found in the bill, the old language found in section three may be an improvement to the bill as drafted. And I believe someone from the auditor's office is here to testify on this bill... [LB976]

SENATOR ADAMS: Are there any questions for Senator Cornett right now? First proponent. [LB976]

DEANN HAEFFNER: Yes. My name is Deann Haeffner, H-a-e-f-f-n-e-r. I'm the assistant deputy state auditor, and I'm here today to support this LB976. It does give our office language for clarifying purposes, and I think it makes it clear to not only the local political subdivisions but our office when we review those budgets that come into our office as exactly what your policy that you want us to apply those to. And so I...with that, I will end unless you have questions. [LB976]

SENATOR ADAMS: Are there questions? Senator Pirsch. [LB976]

SENATOR PIRSCH: Could you just give...kind of flush out...what was the real-world example where this...the real-world problem where this occurred where you had some questions? [LB976]

DEANN HAEFFNER: Sure. In the past, our office has interpreted that if you held a town hall meeting which is what was in that subsection, that was a one-year increase to their restricted fund authority. So all political subdivisions were under restricted fund authority. The town hall meeting was interpreted to be a one-year increase to that, and so they had to go back each year and have a new town hall meeting if they wanted that increase going forward. That interpretation was challenged to our office in the last budget season, and an SID actually questioned that interpretation that the statutes

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actually encouraged that that increase be a permanent increase. And so we basically are looking for clarifying language that, I guess, supports that, that that's what the policy was intended to be. [LB976]

SENATOR PIRSCH: Was it language they were interpreting or was it the absence of language with respect to duration of time, so there was nothing that said one year or nothing that said permanent, and so you're seeking... [LB976]

DEANN HAEFFNER: That would be correct. There's nothing that says one way or the other, and so what we're encouraging is clarifying language one direction or the other, I guess. [LB976]

SENATOR PIRSCH: Did it just affect the scope of town hall? Was that the only type of...? [LB976]

DEANN HAEFFNER: Yes, this is only the town hall meetings. If an entity went to an actual vote on a primary or a special election, that has always been interpreted by our office as being a permanent increase to their authority. [LB976]

SENATOR PIRSCH: Okay. Again, was there an absence of language with respect to that? [LB976]

DEANN HAEFFNER: No. I believe up in that section of the law, it does say for ensuing years. [LB976]

SENATOR PIRSCH: I see. Okay. So this is...it adds a uniformity to the law to allow you to interpret it in a way you have been... [LB976]

DEANN HAEFFNER: That's correct. [LB976]

SENATOR PIRSCH: Okay. Thank you. [LB976]

SENATOR ADAMS: Other questions? Senator? [LB976]

SENATOR LOUDEN: Yes, thank you, Senator Adams. Well, on this, we're usually talking about property taxes, right? [LB976]

DEANN HAEFFNER: That's correct. [LB976]

SENATOR LOUDEN: And the reason you want this language in here is to clarify it so that you have some wording, so you can decide whether that was an increase in taxes for just one year at a time or it's going to be a subsequent increase in taxes every year. [LB976]

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DEANN HAEFFNER: Right. Right now, when a budget comes into our office, we look at that restricted fund authority that they are claiming they have on that budget form, and we compare that to the previous year's budgets on file in our office and make sure that they are only increasing it to 2.5 percent. And so if there is some additional numbers in there, some additional increases, then we request support for either the town hall meeting or the election that supports that additional increase. [LB976]

SENATOR LOUDEN: Yeah, and that's all you have to do now is request that...that that meeting was held and voted on. Now, actually, I have a problem with this because this is a way that some of these entities can increase the property tax with probably five, ten people at a meeting because it doesn't say how many people have to be at that meeting. It just says a majority of the voters at that meeting, right? [LB976]

DEANN HAEFFNER: I believe...yes, but there is a requirement for 10 percent of the registered voters to attend the meeting. [LB976]

SENATOR LOUDEN: Is that in...is that in statute here? [LB976]

DEANN HAEFFNER: I believe that's in statute, yes. [LB976]

SENATOR LOUDEN: Because I was going to say, I've been at meetings where there wasn't 10 percent of the registered voters (laugh) there, and they...and especially fire district meeting, and they added that on. And that's the reason I always thought it was there for a year, and it went for a year, but then the next year when their budget comes out then they get to use those numbers to start their budget limitations, don't they? [LB976]

DEANN HAEFFNER: That's correct. [LB976]

SENATOR LOUDEN: They can increase their budget by having these special meetings every year and go over this budget levy lid that was enacted years ago to slow the growth in property taxes. [LB976]

DEANN HAEFFNER: That's correct. Right now they automatically receive 2.5 percent growth, and then these meetings are basically to let the voters say yes, we want that increase to be more than the 2.5 percent. [LB976]

SENATOR LOUDEN: Right. So because we run across that in some of these counties that are at their...they're maxed out on their levy lid, see, and you have these deals because I've...well, anyway. [LB976]

DEANN HAEFFNER: Sure. Okay. [LB976]

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SENATOR LOUDEN: Okay. Thank you. [LB976]

SENATOR ADAMS: Senator White. [LB976]

SENATOR WHITE: Your interest from your department is clarity. You don't really care if it's considered a maximum one-year or permanent. You just need to know they have a standard to judge their budgets by. [LB976]

DEANN HAEFFNER: Yes. That's correct, that's correct. We just want the clarity; regarding the policy is up to you guys. We... [LB976]

SENATOR WHITE: So no dog in the fight for or against Senator Louden. [LB976]

DEANN HAEFFNER: No. [LB976]

SENATOR WHITE: And his property taxes. [LB976]

DEANN HAEFFNER: That's correct. [LB976]

SENATOR ADAMS: Other questions? Thank you then. Other proponents? Are there...oh, all right. [LB976]

JERRY STILMOCK: Thank you for your hesitation. Senators, Jerry Stilmock, J-e-r-r-y Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my client, the Nebraska State Volunteer Firefighters Association in support of LB976. Certainly, the clarity is going to help, and because in this situation, they are volunteers that needed to go out and spend their time. Often times the items that have been brought up lastly here in terms of there's no budget authority; there's no levy authority; there's no levy authority left for the county. And somebody has to go out and get that increase. It's the volunteers in our situation that this occurs. If this is going to help them clarify, we would certainly support that. It states in statute now where we're talking about the levy restrictions, if it's a town hall meeting then it's only good for one year. If it's a levy restriction that we're trying to exceed, it's only good for one year at the town hall meeting. So if this, on the budget limitation side, assists, you know, we're all for it, and would ask the committee to advance LB976 to General File. Thank you. [LB976]

SENATOR ADAMS: Senator White. [LB976]

SENATOR WHITE: Thank you, Jerry, for coming. Jerry, are you saying that Senator Louden's concern is unfounded if we...provided that the volunteer fire department couldn't increase permanently the levy or the budget? [LB976]

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JERRY STILMOCK: They're going to...I'm not sure I understood completely your question, Senator, but... [LB976]

SENATOR WHITE: And I'm not sure I understand the topics. Let me struggle here with you (inaudible)... [LB976]

JERRY STILMOCK: Okay. [LB976]

SENATOR WHITE: Senator Louden's concern is that at these meetings, there may be at best marginally representative of the voters, that there can be permanent increases in the underlying property taxes...permanently. Is that a concern as you read the statute? Could that happen? [LB976]

JERRY STILMOCK: No. If the budget lid is allowed to increase perpetually by that vote, I can't fill that budget lid with the levy to go in there because the levy is going to have to be approved either on a one-year or a five-year basis. So no matter what that budget limitation is, I'm only going to be able to levy property tax. The political subdivision is only going to be able to levy property tax based on a one-year basis if it's through a town hall meeting, a five-year basis if it's an election so even if I have a ridiculously absurd high budget limitation because I've...the bill takes effect, I'm still only going to be able to satisfy the cash needs on a one- or five-year basis. [LB976]

SENATOR WHITE: All right, and what you're saying is basically the levy will control what you can do to your budget. [LB976]

JERRY STILMOCK: Yes, sir. [LB976]

SENATOR WHITE: But if you're one of those counties lucky enough to be well under your levy limit, what's the impact? [LB976]

JERRY STILMOCK: If it's well under the levy that they can go about... [LB976]

SENATOR WHITE: And you've got a lot of room in your levy (inaudible)... [LB976]

JERRY STILMOCK: Right. What's the impact? [LB976]

SENATOR WHITE: Could you raise that budget and thereby raise effectively taxes for five, ten years, permanently raise taxes? At one of these meetings. And I could see it if you're at the levy limit, you can't. [LB976]

JERRY STILMOCK: I...I think you could then, yeah. I mean,... [LB976]

SENATOR WHITE: Okay, and I think that was Senator Louden's point if I understood.

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Thank you. I appreciate that, Jerry. [LB976]

JERRY STILMOCK: Yeah. All right, yes, Senator White. [LB976]

SENATOR ADAMS: Jerry, if you don't mind, along that same line of questioning, and then I'll get out of this. [LB976]

SENATOR WHITE: Yeah, sure. No. By all means. [LB976]

SENATOR ADAMS: Would the same thing happen if...let's say they're at the levy limit, but they're not going to change that levy, but county valuation went through the roof as we're experiencing in a lot of counties. So even though we didn't change the levy, we got a way bigger pot of money. We need the authority to spend it. That's, in effect, part of what would happen here, is it not? [LB976]

JERRY STILMOCK: See, I...yes, Senator Adams, and I have to climb out of the box of fire districts who we associate with. Fire districts have been so gosh darn conservative that I don't think of the context in which you place it, Senator Adams and Senator White and Senator Loudon. I don't put it into that context, but yes, I agree. Absolutely, it could. Absolutely, yes. [LB976]

SENATOR ADAMS: Theoretically, theoretically that could happen. [LB976]

JERRY STILMOCK: Right, right, right, and I have to step outside and say, oh sure, as a taxpayer, you bet it can happen. [LB976]

SENATOR ADAMS: Yeah, okay. Senator Pirsch. [LB976]

SENATOR PIRSCH: Just in terms of the law and to flush that out with respect to the town halls and attendance...you know, Senator Loudon had concern about sparsely attended town hall meetings that purported to act in effecting that limit. Is there...is that true that there's a 10 percent requirement then for those town halls, or do you know? [LB976]

JERRY STILMOCK: No, I do. And right now since 1998, it is a 10 percent requirement of the registered voters in the governmental unit that is going through the town hall process. [LB976]

SENATOR PIRSCH: So if less than that, they can act, but it's an unlawful act and subject to judicial review if an aggrieved taxpayer would have standing to bring that...and that type of records would be capped, right, in terms of the 10 percent margin? [LB976]

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JERRY STILMOCK: Number one, they better be capped. Yes, they better be capped. And number two, I don't even know if it jumps over to that they...it could be thrown out by judicial action because if I don't have a quorum to meet the statutory guideline, is it void or is it voidable, and that's what jumps into my mind. It may be a void act because it didn't have the quorum to establish the statutory minimum to start with. It may be just a void act. [LB976]

SENATOR PIRSCH: But the taxpayer, if you will, would have to bring that to the courts to have that enforced. [LB976]

JERRY STILMOCK: The court or the Attorney General's Office, yes. [LB976]

SENATOR ADAMS: Okay, thank you. [LB976]

JERRY STILMOCK: I would agree with your statement, Senator. [LB976]

SENATOR ADAMS: Are there other questions for Jerry? Senator Louden. [LB976]

SENATOR LOUDEN: Yes, thank you, Senator Adams. Well, I guess I've read some of this, but what's in statutes and what's actually done might not always be the same thing. This governmental unit, at their annual meeting, if they so vote, they can vote to have an election to go over their budget or go over their levy limit. Is that right? If they...and you don't have to have...I don't know, it says here, majority of legal voters voting on an issue at a special election called for such purposes. What they do when they have your fire district meeting, you also advertise for a special election to go over the levy limit, and so at that meeting then they vote to go over the levy limit. Then they can put it on the general election ballot to go over that limit because several years ago we sat down here and fought fiercely to lower the property tax levy, I think, five cents on community colleges. And I went back out to my fire district meeting there in the middle of the summer, and hell, they voted five cents back on in an instant and I thought (laugh), you know, are you guys paying attention? And it happens, and this is what my concern is, is when you give them with the language written here, you're more or less giving them a blank check. Now if you want to say it was only good for one year at a time, I don't have any problem with that. They can go ahead and do what they've all been doing and still be happy. But we have road districts; we have fire districts--all of those especially in Sheridan County because Sheridan County is at their maximum limit, so if those people want any money, they got to go vote to go over the levy limit in order to get any money, and that's what they do. And they don't have 10 percent of the voters or 5 percent; it isn't there because nobody takes...nobody writes down who was there or checks to see if they're registered voters or anything, you know. You get a fire district meeting, you get seven people show up, you're tickled to death and (laughter) that's where it goes. [LB976]

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SENATOR WHITE: Yeah, we can only draw up the plays. We don't get to snap the ball (laughter). [LB976]

SENATOR LOUDEN: Well, I know, but you can say on what yard line they're going to start from (laughter). [LB976]

SENATOR WHITE: True (laugh). [LB976]

JERRY STILMOCK: Well, if I may respond. LB976 is only talking about budget limitations, and so the...getting voted in terms of for a levy increase, I understand what you've explained. It's not a part of LB976 because it's only the budget increase, but on the levy increase I understand your point, Senator. [LB976]

SENATOR LOUDEN: Well, I mean, and what it does is put it in a...can be used in ensuing fiscal years, and if you vote that in this year, it can be used in ensuing years whereas now like sometimes it's understood it's just a year at a time, and that's what auditors' offices consider and that's the problem I have with it and until I get some explanation, why that's where I am. [LB976]

JERRY STILMOCK: Yes, sir. [LB976]

SENATOR LOUDEN: Yeah, thank you, Jerry. [LB976]

JERRY STILMOCK: Yes, sir. [LB976]

SENATOR WHITE: Could you live with the one-year limitation? It's clarified, but it's limited to one year or is it important to your organization that they be able to embody it for a longer period of time? Where are you guys at on that? [LB976]

JERRY STILMOCK: To embody it for a longer period of time. [LB976]

SENATOR WHITE: Okay. [LB976]

SENATOR ADAMS: Other questions for Jerry? Thank you, sir. [LB976]

JERRY STILMOCK: Okay, thank you, Senator. [LB976]

SENATOR ADAMS: Are there other proponent testifiers? Any opposition? Neutral testimony? Senator Cornett. [LB976]

SENATOR CORNETT: To clarify again, why the Auditor's Office brought the bill to my office is they need clarification in the law where we are at for the town hall meetings. They are more than willing to work with the committee on setting limitations on that, so



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please feel free to give us your input on that. This is simply seeking clarification for their office in regards to what the current law is. [LB976]

SENATOR ADAMS: That will end the hearings then on LB976. [LB976]

SENATOR HADLEY: I was going to ask Senator Louden, is this meeting at that bowling alley that you don't have on the tax rolls (laughter) that was 50 years old (laugh)... [LB976]

SENATOR LOUDEN: It doesn't...yeah, it doesn't get any taxes that (inaudible)...(laughter). Yeah. [LB976]

SENATOR HADLEY: Two wrongs are making a right if it's in the bowling alley (laugh). [LB976]

SENATOR WHITE: How many alleys are in that (inaudible)...? [LB976]

SENATOR ADAMS: Let's open the hearing on LB1008. Senator Janssen. [LB976]

SENATOR JANSSEN: (Exhibit 3) We lost Senator Cornett (inaudible). Senator Adams, members of the Revenue Committee, for the record, my name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15 in the Nebraska Legislature which is Fremont and all of Dodge County. I appear today in front of you to introduce LB1008. Political subdivisions are required to file budget statements each year with the county and state auditor on forms developed by the State Auditor. Section 13-504 lists the requirements to be included in the budget statement which is based on a cash basis of accounting. Several local governments do accounting on a modified accrual basis. These local governments have to convert their budgets to a cash basis to complete the budget forms. This would require the State Auditor to develop two budget statement forms. One would be for those local governments using a cash basis; the other for those local governments using modified accrual or encumbrance basis. This would allow local government to report their budgets on a budget statement using the same method that is used for their actual accounting. I'd like to thank Fremont city administrator and the League of Municipalities for bringing this to our attention. If the committee wishes to limit the provisions of LB1008 to only first-class cities, cities of the primary class, and cities of the metropolitan class, I would be happy to offer my assistance to the committee counsel. I would also support any committee changes if you so desire to prohibit the ability to go back and forth from the cash to modified accrual on an annual basis. We all desire transparency and do not want to permit unethical behavior. I surveyed several cities across the state, and there is interest in this proposal from cities in western, central, and eastern Nebraska. Alliance, Norfolk, Papillion, Schuyler, and Seward have indicated that they use modified accrual and would save themselves time and money if LB1008 passes. Thank you for your consideration. I'm happy to entertain questions, and

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I'd also like to note that I did meet with the auditor to go over some questions that he had and his office had about this bill and clean up some things, and that's where we came up with the possibility where there could be some unethical treatment or, I guess, deception by switching back and forth every other year in this...by using modified to cash...modified accrual versus cash every other year to kind of keep the public in the dark if they so chose to. That's something that I would favor changing in the bill, so they couldn't flip back every year. But I do have people here to testify today including the city administrator from my city, Fremont, who can probably bore you all day long with accounting terms and whatnot. He did while I was on the council, so that's why I came to this office instead, so (laughter). [LB1008]

SENATOR CORNETT: Senator Pirsch. [LB1008]

SENATOR PIRSCH: Oh, just a few questions off the top of my head which deals with...right now we're using or only permitting cash basis, correct? Is that...is that what it is, the...? [LB1008]

SENATOR JANSSEN: That's...yes, and they want to use the...they're using modified accrual, but right now the State Auditor is...yes, you're correct. [LB1008]

SENATOR PIRSCH: Just cash basis. You hope to introduce a choice where you can use not only the existing cash basis or...but also if one so chose, modified accrual or if one so chose, encumbrance basis, right? [LB1008]

SENATOR JANSSEN: Yeah, and basically, Senator Pirsch, what this would do is it's...I guess from what I'm getting from talking to the city administrators, this is not a huge problem. It's just one of those things that's kind of burdensome. I spoke to Mr. Hartwig prior to coming in here, and I guess he estimated somewhere 20 hours to 30 hours to do this on an annual basis, of professional hours of labor and sometimes keeping two sets of books which can be confusing to the public as well. [LB1008]

SENATOR PIRSCH: Burdensome to...you're saying on the subdivision accounting...? [LB1008]

SENATOR JANSSEN: Both the subdivision but also tough for Joe Public when he comes in to look at something, and there's two different books that have to be kept as well. [LB1008]

SENATOR PIRSCH: Okay. So it introduces...it's burdensome right now on that subdivision level. Would it introduce, though,...I guess the three C's in terms of would it change the complexity then on the higher level since the public, you know, rather...right now it's falling on the lower level than if they're dealing with the subdivision. But if you're reporting these to the auditor, would it introduce a new level of complexities, and now

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you have apples and oranges and pears. And would that, in turn, lead to additional costs and what those costs may be quantified and would...are there any other effects by having apples and oranges that the auditor receives in terms of...? But...maybe those questions are more properly addressed to those who follow you so. [LB1008]

SENATOR JANSSEN: Oh, possibly. I mean, the fiscal note you have on it, but the cost right now in talking to the auditor's office, you know, could be absorbed. There is more work to be done, I guess, within the auditor's office, but I didn't think that was an over...at least I didn't perceive maybe they're going to testify in the neutral capacity here today. They could probably shed some light onto what those costs would be absorbed by the agency or the office. [LB1008]

SENATOR PIRSCH: Okay, thanks. [LB1008]

SENATOR CORNETT: Senator Hadley. [LB1008]

SENATOR HADLEY: Senator Cornett. Senator Janssen, I guess for-profit businesses many, many years ago actually now are required to have an accrual basis statement and also a cash flow statement, so they show both of them because ultimately, when problems show up, they end up showing up at times through the cash flow statement. Why wouldn't we use both, show a cash flow or a modified accrual budget and a cash budget, so people could look at both of them, not only see where the cash is going, but also a modified accrual? [LB1008]

SENATOR JANSSEN: Well, you could ask the auditor why he doesn't use both because right now the city of Fremont is using both. And I happen to be in a for-profit business, and we use both as well at our business. [LB1008]

SENATOR HADLEY: The second question and maybe later is a...if we want to look at two different cities' budgets, and one is using the cash basis, and the other is using modified accrual, and I try to...you know, just for people who want to compare the city of Kearney versus the city of Hastings' budget, do they become uncomparable if you're using...one is using a cash flow basis, and one is modified accrual? [LB1008]

SENATOR JANSSEN: I think they, in my opinion, become a little bit blurrier, but I think we should probably use the more accepted form which is the modified accrual as opposed to cash basis. I think you get more of an accurate statement using modified accrual than you would if you're just using general cash basis. [LB1008]

SENATOR HADLEY: Okay. Thank you. [LB1008]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1008]

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SENATOR JANSSEN: Thank you, Chairman Cornett and Vice Chair Adams. [LB1008]

SENATOR CORNETT: Are you going to remain for closing? [LB1008]

SENATOR JANSSEN: I don't think so. [LB1008]

SENATOR CORNETT: Okay. First proponent. [LB1008]

ROBERT HARTWIG: (Exhibits 4, 5) Madam Chair, members of the committee, thank you for allowing me the opportunity to come here and testify today. My name is Robert Hartwig, H-a-r-t-w-i-g. I'm the city administrator for the city of Fremont, Nebraska. I'm a certified public accountant in the state of Nebraska, have a master's degree in accounting and finance, a bachelor's degree in accounting and finance. I've been doing governmental accounting now for approximately 30 years in several states including Nebraska, Colorado, Nevada, Arizona, Utah, Wyoming, basically throughout this area of the country and west. I've done some consulting work for the United States government in Kazakhstan, helping the Kazakh governments with local budget government reform as well. What we're asking for here today, and I've provided you with a letter from the city of Fremont and a letter from the city of Norfolk, is basically the opportunity to prepare our lid reports on the same basis that we use for our financial statements. When public gets a financial statement from any city, any county, any government in Nebraska, they get those statements on the modified accrual basis of accounting for governmental funds, and then there's a reconciliation in those statements that converts those statements on a government-wide basis to the accrual basis of accounting. That was done through a governmental accounting statement GASB statement number 34, so we already report on two bases of accounting. What we currently have to do with the lid calculations is we've already prepared our statements on modified accrual, already prepared our entity-wide statements on accrual. Now we have to undo everything that we did to get back to the cash basis for our lid calculations. There's nothing wrong with doing that. I'm not here saying that we're doing anything wrong. It's just that it takes time for those of us who are already equipped to do our statements on the modified accrual basis or on the accrual basis. My accounting manager and I...I guess one of the things about accountants, and I hope I'm not offending anybody who might be an accountant, but I am an accountant, and one of the things for accountants that people sometimes kid us about is that we don't have a life. And my life...I tend to do strange things like going through accounting statements and saying, well, is there an easier way to do this? And the accounting manager and I are both pretty well convinced that we could use those existing state budget forms that are out there if we had maybe a box on the first page, saying we're either cash basis or modified accrual basis. We would check off that box. As far as the auditors are concerned, one of the things that we are able to do if we put this on the modified accrual basis is we are able to go right to our audited numbers. The State Auditor's Office, if they wanted to audit our lid forms could come in and go

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straight from our audited financial statements directly to the lid forms and agree every number right from the audited numbers that the outside independent auditors give to us right to those lid forms. We think it's a really positive approach, and it would be a positive for the state. One of the things that I wanted to point out in my letter, and you could consider that additional testimony because, obviously, I'm not quoting the letter. The last paragraph on the first page talks about the modified accrual method being easy to use on the existing budget reporting forms. I want to assure everybody that even though it's easy to use, the numbers will be slightly different. The important thing there, though, is that the numbers will be more consistent from year to year. When you have cash receipts and disbursements, it's quite easy for somebody to say, well, maybe if I just don't receive that cash until the next year, it will favorably affect this budget form or maybe if I don't make that cash disbursement until next year, it might positively impact my budget form so that I won't go over my restricted funds authority. Modified accrual makes that much more difficult. You have to recognize revenue in the year that the revenue is both measurable and available. You have to recognize the expenditures in the year where the goods are received or the services are provided. So from that aspect, I believe it adds some consistency to the existing way that we're doing things. I do not want to take away the ability to do it based on the existing method from any city that does not have the financial expertise to do things on the modified accrual basis. A lot of cities rely on their auditors to convert their information to a modified accrual basis. We do not. There are obviously a number of other cities, and Senator Janssen has pointed those out, who are also not relying on their auditors to do that for them. One of the things to me that's important is that citizens often complain about how complex and difficult it is to understand financial information. When we report one set of numbers on the modified accrual basis and then we show them a reconciliation to the government-wide statements that are on the accrual basis, and then we have to show them yet another reconciliation how we got those lid forms on the cash basis, and why don't all those numbers agree? I think it creates a certain level of question and maybe even a little distrust among the citizens. And what we're trying to do here is to be able to say, look, here's our audited financial statements. Here's that same number on the budget form. That's how we got from this point to this point. Any citizen should be able to come into our office, our accounting manager's office, my office, and be able to say, yeah, I understand where those numbers are coming from. I may not understand how that number came to be, but an independent auditor has audited that number and said that that number is materially correct. And that's what we're trying to accomplish with this legislation. Again, to me, having a checkoff box on the budget form would be very helpful. I agree with Senator Janssen, and I assume that the State Auditor's Office is going to say the same thing, that it does need to be consistent. You can't switch back, or you should not be able to switch back and forth from year to year. I also understand that the Auditor's Office might have some challenges because of the way that the state revenue sharing formulas are done with the school districts, and we certainly don't want to make things more difficult for the State Auditor's Office. As far as the cash flow basis, and was that question, Senator Hadley before? [LB1008]

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SENATOR HADLEY: My question was, we require for-profit businesses now to have both a cash flow statement and fully accrual statement. [LB1008]

ROBERT HARTWIG: Right. Right, yep, and that is...in the governmental financial statements, you prepare a cash flow statement on the accrual basis of accounting entity-wide, and that's one of those things that has to be reconciled back to the fund financial statements which have to be reported on the modified accrual basis of accounting, according to generally accepted accounting principles as applicable to governmental units. So we could do it on the cash flow statement basis which is certainly different from cash receipts and cash disbursements, but it would create another reconciling item for the public. If we go to modified accrual, again, I can take them right from my audited financial statements right on to that line of the lid forms, the budget forms and show them. This number came from here, and it went here. This number came from here, and it went here. Obviously, I've spent some time on this, and again, I'm sure a lot of people would go, why would you spend the time on it? But when it comes to governmental accounting, I tend to practice the KISS method of accounting. KISS is Keep It Simple Stupid. And we try and simplify things, and this would be a way that we could simplify our reporting on the budgetary accounting forms. I'd be happy to answer any questions. [LB1008]

SENATOR CORNETT: Senator Pirsch. [LB1008]

SENATOR PIRSCH: Well, thank you. My wife is a CPA too (laughter), and her brain works that way too which is totally alien to me, but with respect to, you know, it's an easier thing for you to reach modified accrual basis. Is that going to be the same thing for...you said you don't want to change the other subdivisions, but there are certain towns and whatnot throughout the state of Nebraska. Are they also going to find modified accrual an easier basis to reach? [LB1008]

ROBERT HARTWIG: I believe that the State Auditor's Office allows financial statements to be prepared either on the cash basis or on the modified accrual basis. However, if you need audited financial statements with a clean opinion and usually you need that to issue bonds, you do need to report your information on the modified accrual basis. I would guess that there are a number of political units in Nebraska that are preparing their financial statements on a cash receipts and a cash disbursements basis. My guess is they would tend to be the smaller governments. [LB1008]

SENATOR PIRSCH: For them, this might be a...you know, requirement of...modified accrual might be difficult. [LB1008]

ROBERT HARTWIG: Yeah, and that is, again, why I would say, don't take the option away from them, but allow those of us who already have that capability the option of

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going to modified accrual and making it simpler and easier to explain to the public.  
[LB1008]

SENATOR CORNETT: Senator Hadley. [LB1008]

SENATOR HADLEY: Senator Cornett. Thank you, Mr. Hartwig, for coming. My reading of the bill, though, there's nothing in here that would preclude a city from changing every year. [LB1008]

ROBERT HARTWIG: That is correct. That's my understanding as well. And I was not involved in the drafting and, you'd have to ask the... [LB1008]

SENATOR HADLEY: And...well, I guess I just have a concern. I'm not sure I'd let General Motors change every year from cash basis statements to accrual, depending on which year they would look the best. [LB1008]

ROBERT HARTWIG: We agree completely on that (laugh). [LB1008]

SENATOR HADLEY: So I guess I would like to see some language that says, if you use one...I think, you know, you can have choices. That's fine. But I think we use one...that ought to be the method that you use of comparable data, again, from year to year to year is that. [LB1008]

ROBERT HARTWIG: Thank you. Yes, Senator, we would agree completely. [LB1008]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you.  
[LB1008]

ROBERT HARTWIG: Thank you very much. [LB1008]

GARY KRUMLAND: Senator Cornett, members of the committee, my name is Gary Krumland. Last name is K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB1008. As you've heard, under state law, under the auditing law for cities and villages, they have a choice of either doing their audits in cash or accrual basis. And I would say the majority of the numbers of the cities, especially villages, do it on cash basis. But the larger cities who have professional financial staff on board do do the modified accrual for their regular accounting and their auditing, and they do follow the national standards for that. So for those cities I guess what we would like is have them have the opportunity to file their budget statements in the same form that they do their accounting and auditing, so that that's consistent. They don't have to convert over. I did...I'm responsible for the drafting, so any...and I'm not an accountant, so anything in there that would...my fault, but I don't have any problem if it...the intent was always that these cities have been doing the modified accrual, and

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they continue to do it, and so if there is something that we need to put in here to limit switching back and forth, that would be fully in line with what we're trying to do here. And we would appreciate that. With that, I'll be happy to try and answer any questions. [LB1008]

SENATOR DIERKS: Questions for Gary? I guess not. Thanks, Gary. Next proponent, please. [LB1008]

SENATOR CORNETT: Next proponent. Are there any opponents? [LB1008]

BETH BAZYN FERRELL: Good afternoon, Chairman Cornett, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n Ferrell, F-e-r-r-e-l-l. I'm an assistant legal counsel with the Nebraska Association of County Officials. Our concerns about this bill are really what you've heard already today about the comparability. I think if the changes were made, that would have been proposed on limiting it to the cities of the first class, primary, the metropolitan class, and limiting...being able to switch from year to year. I think that would take away a great amount of our opposition, and I would have to, of course, run that by our board first, but we are concerned about the comparability aspects of it. Be happy to try to answer questions. [LB1008]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next opponent. Is there anyone here to testify in a neutral capacity? [LB1008]

DEANN HAEFFNER: Deann Haeffner, H-a-e-f-f-n-e-r, assistant deputy State Auditor. We're testifying in a neutral position based on we do have some, I guess, issues that we would encourage the committee to look at addressing, mainly for clarification purposes, so that we would know how to apply that for those budget forms. Several of those have been brought up already, but, basically, we would like some clarification regarding what the definition of the modified accrual or the encumbrance basis means, whether that is a definition that's supposed to be determined by our office, or if that's a definition that's going to be determined by each political subdivision. Obviously, if each political subdivision defines their own basis as what an encumbrance basis is or what modified accrual is, you're going to lose comparability even if one is on modified accrual and another one is on modified accrual, that doesn't mean they're going to be comparable let alone if one is on a cash basis versus a modified accrual basis. So that it does raise issues regarding comparability. I think the other issue has already been brought up about the switching from one year to another, raises a lot of concerns with people playing with their budget numbers. Whatever looks best one year is the basis that they use. And then I also would bring up that there is some inconsistencies within the statute itself that would require our office to either require some kind of reconciliation between the cash balance and the modified accrual balance because the statute itself does require those budget forms to have a cash basis balance on them, and so right now the budget forms would still require that as cash balances, and I'm not sure that that really



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answers the whole intent of what the LB was to do, was to...sounds like to reduce work for the municipalities or for the entities when, in fact, there's a little inconsistency there that, I think they'd still have to do some reconciliation. [LB1008]

SENATOR CORNETT: Questions from the committee? Senator Utter. [LB1008]

SENATOR UTTER: How important is the comparability one city to the next and where is that used, particularly from your standpoint? And are you aware...is it used in other parts of government, for example, in the distribution of state funding and this type of thing? [LB1008]

DEANN HAEFFNER: Okay. Comparability...for right now, we get all the budgets into our office, and we enter them into a budget database, so that the senators, the public, anyone can go out there and say, compare the budget disbursements for the city of Fremont versus the city of Kearney. They can do a comparison of those disbursements to see whether or not their city is comparable to other ones. We would probably put something on our data base indicating if it was a cash basis or a modified accrual, but it would eliminate that from the taxpayer being able to compare two cities of similar size as far as what expenses are. [LB1008]

SENATOR UTTER: Well, isn't it, in your opinion, a more accurate reflection of the financial condition of the entity to be on a modified accrual basis but one that is singly defined throughout the state? [LB1008]

DEANN HAEFFNER: I think that's a hard question. I think a lot of people in the state of Nebraska understand cash basis very well because it's basically...did you receive the money and did you spend the money? Did it leave the checking account, and did you deposit it into it? So I think the vast majority of people in the state understand cash basis very well. I think when you throw modified accrual in there, a lot of the normal...there's a lot more question as to whether or not what that number represents to those people. [LB1008]

SENATOR UTTER: It seems to me like a simple system across the state, (inaudible) first-class cities, for example, are going to use modified accrual, and I can understand why villages and towns maybe wouldn't want to use a more complicated accounting system. But if first-class cities are going to use that, it seems to me like maybe it's something all first-class cities should use. [LB1008]

DEANN HAEFFNER: That would be possible. I'm not sure how they would all feel. I'm not sure if they... [LB1008]

SENATOR UTTER: I'm not sure either (laugh). [LB1008]

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SENATOR CORNETT: Senator Pirsch. [LB1008]

SENATOR PIRSCH: And you mentioned one use is a taxpayer trying to look at expenditures and compare cities. I don't...I can't envision, you know, exactly the situation and scenario when that might be, what that might be. Are there other times when this...the fact that this information might be kept in apples as opposed to oranges might make a difference in some situation or scenario other than, you know, looking at outlay...a taxpayer looking at outlays. Can...I mean, you...I mean, you... [LB1008]

DEANN HAEFFNER: Okay. I don't know of any situation right now, the way the statutes are situated. But if for some...for example, if an LB was introduced where the lid changes. Right now the lid is on restricted funds, so it's based on how much you're going to tax people, what the property taxes are. But, for example, if the lid was changed to be more closer to the school district lid which is based on expenditures each year, then all of a sudden, you have a different scenario because the school districts are limited on how much they spend every year. And so if one school district can have a modified accrual, and another school district is having a cash basis accrual, I think all of a sudden, you risk...okay, the state aid is based on these lids and all these financials, what effect that has. I guess I can't answer that specifically, but I think it may have more far-reaching... [LB1008]

SENATOR PIRSCH: There might be formulas out there in certain statutes that are based upon certain of these expenditures and to the extent that you introduce apples and oranges to it, "disuniform" results may occur. [LB1008]

DEANN HAEFFNER: That's correct. [LB1008]

SENATOR PIRSCH: Okay. [LB1008]

SENATOR CORNETT: Senator Hadley. [LB1008]

SENATOR HADLEY: Senator Cornett. Quickly, I guess a question that the cash basis probably is...could be more subject to manipulation than the modified accrual because you could determine when you pay certain bills and don't pay certain bills and such as that. Is that a correct statement? [LB1008]

DEANN HAEFFNER: I guess I would see them both being that same way. I mean, if you're not going to record a disbursement for the accrual, you're not going to record it for the cash either. I guess I'm not seeing the big difference between those two. [LB1008]

SENATOR HADLEY: I was thinking that if you had a bill on your desk the last day of the period, you could pay it that day on the cash basis and it's a disbursement,... [LB1008]

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DEANN HAEFFNER: Correct. [LB1008]

SENATOR HADLEY: ...or if you pay it the next day, it's in the next year's disbursement, but on the accrual, it would have to be accrued in the previous year. [LB1008]

DEANN HAEFFNER: Yes. Yes, that would be correct. [LB1008]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1008]

DEANN HAEFFNER: Thanks. [LB1008]

SENATOR CORNETT: Do you wish to close? You kind of look like you changed your mind. [LB1008]

SENATOR JANSSEN: I shouldn't have stuck around, I guess (laughter). I wanted to clarify one thing, Senator Hadley. In my opening, I had mentioned that we were not in favor of switching back and forth each year. We had noticed this just recently and had not tendered an amendment yet to correct that...fully intend to correct that. And also, along your same lines, I agree with you. I guess with your assumption, I would say cash accounting is much easier to manipulate. I'm not certainly saying I would ever do such a thing, but I can tell you, yes, it is without a doubt much easier to manipulate. And as I look forward, if we did change this, if this adopts, havoc is not going to break out across the state. What it's going to do is make things a little bit simpler for a few cities. I don't know how many. There's 30 Class 1 cities right now, Fremont being one of them. We sent out e-mails to all of them asking them about this. We only got nine replies back, and at that time it was...I think it was something like half of them, a little over half used modified accrual at that point. So I just wanted to clarify that. [LB1008]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB1008]

SENATOR JANSSEN: Thank you, Chairman Cornett. [LB1008]

SENATOR DIERKS: Senator Cornett, LB1078. [LB1008]

SENATOR CORNETT: Good afternoon, Senator Dierks and members of the Revenue Committee. My name is Abbie Cornett. I represent the 45th Legislative District. I'm here today as the introducer of LB1078 which is the bill that you hear every year. It's designed to update references in all Nebraska Statutes to the most recent version of the Federal Internal Revenue Code except as provided by Article VIII Section 1(b) of the Nebraska Constitution which states, "When an income tax is adopted by the Legislature,

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the Legislature may adopt an income tax law based upon the laws of the United States. Two, the statute section listed in Section 1 of the bill that governed the Nebraska income tax and three, the statute sections listed in Section 1 of the bill that govern Nebraska business tax incentive programs. For the purpose of LB1078, the most recent version of the Internal Revenue Code would be the version in existence on the effective date of the bill which contains the emergency clause. February 27, 2009, is the applicable date under the current statutes so Nebraska Statute needs to be updated to coordinate with changes made by Congress to the Internal Revenue Code since that date. Thank you for your time and consideration. Any questions from the committee? [LB1078]

SENATOR DIERKS: Questions for Senator Cornett? I think not. [LB1078]

SENATOR CORNETT: Okay. [LB1078]

SENATOR DIERKS: Are there proponents for LB1078? Anyone to testify in favor? Anyone testify in opposition? Is there neutral testimony? Would you like to close, Senator Cornett? Senator Cornett waives closing, and that brings us to LB1097 by Senator Cornett. [LB1078]

SENATOR CORNETT: (Exhibit 6) Good afternoon again, Senator Dierks and members of the Revenue Committee. For the record, my name is Abbie Cornett. I represent the 45th Legislative District. I'm appearing here today as the introducer of LB1097. I had this bill drafted to address concerns expressed by the Nebraska State Auditor's Office about the definition of bonds. The Auditor's Office is in charge of enforcing the levy or tax rates that are exceptions to the levy limits for all local governments. When this levy limit statute was drafted, no uniform definition of bond was used. LB1097 seeks to clarify what is a bond by citing a statute passed in 1983. This statute is found in Section 10-134. I'm passing out a definition of that statute. I believe that the addition of this bond definition to the levy limit statute will begin to clarify what constitutes a bond, and what qualifies for a bond exception to these tax rate limits. I believe this is an important issue to clarify for the schools, fire districts, and sanitary improvement districts which are required to comply with levy or property tax rate limits. There'll be someone here from the Auditor's Office to further explain why they need clarification to this law. With that, I'll be happy to answer any questions. [LB1097]

SENATOR DIERKS: Any questions for Abbie? Not right now, I guess. Thanks, Senator Cornett. Are there proponents for LB1078? (sic) [LB1097]

DEANN HAEFFNER: Hello, committee. Deann Haeffner, H-a-e-f-f-n-e-r. I'm Assistant Deputy State Auditor. We thank Senator Cornett for introducing this bill. Once again, our office is looking for clarification. This issue came up during the last budget season where we were questioned about interpretation as to which bonds were outside of the

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levy limits and whether that included all bonds or what types of bonds or what types of indebtedness? And so we were just looking for clarification once again as to something to point to to say, when it says that bonds are outside of the levy limits, what does that mean? And that's what this statute or what this amendment is attempting to do. [LB1097]

SENATOR DIERKS: Questions for Ms. Haeffner? Senator Adams. [LB1097]

SENATOR ADAMS: Well, I have to ask the obvious. You don't have to name names, but what was someone interpreting as a bond that needed clarification as to whether it was or was not? [LB1097]

DEANN HAEFFNER: It was actually a registered warrant that the question rose about, an SID, and I won't name which one. But interpreted, bonded indebtedness to also include registered warrants, and that if they registered a warrant, then that would be applicable to being outside of the levy limits. And our office has always interpreted a bond to be a piece of paper (laugh) that there's a bond out there as a negotiable instrument. I understand registered warrants are very similar to that, but we have never interpreted it that way, so. [LB1097]

SENATOR DIERKS: Other questions? I guess not. Oh, Senator Pirsch. [LB1097]

SENATOR PIRSCH: I'm sorry. It just came to me here, so this SID that viewed bonds to include registered warrants, was this a number of years ago or was this just recently done? [LB1097]

DEANN HAEFFNER: This was just last fall. [LB1097]

SENATOR PIRSCH: So are they waiting in limbo or did they act as if they are bonds? [LB1097]

DEANN HAEFFNER: My understanding is they received legal counsel that they were bonds, and so they did issue a levy outside of the limit because they believe they were within the law. [LB1097]

SENATOR PIRSCH: And the way that this is structured then, to clarify to me a bond, would that include registered warrants or exclude? [LB1097]

DEANN HAEFFNER: My understanding is it would include registered warrants. [LB1097]

SENATOR PIRSCH: Would include. And could you just speak about the nature then of registered warrants in terms of the differences that they have with bonds? [LB1097]

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DEANN HAEFFNER: A registered warrant means that you've gone to either a bank or even the County Treasurer if it was a county, and basically, you don't have enough money to pay that warrant. So maybe you've issued a warrant to a construction company or basically you've issued...somebody has issued you a bill, and you don't have enough money, so it's like a promissory note, I guess is what I would say. And then that person can take that promissory note or that warrant to a bank, and the bank then can actually pay off, for example, the construction company, and then you have that warrant sitting at the bank waiting for you to collect enough money to pay that off. [LB1097]

SENATOR PIRSCH: I see. [LB1097]

SENATOR DIERKS: Senator Adams. [LB1097]

SENATOR ADAMS: And typically, my experience with registered warrants and bonds, you issue the registered warrant as a temporary payment until you convert to bonds. [LB1097]

DEANN HAEFFNER: That's correct. [LB1097]

SENATOR ADAMS: Okay. [LB1097]

DEANN HAEFFNER: And the interpretation that we received or the question that we received last fall was, they interpreted those registered bonds...or registered warrants to already be a bond, and so therefore, they could levy for the purpose of paying off those registered warrants. [LB1097]

SENATOR ADAMS: And maybe they're right. I'm just here logically thinking, why would we ever have converted those registered warrants to bonds if the warrants were intended to be bonds? Gotcha. [LB1097]

DEANN HAEFFNER: (inaudible)(laugh). [LB1097]

SENATOR DIERKS: Senator Louden. [LB1097]

SENATOR LOUDEN: Yes, thank you, Senator Dierks. Well, yeah, registered warrants are just...it's got to be listed as accounts payable, don't they, when you do your bookkeeping? Because I mean, I was on the school board for years and years, and we registered warrants if we had to buy a large object or something, and usually the bank picked them up and carried them...sometimes we had them carried for two or three years but we always had to carry that as accounts payable. [LB1097]

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DEANN HAEFFNER: Correct. [LB1097]

SENATOR LOUDEN: How does these people come to the conclusion it was a bond? [LB1097]

DEANN HAEFFNER: Well, their interpretation is based on various statutes that basically said because a registered warrant was a form of indebtedness, that it could be interpreted as a bond. [LB1097]

SENATOR LOUDEN: Because when you sell bonds, you got to put those up for sale and somebody buys them or something. I mean, that goes through a different process...bonding than registering warrants, don't they? [LB1097]

DEANN HAEFFNER: Correct. [LB1097]

SENATOR LOUDEN: All together? Yeah, okay, I just wondered what...if we're...by doing this bill then it just...you just...says what a bond is, but you don't say what a...should we have something in here that says what a registered warrant is at the same time? [LB1097]

DEANN HAEFFNER: That would be a policy...or, I mean, something that would help clarify it, yeah. I mean, and the more clarification I feel that we have, the better off we are in making sure those budgets are in compliance with the law. [LB1097]

SENATOR LOUDEN: Because that was a problem is because it says what bond is, and it lists the statutes. But I don't know if there's any place in statutes that say what a registered warrant is, but maybe that needs... [LB1097]

DEANN HAEFFNER: I'm not sure they do either. [LB1097]

SENATOR LOUDEN: ...maybe that has to be put in there because what I'm surprised nowadays that we have school board members out there that run into trouble buying stuff, and they...they go to the bank and borrow money. And I told them, I said, why don't you register warrants? And there's...this whole generation of younger people that are running this stuff don't know what a registered warrant is. [LB1097]

DEANN HAEFFNER: Yeah. [LB1097]

SENATOR LOUDEN: And I even talked to the county clerk, and she said, oh, it's been a long time since we registered warrants any more, you know, and so it's a tool out there that's available. [LB1097]

DEANN HAEFFNER: Um-hum. Right. [LB1097]

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SENATOR LOUDEN: So maybe, perhaps we should have that clarification in here. [LB1097]

DEANN HAEFFNER: I mean, the more clarification, we would be happy (laugh). [LB1097]

SENATOR DIERKS: Senator Pirsch. [LB1097]

SENATOR PIRSCH: No, I don't have any further questions. Thank you. [LB1097]

SENATOR DIERKS: Other questions? Think you answered them. Thank you. Other proponents, please. Anyone else in favor of LB1097? Anyone opposed to LB1097? Is there neutral testimony for LB1097? I see nothing. Senator Cornett. [LB1097]

SENATOR CORNETT: I wasn't going to close, but if you look at references, Section 10-134, which is the definition of bonds and currently in statute, bonds shall meet any bonds, notes, interim certificates, evidence of bond ownership, bond anticipated notes, warrants, or other evidence of indebtedness. So it is referenced and defined in the bill, what...that, to include the warrants by referencing Section 10-134, means there is a definition in there. [LB1097]

SENATOR DIERKS: Senator Louden. [LB1097]

SENATOR LOUDEN: Yes, and I understand, but then when I started reading that, then does this mean registered warrants in there? Are we getting right back into the same problem we had...? [LB1097]

SENATOR CORNETT: Well, we could say registered warrants other than just warrants if you'd...and change the definition. [LB1097]

SENATOR LOUDEN: Well, and I mean this (inaudible) okay. Thank you. We'll look this over. [LB1097]

SENATOR CORNETT: Yes. [LB1097]

SENATOR DIERKS: Other questions for Abbie? Think you're done. Thanks, Abbie. That ends the testimony on LB1078 (sic) and the hearings for today. [LB1097]