[LB978 LB979 LB1043 LB1067]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 26, 2014, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB978, LB979, LB1043, and LB1067. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: None.

SENATOR HADLEY: Welcome to the Revenue Committee. My name is Galen Hadley; I'm from Kearney. And they're not here yet, but to my left will be Senator Schumacher, from Columbus; Senator Pirsch, from Omaha; and Senator Sullivan, from Cedar Rapids. Senator Harr will be introducing the first bill, from Omaha. And to his left will be Senator Janssen, from Fremont. We have Senator McCoy, from Omaha; Senator Hansen, from North Platte. Our committee counsel is Mary Jane Egr Edson to my right. Bill Lock is our research analyst. And to my far left is our committee clerk, Krissa Delka. Our page is Drew from Broken Bow. Drew, we're always happy to have you here; thank you. If you'd turn off your cell phones or put them on vibrate while in the hearing room. Sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk. We will follow the agenda posted on the door. The introducer or a representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and staff. If you only have the original, we will make copies. Give the handouts to the page, and the page will circulate them. We've been joined by Senator Schumacher, from Columbus, and Senator Pirsch, from Omaha. With that, Senator Harr, we're ready to start on LB978. [LB978]

SENATOR HARR: Thank you, Chairman Hadley. Members of the Revenue Committee, I am Senator Burke Harr, H-a-r-r, and I represent Legislative District 8, located in Omaha, Nebraska. LB978 represents a common-sense approach to helping residential energy customers to reduce their energy bills. LB978 provides incentives for public utilities to allow private companies to use a simple, one-step process to decrease their customers' energy use and to pay for it on their electric bills. The Low-Income Home Energy Conservation Act provides assistance for certain energy-related home improvements by making funds available to eligible low-income Nebraska residents. The improvements are accomplished through the grants offered by participating utility providers to the eligible residents. The grants are available to eligible residents from funds deposited in the Energy Conservation Improvement Fund. That fund is administered by the Nebraska Department of Revenue. LB978 would allow residential energy consumers to contact their utility or local energy-efficiency company about getting an evaluation of the energy use in their home, often called an energy audit. The company would conduct the energy audit to determine what kind of energy upgrades would be feasible to decrease the customer's energy use. The company would then obtain the financing from a private-sector financial institution to pay for the upgrades. The cost of the improvements would be paid for through a line of the customer's electric bill. In most cases, the improvements reduce the customer's energy bill enough so that the overall amount of the bill would not increase. There are several smaller municipal utilities, including Hastings and Broken Bow, that have developed this on-bill payment program. The utilities would not be required to develop an on-bill payment program; it is voluntary but would provide an incentive for electric utilities to set up the on-bill payment programs. Two hundred fifty thousand dollars has already been appropriated for the low-income residential Energy Conservation Fund. The low-income Energy Conservation Fund was created several years ago but has had almost no usage. An on-bill payment program would enable more customers to benefit from energy-efficiency upgrades. Last year LES...Lincoln Electric System's sustainable energy program had used all of its funds by June 1. LB978 would not require additional rate charges for customers who do not participate in the program. I would ask that you advance LB978 out of committee, and I would be more than happy to answer any questions you may have. [LB978]

SENATOR HADLEY: Are there questions for Senator Harr? Seeing none, thank you, Senator Harr. [LB978]

SENATOR HARR: Thank you. [LB978]

SENATOR HADLEY: We will start with the first proponent. Are there any proponents? Welcome. [LB978]

SCOTT KLEEB: Thank you, Chairman Hadley. My name is Scott Kleeb, and I'm speaking today on behalf of...or in support of LB978. There are...as I see it, this is a really elegant way in which the state of Nebraska can improve the efficiency within its residential sector, as well as enable it to help the utilities with some of the risk management that they need to do. What is...when I say the word "elegant," what I mean by that is, a lot of states across the United States have chosen a different path. They've chosen to mandate efficiency, in some cases a reduction of 2 percent of sales for utilities. This does not offer a mandate at all. It simply offers a carrot for utilities to help meet some of the challenges that utilities face. For homeowners, it's pretty simple. This is a very elegant way for homeowners to make the improvements that we all know could be made to their home. In our business, Energy Pioneer, we've seen an average reduction of 24.2 percent, combined gas and electric, which equates to approximately $600 a year of savings to individual homeowners. Where this has been tried in other states, one of the main challenges that homeowners face is lots of regulation, having to go out and get a HELOC, a home equity line of credit, in order to make these improvements. So the average home that gets an assessment done, already a very small percentage...those that go ahead and make the improvements, because of these mitigating factors, represents only 2 percent. Two percent of the people who spend $500 to get an assessment of their home done actually make the improvements to improve the health, safety, and comfort. An additional benefit with an on-bill recovery approach is we've seen 50 percent to 60 percent of customers who can make improvements actually make the improvements. That's a staggering difference: from 2 percent to 50 percent to 60 percent. Another benefit to homeowners is the health, safety, and comfort aspects of the work we do. In 30 percent of the homes that we go into we have gas leaks. We have carbon monoxide detected in the homes; we've got vapor problems; we've got structural problems. We help alleviate all of those issues as well, in addition to improving the energy efficiency of that particular property. For utilities, as I said, the utilities in our state, as across the country, are facing significant challenges over the next several years. Some of them have to do with energy; some of them have to do with capacity, additional regulation, fuel price increases. There are seven major risk factors that utilities have to mitigate against. Energy efficiency can help alleviate those. It's not the silver bullet, but it is absolutely something that utilities can and, across the United States, are using to help alleviate those future risks that they face. Again, they're aging assets, grid reliability, increased regulation from the federal level, increased security concerns, load growth, and then the customers' reluctance to rate increases. The other aspect of this bill, which, again, makes it very elegant, is that it does not mandate that our utilities do anything. It simply offers a carrot and offers the flexibility for individual utilities to design programs that make sense for them and, therefore, their rate base. Again, some utilities have a capacity consideration, have a low load factor. You can design programs to help utilities alleviate their risks, thereby benefiting all ratepayers regardless of whether or not they make improvements. And for our state, the reason this is an elegant approach is because it does leverage private capital. Unlike the 30-plus other states that have similar legislation that require something like an energy-efficiency resource standard, this leverages private capital and the experience of our banks and financial institutions to actually help take on this loan, per se, and enables the utilities to not use ratepayer financing to finance the improvement but rather simply recover the funds on behalf of our private lending institutions. This would be, again, a very elegant approach that allows our state to not get into the same pitfalls that other states have, for instance, in California, where 60 cents of every dollar spent on their efficiency program actually goes to pay for regulation as opposed to helping homeowners reduce their bills, improve their health, safety, and comfort, as well as enable utilities to help meet their increased challenges. Thank you, Chairman. [LB978]

SENATOR HADLEY: Thank you, Mr. Kleeb. Are there questions for Mr. Kleeb? Hmm? Oh. Would you spell your name. [LB978]

SCOTT KLEEB: Spell my name? [LB978]

SENATOR HADLEY: Yeah. [LB978]

SCOTT KLEEB: Yes, Scott, S-c-o-t-t, Kleeb, K-l-e-e-b. [LB978]

SENATOR HADLEY: I see no questions. Thank you, Mr. Kleeb. [LB978]

SCOTT KLEEB: Thank you, Chairman. [LB978]

SENATOR HADLEY: Next proponent. We've been joined by Senator Janssen to my right, from Fremont. [LB978]

KEN WINSTON: (Exhibit 1) Good afternoon... [LB978]

SENATOR HADLEY: Good afternoon. [LB978]

KEN WINSTON: ...Chairman Hadley and members of the Revenue Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n; and I'm appearing on behalf of the Nebraska Sierra Club in support of LB978. The...I'm providing you with some written testimony, which I won't read, but I'll kind of hit on some of the points that I make in the written testimony. As Scott Kleeb indicated, these kinds of programs have a great deal of potential for reaching far wider audiences than...or a far wider customer base than just one that is funded completely by the customers' own rates. And part of that is because of the fact that it can basically grow, depending upon the amount of demand and the ability of the service provider to meet it, which is one of the advantages of a private-sector entity doing this kind of work, as opposed to just being dependent upon a utility program. And typically in Nebraska the utility programs...and we do applaud the fact that the Lincoln Electric System and some of the other utilities are engaged in efficiency efforts of various kinds. But when they've done programs like these, they're typically subscribed for immediately or very soon, like Lincoln Electric System's program last year. All the funding was used up before the year was half over, and so the rest of the year people were still on a waiting list and they were unable to make use of the funds in the program. But one of the...I guess I also just wanted to mention some of the other aspects about energy efficiency. Typically people talk about energy efficiency as being the lowest energy generation method, because you're not actually generating electricity. Electricity that you don't have to generate is the cheapest way of dealing with electricity. And one of the reasons why it's a benefit to utilities is because of the fact that you don't have to pay for fuel to generate that electricity. It doesn't require...it's particularly important at peak times, when utilities often have to fire up more-expensive generating sources or have to buy energy on the market at a time when the energy is most expensive. And one of the best things about efficiency is that it reduces demand at those times. And, actually, I just wanted to also mention the fact that Nebraska law says that utilities are supposed to generate electricity...or to provide electricity at the lowest reasonable cost. And this would clearly fit within that category. And then, as Scott Kleeb indicated, it provides benefits directly to the...in addition to providing benefits to the utility, it provides many benefits for the consumer because, first of all, it reduces their bills. And then, secondly, it makes their own homes or businesses more comfortable and oftentimes safer. And just in the last year I went through the reEnergize Program in Omaha, and I was just amazed at how much more comfortable my home is. I mean, it was just, like, my kids commented about it, it's, like, well, Dad, you know, your house is a lot more comfortable than it used to be. I mean, you know, they're...so the other thing I noticed was I don't notice how cold it is outside sometimes when I wear a heavy enough coat, when I first go outside. So that, I suppose, would be...well, that's not really a negative, that's a positive. But the...as I said, the idea is that you're able to use, instead of requiring additional money paid out by the utility, the people are financing it themselves, and it's being paid for...the benefits are being paid for through the...well, mostly through the savings on the bill, and it just shows up on the bill. And I guess these kinds of public/private partnerships really seem to be the way that we're moving toward, is to...let's work together, let's provide incentives for private businesses to do these kinds of things, as opposed to just depending upon the utility to do it. And then I guess the...to summarize...well, one other point that I wanted to make is that the ACEEE--and I never can remember exactly what that stands for, but, basically, it's an energy-efficiency rating entity--they rank Nebraska forty-fourth in energy-efficiency efforts. And something like this would be a tool that would help improve that ranking. So we really think that this is a good idea, as something that would reduce demand, help customers reduce their energy usage and reduce their bills, and also, as Scott indicated, it would promote private enterprise. So we would like to see LB978 advance to General File. Be glad to answer questions. [LB978]

SENATOR HADLEY: Are there questions for Mr. Winston? Yes, Senator Hansen. [LB978]

SENATOR HANSEN: Thank you. You gave an example of Lincoln Electric and they couldn't get the number of applications processed. Can you review a little bit about that scenario? [LB978]

KEN WINSTON: Well, basically, they...what they did is they had $3 million that they had set aside for their energy-efficiency program. [LB978]

SENATOR HANSEN: Lincoln Electric? [LB978]

KEN WINSTON: Yeah, Lincoln Electric, yes. [LB978]

SENATOR HANSEN: Okay. [LB978]

KEN WINSTON: And then by June 1 of last year all the money had been used up, so that the...anybody who applied after that would be out of luck. They wouldn't be able to...but a program like this, you wouldn't be relying upon the money that was coming out of the ratepayers. It would be money that...you would just go to the energy service provider and have them do an energy audit. And then they would, you know, through their arrangement with the utility, then they would also arrange to have the financing. And then, through their work with the utility, then that would allow for the improvement to be paid for on your bill. Did I answer your question? [LB978]

SENATOR HANSEN: I think so. Who does the audit? [LB978]

KEN WINSTON: Well, it would be the energy service company usually, who would do the...a company like Mr. Kleeb's company would do the audit. And then they might...they may also do the improvement, or they may contract that to someone else. [LB978]

SENATOR HANSEN: Do the improvements, you're talking about replacing windows, caulking... [LB978]

KEN WINSTON: Yeah. [LB978]

SENATOR HANSEN: ...all kinds of... [LB978]

KEN WINSTON: Things like caulking, insulation, yeah. [LB978]

SENATOR HANSEN: And then who collects the money for that? [LB978]

KEN WINSTON: Well, and then it would just show up as a line on your bill, on your electric bill. And... [LB978]

SENATOR HANSEN: Over what period of time? [LB978]

KEN WINSTON: Well, usually, I believe it's usually, like, a three- to five-year period. [LB978]

SENATOR HANSEN: The windows are expensive to replace. [LB978]

KEN WINSTON: Well, usually things like that, they won't fit into a program like this. I mean, something that's expensive... [LB978]

SENATOR HANSEN: Windows won't... [LB978]

KEN WINSTON: Yeah, in general... [LB978]

SENATOR HANSEN: Kind of like the Capitol? [LB978]

KEN WINSTON: I'm sorry? [LB978]

SENATOR HANSEN: Kind of like the Capitol? (Laughter) [LB978]

KEN WINSTON: Yeah. [LB978]

SENATOR HANSEN: We have terrible windows in this building. (Laugh) [LB978]

KEN WINSTON: I think they have to be historically correct, if I... [LB978]

SENATOR HANSEN: Yeah. [LB978]

KEN WINSTON: ...recall Mr. Ripley's... [LB978]

SENATOR HANSEN: And cold. [LB978]

KEN WINSTON: ...rationale for why we can't do anything about the windows. [LB978]

SENATOR HANSEN: Okay, thank you. [LB978]

KEN WINSTON: And I guess one other point that you've reminded me of. One of the biggest reasons that people don't do these kinds of things is because of the fact that, say, they've got to come up with $3,000. And it's like, well, do I...am I going to...how am I going to do that? And so the idea of coming up with that $3,000 up-front or having to arrange for the financing themselves often is a barrier. And this would be a way of cutting through that barrier. So that would be...that's part of the reasons this is attractive for... [LB978]

SENATOR HANSEN: Okay. [LB978]

KEN WINSTON: ...for many people. [LB978]

SENATOR HANSEN: Thank you. [LB978]

SENATOR HADLEY: Other questions for...yes, Senator Schumacher. [LB978]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Mr. Winston, for your testimony today. Now, the bank fronts money for the windows, say, if we're talking a situation of windows. [LB978]

KEN WINSTON: Yes. [LB978]

SENATOR SCHUMACHER: Okay. And then the bank's note is collected by increases on to the utility. [LB978]

KEN WINSTON: That's correct. [LB978]

SENATOR SCHUMACHER: So the utility company is the bill collector for the bank, basically. [LB978]

KEN WINSTON: In a way. But--and the question probably could have been better answered by Mr. Kleeb because his business does this--but, as I understand it, the way it works is, if...and I...am I anticipating the "What happens if they default" question, or...? [LB978]

SENATOR SCHUMACHER: Well, you're thinking sharp. [LB978]

KEN WINSTON: (Laugh) [LB978]

SENATOR SCHUMACHER: Go ahead. (Laugh) [LB978]

KEN WINSTON: Well, it's my understanding that the obligation is still...belongs to the homeowner. And generally things like energy-efficiency activities are...improvements are good loan risks because of the fact that they do decrease...the bill was already...was going to be $175 a month anyway. So now if it still stays at $175 a month but $25 a month of that goes to pay off the...or $50 a month goes to pay off the improvement, then it's a very low-risk loan in general. But if there is a default, the default lies with the person who...with the homeowner. And so the bank can pursue the homeowner either through normal collection procedures or otherwise. [LB978]

SENATOR SCHUMACHER: Would this be the same bank that has the first mortgage on the house? [LB978]

KEN WINSTON: It could be, but it doesn't necessarily. [LB978]

SENATOR SCHUMACHER: So this could be a second and somebody in the second position? [LB978]

KEN WINSTON: It's my understanding they don't have a lien on the property. And, once again, I... [LB978]

SENATOR SCHUMACHER: So if the person walked away from the property, the banker with the first lien would end up foreclosing on the property, assuming there's no equity in the property, and the second bank would just be out? [LB978]

KEN WINSTON: Well... [LB978]

SENATOR SCHUMACHER: Bankers are never out. I mean, that's what's giving me a problem. [LB978]

KEN WINSTON: Well...and I hesitate to answer any questions on behalf of a banker. But it's my understanding that if, for example, the house is foreclosed upon or if the house is sold, there are a couple ways that it can be addressed. One is that the loan can continue to go with the person, but in most cases it's paid off in the time of the loan. [LB978]

SENATOR SCHUMACHER: Now, is it mandatory that the, in this case, the heating bill doesn't go up? I mean, suppose that this improvement...they put new windows in but at the same time the attic leaks heat like a sieve, and it just really didn't do much good. [LB978]

KEN WINSTON: Well... [LB978]

SENATOR SCHUMACHER: Do they have a cap on it? Or does it still go up? [LB978]

KEN WINSTON: Well, I think they...once again, Mr. Kleeb probably would have been better able to answer the question. But in general what they'll do is they'll try to do the low-hanging fruit, the things that get the most bang for the buck. So they're not going to do the expensive stuff like windows if they haven't fixed the attic. And so the attic would be the first thing that they would fix, and that would be generally a lot cheaper than spending money on windows. So... [LB978]

SENATOR SCHUMACHER: Thank you, Mr. Winston. [LB978]

SENATOR HADLEY: Any other questions? Seeing none, thank you, Mr. Winston. [LB978]

KEN WINSTON: All right. Thank you. [LB978]

SENATOR HADLEY: Next proponent? Senator Hansen, how do you get an office with a window? (Laughter) [LB978]

SENATOR HANSEN: Four of them. [LB978]

SENATOR HADLEY: I guess I've got to be around here longer than that, huh? Anybody in the opposition? Neutral? Senator Harr, would you like to close? [LB978]

SENATOR HARR: Just quickly, then I'll just stay up here. To answer some of the questions that were asked earlier, it's a contract with the individual, it's not against the home. So they would go after the individual if someone walks away. Also, Senator Schumacher asked, if the price goes up, what happens? Well, no one forces you to enter these contracts; this is a voluntary program. So it's up to that homeowner that says, "Well, I understand the risk," and looks at that. Long run, it's probably cheaper, because energy prices are going to continue to rise, whereas your payments are probably the same. So, long run, it's probably a better investment for that individual. Again, this is another, as we like to call it, arrow in the quiver, tool in the toolbox. This is not compulsory; this is voluntary. It's a program that allows us to save our resources for future generations. It's a way to be energy-efficient as stewards of the land. I think it's important that we look at how we can preserve the resources we do have and not just spend our children's and grandchildren's energy. And so, with that, I would close and be willing to answer Senator Schumacher's question. [LB978]

SENATOR HADLEY: Senator Schumacher. [LB978]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just one quick question, then. If you have a situation where the utility company sends out a bill, and it has, whatever, $25 for window replacement on the bill, and they don't send the $25 in, does that enable the utility company to shut off their electricity because they... [LB978]

SENATOR HARR: No. No. [LB978]

SENATOR SCHUMACHER: So... [LB978]

SENATOR HARR: There's no contract there between the utility and the third party, so all they're doing is acting as a collector. But they don't have the ability to shut down because of that. [LB978]

SENATOR SCHUMACHER: Okay, so that...that $25, they're basically acting as a billing service. [LB978]

SENATOR HARR: Yep. [LB978]

SENATOR SCHUMACHER: Thank you. [LB978]

SENATOR HADLEY: Okay. Other questions for Senator Harr? [LB978]

SENATOR HARR: As I understand it, at least. [LB978]

SENATOR HADLEY: We want to welcome Senator Sullivan, Cedar Rapids. With that, that closes LB978. And Senator Harr, you have LB979. So if you'd wish to open on that.

[LB978]

SENATOR HARR: Thank you, Chairman Hadley. Members of the Revenue Committee, I am Burke Harr, H-a-r-r; and I represent midtown Omaha, Legislative District 8, which comprises the neighborhoods of Dundee, Benson, and Keystone neighborhoods, among others. LB979 seeks to make changes in the area of tax certificates issued for delinquent property taxes. LB979 would establish consistent procedure for application of tax certificate holders for tax deeds. Over the past several years, bills have been passed by the Legislature changing the way tax certificates are foreclosed or tax deeds are issued. This has resulted in a different procedure depending on the year the certificate was issued. This results in confusion and potential title uncertainty if the procedure for the wrong year was or is followed. LB979 would provide clarity as to which procedures would apply to which certificates. Under current law, a $20 fee is charged by the county treasurer upon issuance of a tax certificate. LB979 would allow the holder of a tax certificate to recover that fee upon redemption or foreclosure of a tax certificate. This fee was always collectible prior to the recent legislation, but there is some confusion in the statutes now. Some statutes say it's collectible, while others say it's not collectible. LB979 harmonizes the intent of the prior legislation and corrects those inconsistencies. LB979 also provides that more recent tax sale certificates would constitute a lien superior to the lien of a prior tax sale certificate. This codifies existing Nebraska case law that was developed over many, many years. LB979 addresses the issue of tax certificates which cover less than 100 percent of parcels of property. Over the past few years, the bid process has resulted in the bid down of tax certificates to apply to less than 100 percent of the value of the real property. This means that the successful bidder has offered to pay taxes on the property in exchange for a tax certificate for a minimal percentage of the property. There are many tax certificates that are outstanding that cover only 1 percent of the tax-delinquent property. The process results in certificates that are virtually worthless because of inefficiencies in foreclosing a certificate for an undivided 1 percent interest in a property. The net result are real estate titles that are uncertain, hampering future development on the property. LB979 states that tax certificates purchased at less than 100 percent interest in real property would take title to 100 percent of the property. I understand this is on dubious constitutional territory. My purpose in introducing this bill was to bring the issue to the committee's attention. Frankly, I'm not sure if there is a constitutional manner of addressing the issue, but I felt it is worth getting the issue on the table for discussion. If it cannot be made constitutional, that provision of this bill should be deleted. I would ask that you please advance LB979 out of committee, and I'll be more than happy to answer any questions. [LB979]

SENATOR HADLEY: Are there any questions for Senator Harr? Seeing none, thank you, Senator Harr. [LB979]

SENATOR HARR: Thank you. [LB979]

SENATOR HADLEY: Can I see a show of hands how many proponents? Okay. First proponent. [LB979]

RANDY JAMES: Good afternoon. May I proceed? [LB979]

SENATOR HADLEY: Yes... [LB979]

RANDY JAMES: Okay. [LB979]

SENATOR HADLEY: ...please do. [LB979]

RANDY JAMES: Senators, Randy James, R-a-n-d-y J-a-m-e-s. I'm an attorney who practices law in this area of tax sale certificates, and I'm also an investor. The main purpose for this bill is to just clarify and set a bright-line rule. Over the last couple years...or over the last three years, there's been two bills that have been passed by the Legislature changing provisions with regard to tax sale certificates. And each of those changes set a different rule. So the way this works, over the next few years the different changes over the last two or three years will be effective in each consecutive year. And I believe that it's going to cause some confusion not just with investors but also county treasurers or county attorneys trying to determine exactly what the proper procedure is. So now that all of the concerns that were addressed in the last couple bills are now in place and there are some clear rules that everybody was on board with in those last two bills, essentially this bill, as to those procedural sides, just sets a bright-line rule that the new noticing procedures are effective January 1, 2015. And the current noticing procedures are effective until that period. Again, just from my reading of it, you know, if I were to be asked exactly what rules apply on which calendar year, I don't know that a perfect answer could be given to that, due to the changes taking place over the previous couple years. And I believe that different treasurers would have different inputs on that, or different county attorneys. One of the issues that's--I'll just kind of go through the bullet-point list of the main issues--is that there was a...there's a issuance fee of $20 the county treasurer charges when a tax certificate is issued. Currently, with the recent changes...I believe previously the fee was always recollectible when the property owner would come and redeem their taxes. So meaning, when the taxes would get sold at sale, the investor who purchased the lien would pay a $20 fee, and then when the homeowner came and paid it they would have to repay that. Over the last couple bills, essentially the result is...two statutes, I believe, say it is redeemable, and then one or two say it's not redeemable. So there's some conflict there. And that's why that's brought into the bill, just to provide a firm rule of whether or not it is collectible. We acknowledge that there is some issue, potentially, with the bid down language, a potential constitutional issue. We'd hoped to have been able to resolve that. To the extent that that is not resolvable, if that's removed from the bill and the bill proceeds, you know, to clarify all of the procedural aspects that aren't constitutional issues, then that would be a possible recourse. And I believe that's my primary remark. [LB979]

SENATOR HADLEY: Okay. Are there questions for Mr. James? Senator Schumacher. [LB979]

SENATOR SCHUMACHER: Thank you, Senator Hadley. With regard to the $20 fee, in order for the homeowner to come in and pay his taxes, he's expected to pay 14 percent interest to the holder of the tax sale certificate, pay up the taxes, and also pay the $20 fee. Is that what you're proposing? [LB979]

RANDY JAMES: Well, this is part of the problem, is, which...to set the bright-line rule when these go into effect. Previously to all these changes the last couple years, those fees were always reimbursable; they had to pay it. And during the group meeting last year, my recollection is, everybody agreed that it should be redeemable, or it should be collected on redemption. But the final bill with all of the different provisions that have been passed the last couple years...I think two of the statutes say that it's not collectible, but there is a statute that says it is collectible. [LB979]

SENATOR SCHUMACHER: So if we want to make it uniform, we could just make it clear and say it's not collectible in all cases, and it would accomplish the same end. [LB979]

RANDY JAMES: Correct. [LB979]

SENATOR SCHUMACHER: Yeah. Yeah. [LB979]

RANDY JAMES: Yeah, I mean, this is just more of a...that was put in with the bill to address just... [LB979]

SENATOR SCHUMACHER: Right, because... [LB979]

RANDY JAMES: ...the various issues over the changes the last few years, just to kind of tidy it all up but correct it, at a bare minimum, if there was inconsistency. [LB979]

SENATOR SCHUMACHER: Fourteen percent is a great plenty anyway, isn't it? [LB979]

RANDY JAMES: Well, I think, Senator, there's arguments both ways on that, depending on, you know, interest rates and whatnot, but... [LB979]

SENATOR SCHUMACHER: Thank you. [LB979]

RANDY JAMES: Yep. [LB979]

SENATOR HADLEY: Any other questions for Mr. James? Seeing none, thank you, Mr. James... [LB979]

RANDY JAMES: All right. [LB979]

SENATOR HADLEY: ...we appreciate your coming in. [LB979]

RANDY JAMES: Thank you. [LB979]

SENATOR HADLEY: Next proponent? Anyone in opposition on LB979? Welcome. [LB979]

JEAN SIDWELL: Hello. [LB979]

SENATOR HADLEY: Okay, go ahead and start. [LB979]

JEAN SIDWELL: (Exhibit 2) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Jean Sidwell, J-e-a-n S-i-d-w-e-l-l, and I am the Buffalo County Treasurer in Kearney, Nebraska. I am here to testify in opposition of LB979. I would like to start by describing some of the prior bills that have been passed in the last couple years that have caused us some impact, that we are now struggling to define how we should continue this process of selling tax sale certificates. LB370 was passed on March of 2012 and was effective on the sale that we conducted in March of 2013. It was a very confusing piece of legislation that added a lot of rules and time frames that are hard to follow. We still have not figured it out because it will affect the foreclosure and tax deeds that will be issued in 2016. And that's a problem with these bills, is they're very futuristic. LB341 was passed last year and becomes effective January 2015. So it still has not...we still have not used the rules of that bill. But it will not affect the sale that we're just about to conduct next week, March of 2014. It did some very good things for us. We were very happy with the results of it. As all bills, there's a few problems in it that we would still like to see corrected, but, in general, it really helped county treasurers. It removed different confusing language that caused the tax sales to have a bid down process. And I can talk to you in greater detail about that if you would like to have an understanding of what the bid down process means when we're conducting a tax sale. It also set out the process for having a round-robin sale at this March sale. Prior to that, most treasurers were in the custom of conducting the tax sale as a round-robin sale. But it was never defined in statute as such; it just became the best means and method of conducting that sale. So we were happy to see that the law actually established it as a legal way to conduct the sale. Third, it specifically said that no fees would be returned to investors. This was important, because I have been treasurer 30 years and I can tell you that in the 30 years that I have been treasurer we have never returned fees to the investor. They always have stood the cost of purchasing that tax sale certificate. This only became a point in, say, the last five or six years, when we had some investors who became fairly aggressive about demanding the right to receive those fees back at redemptions. Treasurers have consistently denied giving those fees back to investors, considering it to be a cost of the business that they are doing with the county treasurer's office. So we stand by that. But we were happy, again, to see that put into the law, that there would be no redemption of those fees when the tax owner came in to pay his back taxes. It also raised those fees from $10 to $20. If you buy a tax sale certificate at the sale in 2015, we will be charging $20 for that tax sale certificate. The sale that we have next week will still be at the rate of $10. We are very happy to see, of course, that fee go up, because a tax sale certificate is a fairly complicated document that has a life of about three and a half years that a treasurer has to track it and manage it. So it's fairly work-intensive for a county treasurer's office to take care of tax sale certificates. Other language changes in the bill also help to clarify the process for us. So we were very...generally very happy with the results of LB341. But now we have LB979 that came to us this year, and it unravels so much of the good that we accomplished with LB341. It returns certificate fees and also assignment fees to the investors. Again, I'd like to reiterate, we have never--I've been a treasurer for over 30 years--we have never returned those fees to the investor before. The treasurer's office, in general, the services that we provide to the public and political subdivisions, almost all have fees attached to them. Fees are a method of paying for the cost of the work that is actually being done for the specific person or entity that needs the work done. In turn, that fee makes certain that property taxes do not have to sustain the cost of people interacting with these government duties that need to be performed. So fees, I think, in general, can be a very good way to assess cost to who needs the service. It is true that most fees that we have in our offices today cover...they seldom cover the actual cost of doing the business. So there is always a carryover of what the treasurer's office does to the property taxpayers also. The beneficiaries of the tax sale certificate process for the investors is that they are the beneficiaries of that 14 percent interest. In today's economy that's a terrific rate. There is almost no place you can go and get something that is, frankly, government-backed at 14 percent. It's a very good rate, and we know that because every year the number of people who come to our tax sales increases. I used to, 20 years ago, maybe have 3 or 4 people interested in buying tax sale certificates. I anticipate at my sale on Monday I will probably have close to 100 investors coming in to buy tax sale certificates. The structure and the nature of who those investors has changed greatly through the years also. And it used to be the private individual, generally lived in my county, would come in, perhaps buy a tax sale certificate on a property that was next door to him. He might be interested in eventually obtaining that property for one reason or another. But today, who comes to our tax sales is a large investor. They have created large pools of money to go to all the counties to purchase these tax sale certificates. One of the ways they have been able to do this is to create multiple corporate names, and each corporate name can have a bidder in the room and buy certificates. By doing that, they are able to gather and buy more tax sale certificates for their large investor. There should be no mistake about that. At 14 percent, this process is really, really a good deal for most investors to do. I would also mention that it's kind of contrary to what we used to think; people paying taxes late, it's not necessarily the worst thing in the world. We as political subdivisions also benefit when taxpayers pay late. If a taxpayer doesn't pay his taxes on time, they have to pay to the political subdivisions a 14 percent. Now, I think, as a county treasurer, I am out investing millions of dollars every year. And there is nowhere in the world I can take the excess cash in my county and invest it at a rate anywhere close to 14 percent. I'll be lucky, at this point in time, to be more in the 1 percent range. And so for us, we have no motive to really want to see those tax sale certificates sold at all because if we can keep the 14 percent at home in our own government coffers, we're far better off than selling them to tax sale certificate investors. The bill also, in 77-1829, does a very odd thing. It allows that a subsequent certificate that is sold on the same property becomes the first lien. And that is just a very odd characterization of how to establish lien order, we think. I don't...I can't explain it; I don't even...hardly know what it means. The bill also nullifies some of the language in LB341 that becomes effective in 2015 because it talks about the bid down process again. So it's hard to determine whether this bill actually kind of reinstitutes the bid down process that we really wanted to get rid of. It does that when it speaks to the language of when you come into the sale and you bid down the tax sale to, say, a 1 percent interest in that property. The language in this bill then describes that, upon the point where you're ready to foreclose or ask for a treasurer deed, it's reinstituted back to 100 percent. That just defies all logic. If there is a good reason for having a bid down in the process of selling certificates, then the logic in that is you make it competitive by making your investors bid down and you also preserve as much of the real estate rights to the owner of the property that you possibly can. And as a government person, I certainly feel far more protective to the owner of the real estate than to the investor. So again, the language is confusing in that it seems to suggest we're going to reinstitute bid downs. In...at the end of the bill, in 77-1840, it also removes the treasurer from filing the treasurer's deed with the register of deeds' office. The statute now is clear, in that the treasurer will carry the treasurer's deed to the register of deeds' office, along with the supporting evidence to be filed at the register of deeds' office. This is a lot of documents. It's not only the treasurer's deed, but it's also all of the publication notices, registered letters, all those kinds of things that are needed to give proof of why the treasurer's deed should be issued. I think that's a very good process. In this bill, it would become that the investor who is presented a treasurer's tax deed then would go to the register of deeds and file only the tax deed. So you would have none of the evidence supporting the issuance of the tax deed as part of the register of deeds' record. I don't think that's good. Treasurer's deeds always have the potential of lawsuits in the future, and to now not have preserved that evidence in the register of deeds' office by the county treasurer I think would be a mistake. It is expensive. The reason for getting rid of that additional evidence at this point in time would be because each time you file a page of a document, it costs more money at the register of deeds. So, obviously, there's additional cost. I happen to file everything, including the kitchen sink, when I file that at the register of deeds' office. I want solid support behind the reason why I issued a treasurer's deed. Now, mind you, this actually doesn't very often culminate...this process generally does not culminate in very many treasurer's deeds being issued. But I do think that we need to be very protective of why we issued that treasurer's deed. I think that's pretty much...I would be happy to answer any questions. I know it's a confusing process. And if you're not aware of it, it sounds like we're talking about very strange things. But this bill, in fact, I think, would not do well to serve tax owners and property owners in our counties very well at all. Thank you. [LB979]

SENATOR HADLEY: Thank you. Thank you, Jean, very much. Are there questions for Ms. Sidwell? Yes, Senator Hansen. [LB979]

SENATOR HANSEN: Thank you. Now on another subject but somewhat related, if you're late paying your property taxes in Buffalo County, is there a fine? [LB979]

JEAN SIDWELL: In all counties, it's a statutory story... [LB979]

SENATOR HANSEN: Of how much? [LB979]

JEAN SIDWELL: ...payment. And it's 14 percent per annum, and the dates for delinquency differ, I think, in the three largest counties than they do in the other counties. But, yes, every treasurer is... [LB979]

SENATOR HANSEN: So... [LB979]

JEAN SIDWELL: ...required to collect that. [LB979]

SENATOR HANSEN: Okay. Fourteen percent an annum, so if it's in the first month it's only one-twelfth of that... [LB979]

JEAN SIDWELL: Right. [LB979]

SENATOR HANSEN: ...1 percent, maybe $10-$11 out of every $1,000... [LB979]

JEAN SIDWELL: Yes. And... [LB979]

SENATOR HANSEN: ...owed. [LB979]

JEAN SIDWELL: ...most of us have software that calculates it on a daily basis. [LB979]

SENATOR HANSEN: Okay. [LB979]

JEAN SIDWELL: Um-hum. [LB979]

SENATOR HANSEN: And all I have is a pen. [LB979]

SENATOR HANSEN: What about if you...can you file a...pay your property taxes on-line in Buffalo County? [LB979]

JEAN SIDWELL: Yes, you can. We... [LB979]

SENATOR HANSEN: Is there a charge? [LB979]

JEAN SIDWELL: Yes, there is. We use an on-line third-party servicer. We don't want to be the next Target, so most counties are having to use the proficiency of a professional group to collect those taxes on-line for us. And they... [LB979]

SENATOR HANSEN: What's the on-line... [LB979]

JEAN SIDWELL: ...do charge a convenience fee, a service fee, for doing that. [LB979]

SENATOR HANSEN: What's the service fee,... [LB979]

JEAN SIDWELL: You know, it's... [LB979]

SENATOR HANSEN: ...2.7 percent? [LB979]

JEAN SIDWELL: Pardon? [LB979]

SENATOR HANSEN: Two and a half percent? [LB979]

JEAN SIDWELL: It's dependent on how you pay; there are different methods of paying on-line. You can use an eCheck, which probably establishes a different rate. And then there is...I happen to use a company called Certified Payments, and their rate runs around in the 2.5 percent if you're using a debit card or a credit card. But it... [LB979]

SENATOR HANSEN: That happened...I got caught in that thing for a condo we have here in Lincoln. I was late to pay one time and paid a $10 fine. So the next time I decided I'd better pay it on time, so I used my credit card, and it cost me $27 instead of the $10 fine, so... [LB979]

JEAN SIDWELL: Yes. You can pay... [LB979]

SENATOR HANSEN: If people would know that, they probably wouldn't use their card to pay property taxes. [LB979]

JEAN SIDWELL: Generally, most of the companies...they're private companies that are providing these services to most counties. Generally you are warned before you click the "Okay" button that you're going to be charged a fee and how much it's going to be. [LB979]

SENATOR HANSEN: Not if it's the last day. (Laughter) [LB979]

JEAN SIDWELL: Yeah. (Laugh) [LB979]

SENATOR HANSEN: Thank you. [LB979]

JEAN SIDWELL: Well, we do accept credit cards at my office too. [LB979]

SENATOR HANSEN: Okay. [LB979]

JEAN SIDWELL: And if you come to my counter and you pay with a credit card, we also charge a 2.5 percent fee. And I can explain to you that that covers the costs that I am charged on interchange fees from the credit card companies... [LB979]

SENATOR HANSEN: I don't plan on... [LB979]

JEAN SIDWELL: ...it's a break-even kind of... [LB979]

SENATOR HANSEN: I don't plan on buying anything in Buffalo County. [LB979]

SENATOR HADLEY: Well, I think...I would hope that he would buy something big in Buffalo County. Senator Schumacher. [LB979]

SENATOR SCHUMACHER: Thank you, Senator Hadley. In Buffalo County, about how many dollars' worth of certificates are sold each year? [LB979]

JEAN SIDWELL: It varies from year to year. This year we happen to have a little better paid rate. And we're going to be a little over $300,000. We'll probably sell around $300,000 worth of certificates. [LB979]

SENATOR SCHUMACHER: Once a certificate is sold, how many of them go to maturity, where they would be foreclosed on, or how many...versus how many are paid off at some time in between? [LB979]

JEAN SIDWELL: It's a three-year process. So what you need to understand, as we come up to the next tax-due dates, the investor who bought that certificate now adds to his investment by paying those subsequent taxes, and he does that for the ensuing three years. So by the time the certificate is reaching maturity, it's going to have around three to four years of taxes on it that they're going to pay. Not quite sure, is that...was that the question that...? [LB979]

SENATOR SCHUMACHER: Right, but... [LB979]

JEAN SIDWELL: Um-hum. [LB979]

SENATOR SCHUMACHER: So most of them, that once a certificate is issued, the property owner doesn't come forward and volunteer to pay it? [LB979]

JEAN SIDWELL: They do come forward and pay it, but it's in the course of that three years. So by the time we finally reach maturity at three years, a very high percentage of them will have been redeemed. And then in order for an investor to begin the process of foreclosure, issuing a treasurer's tax deed, they must give notice. There's all kinds of requirements of giving legal notice. So that generally will bring in the real lingerers to finally take care of the problem. When we really get down to it, I seldom issue a treasurer's deed anymore; it's a rare occasion. But, in fact, investors are far more interested in foreclosing the property and getting their 14 percent due them than they are in owning the property. So it's a mixed bag. There are two options for an investor. They can either foreclose to get their 14 percent, or they can ask for a treasurer's deed...apply to get a treasurer's deed and then own the property via a treasurer's deed. So two different kinds of conclusions come out of a sale. [LB979]

SENATOR SCHUMACHER: Or they can threaten to foreclose and... [LB979]

JEAN SIDWELL: Yes. [LB979]

SENATOR SCHUMACHER: ...get the money that way. [LB979]

JEAN SIDWELL: Yes. And so I can't tell you how many actually get filed in court, but it's not a great number, either. And I might add, in this bill there is also a part...not only do they get back the $10 issuance fee for the treasurer's certificate, but along the route, as we get closer to foreclosure time, many of these investors will now create an assignment to another party to take over their place in this process, and that assignment fee also costs $10. This bill is also saying not only do you give back the $10 for the original certificate, but you also give back the $10 on the assignment fee. And, to me, it's sort of like there is...it's just kind of unconscionable to expect to get your fees back. You would never sell your stock and go back to your broker and ask for your fees back. [LB979]

SENATOR SCHUMACHER: I got the impression from your testimony that your county, at least, would prefer to just hold onto these certificates and sock away the 14 percent. [LB979]

JEAN SIDWELL: Oh, boy, would I love that, because... [LB979]

SENATOR SCHUMACHER: Do you have that option now? [LB979]

JEAN SIDWELL: No, we do not. And we have in prior years tried, through some legislative bills, to be given the first shot at doing that. If we were able to do that, the main beneficiaries of that would be the school systems. They receive 60 percent of the tax money, and therefore they would also receive, you know, approximately 60 percent of the interest that we are allowed to collect at 14 percent. I have no fear, at the end of a three-year process, that the county attorney, who would then become responsible for foreclosing these tax sale certificates that the county now owns, would be that great a number and would not be that great of a burden. There's only one time in the 30 years I've been a treasurer that it was a great burden, and that was in the early '80s. And there was a really bad time then, where lots of people were losing property. [LB979]

SENATOR SCHUMACHER: Are most counties in a similar position, that they could afford to hold off on the...three years collecting the taxes if they have the option to keep the 14 percent? [LB979]

JEAN SIDWELL: I hate to speak for what other political subdivisions' cash flows are. And that's what we're really talking about, because by selling tax sale certificates on March 1, it creates cash flow for all those political subdivisions. I'm sure some school districts would welcome it. I'm sure some counties would welcome it, like us. But I'm sure there may be some who are a little close on the dollar, and maybe they actually like to get that cash flow from that tax sale. [LB979]

SENATOR SCHUMACHER: You're one of the bigger counties, at least in... [LB979]

JEAN SIDWELL: We would be, um-hum. [LB979]

SENATOR SCHUMACHER: ...outstate Nebraska, and you're at $300,000. If the state is sitting on a lot of reserve money, certainly some way could be worked out so that you could...a county that had a cash flow problem could draw against some of that reserve money and then replace it. [LB979]

JEAN SIDWELL: I would love an idea like that, yes. [LB979]

SENATOR SCHUMACHER: By and large, then, the counties...there could be mechanisms put in place to retain that 14 percent within government rather than pay it out to...are a lot of those investors out-of-state investors? [LB979]

JEAN SIDWELL: They're getting to be more so. However, it's very hard to identify who they are, because they come in with "Blue Bird, Inc.," "Yellow Bird, Inc.," you know, the names they use, endless names, to create the corporations to come in as buyers. We know that basically they're sponsored by large investment pools. [LB979]

SENATOR SCHUMACHER: Thank you. There are some interesting ideas there. [LB979]

JEAN SIDWELL: Thank you. [LB979]

SENATOR HADLEY: Any other questions for Ms. Sidwell? Seeing...thank you very much for coming in... [LB979]

JEAN SIDWELL: Thank you. [LB979]

SENATOR HADLEY: ...we very much appreciate it. Next opponent. [LB979]

ANDY STEBBING: (Exhibits 3 and 4) Chairman Hadley, I have a letter authored by Richard James, a longtime county treasurer in Sarpy County, and he sent it up and asked to have it submitted. Would that be okay? [LB979]

SENATOR HADLEY: That would be fine. [LB979]

ANDY STEBBING: Okay. As well, that letter is opposed to this bill. Good afternoon, members of the Revenue Committee. My name is Andy Stebbing; I am the Lancaster County Treasurer here in Lincoln, Nebraska. I am here to testify in opposition of LB979. Each year we hold our... [LB979]

SENATOR HADLEY: Andy, can we have you say and spell your name? [LB979]

ANDY STEBBING: I'm sorry, that's right: S-t-e-b-b-i-n-g. I apologize. Each year we hold our annual delinquent tax sale here in Lincoln at 444 Cherry Creek, a building that we rent to hold the sale. We have an average of 1,000 parcels worth about $2 million. Approximately, historically, 200 people would be present, showing up to buy these delinquent taxes. I have my tax manager here, Candace Meredith, and she just whispered to me that there's over 300 people now signed up to arrive at our sale here in March. My staff works very diligently on organizing this large sale. The costs to hold this sale are enormous. To help me alleviate these costs, a very modest, present $10, fee--next year $20--is assigned to the certificate only if someone buys that certificate. The $10 fee does help me offset my labor, postage, printing, room rental, and etcetera. It should also be noted that these fees are paid by the persons who benefit by purchasing a delinquent tax at 14 percent interest rate. The certificate holder initially pays, but if the property is redeemed, the delinquent taxpayer ultimately pays. Moving on to a separate matter within LB979 which attempts to change the existing stated language, there is a great deal of confusion and contradiction in the revisions of

77-1829, such as: subsequent tax sale has no effect on the rights of the prior sale and then states the lien is superior on the most recent tax certificate. I suggest that this language needs to be reviewed in much more detail. Furthermore, in another section, the tax sale participants may use the current process of bidding down on a portion at less than 100 percent of the interest in real property processes to be competitive during the annual tax sale. Allowing tax certificate assignees to bid down the portion of interest in real property during the tax sale, then statutorily granting the certificate at 100 percent undivided interest for foreclosures is unfair to those bidders in the previous sales. To put this simply, it's wrong. To summarize, from the record...now, Jean Sidwell, as she said, has been a county treasurer. I have 3 years into this, and she's been around for 30. She's very, very well respected and well known. In all the e-mails that go between the 93 county treasurers, we could have had most or all of them here to testify, and it was decided that we would just have a couple testify against this. I don't know of any county treasurer that is in favor of this proposal. As Jean stated, to echo some of her comments, the laws have been changing so quickly over the last several years, we haven't had a chance to catch up. We think this would just murky the waters even more so at a time which...we are finally to a point where we think we have a handle on it. I took the proposed LB979 to my county attorney, Doug Cyr, who has more than three decades of tax law experience, and he was very concerned about the language. And I didn't get down into all the details, but it was decided that we'd better oppose this. With that, I'll close and gather any questions that you may have. [LB979]

SENATOR HADLEY: Thank you, Mr. Stebbing. Any other questions? Senator Schumacher. [LB979]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. One quick question. If Lancaster County had the option to not sell some of the certificates and keep the 14 percent interest, would that be viable for you? [LB979]

ANDY STEBBING: It would be. Yes, it would be. [LB979]

SENATOR SCHUMACHER: Would you like that? [LB979]

ANDY STEBBING: Sure. Yeah. Absolutely. That...that's... [LB979]

SENATOR SCHUMACHER: Thank you. [LB979]

ANDY STEBBING: You bet. [LB979]

SENATOR HADLEY: Thank you. Any other questions? Thank you. [LB979]

ANDY STEBBING: Thank you very much. [LB979]

SENATOR HADLEY: Next opponent. Welcome. [LB979]

DAN KAPLAN: May I proceed? [LB979]

SENATOR HADLEY: Yes. [LB979]

DAN KAPLAN: Good afternoon. My name is Dan, D-a-n, Kaplan, K-a-p-l-a-n. I'm an attorney, and I'm a vice president of Community Funding Solutions, a real estate investor, and I engage in foreclosures of tax liens and things of that nature. I don't have a quibble with most of LB979. My objection is very narrow, but important, in scope. And that deals with Section 7 of LB979, which deals with the "bidding down" issue that I was happy to hear Senator Harr and Mr. James, proponents of the bill, acknowledge that that does involve some serious constitutional issues. Let me give you a brief background on the process of the tax-lien auction. Each year the county treasurer offers up parcels in a separate auction of each property for tax lien certificates. By statute, the bidders can bid down the percentage of the property in which their lien will attach. The bidding starts at 100 percent and goes down from there. Over the last few years, bidders have gotten extremely aggressive and have bid that down, generally, in the vast majority of cases that I am aware of at least, down to 1 percent. So they take...the winning bidder takes a lien in 1 percent of the property. And Section 7 of LB979 represents an attempt to retroactively change all of the thousands of auctions of those thousands of tax lien certificates that have occurred in the counties across Nebraska for the last three or four years. A special interest group is benefited by that provision in LB979. This special interest group is a group of buyers of tax liens who have adopted or taken on that well-known tactic of bidding down to the 1 percent...and have taken on a well-known risk by bidding down the lien and agreeing to take only a 1 percent lien on the property. Through this aggressive bidding tactic, these buyers won the bid at competitive auctions of the tax liens but took on that risk that the auction...in order to win that auction at the time. Once the rules have been established by the Legislature for the auctions of the tax lien certificates, once the bidders rely on those rules, and once the auction is completed, then the rules of the auction can't be changed at this point. The eggs can't be unscrambled at this point. I think it's helpful to briefly compare the practical outcome under the current law and under LB979 if it were adopted. Under current law, a bidder who bids down the tax lien to 1 percent, as I said, takes a 1 percent lien on the property on which the taxes are owed. That bidder takes the risk that the property owner will not redeem the tax lien certificate. And the buyer of the tax lien will have to foreclose on the property and take only an undivided 1 percent interest in that property. Property owners have a great deal of leverage, as a result of this, to negotiate with the tax lienholder, who can ultimately realize only a 1 percent in the property. Under the proposed change in LB979, however, this changes. Those tax lien buyers who bid the lien down to 1 percent of the property will now be bailed out from the risk that they took on, so that their 1 percent liens will be magically transformed into 100 percent liens. And the property owner will lose any kind of leverage they ever had and that they relied upon at the time of the auction. The ultimate results from this are, thousands of property owners across the state who thought that the tax liens only took a 1 percent lien on their property will suddenly wake up to find that the tax lien buyers can now take 100 percent of their properties. You are literally being asked to take a 99 percent interest currently held by the property owners and hand that over to the 1 percent lien owner. Imagine if you were a property owner who felt safe knowing that the lien purchaser would only be able to take a 1 percent interest in their house or farm, only to find out that their entire farm or house was subject to foreclosure. So before LB979, under the current law, the holder of the tax lien forecloses on the lien and takes 1 percent interest in the property if they bid that down to 1 percent at the auction. After LB979, if it were to be adopted, the holder of the tax lien forecloses on the tax lien and takes 100 percent interest in the property. I think that it's helpful to look at an example for illustration purposes. Say I'm a farmer with a small farm in Gage County struggling after a flood or medical expenses or whatever to pay the real estate taxes on that farm. The tax lien on my farm gets sold to a bank investor from New York who gets aggressive at the auction and bids the lien down to buy a 1 percent lien on my farm. I feel relatively safe knowing that the New York bank can ultimately only foreclose and take a 1 percent interest in the farm to cover the taxes. If LB979 gets passed, I wake up one morning, I find that my 99 percent interest in the farm has been handed over to the New York bank. Suddenly the rug has been pulled out from under me. I have no leverage to try to resolve the lien with the New York bank. And the bank has been given 100 percent interest in my farm. Unfair? Clearly, yes. Changing the rules of the game after the people have relied on them? Absolutely. This is an unconstitutional taking of property. LB979 proposes to take away the property owner's 99 percent interest in their properties and give it to the tax lien purchaser. This is Robin Hood in reverse. The poor property owners who are struggling to pay their taxes are having their 99 percent interest in the property taken, by a new statute, and given to the handful of tax lien investors, often from out of state. This has all the ingredients of a public revolt of taxpaying property owners. There is a quote from a Nebraska Supreme Court case that gives several reasons behind the tax lien statutes. And one of those reasons is, for this underlying...the tax lien process, is "to prevent the needless sacrifice of the property of taxpayers." So it's clear...and that case is State ex rel. Snow v. Farney, 36 Neb. 537. It's clear from that language that the tax lien statutes were enacted with the intent of subjecting the property-owning taxpayer to the least amount of harm possible. To change this retroactively undoes and re-auctions every tax lien that was subject to the bid down of the lien percentage. This is patently unfair to all bidders at those auctions, who had obviously bid down to 1 percent or zero percent or negative 10,000 percent in order to win the bid at the auction. But LB979 would instead give them a 100 percent lien in the parcel. It just...it doesn't make sense; it's unfair; it's unconstitutional. And I would ask you, for those reasons... [LB979]

SENATOR HADLEY: Okay, thank you. Are there questions? Seeing none, thank you very much. [LB979]

DAN KAPLAN: Thank you. [LB979]

SENATOR HADLEY: Any other opponents? Anyone in the neutral? Welcome. [LB979]

DEANA WALOCHA: (Exhibit 5) Thank you. Good afternoon, Senator Hadley and members of the committee. My name is Deana Walocha, D-e-a-n-a W-a-l-o-c-h-a, and I am in-house counsel for U.S. Assets, LLC. U.S. Assets is a company based out of Omaha that purchases tax sale certificates in the state of Nebraska and in several other states around the country. U.S. Assets is taking a neutral position to LB979. We do support the sections of the bill which would correct what we believe to be a flaw in the statutes that were enacted last session with the passage of LB341, with respect to collection of the certificate issuance fees. The current version of Section 77-1823 provides that a private tax investor will be charged a $20 fee for each tax sale certificate issued and states that this fee will not be refundable upon redemption. However, if you look to the current version of Section 77-1824, it provides that the amount due for redemption shall include the issuance fee charged pursuant to Section 77-1823. And, further, the section of the Nebraska statutes that govern a judicial foreclosure of a tax sale certificate and pertain to the redemption during a pending judicial foreclosure, which is Section 77-1917, currently makes no mention of the issuance fee at all. It is our understanding that the intention of the current version of 77-1823 was that the certificate issuance fee would not be refunded by the county at redemption. And I think Ms. Sidwell did...testimony did kind of clarify this. But the language proposed in LB979 with respect to this fee merely clarifies that the certificate issuance fee will not be refunded by the county and that it will only be refunded upon redemption by the property owner and therefore is in harmony with the true intent of that statute. And despite supporting these sections of the bill, we cannot support the bill in its entirety because of the proposed changes to Section 77-1837.01 regarding the foreclosure of a tax certificate that is for less than 100 percent in the real property. The current Nebraska law that governs tax sales, Section 77-1807, provides, in part, "the person who offers to pay the amount of taxes due on any real property for the smallest portion of the same shall be the purchaser." We believe that it is fundamentally unfair for an investor to agree on the day of the tax sale to pay all the taxes due in exchange for less than the whole property and then three years later turn around and expect to be deeded the entire property. To be honest, these proposed changes would absolutely be to our benefit economically. However, in addition to the glaring constitutional issues, we believe that these proposed changes are not in the best interest of public policy. Therefore, we cannot fully support LB979 and must stand neutral to the bill. Thank you. [LB979]

SENATOR HADLEY: Questions for Deana? Seeing none, thank you. [LB979]

DEANA WALOCHA: Thank you. [LB979]

SENATOR HADLEY: Anyone else in the neutral position? [LB979]

JARED HOLLINGER: Good morning, Chairman and members of the committee. My name is Jared Hollinger, J-a-r-e-d H-o-l-l-i-n-g-e-r. I am one of the owners and representative of Guardian Tax Partners, Inc. I am not an attorney. I'm just a private-sector businessman. I come here today in a neutral position on LB979 for a couple of reasons. In summary, the tax sale process, in the investor's view, is a necessary process. While some counties may determine that it not be in their best interest and they may want to choose to not partake, all in all it's been a necessary funding mechanism over the years. And as Ms. Sidwell said--and I'll attempt to quote--the tax lien investment has been viewed as a "near government-backed" investment. However, in recent years, this has been convoluted through the bid down process. It's my position and belief that the tax lien investor who provides the lifeblood of the county through this sale, through this mechanism, should be protected under statute and should be, in Ms. Sidwell's word, essentially "government-backed." Through LB341 last year, the convoluted process of the bid down was eliminated. And we are in full support of that. By acknowledgement, again by Ms. Sidwell and, I believe, by Mr. Stebbing, it was a process that nobody appreciated, and it was extremely complicated and convoluted. It resulted in days-long sales, in some cases, and it was not necessarily effective. Unfortunately, in that time frame, the underlying issue of what happens and how those undivided-interest liens are handled is still up in the air. There is no firm case law, there is no firm statute that addresses it. And so from a tax lien investor's standpoint, having operated over the years under a, quote, government-backed investment, it would just be nice to have some clarity on the issue. In the private sector, we can generally live with any set of rules, but clarity is of utmost importance. And to not have that clarity makes it very difficult to make good decisions. Insofar as the issuance fee that's been raised, I am not necessarily opposed to the way it has been for many years, where the issuance fee is paid by the investor. However, I would like to offer a perspective on that. We also invest...we're nowhere near as large as some of the other folks that have testified today or other investors. We also invest in the state of Iowa. In that state, the issuance fee is redeemable by the...it's redeemable to the tax lien investor. And that fee is borne by the taxpayer. The fee acts, in a way, as a bid premium on the tax lien. In other words, when tax lien investors are determining which liens they will purchase, that fee limits...essentially puts a floor on the dollar amount of lien that they are willing to invest in, because it negatively affects their rate of return. This can be most prominently seen in Platte County, where they simply do not auction off liens below $400 because they know nobody really wants them. If you go to Iowa, routinely liens are purchased down to $100 because the fee is redeemable, and it doesn't affect the rate of return. And so to give just some perspective and more information on that topic...I didn't hear that raised, so I wanted to just give that comparison. That will conclude my comments. Any questions? [LB979]

SENATOR HADLEY: Thank you. Are there questions? Seeing none, thank you very much. [LB979]

JARED HOLLINGER: Thank you. [LB979]

SENATOR HADLEY: Anyone else in the neutral position? Seeing none, Senator Harr, you're welcome to close. [LB979]

SENATOR HARR: Thank you, Chairman Hadley. Well, I thought we had a good discussion here today about the issue. We had two people, well, three, come in opposition. I didn't get a chance to talk to Mr. Kaplan--I think it's Kaplan--beforehand. I think he made some good comments. And we'll look at the constitutionality, and we probably do need to adjust that. As I said in my opening, I can see that we probably need to take that part out of the bill. As to the rest, the other two, I would note that they came as individuals in their capacity as treasurers themselves. It wasn't as part of NACO and/or as part of their county board. If I'm wrong...but that's...I listened to their testimony very carefully. Now, they are elected officials, and so we need to take what they say very seriously. But I want to also remind you, as an elected official, I probably wouldn't want to get in the foreclosure business. It probably...there's a reason why we do tax liens. And it's good public policy; it's a public/private partnership. Our treasurers are more than willing to take 14 percent penalty and then also an additional 2.5 percent. And that's very nice of them, and that's generous, and I appreciate them for taking that. I find it ironic, though, that they turn around and then say, but the person who buys these shouldn't be able to collect that $20. We can charge it to you, but you can't pass that on. Well, what's the difference there? They think it's okay to collect 14 percent plus $20. Why isn't it...what's...my favorite statement, what's good for the goose is good for the gander. So I'm not quite sure what their opposition is to that. They're willing to collect all this money; they see the importance. They talk about how expensive it is for them to do these sales; they still get the 14 percent, plus then they get this other money, because they have a cost associated. Well, so does the investor. So they should be able to recover some of that money. Is 14 percent high? Historically, not so much right now, sure. But I didn't hear them coming up here and complaining about the 14 percent for themselves. I heard them complaining about it on the other end. Again, what's good for the goose is good for the gander. So this is a good bill; it provides clarity. A lot of this came...of the issues that we're dealing with right now came about because of what we did with the land banks. This area of law I would describe as obscure, but hardly difficult. Is it complex? It can be, but not particularly complex compared to other parts of the law. This bill is, again, providing clarity, and so it's good public policy, it's good policy. I heard a lot of conclusionary statements but not a lot of reasons why it was bad policy. I heard: this is bad policy. But I never heard why it was bad policy. I would argue, without giving a reason: it's good policy. So there we go. And, with that, I'd be willing to entertain any questions you may have. [LB979]

SENATOR HADLEY: Senator Harr, you talked about the 14 percent. [LB979]

SENATOR HARR: Yeah. [LB979]

SENATOR HADLEY: But the treasurer is not getting the 14 percent, correct? [LB979]

SENATOR HARR: If I am a delinquent property...if I have delinquent property tax... [LB979]

SENATOR HADLEY: Um-hum. [LB979]

SENATOR HARR: ...if I, before it gets to tax lien, or tax...to this sale, if I pay it, yes, they do get the 14 percent. [LB979]

SENATOR HADLEY: Okay, is that given to the treasurer or does that go to the taxing authorities: school districts, counties, NRDs, everybody that's collecting...everybody who's getting a portion...? [LB979]

SENATOR HARR: Yeah. Yeah. [LB979]

SENATOR HADLEY: ...of the taxes? [LB979]

SENATOR HARR: Yeah. Yeah. Yes, that's where it goes. Yeah. [LB979]

SENATOR HADLEY: But it... [LB979]

SENATOR HARR: Yeah. [LB979]

SENATOR HADLEY: ...the treasurer's office does not get the... [LB979]

SENATOR HARR: No, it goes... [LB979]

SENATOR HADLEY: ...fourteen... [LB979]

SENATOR HARR: ...to a public entity. It goes to public subdivisions. But I...that goes back to...they're okay collecting it there. It's just when the private guy gets the 14 percent, is how I took it, they might have the problem. They thought it was too high then, but not when it went to our schools. [LB979]

SENATOR HADLEY: Okay. Questions? Seeing none, thank you. [LB979]

SENATOR HARR: Oh...I just want to respond, I just remembered one more thing, I'm sorry (inaudible). Senator Schumacher, in your response...not only does the treasurer probably not want to get in the foreclosure business, but also if they borrowed against our reserve...the time we need the reserve the most is the time when we're probably having financial problems, which is also, coincidentally, probably the time you'd have the highest tax liens. So you'd have more people going after that same pot. So, while it seems like a good idea, I'm not sure, in reality, if it would really work. [LB979]

SENATOR HADLEY: Okay. [LB979]

SENATOR HARR: Thanks. Thank you. [LB979]

SENATOR HADLEY: (Exhibit 6) I will read into the record that we had Janet "soo-muh-NISS-kee"... [LB979]

SENATOR SULLIVAN: Suminski. [LB979]

SENATOR HADLEY: ...the Valley... [LB979]

SENATOR SULLIVAN: Suminski. [LB979]

SENATOR HADLEY: Suminski. [LB979]

SENATOR SULLIVAN: Um-hum. [LB979]

SENATOR HADLEY: Suminski, the Valley County Treasurer, who also gave written testimony in opposition to LB979. With that, we will close LB979 and open LB1043. Welcome, Senator Nelson. [LB979 LB1043]

SENATOR NELSON: Senator Hadley. Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is John Nelson, spelled J-o-h-n N-e-l-s-o-n; and I represent District 6 in midtown Omaha. Today I'm introducing LB1043, which would provide an exemption from the documentary tax stamp for deeds donating property to public charities. Nebraska Revised Statute 76-901 imposes a documentary stamp tax on grantors transferring real property within the state. When a deed is presented to the register of deeds for recording, the grantor must remit a tax in the amount of $2.25 for every $1,000 of that real estate's value. For each $2.25 paid, the register of deeds retains $0.50 for the county general fund. The remainder is transferred to the State Treasurer, who credits $0.95 to the Affordable Housing Trust Fund, $0.25 to the Site and Building Development Fund, $0.25 to the Homeless Shelter Assistance Trust Fund, and $0.30 to the Behavioral Health Services Fund, as described in Section 76-903. However, 76-902 provides more than 20 exemptions from the stamp tax, including an exemption for all deeds executed by a personal representative distributing property by testate or intestate succession, for all "transfer on death" deeds, and for deeds between spouses or between a parent and child without consideration. LB1043 would harmonize the documentary stamp tax with overarching public policy regarding the way we treat charitable donations. Specifically, it would exempt deeds transferring real property without consideration therefor to nonprofit organizations exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code, to the extent that such organizations are not private foundations as defined in 509(a) of the Internal Revenue Code. This proposed exemption would reflect a longtime standing public policy that treats charitable donations as tax-reducing or at least nontaxable events. The people of Nebraska should be free to make inter vivos, that's during life, donations of their real property for charitable purposes without having to pay hundreds and possibly thousands of dollars in additional tax. LB1043 would have a number of additional benefits. For example, because Nebraska already exempts deeds executed by personal representatives under will or by intestate succession, and because it exempts transfer on death deeds, LB1043 would give property owners more freedom to make inter vivos transfers of real estate to public charities as they near the end of their lives. Additionally, this would bring Nebraska into closer harmony with surrounding states. Iowa and South Dakota, for example, also require a real estate transfer tax, but they exempt all transactions that lack consideration. LB1043 would simply exempt real property transfers without consideration when the beneficiary is a public charity. We do not agree with the fiscal note, which is highly questionable, at best. It seems to calculate the average cost of each existing exemption and apply it to LB1043. This is almost certainly inaccurate. Think about it. Over in Iowa last year, a farmer donated $8 million worth of land to area charitable organizations. It was the top story in the Omaha World-Herald. If a donor made a similar gift here in Nebraska during his or her lifetime, the documentary stamp would be $18,000 total on the $8 million. It would take almost 25 annual gifts of real estate each worth $8 million, or $200 million overall, for the total documentary stamp accumulation to approach the fiscal note's projections. That's simply not realistic. And we don't know where the Department of Revenue has come up with that figure. Yes, there would be some impact on the funds affected by the documentary stamp tax. But it would almost certainly be minimal in light of the relative infrequency of the specific transfers we are considering here. And I think you will hear testimony after me that will tell...or relate possibly how few situations we're going to have similar to this that would not be taxed. LB1043 is good public policy. Our public charities provide aid for the poor, the sick, and the hungry, to name a few. They play a critical role in providing public assistance where the state cannot intervene. Nebraska simply should not tax gifts of real property to these charities, especially when the impact on the affected funds is likely to be de minimus. The documentary stamp tax is riddled with much broader exemptions. LB1043 would be a narrow protection for gifts of real property to public charities. I want to thank you for your time, and I'm willing to take your questions. [LB1043]

SENATOR HADLEY: Are there questions for Senator Nelson? Seeing none, thank you, Senator Nelson. [LB1043]

SENATOR NELSON: Thank you. [LB1043]

SENATOR HADLEY: Are you going to stay for closing? [LB1043]

SENATOR NELSON: I think I probably will, depending on the testimony. [LB1043]

SENATOR HADLEY: Okay. Could I see a show of hands of how many people plan to testify on this bill? Okay. Would the first proponent please come forward. Yes, go ahead and... [LB1043]

JOSHUA SHASSERRE: (Exhibit 7) Good afternoon, Chairman Hadley. My name is Joshua Shasserre; it is J-o-s-h-u-a S-h-a-s-s-e-r-r-e. I am the executive director of the Catholic Foundation in the Diocese of Lincoln. We are a separate 501(c)(3) public charity, distinct from the Diocese of Lincoln itself, although we do serve for the long-term sustainability of over 130 churches, 32 schools, and institutions like Catholic Social Services throughout southern Nebraska. I realize that even the short session can seem long at this particular juncture in the calendar, and so I'll just kind of mention why the Catholic Foundation is a proponent of this bill. We've had approximately four gifts of real estate interests over the past year, totaling about...slightly over $1.5 million. We're a relatively small organization compared to some of the others that might testify after me. However, I don't think you'll find much variance in terms of, even of the larger institutions, how much they receive on a yearly basis. The reason why we're proponents is that each of those four cases--a farmer in Cass County, a farmer in McCook, a very nice old lady in Hastings, and another one here in Lincoln--all made gifts of what's called a remainder interest in their property, whether a home or farm. In each of their cases, you know, we want to make sure that it works well for them, and it made a lot of good sense, and...but, you know, each of them said the same thing to me, which was: Well, we're going to go and make this transaction at the courthouse. There is this, you know, several hundred dollars' worth of fee that I'm going to be paying on my charitable gift. And each of them asked why that was the case. And I could not give them a very good answer, based upon the lack of rationale, seemingly, in the statute. Essentially, LB1043 treats a charitable gift as a charitable gift. If you make a charitable gift of stock or cash or grain, there's no instance in which the state comes in and exacts any kind of fee or tax on those kinds of transactions. I realize this is something of a different animal. However, again, it's a charitable gift. And the reasons why each of those donors had that question, the same question, was because we're conditioned to think of charitable giving in a sense that it's tax-advantaged, like Senator Nelson mentioned. So with that, I would just, again, you know, I realize that there is the common phrase of "death by a fiscal note," and I would just...I handed each of you a little visual aid as to what that would actually mean in terms of how much would have to be transferred inter vivos to public charities; and, as you note there, it's a little over $196 million worth of property. The best gift that we got this year was Cass County irrigated farm ground, was $10,000 an acre. And if we apply that to the amount that's looked at...or in the fiscal note, that would mean that we were looking at 19,600 acres' worth of property being transferred in one year. And that's equivalent, roughly, to the square-mile footage of Columbus, Kearney, and North Platte, all randomly selected cities. So with that, I'll just close, and I thank you for your consideration. [LB1043]

SENATOR HADLEY: Are there questions? I guess I just have one quick question. The proceeds do go to some fairly worthwhile causes, though, don't they? [LB1043]

JOSHUA SHASSERRE: I...yeah, I don't disagree. [LB1043]

SENATOR HADLEY: The Affordable Housing Trust Homeless Shelter, Behavioral Health Services Fund county, where we're getting all kinds of pressure on property taxes that we're charging people. [LB1043]

JOSHUA SHASSERRE: Yeah. Well, I would...I'd respond, Senator, by saying, first of all, I think if you take the collective testimony of some of the folks that will follow me, you'll find that the amount...the total amount given to charities over the course of a year would be less than a tenth of that that's proposed in the fiscal note. So if you then reduce that fiscal impact by, down, by 90 percent, you're talking about $44,000 that then gets distributed as defined in 76-903. And so, you know, I think you're balancing the loss of a relatively small amount of revenue across the entire state, over 93 counties, versus the impact that the...we're dealing kind of with this from the perspective of the individual Nebraska citizen who's making that decision to provide a charitable gift of their property, which is not something that people easily do, regardless of whether or not there is a stamp tax attached to it. [LB1043]

SENATOR HADLEY: So if I...if I'm...my math is sometimes very slow. If someone gives a $1 million gift we're talking about $2,250? [LB1043]

JOSHUA SHASSERRE: Right. [LB1043]

SENATOR HADLEY: Kind of seems to me that if I was a charity getting a $1 million gift $2,250 doesn't seem like a huge amount, to get a $1 million gift. Does it, or am I...? [LB1043]

JOSHUA SHASSERRE: No. And...but the point, though, there, Senator, is that the charity is the beneficiary and is not the seller, in this case. And it's the duty of the seller to pay the stamp tax. So it's the donor that's making the additional payment him or herself. So we're...from the perspective of the charities, you know, it doesn't matter all that much. It's really more looking at it from the perspective of our respective donors. [LB1043]

SENATOR HADLEY: Senator Schumacher. [LB1043]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Now, if I understand this right, if I have a piece of land I want to give to a charity... [LB1043]

JOSHUA SHASSERRE: Yep. [LB1043]

SENATOR SCHUMACHER: ...and I write in my will, give land to charity, and I die, and my personal representative deeds it to the charity, no tax. [LB1043]

JOSHUA SHASSERRE: Correct. [LB1043]

SENATOR SCHUMACHER: But, on the other hand, if I want to see the smile on the charity's face before I die... [LB1043]

JOSHUA SHASSERRE: Right. [LB1043]

SENATOR SCHUMACHER: ...and I give you the deed, then I've got to pay the tax. [LB1043]

JOSHUA SHASSERRE: Yes, sir. [LB1043]

SENATOR SCHUMACHER: Okay. Thank you. [LB1043]

SENATOR HADLEY: Any other questions? Seeing none, thank you very much. [LB1043]

JOSHUA SHASSERRE: All right, thank you. [LB1043]

SENATOR HADLEY: Next proponent. Welcome. [LB1043]

KEITH MILES: (Exhibit 8) Thank you. Good afternoon, Senator Hadley and members of the committee. My name is Keith Miles, that's K-e-i-t-h M-i-l-e-s. I am the vice president and general counsel for the University of Nebraska Foundation, and I'm here to testify in support of LB1043. As most of you probably know, the University of Nebraska Foundation is a nonprofit separate from the university but exists solely to raise and manage funds to support the University of Nebraska, the mission of the university. Any property transfers to or from the university, as a state agency, are exempt from documentary stamp tax. But, obviously, the foundation, as a private entity, does not have that exemption. From our perspective really, there are three kinds of property gifts that we deal with outright lifetime gifts that would be given to support a particular designated purpose at the university or that the donor might choose to designate at the university--scholarships, research, equipment, or capital construction, for example. Secondly would be gifts to fund a charitable remainder trust, which would then provide a lifetime income stream back to the donor, and the residue, again, used for the designated charitable purpose at the donor's death. And then third would be, in our case, we get a number of gifts from time to time that are to be held and used for research purposes by the university, and typically that would be agricultural research. Any sort of noncash gift to a charity, even if it's, you know, publicly traded stock, there are transaction costs to that, and we incur those. And that reduces the net proceeds that might be available for a charity. We, obviously, always attempt to minimize those costs as much as we can so as much of the gift as possible can go for that charitable purpose. Again, as you know, in the case of 76-901, the documentary stamp tax is the responsibility of the grantor. However, in our case--and I assume other charities may do this from time to time--we will pick up those costs, as it's a significant disincentive for a number of our donors who might be looking at a real estate gift to think that they would have to pay that cost. Under IRS law, they are already required to get a qualified appraisal to value their gift, and that is their...it's a requirement that they bear that cost. The documentary stamp tax, though, when you're talking about gifts of $1 million and above, why, that can easily exceed the cost of the appraisal. And again, in some cases, as my predecessor said in his testimony, it is, for a donor to pick up that cost, it's a disincentive and not...and it does not encourage them to make a charitable gift of real estate. If the charity does agree to pay the doc stamp tax to induce that donor's gift, that can create funding challenges. Particularly in our case, we...property that might be donated for research at the university in a number of situations, the donor may not give other financial resources that can be used to support that. So we have to come up with unrestricted assets in order to pay those transaction costs, including the documentary stamp tax. And I would guess that this is not, I think, an exaggeration to say that 99 percent of the gifts that we receive at the University of Nebraska Foundation have a designated purpose. So we can't take money that's given for scholarships on the one hand and then use it to cover transaction costs for a gift of real estate on the other hand, which gives us very limited resources for these kinds of expenses. There are situations where, again, we can cover the transaction costs out of the proceeds of the property, if it's property that's given to us, that we can then turn around and liquidate for the charitable purpose. But again, that's one more expense that is charged against the proceeds from that fund and...from that sale of that property and reduces what goes to benefit the university. You know, I think real estate gifts are a significant tool among the options that we can offer. They do require a number of hours of staff time to do the due diligence that we need to accept property. There's also, again, these transaction expenses. Many of the smaller charities, it makes it more difficult for them to deal with real estate gifts. I think elimination of the documentary stamp tax on lifetime giving would be one...would make it easier for smaller charities to get more involved with real estate gifts. I think particularly in light of the increase in agricultural land values over the last number of years here in Nebraska, there is a considerable amount of real estate in this state...a number of owners of real estate that have highly appreciated property. And it would be a good vehicle for a charitable gift, would help them save capital gains tax and provide a nice gift to charities. If we can remove one more obstacle like the documentary stamp tax, it might encourage more charitable giving of real estate here in

Nebraska. And with that, I would be open for any questions. [LB1043]

SENATOR HADLEY: Senator Schumacher, question for Mr. Miles? [LB1043]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony. We heard some questioning by the earlier testifier that the $196 million figure is an accurate figure. Assuming they don't get it and no other charity gets it, what does the university do with all that money? [LB1043]

KEITH MILES: We don't get $196 million, or anywhere close to that, in real estate gifts. I would estimate...it fluctuates, obviously, from year to year. But I would estimate in the last, you know, five to seven years, we have probably averaged in Nebraska real estate gifts to the tune of $3 million to $4 million a year, on average. [LB1043]

SENATOR SCHUMACHER: So you don't get it either, huh? [LB1043]

KEITH MILES: Nope. No. [LB1043]

SENATOR SCHUMACHER: We'll have to look to somebody else. Thank you. [LB1043]

SENATOR HADLEY: Mr. Miles, am I correct that the donor does get the advantage of the charitable deduction based on the appraised value? So they do not have to pay the capital gains tax. [LB1043]

KEITH MILES: That's correct. [LB1043]

SENATOR HADLEY: So there is a significant advantage to the donor to make the gift, rather than selling the property and then giving you cash. [LB1043]

KEITH MILES: That's correct. [LB1043]

SENATOR HADLEY: That's correct. Okay. Any other questions for Mr. Miles? Thank you. [LB1043]

KEITH MILES: Thank you. [LB1043]

SENATOR HADLEY: Next proponent. [LB1043]

JEREMY BELSKY: Good afternoon. [LB1043]

SENATOR HADLEY: Go ahead and start. [LB1043]

JEREMY BELSKY: (Exhibit 9) My name is Jeremy Belsky. Jeremy is J-e-r-e-m-y, Belsky, B-e-l-s-k-y. I serve as planned giving officer for Father Flanagan's Boys' Home at Boys Town. I'm just simply here to testify and express support of Boys' Town for LB1043. As a public charity, Boys' Town relies upon the generosity of donors throughout the U.S. for support of our mission to save children and heal families. I work with donors concerning all fund-raising initiatives, including the donation of property. Although it's an acceptable form of donating, it's not a common practice to donate one's land, home, or other such property to benefit our charity and receive a tax deduction. To prove that point, in just the past ten years, Boys' Town has had just three properties donated from Nebraska, and the dollar value was somewhat modest. We liquidate the property immediately, and therefore there's no negative impact on Nebraska tax rolls. I can share from my 15 years of experience working with numerous donors that the tax deduction isn't the driving force behind one's gift as much as furthering the mission of the organization. And furthermore, we don't want to provide a disincentive for those who want to donate property. [LB1043]

SENATOR HADLEY: Okay. [LB1043]

JEREMY BELSKY: Any questions? [LB1043]

SENATOR HADLEY: Questions for Mr. Belsky? Thank you. [LB1043]

JEREMY BELSKY: All right. [LB1043]

SENATOR HADLEY: Appreciate your coming. Next proponent? Seeing none, anyone in the opposition on LB1043? Welcome, Beth. [LB1043]

BETH BAZYN FERRELL: Thank you. Good afternoon, Chairman Hadley, 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 with the Nebraska Association of County Officials. I'm appearing in opposition to the bill simply because we've been here so often talking about elimination of state aid and what changes in ag land valuation would do, elimination of inheritance tax, all of those things that could come back on property taxes. So we just wanted to be on the record as opposing something that could possibly have a property tax impact, even though it may be very minimal. Be happy to take questions. [LB1043]

SENATOR HADLEY: Senator Schumacher. [LB1043]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just a quick question. When somebody makes a gift to the state or the county, Game and Parks, whatever, is there tax, a documentary stamp tax on that? Do you know? [LB1043]

BETH BAZYN FERRELL: I am not sure. It may fall within one of the exemptions, but I don't know. [LB1043]

SENATOR SCHUMACHER: Thank you. [LB1043]

SENATOR HADLEY: Any other questions? Thank you very much, Beth. Anyone else in opposition? Anyone in the neutral? Senator Nelson, would you like to close? [LB1043]

SENATOR NELSON: Thank you, members of the committee. I want to thank those people that testified. I just want to call your attention that, on the basis of that testimony, I think it's obvious or evident that these deeds of real estate to public charities don't occur that often. I mean, Boys' Town, two or three. I think the first testifier, four. So if...I am concerned that if you're looking at the fiscal note as thinking we're going to lose a lot of money for the counties and some of these others, that's simply not going to happen. I took the trouble--I'm from Douglas County--to contact them, and their total stamp tax revenue was $5.6 million. And of that, they retained $1,002,650 and about $4.5 million went on to the Department of Revenue. It was interesting, I thought, that of the total deeds of transfer, over 19,000, 7,261 were exempted; that's about 37 percent. So the money that went in represented about 63 percent. And they don't keep track up there, and I doubt that any of the counties do, as to the value of the parcels of real estate that are tax-exempt under our present exemptions. But they did say this: by far and away, the largest exemptions are transfers within families or transfers pursuant to a court decree or distributions of estates. And included in that would be the new "transfer on death" now that we're able to do, in a sense of that. So they don't keep track of that, but I think it's obvious that when the fiscal note says we're talking about $440,000 lost, it ought to be maybe 10 percent of that, $4,500. It's not a big amount. It's not going to be that significant a loss to the counties or to any of the others...the other worthy charities that we have. Secondly, I want to emphasize that this does not include the...I have this here...well, to recall from memory, we're only talking about public charities, 501(c)(3)'s, not private foundations. And that's very important. There are a lot of private foundations. I sit on the board of one that...they're a private foundation, and they do have to pay tax because of the fact most of their income is from investments. It's the public charities that receive most of their income from donations and things like that, the Red Cross, all those other entities that we're talking about here. So with that, those are the two points I wanted to emphasize. And if there are any questions still, I'd be glad to entertain them. [LB1043]

SENATOR HADLEY: All right. Questions for Senator Nelson? Seeing none, thank you, Senator Nelson. [LB1043]

SENATOR NELSON: Thank you very much. [LB1043]

SENATOR HADLEY: (Exhibit 10) With that, I will close LB...well, I'm sorry. We did have two letters, from Jeff Yost and Mr. Belsky also had an additional letter... [LB1043]

SENATOR NELSON: All right. Thank you. [LB1043]

SENATOR HADLEY: ...that will go into the record. With that, I will turn the gavel over to Senator Schumacher. And there's a letter that is attached there that will go into the record. [LB1043]

SENATOR HARR: Oh, that was his last bill of his career. [LB1067]

SENATOR HADLEY: Is that right? Oh. We would have had a cake if we had known that, Senator Nelson. We would have done a lot of celebrating. [LB1067]

SENATOR HARR: (Inaudible) then he'll come back in four years. [LB1067]

SENATOR HANSEN: We can get a cookie upstairs. No cookie, no birthday. [LB1067]

SENATOR SULLIVAN: We didn't apply (inaudible). [LB1067]

SENATOR HARR: Is this your last bill? [LB1067]

SENATOR HADLEY: I've got about 25 more for this committee, since it's the best Revenue Committee in the world. [LB1067]

SENATOR SCHUMACHER: Universe. [LB1067]

SENATOR HADLEY: This bill...I assume we could be done by, oh, 7:00 tonight? Oh, I'm sorry, this isn't the Education Committee? I got confused. I got confused which committee it was. [LB1067]

SENATOR HARR: Six hours. [LB1067]

SENATOR HADLEY: My name is Galen Hadley, and that's G-a-l-e-n H-a-d-l-e-y. I represent the 37th District, that is Kearney and part of Buffalo County. As just a little background, I don't believe anyone was on the committee when we tackled this the first time. It was a number of years ago, and I believe Senator White was involved, from Omaha, and it had a...the question was about whether or not the Advantage Act was doing the job. And that was the major question that we had at that point in time. And we had a lot of discussion, a lot of testimony and such as that, as to what it was doing. Was it working? Was it not working? And so part of the process that we came up with was establishing sunsets. And the time has come for those sunsets. And these are important sunsets because some of them are, basically, at the end of this year. So if we do not act this year to extend those sunsets, we basically lose an important, very important, tool in our economic development. Now, I want to take just a few minutes--and I'm not going to go into a lot of detail and data and such as that, because some people behind me may or may not--but we have set up some very good processes since. I know that a number of you were able to attend when we had the...the Revenue Department did the annual report now. We have an annual report that is given to the Legislature that basically outlines from a data standpoint...and we had a good conversation. And I think at that time it was with Commissioner Ewald. It was one of the last times, I think, he was here. And I specifically remember the hearing and the questions we asked to try and improve the report and improve the things that we can have for data. So I think we've made a lot of strides in trying to get information on our incentive programs. And what this incentive program...it basically...it extends from December 31, 2015, to 2017 for Tiers I and III for the Advantage Act, and Tier VI is extended from January 1, 2016, to January 1, 2018. The Advantage Research and Development Credit, which is actually a bill that I carried, is extended from 2015, December 31, to December 31, 2017. And then the Nebraska Advantage Microenterprise Credit is extended from December 31, 2015, to December 31, 2017. A question that I think is a good question to ask--and I'll answer it before all of you jump on it right away--why did we pick those dates? Well, because we are studying this. The Performance Audit Committee is spending a lot of time, and I think a number of us sat in on some of the hearings that they had. They're involved in trying to assess this program and what it's doing. So we wanted to put the sunsets close enough so that we would really have to look at them, you know, over the next two years take a long, long, hard look at them to see, are they successful? Are they doing what we want to do? Do they need any changes? So I don't see this process this time as making changes in the acts, but rather, just extending the sunsets. Lastly, the biggest question, and it's the question that I've asked numerous times, and it's the most difficult question that we have in this whole process, is the question when we look a company in the eye and say, would you have come without the incentives? That's a very, very difficult question to get answers to. And that's the...that is really the $64,000 question, would companies expand, would they come to Nebraska, without the incentives? We're in a competition. I liken it a little bit to...I don't want to use the...maybe it's a little too much, but like a nuclear war, where you disarm before your neighbor disarms. Well, if we do away with incentives and our...other states do not do away with incentives, does that put us in a very difficult position? So I think we will be spending a lot of time on the Revenue Committee the next couple of years looking at the incentive programs and trying to evaluate the effectiveness of...with those. So I would encourage you to pass this out. It has been prioritized, so it will be heard on the floor. And it is a necessary bill to keep our economic development arsenal full. With that, I'd be happy to answer any questions. [LB1067]

SENATOR SCHUMACHER: Any questions? Senator Harr. [LB1067]

SENATOR HANSEN: Who prioritized it? [LB1067]

SENATOR HADLEY: Garrett, Senator Garrett... [LB1067]

SENATOR HANSEN: Thank you. [LB1067]

SENATOR HADLEY: ...prioritized it. [LB1067]

SENATOR HANSEN: Sorry, Mr. Vice Chair. [LB1067]

SENATOR SCHUMACHER: Senator Harr. [LB1067]

SENATOR HARR: One question. Do you think it's a better idea to continue with this program or is it a better idea to eliminate this program and lower the rates with the money we would save by eliminating the program? [LB1067]

SENATOR HADLEY: I don't...that's a great question, Senator Harr. I firmly believe that most companies will not expand and come to Nebraska without the incentive programs. So from my accounting background I treat it as an opportunity cost, and an opportunity cost is only relevant if it's different in the future. And if a company isn't going to come, we don't get the tax revenue. If they come and we give it away or give it back to them because they've met the standards, it's a zero-sum game. And that...if I may follow up, one other quick point, I think our program is the envy of a lot of states and a lot of state legislators because ours is performance based. Ours is not: Here is the money, will you, please...hope that you do what you say you're going to do. Ours is set up that here are the criteria that you have to meet before we give the incentives. And I think that's a really important part. So, Senator Harr, I'm not sure that there's a connection between the two. [LB1067]

SENATOR HARR: Okay. [LB1067]

SENATOR SCHUMACHER: Any other questions for Senator Hadley? Seeing none, will you be here to close? [LB1067]

SENATOR HADLEY: Actually, I'd like to go home and take a nap, but I guess that isn't an alternative. [LB1067]

SENATOR SCHUMACHER: (Exhibit 13) Proponents on LB1067. We should note that we have a letter of support from the mayor of Lincoln, Chris Beutler. [LB1067]

CATHERINE LANG: (Exhibit 11) Good afternoon, Vice Chairman Schumacher and members of the Revenue Committee. For the record, my name is Catherine Lang, C-a-t-h-e-r-i-n-e, Lang, L-a-n-g. I'm the director of the Nebraska Department of Economic Development and the commissioner of Labor, and I appear before you today as the director of Economic Development, in support of LB1067. As Senator Hadley has already described, the bill extends the sunset dates for the tax incentives under the Nebraska Advantage Act, the Nebraska Advantage Research and Development Act, and the Nebraska Advantage Microenterprise Credit Act. These acts are all part of the comprehensive economic development incentive package that the state of Nebraska offers to meet the needs of businesses who are expanding in, locating to, or otherwise investing in our state. The Nebraska Department of Economic Development believes that growing investment and quality jobs is intrinsically valuable to the continued success of our state. And these acts play an important role in ensuring the success of keeping Nebraska competitive. As evidence that these incentives work, information provided by the Nebraska Department of Revenue indicates that as of December 31, 2012, the Nebraska Advantage Act has resulted in over $3 billion in investment within our state and the creation of over 7,000 jobs. Also as of December 31, 2012, the Nebraska Advantage Microenterprise Tax Credit has resulted in over $90 million in investment. And the Nebraska Advantage Research and Development Act continues to encourage research and development efforts within our state. In recent years, the Nebraska Legislature has taken action to modernize these incentive programs to help ensure that our state remains competitive and can attract and retain important industries. In particular, some of these changes include amending the Nebraska Advantage Act through LB1118 in 2012 to create tax credit incentives for large data center projects and amending the act again in 2013, through LB104, to create incentives for renewable energy projects. It is important that the efforts to modernize these incentive programs and ensure the continued success and competitiveness of our state are continued. LB1067, which extends the sunset dates for these three acts, is an important step in that direction. I thank you for your time today. I hope you support LB1067, and I would be happy to answer any questions. [LB1067]

SENATOR SCHUMACHER: Any questions? Senator Harr. [LB1067]

SENATOR HARR: Thank you. Thank you, Commissioner Lang...Director Lang. Because the sunsets are out beyond the end of the next fiscal year, it doesn't have a fiscal note. Do you know approximately how much this program costs a year? [LB1067]

CATHERINE LANG: I do not know that. [LB1067]

SENATOR HARR: Okay. Thank you. Do you know who would? [LB1067]

CATHERINE LANG: I believe that information from the Legislative Fiscal Office or the Nebraska Department of Revenue would be helpful to answer that question. [LB1067]

SENATOR HARR: Okay. Thank you. [LB1067]

CATHERINE LANG: Yeah. [LB1067]

SENATOR SCHUMACHER: Any other questions? I just have a couple. In administering this program, the $64 million question is the "but for" test. Would they have come anyway? Can you think of any tests that we could build into the system, statistical or otherwise, that, from your perspective, would help us answer that question? [LB1067]

CATHERINE LANG: We know from our work with the companies, because the Nebraska Department of Economic Development is the entity within the state government, along with our partners at the local level, who are talking to these companies and marketing our programs. We know that we are in a competition with other states. So we believe that keeping our incentives robust is very important for attraction and growth of our Nebraska companies. As far as developing a statistical model or test, while we could certainly look into that, and maybe that is something that could come from anecdotal information, I'm not sure that we would ever have pure evidence of the "but for" test. [LB1067]

SENATOR SCHUMACHER: Okay, then one follow-up. Have any of the companies run through their credits, in other words, burned them up on...against taxes? Or is it too early in the game to know that? [LB1067]

CATHERINE LANG: I am...we would not have that information. I believe that that information would be available only to the Department of Revenue, and my guess is, is that information is probably confidential. [LB1067]

SENATOR SCHUMACHER: Yeah, because if after burning through their credits they say, "Give us more or we're going to some other state and we'll get their credits," that would be one test, maybe. [LB1067]

CATHERINE LANG: That's true. And I cannot tell you that we've ever heard that. [LB1067]

SENATOR SCHUMACHER: Okay. Thank you. [LB1067]

CATHERINE LANG: Okay. [LB1067]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. [LB1067]

CATHERINE LANG: Thank you. [LB1067]

SENATOR SCHUMACHER: Further proponents on LB1067. [LB1067]

JOSEPH YOUNG: (Exhibit 12) Good afternoon, Vice Chair Schumacher and members of the committee. For the record, my name is Joseph Young; that's J-o-s-e-p-h Y-o-u-n-g. I'm the director of public policy for the Greater Omaha Chamber, testifying today in support of LB1067 for the Greater Omaha Chamber. And we just want to thank

Senator Hadley for his leadership on this issue, and, really, the entire committee. As we feel that the Revenue Committee in this Legislature, and really the whole Legislature, has done a really nice job with long-term planning, really, starting back in 1987, but too, again, in 2005 for the Nebraska Advantage Act. So we really appreciate the leadership there. LB1067, as you've heard, is really important for several reasons, but it's important not just for jobs and investment moving forward in Nebraska, but for stability in this economy as well. Besides cost of doing business, for businesses looking to move into Nebraska or staying in Nebraska, predictability and certainty are really paramount when we're talking about what business owners and businesses are going to do, with long-term planning. This bill also sends a message to job creators that Nebraska is open for business, not just this year but into the future as well. And that means a lot. I think that if you...if we, for example, didn't pass this bill this year or early next year, I think you'd start to see projects start to fall off in the spring of 2015. Some projects take upwards of 9 to 12 months to go through their cycle and decide where they're going to locate their business. And so if they knew that...if they didn't have any certainty that programs like this were going to be in place in Nebraska, I think you'd see a cliff effect, as far as projects are concerned, early next year. Also, too, I wanted to point out that as part of our...one of our tax studies we did earlier this year, we had Dr. Goss look at the Nebraska Advantage Act and some of the economic impact that that program has had on the state's economy. And let me just point out a few highlights from that. For every $1 spent on Nebraska Advantage, the state sees $3.02 back into the treasury. In 2013, Dr. Goss estimates that the total state and local tax collections were just over $181 million from the projects that we've located in Nebraska, while the credits used by those companies were $52 million. And then, to quote the study: The Nebraska Advantage Act has had a significant and positive impact on the state's economy. And we think this is, as Senator Hadley said, one of the best programs in the country. It allows Nebraska to compete really globally. And we would appreciate you passing this bill out of committee. And I'd be happy to answer any questions, if you have any. [LB1067]

SENATOR SCHUMACHER: Any questions for Mr. Young? Seeing none, thank you for your testimony. [LB1067]

JOSEPH YOUNG: Thank you. [LB1067]

SENATOR SCHUMACHER: Next proponent for LB1067. [LB1067]

BRUCE BOHRER: Good afternoon, Senator Schumacher and members of the Revenue Committee. Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce and the Partnership for Economic Development, which is our economic development arm. And that partnership is in partnership with the city of Lincoln. So I was happy to hear about the letter from the mayor; that's our partner in the effort. For the record, my last name is...well, I'll spell both names: Bruce, B-r-u-c-e; and Bohrer, B-o-h-r-e-r. We're in support of LB1067, extending the sunsets for the various Nebraska Advantage Act provisions, for the reasons that have already been stated. I think the main point that I want to make is just to kind of reemphasize the predictability and stability. We do have a project right now...I think Mr. Young referenced the time frame that you work with some of these companies, 9 to 12 months. We've got a very large project that we've gone through one phase with. We lost one of their projects to another state. And it was another state that doesn't have performance-based incentives, either. It's just the state that had...it was a Southern state that had a, basically, a closing fund. And I don't think we're going to have anything like that any time soon. We were very close, but they decided to put a data center in a Southern state. They stuck with us, though. They like what they see about Nebraska. They like the Nebraska Advantage Act. And they also like a lot of the other advantages that we have, such as low electric rates and very good schools. And they've decided, hey, we've got another project that's more aligned on our commercial side. So there's a lot of opportunities, but they are often very strung out; and, you know, they are always watching what our statutes say. And I completely agree with something that Mr. Young also said about the cliff effect. If we let this go into next year, I'm almost certain a lot of those companies will ask us, how stable is this? How much...? You know, we're talking to them about a long-term commitment to our state and our cities, and they're also concerned about a commitment back. They see this all the time as a partnership with our state, and they...especially if it's an attraction project. They're coming in for the first time, talking about adding a lot of jobs, a lot of investment, but they want to see also a commitment, some stability in the program, as well. So I do appreciate the support that this Legislature has shown that. I think it's a good balance that you've shown as well, as far as the accountability of the...having a sunset. But I do think if we wait until next year, we are going to see maybe just...some of those folks that do it, the site selectors, they're always looking for reasons, really, to check you off the list and say I can eliminate that state. And I think this would be one reason why they'd say, you know, that's...I don't know how certain that is there. I don't know if you'd want to consider that or not. You know, a lot of these other states don't have any kind of sunset at all. Now, there's always the uncertainty...everything that's on the books is, I guess, open game. But if you have a sunset, I think that's something that a lot of the site selectors will note. And I would just hate to have us not even appear on a list because of that. I'll conclude my remarks. And be happy to take any questions you might have. [LB1067]

SENATOR SCHUMACHER: Senator Sullivan. [LB1067]

SENATOR SULLIVAN: Thank you, Senator Schumacher. And thank you for your testimony. Your comment about predictability made me wonder if, down the road, changes were to be made, how much time should elapse between enactment and when they actually kick in, to give some predictability to some of these businesses that would be impacted? [LB1067]

BRUCE BOHRER: Well, I don't know, I think as much time as we can give them. You know, a year's worth of time is probably good if it's going to be a wholesale change. I think the main thing is just, with a sunset, there's nothing in its place. They don't know if anything would be or if it would actually just be a complete void. You know, if we do have somebody introduce a bill that has some wholesale changes, at least you have the time that most of those people across the country will see that and will know that it's coming. In this case, it's just something that...there's nothing put in its place. They just see the sunset and wonder, are you guys going to do away with them altogether? And we'd...I think we'd have a...we would want to have an effort...if that's the case, we would want to have an effort to kind of counter that and let people know, you know, we're not going to do away with them altogether. I do think we'd have a lot of people getting in touch with us asking us, well, how do you know that? Are you sure about that? So... [LB1067]

SENATOR SULLIVAN: Okay. Thank you. [LB1067]

BRUCE BOHRER: ...I hope I answered your question. [LB1067]

SENATOR SULLIVAN: Um-hum. [LB1067]

SENATOR SCHUMACHER: Senator Harr. [LB1067]

SENATOR HARR: Thank you. Thanks for coming in. [LB1067]

BRUCE BOHRER: You bet. [LB1067]

SENATOR HARR: We, last summer, traveled the state on a Tax Modernization Committee, held hearings across the state. We had one in Omaha. At that hearing, David Brown from the Omaha Chamber of Commerce stated that the Nebraska Advantage Act masks...does a good job, but it's a mask of our high corporate tax rate. [LB1067]

BRUCE BOHRER: Right. [LB1067]

SENATOR HARR: Do you agree with that statement, or not? [LB1067]

BRUCE BOHRER: I do agree with that statement. And I think that's related to why...you know, sometimes we talk about how much these programs cost. That's part of the reason there's a higher cost than some states. We're buying down a fairly high burden in this state, if you will. [LB1067]

SENATOR HARR: Okay. Well, in essence, then, we're kind of picking winners and losers. Do you think the better way--because we do have a limited pot--the better way would be to wean ourselves off a program such as this and, instead, lower the top rate?

[LB1067]

BRUCE BOHRER: Yeah, I heard your previous question too, and I think it's a very good question, I really do. I don't know the answer to that. I think it would be very difficult for this state to compete if we didn't have any kind of incentives at all. But, you know, whether or not we could have a different mix of the current balance that we have--where it seems like we do have these incentives that are geared toward, you know, fairly large projects and some high standards--and switch over to more the...what we...when we talked about Nebraska Advantage, really what the...well, Senator Landis used to always characterize it as either we're going to do tax climate reform or tax incentive reform and you have to pick one or the other. And your question is really going to what...do we have the right balance? I really just, Senator Harr, can't imagine that we could do without them altogether, though, because it...like I said earlier, in...these site selectors, they're just looking for a reason to take a state off a list. And I think it's just kind of the...to get in the game, you have to have something. I know there are several projects we're working on right now, if we didn't have incentives we wouldn't even be talking with the company. [LB1067]

SENATOR HARR: Okay. Thank you. [LB1067]

BRUCE BOHRER: You bet. [LB1067]

SENATOR SCHUMACHER: Any other questions? I just have one. [LB1067]

BRUCE BOHRER: Yep. [LB1067]

SENATOR SCHUMACHER: Is there any provision within the existing law, or should there be...for lack of a better word, I call it the "gotcha" provision where Nebraska, let's say, had a certain kind of clay. Nowhere else in the world could you find this kind of clay, and somebody wanted it to do something with. And there's no reason in the world to give that company a incentive to come here and dig clay, because they're coming here to dig clay if they want clay. [LB1067]

BRUCE BOHRER: Yeah. [LB1067]

SENATOR SCHUMACHER: Is there any merit to saying there should be some way that we could say, clay diggers, you don't qualify, even though... [LB1067]

BRUCE BOHRER: Well... [LB1067]

SENATOR SCHUMACHER: ...you'll create jobs, you'll do all this other stuff, because you're coming here anyway? [LB1067]

BRUCE BOHRER: Well, in some respects, we already have that. You know, there are qualifying businesses. And it's not just everybody that qualifies for Nebraska Advantage or the R&D. So, in some respects, we do have that. I don't know whether or not you should look at that list and expand it or contract it. That's up to policymakers to make that decision. [LB1067]

SENATOR SCHUMACHER: But our list is an inclusive. These are the businesses that would qualify. [LB1067]

BRUCE BOHRER: Right. [LB1067]

SENATOR SCHUMACHER: We don't have an exclusive list that...based on the probability that they would have to come here anyway. [LB1067]

BRUCE BOHRER: Yeah. [LB1067]

SENATOR SCHUMACHER: Okay. [LB1067]

BRUCE BOHRER: I don't know. [LB1067]

SENATOR SCHUMACHER: Okay. Thank you. Any other questions? Thank you... [LB1067]

BRUCE BOHRER: All right. [LB1067]

SENATOR SCHUMACHER: ...for your testimony. [LB1067]

BRUCE BOHRER: Thank you. [LB1067]

RON SEDLACEK: Good afternoon, Senator Schumacher and members of the Revenue Committee. For the record, my name is Ron Sedlacek; that's R-o-n S-e-d-l-a-c-e-k. I am here on behalf of the Nebraska Chamber of Commerce and have also been asked and authorized to testify on behalf of the Nebraska Bankers Association, both organizations, of course, in support of LB1067. Don't really have a whole lot to add. As to previous testimony, like to perhaps just follow up on a couple of questions and then take questions myself. The...one comment that I would mention is, looking at existing businesses, I know the previous testifiers have talked about attracting new businesses into Nebraska and the amount of time it takes. But at times, there's the same story in regard to existing businesses who may not want to file an application just to get a toehold but would rather see what kind of capital can be generated, what they can do in Nebraska. They may have a board of directors that requires them to do due diligence elsewhere and to come back with a solution, and that's where to invest that money once they obtain it. So it does take time. And so we're working with our...growing our existing companies as well. We don't only look at the corporate taxpayer, of course, but there's a lot of pass-through entities. And in that respect, Senator Harr, I think that you addressed an important policy issue. And that is, if we could lower the rates, you know, why do we need such incentives? Because the incentives essentially are making up for, perhaps, higher rates; that would be the argument. At this point, my response would be that lowering the rates would certainly accelerate the attainment program in the entitlement period. And that can be looked at as something to be reduced, because it would accelerate that type of program. So there's a valid point there. However, the question becomes--and I haven't analyzed it at this point--but how far would you have to lower the rates in order to be so competitive? And the question becomes, is that feasible, you know, for our state? The loss of revenue may be too much. So...and I think, no matter what, we're still competing with those states in some programs. And they're always going to be asked the question, what's unique about Nebraska, and what can we do? So...but I understand your point, and I think it's a valid question, certainly, and something to explore. In regard to a question you had, Senator Schumacher, and that is, you have a company that does apply, they do make their investments or employment, whatever program they might be under, and then it's over. Obviously, they have to reapply for a new program. However, by the same token, I guess what we have looked at...we have looked at the program as almost an insurance-type policy. If you're going to make that significant amount of investments, particularly dollar investments as well as employment, at least for a time that company has a modern plant or a modern operation. And if they do wish to move, that means a whole new investment and abandoning that previous one perhaps, or it could be an addition, but we don't know. From that respect, I would think that we're essentially locking in some sort of commitment to the state for a period of time, until that modernized plant becomes old, and probably we're doing so here in Nebraska. It may be a loss to another state. So the question becomes, is it really a zero-sum game? I think that after the entitlement period is over and they continue to invest in Nebraska, they're taxpayers in Nebraska, established in Nebraska, we've bought some time with that company. And that's how I would probably answer that question. With that, I'd be happy to entertain any others. [LB1067]

SENATOR SCHUMACHER: Senator Harr. [LB1067]

SENATOR HARR: Thank you. LB191 this year, we expand tax credits that are transferable. So one of the complaints I hear about the Nebraska Advantage Act is that the credits are nontransferable, that they, basically, wither away. Do you think, when looking again a couple years down the road at updating this, that we should look at transferability of tax credits? [LB1067]

RON SEDLACEK: That's a very good question as well. And that's been a criticism of the program in the sense that they aren't transferable. We prided ourselves in the fact that the credits go to the taxpayer only, it's performance-based only. And now it becomes more of a commodity. You know, certainly we understand where the proponents of transferability come from. I'm not sure I can answer...I can't say what the chamber position is at this point... [LB1067]

SENATOR HARR: Okay. [LB1067]

RON SEDLACEK: ...because at one time we entertained the idea. There are other times we entertained the idea. But, in the end, we have not come forward with specific legislation. If anything, I would say it might be better to even expand the number of years before the sunset at least another year or two. And particularly with the turnover in the Legislature, you get an extra session--not after this turnover, but the next--under the belt to understand the issues, might be something to consider. But on the transferability issue, I think I'll wait on that one. [LB1067]

SENATOR HARR: Okay. Thank you. [LB1067]

RON SEDLACEK: Um-hum. [LB1067]

SENATOR SCHUMACHER: Any other questions for Ron? Seeing none, thank you for your testimony. [LB1067]

RON SEDLACEK: Thank you, Senator. [LB1067]

SENATOR SCHUMACHER: Further proponents for LB1067? Seeing none, opponents to LB1067? Seeing none, anybody in the neutral capacity, LB1067? Seeing none, Senator Hadley. [LB1067]

SENATOR HADLEY: I have a three-hour closing, but I am going to whittle it down a little bit. Senator Harr, I don't have anybody else to report to except myself, so I will try and take a stab at your transferability. The question...and I've heard the question before. We have...and these numbers, please don't hold me to them, but there's about 180,000 jobs sitting out there, that companies have not fulfilled their requirements, and hundreds of millions of dollars of capital investment that they have not committed. And the worry people have had is, what happens if these companies do...what are we...how are we going to handle that fact that they actually do do that? Wouldn't it be great to have a 180,000 more jobs in the state of Nebraska? Wouldn't it be great to have $300 million or $400 million more of investment in the state of Nebraska? So to answer your question, I don't think we need transferability because we have...that mechanism is that those $300 million or $400 million or whatever that number is, there is no reason that they should be transferred if we don't have the 180,000 jobs potentially sitting there. So that's my answer to your question. [LB1067]

SENATOR HARR: Okay. Thank you. [LB1067]

SENATOR HADLEY: Any other questions? [LB1067]

SENATOR SCHUMACHER: Any other questions? Seeing none... [LB1067]

SENATOR HADLEY: You're in charge. [LB1067]

SENATOR SCHUMACHER: ...thank you. [LB1067]

SENATOR HADLEY: Can we...do you want us to go home, or can we stay? [LB1067]

SENATOR SCHUMACHER: We're going to Exec on...what was that bill that we were going to Exec on? [LB1067]

SENATOR HARR: Yeah. [LB1067]

MARY JANE EGR EDSON: Car wash? [LB1067]

SENATOR SCHUMACHER: Yes. (Laughter) [LB1067]