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Revenue Committee  
February 28, 2014

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[LB1025 LB1031 LB1057 LR423CA]

The Committee on Revenue met at 1:30 p.m. on Friday, February 28, 2014, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR423CA, LB1025, LB1031, and LB1057. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: Burke Harr; and Charlie Janssen.

SENATOR HADLEY: Welcome to the Committee on Revenue. My name is Galen Hadley. I'm from Kearney. To my left is Senator Schumacher from Columbus. Coming in the door now is Senator Hansen from North Platte. We'll also be joined by Senator Pirsch from Omaha, Senator Sullivan from Cedar Rapids, Senator Burke Harr, well, Senator will not be here today. He became a father this morning again. I can't imagine somebody that would put that ahead of coming down here to the Revenue Committee. Can you imagine that? Senator Janssen from Fremont will not be here today. Senator McCoy from Omaha will be. 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 Schendt from Broken Bow. We appreciate all the work he does here for us. If you'd please turn off your cell phones or put on vibrate while in the hearing room. The sign-in sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you are testifying on one or more bills, you need...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. There has been a change in the agenda. We will be hearing LR423CA first, then Senator Bolz's LB1025, followed by Senator Kintner's LB1031, and Senator Davis' LB1057. 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 forget, I will remind you. 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 to circulate to the committee. With that, we will start with Senator Nordquist. Welcome to the Revenue Committee, Senator Nordquist.

SENATOR NORDQUIST: Thank you, Chairman Hadley and members. My name is Jeremy Nordquist, N-o-r-d-q-u-i-s-t. I represent District 7, which includes parts of downtown and south Omaha and here today to introduce LR423CA, a constitutional amendment dealing with real property taxes. Like all of you, I was a member of the Tax Modernization Committee and I was on the property tax subcommittee with Senator Hansen, who was the Chair of that, Senator Sullivan, and Senator Campbell, and we talked about a lot of options. But really, in our first discussion of that it was clear that our hands are tied when it comes to a lot of property tax policy in this state because of the uniformity clause in the constitution which says, "Taxes shall be levied by valuation uniformly and proportionately and upon all real property and franchises as defined by

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the Legislature." And then there obviously are specific exemptions. The approach I took with this was the most, I guess you'd probably say, most-restrictive approach in that we mirrored the ag exemption for residential property, which is the Legislature may provide that residential real property, as defined by the Legislature, shall constitute a separate and distinct class of property for purposes of taxation and may provide for a different method of taxing residential real property which results in values that are not uniform, proportionate with all other real property but does result in values that are uniform, proportionate upon all residential or all property within the residential class. So this would say that in the balance of the different classes, we could have a different level for residential. Now I've been approached since introduction by several members about different language that maybe would allow us to look even within the class of residential property, and that's something that I would be open to with discussions with this committee. But really, I think this is a matter of asking the voters to give us the flexibility to look at different policy options when it comes to residential property taxes and property taxes as a whole. Thank you, Mr. Chairman. [LR423CA]

SENATOR HADLEY: Are there questions for Senator Nordquist? Senator McCoy. [LR423CA]

SENATOR McCOY: Thank you, Chairman Hadley. Thank you for being here today, Senator Nordquist. When you...like to elaborate, if you would, on what you just indicated. Obviously, if this were to go to the vote of the people, the people were to vote on this, what do you envision as being the outcome of this, a similar way that we assess ag land as far as a percentage? [LR423CA]

SENATOR NORDQUIST: Right. [LR423CA]

SENATOR McCOY: You just...I'm most curious on what you just mentioned... [LR423CA]

SENATOR NORDQUIST: Right. [LR423CA]

SENATOR McCOY: ...as far as looking inside the actual residential class, and what do you envision out of that? [LR423CA]

SENATOR NORDQUIST: Right. So that is a piece that I haven't thought about too much. I do know that through the Tax Modernization Committee we had a lot of discussions about circuit breakers and that would have to be inside. That would be within the residential class that you could give a distinction to some property over others. And there was questions whether or not, even though a circuit breaker is on the income tax statement, whether or not that created an ununiform balance. So that's one idea within the classes. The bill that I was thinking of doing initially was looking at--and I have no idea, to be honest, how much this would cost and I was going to put the bill in

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to see where that put us--but looking at moving to 95 percent on residential value. And obviously, that would take a significant amount in TEEOSA. And obviously, if we included counties in that, we would have to probably look at some...maybe some aid for counties there too. But so I don't know how much that was going to cost but that was my initial idea and that's what this constitutional amendment would allow us to do. If we wanted to do more within the classes of property, I'm not sure what all those policy options would be. I do know circuit breaker would probably be one of those that would be considered. [LR423CA]

SENATOR McCOY: How would you envision circuit breakers working then out of this? It would be based on your income level as to whether or not you get property tax relief? [LR423CA]

SENATOR NORDQUIST: That's the idea that's been kicked around and I don't know if this committee has actually seen bills on that in the past. I know it's been floated by a lot of different groups and it was something that we talked about on our property tax subcommittee where it would be based on, if your property tax exceeds 4 percent of your income, is the number I heard, then you will get a credit for anything over that. So you would pay property taxes up to 4 percent of your income, whatever that amount is. So that's kind of the idea. And even though it's an income tax credit, there the legal counsel has advised us that that could create a problem to be challenged under the uniformity clause. [LR423CA]

SENATOR McCOY: How many states do some sort of a look at residential property differently than we look at it? [LR423CA]

SENATOR NORDQUIST: I got a whole report from NCSL. Maybe I'll have my staff get this to the committee. I was just looking at our neighboring states. I know Colorado has, so property there is assessed 29 percent for everything but residential property, and then residential property is assessed at 8 percent. Now what their levies...mill levies are, that, you know, I'm sure if they're only assessing at 29, at 29 percent on most of their property or 8 percent for residential, their levies are going to be higher. But it gives you the ability, if you want...if the policy...the Legislature wants to create the policy to create some distinctions in classes, it gives you that ability to do that through legislation. [LR423CA]

SENATOR McCOY: Would we want to expand this to reflect our other classes of property as well? [LR423CA]

SENATOR NORDQUIST: I think that very much...you know, I think Senator Schumacher has talked about some language that would open and, you know, would really open it up. I think that's a discussion that this committee would have and I'd like to be a part of that but certainly really open to those options. [LR423CA]

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SENATOR McCOY: Thank you. [LR423CA]

SENATOR HADLEY: Any other questions? Seeing none, thank you,... [LR423CA]

SENATOR NORDQUIST: Thank you. [LR423CA]

SENATOR HADLEY: ...Senator Nordquist. Are you going to stay for closing?  
[LR423CA]

SENATOR NORDQUIST: Yeah, I'll be here. [LR423CA]

SENATOR HADLEY: Okay. Could I see a show of hands how many people want to testify on this one? Okay. First proponent. Opposition? Good afternoon,... [LR423CA]

RON SEDLACEK: Good afternoon, Chairman Hadley,... [LR423CA]

SENATOR HADLEY: ...Mr. Sedlacek, how are you? [LR423CA]

RON SEDLACEK: ...and members of the Revenue Committee. I'm doing pretty good. Thank you. For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. In order to expedite the last hearings of the Revenue Committee, I have combination testimony, primarily here representing the Nebraska Chamber of Commerce but have been also authorized to represent in this issue of opposition the Greater Omaha Chamber of Commerce, the Nebraska Retail Federation, and the Nebraska Restaurant Association. The Nebraska Chamber of Commerce has had a longstanding policy position and that is to resist any further classification of real property in Nebraska. We've had this position since the enactment of the classification with ag land, and our primary opposition is based on what has been experienced in many other states, although those experiences have changed now over time. In the 1970s, there was a period of time in which taxpayers seemed...actually, it didn't seem, they...many revolted against the payment of property taxes, the level of property taxation. As a result, there was Proposition 13 in California, and Massachusetts had their Proposition 2 1/2. A number of other states had propositions or getting away from either the fairness or the uniformity or uniformity per personality type of doctrine in their states and began to classify property. But once you start down the classification road it just continues on because there seems to be all these problems, unique situations. And so as a result, we have many states with many different classification type of a formula. To answer Senator McCoy's question, at least as far as I know, since this report is approximately ten years old, this was the latest I could find at this point in regard to classification systems, and there are a total of 26 states and the District of Columbia that have property tax classification systems. And that's from University of California, Davis Institute of Governmental Affairs research. Five states have just two classifications. Nebraska is one of those. Others have many

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more. Eighteen of the states have different assessment ratios for each class of property, seven have different tax rates, and two allow local taxing authorities to determine the type of tax classification system that they could use. So that kind of gives you at least...it's not totally up to date but it kind of gives you a ballpark idea, to answer your question at this time. The question is what remains if you classify residential property, and that is commercial, industrial property. That includes, of course, your businesses, business developments. It includes other types of properties, commercial property such as apartments. And there's been a lot of study on this particular issue and how it has affected the price of housing, particularly for those who cannot afford their own single-family residential dwellings, and the impact that it's had on rental rates. But we're here on behalf of not only just the real estate property tax developers and those who own apartments, but also for those who operate businesses, for those businesses that are centrally assessed, such as railroads, pipelines, and so on. Most states, as a general rule, once a classification system comes into place or is further classified, generally speaking, commercial, industrial property has been taxed at a higher rate than residential. But there are exceptions because the rule can work both ways once you have that classification, such as in Michigan, where actually commercial now is...there are movements, in fact, in other states where commercial is being taxed at a lower rate than residential. So, as I say, depending upon the economics and the need and the effect of classification, some states are turning around and, as a result, the unintended effect perhaps of lowering the burden on residential may not always occur. So in that regard, we feel that we'd like to all be in the same boat together, so to speak, as much as we can at this point in that we all have a place in the game and that it's uniform, proportioned as best it can. Other than that, there are...there was one...as I say, there are many, many studies and, in fact, one study in particular which I would like to share with the committee at a later time, if so required, is one in which our team or a number of our team from the Syracuse tax study tried to analyze the economic effects on business when property taxes are so high and what states have done to react in order to create incentive programs on the property tax side to keep them within the state and not relocating. So it just kind of opens up another argument, another layer to consider, and it's not always the panacea. So with that, that's our opposition. [LR423CA]

SENATOR HADLEY: Okay. Are there questions for Mr. Sedlacek? Senator Hansen. [LR423CA]

SENATOR HANSEN: Thank you, Senator. Ron, ag land is divided into three categories. I asked Department of Revenue to get those categories to me and what the changes are: dry land, agriculture crop producing; irrigated; and grassland. So in residential, I can come up with almost ten divisions here: I mean real estate that's divided by an interstate highway system, that would affect Omaha and probably Omaha alone; counties over 150,000 where there's concentrated housing, instead of concentrated feeding operations there's concentrated housing; rentals, like you mentioned; new construction. What about lead? If they're in an area where lead is a problem, that should

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lower the value of the homes too. So there's a lot more, seems to me anyway, there's a lot more categories that you could put into residential rather than you could ever do in ag land. [LR423CA]

RON SEDLACEK: I would agree with you in that regard. And of course we're talking about, in a sense, a beanbag in how it's approached. And if the constitutional amendment was, for example, adopted in the green form, and Senator Nordquist is...it appears that he's willing and flexible to take a look at other ways in which to approach this, but it can be on the assessment side, on the valuation side, and how that's, you know, and how the categories or subclasses, quote unquote, are treated. And you're correct in that regard. [LR423CA]

SENATOR HANSEN: Thank you. [LR423CA]

RON SEDLACEK: Uh-huh. [LR423CA]

SENATOR HADLEY: Any other questions for Mr. Sedlacek? Seeing none, thank you, Ron. [LR423CA]

RON SEDLACEK: Thank you. [LR423CA]

SENATOR HADLEY: We've been joined by Senator Sullivan from Cedar Rapids, Senator Pirsch from Omaha, Senator McCoy from Omaha. Anyone else in the opposition? Anyone in the neutral? Senator Nordquist, would you like to close? [LR423CA]

SENATOR NORDQUIST: Just so the hearing lasts more than ten minutes, I'll close. But just want to say I'm open to the ideas of the committee. I think, as Ron mentioned how some states are moving away from it, I think that moving in this direction gives us the flexibility to adjust to a changing economy over time. And you know, if the state of Michigan, which obviously is having problems with attracting industrial and commercial business, if they'd, you know, choose to move away and reduce the burden on commercial and industrial property, that that makes...probably makes good policy sense for them at this point in time. We just don't have the ability to even consider anything like that and all this would be doing is asking the voters, I guess with some changes again under the committee's guidance, asking the voters for some flexibility to look at those policy options. [LR423CA]

SENATOR HADLEY: Thank you, Senator Nordquist. Any questions? Thank you. [LR423CA]

SENATOR NORDQUIST: Thank you. [LR423CA]

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SENATOR HADLEY: With that, we will close LR423CA and we're ready for LB1025, Senator Bolz. Welcome. [LR423CA]

SENATOR BOLZ: Thank you. Good Friday afternoon. Today I bring you LB1025 to direct on-line sales tax income to an Educational Trust Fund. There are several reasons to do so. Studies estimate that the state of Nebraska was unable to collect \$61.3 million in tax revenue from Internet sales in 2012. A federal bill, the Marketplace Fairness Act, has been passed in the Senate and is now being reviewed in the House to provide states with the simplifications and tools needed to collect this lost revenue. Directing such revenue to an educational sales tax...an Educational Trust Fund will stabilize our educational funding streams and is a positive choice for several reasons. First, such a trust fund will protect local taxpayers from a tax hike during an economic downturn, when they can least afford one. Second, instability in educational funding leads to a variety of challenges, ranging from tax increases to cuts in teaching staff to adjustments in the TEEOSA formula. Stabilization is important to provide consistent quality education. A trust fund would be dedicating revenues to provide a stable resource base for our schools. Third, K through 12 education deserves unique treatment because, as we all know, it is a constitutional obligation. We currently allocate funds for other contingencies, like the Unemployment Insurance Trust Fund, that are used for the appropriate purposes in our state, and I think education deserves our attention. Let me give you a few details about the way in which this bill is structured. The bill would transfer the funds to an Educational Trust Fund. I have brought a companion bill in Appropriations creating this fund. The funds would be transferred only for the purpose of maintaining a trust fund level at 10 percent of current TEEOSA expenditures and only during a significant economic downturn, defined as a year in which revenues are 3 percent or more under the ten-year revenue average. I believe that it is appropriate now to have a conversation about utilizing Marketplace Fairness Act funds in the future to provide stable funding for our educational needs. With that, I'll take any questions. [LB1025]

SENATOR HADLEY: Are there questions? Senator Pirsch. [LB1025]

SENATOR PIRSCH: Thank you for your question. So the way it operates then, you're saying there's a trigger that would only go into effect if revenues that were taken in were below 3...or 3 percent or more below the average... [LB1025]

SENATOR BOLZ: Ten-year average, yes. [LB1025]

SENATOR PIRSCH: ...ten-year average. And then and only then would a certain percentage of this, the monies derived from this fund, flow into the TEEOSA formula? Is that what it is? [LB1025]

SENATOR BOLZ: Almost. The funds would flow into the Educational Trust Fund to a

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capped level of 10 percent of the current TEEOSA expenditures, and that 10 percent capped level would stay in the fund until such time that revenues declined and we needed to pull those resources out of the fund to stabilize TEEOSA. [LB1025]

SENATOR PIRSCH: Oh, only during that period of time. So if the next year then the 3 percent were not met, according to your...then no additional funds would be allocated? [LB1025]

SENATOR BOLZ: The money would continue to flow first into the Educational Trust Fund from the Marketplace Fairness Act, so the fund would fill back up over time, getting to that 10 percent cap. So you're right to be concerned that there might be two years in a row in which we see significant revenue declines, but the idea is that we would have a 10 percent cushion and then a funding stream that would fill the Educational Trust Fund back up again. [LB1025]

SENATOR PIRSCH: Yeah. Well, I'm just asking how it operates,... [LB1025]

SENATOR BOLZ: Oh, okay. [LB1025]

SENATOR PIRSCH: ...so thank you for telling me. [LB1025]

SENATOR BOLZ: Yeah, sure. You bet. [LB1025]

SENATOR HADLEY: Any questions? Senator Bolz, I guess I have a question. What would be the policy rationale that we would single out education? [LB1025]

SENATOR BOLZ: Uh-huh. [LB1025]

SENATOR HADLEY: We have higher education, we have DHHS, we have Corrections and everything else. [LB1025]

SENATOR BOLZ: Uh-huh. Sure. [LB1025]

SENATOR HADLEY: And when the state has a downturn,... [LB1025]

SENATOR BOLZ: Uh-huh. Right. [LB1025]

SENATOR HADLEY: ...is it fair to single out one area that says, we won't have you have any downturn ever basically,... [LB1025]

SENATOR BOLZ: Sure. [LB1025]

SENATOR HADLEY: ...and the rest of the state has to take a downturn in revenues?



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[LB1025]

SENATOR BOLZ: Sure. It's a fair question and I would respond in two ways. The first is that because we have a constitutional obligation to education, we should prioritize it. And I think the state does prioritize education as a whole. The second thing I would say is that by creating a savings account, essentially, for a rainy day in education we also protect those other required expenditures because we have an opportunity to maintain educational funding, freeing up other resources during difficult times to maintain our obligations to nursing homes or Corrections or paying back our tax incentives or what have you. So that's part of the policy rationale. [LB1025]

SENATOR HADLEY: Okay. Any other questions? Seeing none, thank you, Senator Bolz. [LB1025]

SENATOR BOLZ: Thank you. [LB1025]

SENATOR HADLEY: Are you going to stay for closing? [LB1025]

SENATOR BOLZ: I'll stick around to listen. [LB1025]

SENATOR HADLEY: Okay. Could I see a show of hands of how many people are going to testify on this one? Okay. I will use the light system. First proponent. Only using the light system, this is the very last hearing and we have a three-day weekend, just so...being honest with everybody. (Laughter) Jason, welcome. [LB1025]

JASON HAYES: (Exhibit 1) Okay. Hello. Good afternoon, Senator Hadley and members of the Revenue Committee. For the record, my name is Jason Hayes, J-a-s-o-n H-a-y-e-s. I am here today representing the 28,000 members of the Nebraska State Education Association. NSEA is testifying in support of LB1025, and we thank Senator Bolz for introducing this legislation. Nebraska consistently falls short of providing the level of state aid to education funding needed to close the achievement gaps and provide the resources our public schools require. In fact, Nebraskans often lament that we rank very poorly in the amount of high property taxes levied in the state. One major contributor to that poor standing--Nebraska is ranked 49th in the level of state aid provided to K through 12 education. Yes, we are next to last in the amount of state aid we send to public schools. Establishing an Educational Trust Fund financed by future Internet sales tax revenue will send a clear message that Nebraska values education and recognizes the importance of consistency when it comes to statewide funding for education, especially during recessions when the state and local school districts face periods of declining revenues. Reductions made in promised state aid dollars during such times are disruptive to school districts, students, and property taxpayers. Current state funding for TEEOSA is approximately \$940 million, and that figure does not include other state aid, such as aid for special education. It is estimated that state

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revenue which could be collected from Internet sales transactions is approximately \$45 million annually. That's the amount that's not being collected today. NSEA believes that finding a new source of currently uncollected revenue and directing those funds into an Educational Trust Fund is a good one. It helps to further underscore the idea that this untapped source of revenue should be held in a reserve trust fund. Such funds should be used for periods when the state is facing declining revenues. This helps to reduce the likelihood of a tax increase or sudden and severe program cuts during an economic recession. In my handout, I show seven other states that currently have some type of education trust fund. Many of these trust funds have dedicated sources of funding. LB1025 is similar in that it provides for a direct revenue source of funding. Investing in our children and their education is a constitutional responsibility of the state. Establishing an Educational Trust Fund with a dedicated source of revenue will assist the state in meeting that constitutional obligation. It will help provide our kids with quality teachers and a quality education. And thank you for your time and consideration. [LB1025]

SENATOR HADLEY: Thank you, Mr. Hayes. Are there questions? Senator Sullivan. [LB1025]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Jason, for your testimony. In these other states that you've looked at, how long have their trust funds been in place and how have they been able to keep them from being raided by other needs and entities? [LB1025]

JASON HAYES: Well, I don't have the amount...or, well, I guess I don't have a list of them. I see Alabama's has been in since 1995. But most of them are set in a constitution, so it would...it's a dedicated source of funding. That's one thing that LB1025 or LB1026 does not have in place, and I think that, you know, down the road that would be something to look at. But we felt that it was important to get the ball rolling on this and help prioritize funding for those periods when there is a downturn in the economy. Consistency in this area is very important. [LB1025]

SENATOR SULLIVAN: Thank you. [LB1025]

SENATOR HADLEY: Senator Pirsch. [LB1025]

SENATOR PIRSCH: So with respect to it's estimated \$45 million annually could be collected from Internet sales transactions, does that seem...I mean where are we at with respect to the probability that the state will be gaining that revenue? [LB1025]

JASON HAYES: Well, if I was going to crystal ball it, I would say it would...nothing is likely to happen before the 2014 midterm elections... [LB1025]

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SENATOR PIRSCH: Uh-huh. [LB1025]

JASON HAYES: ...for the federal government. So I would be seeing something happening, hopefully, in 2015 or 2016. [LB1025]

SENATOR PIRSCH: And now with the trigger set for a 3 percent downturn on a ten-year average, I believe,... [LB1025]

JASON HAYES: Uh-huh. [LB1025]

SENATOR PIRSCH: ...and what type of...looking backwards at historical type of...how would that have played out if such a law were in place over the last five or ten years, you know, when we've had this downturn... [LB1025]

JASON HAYES: Yeah. [LB1025]

SENATOR PIRSCH: ...in terms of how much money would have, thus, flowed? Assuming \$45 million annually, what...how much per year would have gone into that trust? [LB1025]

JASON HAYES: I have a separate chart that I'll have to get to you that would show that. It's connected with LB1026. LB1026 actually has that 3 percent trigger function in it, whereas LB1025 is just purely would be funded with the Internet sales tax. But I guess it's fair to say that we'd like to see those bills somewhat merged into each other to work together. I would see that that trigger would occur in 2003... [LB1025]

SENATOR PIRSCH: Uh-huh. [LB1025]

JASON HAYES: ...during the recession and then in 2008 when there was another downturn. I believe those are the two periods when you would have revenues coming into the state below 3 percent during a ten-year average. [LB1025]

SENATOR PIRSCH: So just in those two years, '03, '08, were the two years... [LB1025]

JASON HAYES: Yeah. [LB1025]

SENATOR PIRSCH: ...that you believe they would have exceeded 3 percent. [LB1025]

JASON HAYES: Not having that chart in front of me, that's what I recall from...yeah. [LB1025]

SENATOR PIRSCH: Sure, and I don't mean to lock you in, but you, I mean just kind of ballpark issue thing, maybe two... [LB1025]

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JASON HAYES: Yeah. [LB1025]

SENATOR PIRSCH: ...of the last ten years. And how much then if we would have had \$45 million, what does that mean in, ballpark, in millions? How much would have flowed to the trust? [LB1025]

JASON HAYES: Sure. With the 10 percent cap that's contemplated in LB1026, we'd be looking at roughly \$94 million as a cap. So with an enactment of LB1025, that amount would be funded within two years. And then at such time when the business cycle changes and there's a downturn in revenue, then the Legislature would have the ability to tap that amount to utilize it to provide the consistency that I spoke of. [LB1025]

SENATOR PIRSCH: Okay. So during the downturn years, it would be primarily consumed then. The \$45 million or whatever allocation of those Internet sales transaction dollars, those would be tapped almost exclusively for the trust fund during that one- or two-year downturn, right? [LB1025]

JASON HAYES: Right, you know assuming that on-line sales, that there would be a decrease somewhat of on-line sales as well. The nice thing about LB1025 is that that amount would be replenished each year, perhaps at a lower level than \$45 million. But we see those growing over time as well. [LB1025]

SENATOR PIRSCH: Thank you. [LB1025]

SENATOR HADLEY: Senator Hansen. [LB1025]

SENATOR HANSEN: Thank you. Just have one quick question slash statement. If Nebraska is ranked 49th in the level of state aid to K-12 school districts, yes, we are next to last in the amount of state aid that we send to public schools, literally says to me that property taxes are too high. Is that a fake statement? [LB1025]

JASON HAYES: That is correct, and I think to... [LB1025]

SENATOR HANSEN: No, is my statement false that we have high property taxes? [LB1025]

JASON HAYES: I see that as correct, yes. [LB1025]

SENATOR HANSEN: Because we have less in state aid from the state but we make it up in our property taxes. [LB1025]

JASON HAYES: That is correct. [LB1025]

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SENATOR HADLEY: Senator Schumacher, do you have a question? [LB1025]

SENATOR SCHUMACHER: No. [LB1025]

SENATOR HADLEY: Okay. Just more of a comment than a question. I attended the Streamlined Sales Tax meeting in Madison, Wisconsin, this past summer and they gave us a report on the Main Street Fairness Act. They were absolutely surprised it got out of the Senate, 75-25. It was being held in the Chair's office in the House and the Chair had come up with seven criteria that he expected to be answered before they would move on it. So they had no time frame of when it would move in the House. But they were surprised that it moved in the Senate, 75 to 25. With that, thank you. [LB1025]

JASON HAYES: Thank you. [LB1025]

SENATOR HADLEY: Next proponent. [LB1025]

RENEE FRY: (Exhibit 2) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. I'm here today to testify in support of LB1025 as a mechanism to help us achieve the original goals of the TEEOSA formula: to reduce reliance on property taxes to pay for K-12 education; provide a sustainable revenue source other than property taxes to keep pace with the increasing costs of operating the public school system; and to assure a greater level of equity of educational opportunities for students in all districts. As I've testified before and you heard here today, Nebraska ranks 49th in terms of the percentage of K-12 education funded by the state. In FY '99, 37.3 percent of K-12 funding came from the state. Today only 30.3 percent of K-12 is funded with state dollars, a 7 percent decline. Since at last FY '91, FY '99 was also a high point for state funding as a source of K-12, as well as a low point for property taxes as a share of the economy. Furthermore, as a share of the economy, state aid to K-12 schools has declined 9 percent since the first full year of TEEOSA funding in FY '91 and is nearly 12 percent below the pre-stimulus historic average. We simply cannot place all blame for higher property taxes on local elected officials. When state aid is diminished, local school boards must either raise property taxes or cut spending on K-12 education, one of the most important investments we can make as a community. States like Nebraska, that are heavily reliant on property taxes to fund K-12 education, have greater challenges ensuring that all students receive a good education across the state. For example, even with much lower property tax rates, districts with the highest property values are able to raise nearly 3.4 times as many dollars per student compared to areas with the lowest property tax values in the state. If we as a state remain committed to finding alternate, sustainable revenue sources other than property taxes to fund K-12 to ensure equity of educational opportunities for students in all districts, LB1025 is likely to help further achieve these goals. We do have one

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caveat. The fiscal note appears to indicate that LB1025 doesn't divert revenue currently going to the General Fund. We would have concerns if LB1025 did in fact divert revenue from the General Fund, requiring cuts to other services or cuts to funding for education today because the funding has to be reserved for future use. Thank you for your time. I would be happy to answer any questions. [LB1025]

SENATOR HADLEY: Any questions for Ms. Fry? That could happen right now because we do have a line on our income tax return that says these are the Internet sales I made so far. [LB1025]

RENEE FRY: Right. [LB1025]

SENATOR HADLEY: And that does go into the General Fund right now, so. [LB1025]

RENEE FRY: Yeah. And we were hoping to get more clarity from the fiscal note to determine how much is actually, you know, attributable currently to on-line sales. We know some is but could not tell from the fiscal note exactly how much. So that would be a concern for us that we don't see in the other two Marketplace Fairness bills. [LB1025]

SENATOR HADLEY: You're running for office, you make sure you fill out that line. [LB1025]

RENEE FRY: (Laugh) I bet you do. [LB1025]

SENATOR HADLEY: Thank you, Ms. Fry. [LB1025]

RENEE FRY: Thank you. [LB1025]

SENATOR HADLEY: Seeing no other questions,... [LB1025]

RENEE FRY: Thanks. [LB1025]

SENATOR HADLEY: ...any other proponents? Welcome. [LB1025]

DEBORAH LYONS: (Exhibit 3) Hi. Good afternoon, Senators. My name is Deborah Lyons, D-e-b-o-r-a-h L-y-o-n-s, and I am a teacher at Alcott Elementary School in Hastings, currently in my 26th year of teaching. I am here today to testify in support of LB1025. The Educational Trust Fund proposed in LB1025 is important because it could be tapped for state aid to education when the state faces an economic downturn. Reductions made in proposed state aid during such times are distributed to...disruptive to school districts, students, and property taxpayers. School districts then scramble to try to make ends meet. They cut programs, increase class size, layoff teachers, and increase property taxes in order to try to make up for promised state aid funding. An

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Educational Trust Fund could help smooth the economic peaks and valleys for our schools. It is important to realize how changes in funding can impact students. For instance, I teach 3rd graders. Third grade is a vital year in reading. It is where we move from reading...learning to read to reading for learning. If a child happens to be in 3rd grade when the school loses funding, that child may be faced with increased class size, loss of special reading help, loss of para educator help in the classroom, and/or loss of learning activities, such as art class and educational field trips. Third grade happens once in a child's life. What was lost or never occurred can never be recovered. It is not just 3rd grade. Every teacher in every grade and every subject could give examples of what is lost to students when schools lack funding. Being a teacher for the Hastings Public Schools, I get to experience the ups and downs even more than teachers from other districts. Hastings Public gets approximately 53 percent of its funding from state aid. Our district is completely dependent on the state aid formula due to our landlocked status. We never know if it will be a positive or a negative year for our school funding. It looks like...as if 2014-2015 will be yet another shortfall year, so teachers are expecting cutbacks. I do have to commend our administration and our school board for making the cuts as far away from the classroom and students as possible, but any cut to the budget hurts someone or some program. The creation of the Educational Trust Fund will help to make the funding for schools much more consistent. It will help provide our students with quality teachers and a quality education, and that will help create a more vibrant economy and a better quality of life for all Nebraskans. I urge you to support LB1025 and advance it out of committee. Thank you. [LB1025]

SENATOR HADLEY: Are there questions for Ms. Lyons? Seeing none, thank you for coming in from Hastings. [LB1025]

DEBORAH LYONS: Thank you. [LB1025]

SENATOR HADLEY: We appreciate it very much. [LB1025]

DEBORAH LYONS: Thank you. [LB1025]

SENATOR HADLEY: Any other proponents? Anyone in the opposition? Anyone in the neutral? [LB1025]

RON SEDLACEK: Good afternoon, Chairman Hadley. [LB1025]

SENATOR HADLEY: Good afternoon. [LB1025]

RON SEDLACEK: For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce. In order to expedite, and not come up with another two bills in the neutral capacity particularly, but just ask that we be entered on the record in regard to LB1025, LB1031, and LB1057, all three. And I

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signed in as such, if that would be all right... [LB1025]

SENATOR HADLEY: Yeah. That would be very well. No problem whatsoever. [LB1025]

RON SEDLACEK: ...with the Chair, and not be repetitive. And I guess I'm doing this in honor of Senator Bolz's birthday, so I'll appear on her bill, the first up. The Internet sales tax issue of course has been on the radar screen as far as legislators are concerned. And probably as far as consumers are concerned, with many, it's under the radar screen. And when I looked at the fiscal note, it's quite a bit lower than what a number of our other projections that we have looked at or asked for as to the fiscal impact on the issue. Now the Nebraska Chamber of Commerce certainly supports Marketplace Fairness and they support the act in Congress, would like to see that happen. And it's not because necessarily we'd like to see additional taxes but it's a matter of fairness. As Oliver Wendell Holmes says, you know, taxes are what we pay for a civilized society. Of course, though, you can take a contrasting perspective, and I don't usually quote the Beatles, but in Taxman, if you remember, they sang: If you drive a car, I'll tax the street; if you sit, I'll tax your seat; if you get too cold I'll tax the heat, and if you walk I'll tax your feet. But again, there are those who, within our constituencies, of course would say, well, gee, why do we want to tax interstate commerce in that regard? Taking a look at other issues, such as "affiliate nexus" and the way other states have tried to do so, seeing the constitutional appendants and so forth, we do believe that the answer is in Congress. However, here we are talking about legislation in three ways, spending essentially revenue that is not even taxable, not even being collected at this point. We would like to see the Legislature consider this when it passes and to help with the implementation, so long as it's compliant with Streamlined Sales Tax Agreement, possibly even looking for at least part of a fiscal year to see what we're talking about revenue-wise. Ideally, we'd like to see the tax used for overall tax relief. And then we can...and we can take a look at that. But right now a number of Representatives in Congress on the House side are wondering what's going to happen if we do pass this and what are the states going to do with the increased revenue. There's two signals that can be sent, which may either help or hinder support of the legislation. If they're hearing back from the states that they're going to spend it on new programs and new...new programs, as such, from what I'm understanding is there's more reluctance to support the legislation. However, if they...and not have a tax increase, if it's being characterized as such, even though we all know that we're all liable for use tax. But if they see the states reacting saying this could be a mechanism in which to reduce overall taxes, they may be more inclined to support the bill. So it depends what kind of signal we want to send to the House membership. And again, we believe that ideally it should be used for tax relief, but that's up to the Legislature at...in a future Legislature, future economy. We don't know what we're going to be facing in the next few years. So with that, I'll close. [LB1025]

SENATOR HADLEY: Okay. Thank you, Mr. Sedlacek. Questions? Seeing none, thank



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you. [LB1025]

RON SEDLACEK: Thank you. [LB1025]

SENATOR HADLEY: (See also Exhibit 4) Anyone else in the neutral? Senator Bolz, would you like to close? [LB1025]

SENATOR BOLZ: Very briefly, I just want to say that I think that the idea of using the Marketplace Fairness Act opportunity for property tax relief is not mutually exclusive to the idea of using this revenue stream for an Educational Trust Fund. Both could be accomplished should the Marketplace Fairness Act move forward. Just wanted to leave that idea with you. [LB1025]

SENATOR HADLEY: Okay. Any questions for Senator Bolz? Thank you, Senator Bolz. With that, we will end LB1025. If you would give Senator Kintner... [LB1025]

BREAK

SENATOR HADLEY: Welcome, Senator Kintner. This is just an everyday occurrence now for Senator Kintner, stop by the Revenue Committee.

SENATOR KINTNER: Yeah, I know. Feel like I know you guys now. [LB1031]

SENATOR HADLEY: Are you here to raise taxes? [LB1031]

SENATOR KINTNER: No. (Laughter) [LB1031]

SENATOR HADLEY: Okay, I just wanted that for the record. I wanted to give you a chance to make sure you got that on the record today. Welcome, Senator Kintner. [LB1031]

SENATOR KINTNER: (Exhibits 5 and 6) Well, good afternoon, Chairman Hadley, members of the Revenue Committee. For the record, my name is Bill Kintner, B-i-l-l K-i-n-t-n-e-r. I represent Legislative District 2 and appreciate having the opportunity to submit LB1031 for your consideration. LB1031 would direct the use of future sales tax receipts that Nebraska is projected to receive if the U.S. Congress enacts what has become known as the Marketplace Fairness Act legislation. The current legislation was passed by the United States Senate last year and remains pending in the House of Representatives' Judiciary Committee. Under the federal legislation, states would have expanded authority to require out-of-state retailers to collect and pay sales taxes. The legislative fiscal note estimates that Nebraska would receive approximately \$35 million to \$50 million annually from a federal law change. I can see from your agenda today that you will be presented with different options for how to use the increased tax

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receipts. My preference is to use the new funds for tax relief rather than more state spending. I proposed LB1031, that one half of the tax receipts be allocated to reducing individual income tax rates and one half be transferred to the Property Tax Credit Cash Fund. I also support the idea that Senator Davis has brought in, in LB1057, to credit 100 percent of the new sales tax receipts to the Property Tax Credit Fund. I believe either of these proposals would show good faith with Nebraska taxpayers that our Legislature will respond to enactment of the federal law by directly turning the new tax receipts into a tax benefit. I want to offer an amendment, AM2085, to address two technical issues that have been brought to my attention, the amendment to replace Section 1 of the bill to make two clarifications. First, it would add a specific time frame for the Department of Revenue to certify new tax proceeds. Second, the amendment would provide a way for the agency to identify remote sellers on the seller's tax returns. This amendment is attached to my testimony. Again, thank you for your positive consideration of my bill. I submitted this bill in order to start planning ahead in anticipation of the federal law change. I'm happy to answer any questions. [LB1031]

SENATOR HADLEY: Are there any questions for Senator Kintner? Seeing none, Senator Kintner, you're... [LB1031]

SENATOR KINTNER: I assume that to mean I'm that good. [LB1031]

SENATOR HADLEY: I think it is. It was a close vote but I think you're right. (Laugh) Proponents. [LB1031]

THOMAS WRIGHT: Good afternoon. [LB1031]

SENATOR HADLEY: Welcome. [LB1031]

THOMAS WRIGHT: I'm Tom Wright. Along with my wife, Mary, we operate Wright's Jewelers here in Lincoln. We both have been in the jewelry business for over 40 years. [LB1031]

SENATOR HADLEY: Can I have you spell your name, Mr. Wright? [LB1031]

THOMAS WRIGHT: Oh, I'm sorry. [LB1031]

SENATOR HADLEY: No problem. [LB1031]

THOMAS WRIGHT: W-r-i-g-h-t. [LB1031]

SENATOR HADLEY: Okay. [LB1031]

THOMAS WRIGHT: And naturally, as a local product seller, I am immensely in favor of

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the Internet sales tax going forward. It has proved to be a very unfair tax for the marketplace. I have been lucky enough to travel to D.C. twice to visit with our Representatives there on this issue prior to the Senate passing it. I did also visit with our House Representatives. Hopefully, they will be able to bring it forward soon. The Internet sales tax harms us in a lot of ways. As I thought about coming here, one of my trade journals listed a headline that in 2012 the foot traffic through brick-and-mortar stores went down almost 15 percent. Naturally, some of that is economy, but naturally some of it is also Internet sales. If we project that forward, you're going to have less sales tax, you're going to have less income tax. Then following that up, if I have less income, I have less property tax because I'm not going to own property, and so on and so on. It's a major deterioration. One interesting little side story on one of our presenters in a moment, his business is in televisions and appliances and so on, Mr. Romero at Schaefer's. My brother-in-law, who lives on a farm down by Carleton, Nebraska, came to town, shopped for a large-screen television. He and his 30-something daughter went back to her apartment with the numbers off the television at Mr. Romero's shop and ordered the television on-line, avoiding...the price they paid was the same, but they avoided 7 percent here in Lincoln, which when you're looking at \$1,000-something television, that's a fair amount. So it is an issue that is affecting us here tremendously. I think that the issue at hand in this bill of identifying the use of such money when it happens will be of great help to our Representatives in Washington to be able to look at it and say the state has a reason for us to collect this uncollectible tax. It will give them that advantage of being able to say this is going to help the state. There are varying issues as to amount. Different surveys come up with different amounts and you can...anytime there's a survey, I can find a survey to beat it. So those that I've seen range from \$118 million to \$40-some million that would have been brought in per year. But the amount is not the issue. The issue is fairness and that we do use the money for tax relief here in our state. Any questions? [LB1031]

SENATOR HADLEY: Thank you, Mr. Wright. I would just like to reiterate basically what you said, that this is not a tax increase... [LB1031]

THOMAS WRIGHT: Right. [LB1031]

SENATOR HADLEY: ...because people should be paying this tax right now... [LB1031]

THOMAS WRIGHT: Correct. [LB1031]

SENATOR HADLEY: ...on Internet sales through our use tax system. If you look at our individual tax return, there's a line there that you are supposed to estimate as best you can the amount that you purchase, and you...both state and local taxes then apply to that amount. So what this is, is a collection issue. [LB1031]

THOMAS WRIGHT: Right. [LB1031]

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SENATOR HADLEY: And what we want...what I hope the Congress does is help us with the collection of the tax. [LB1031]

THOMAS WRIGHT: Correct. It is strictly a function issue. It has nothing to do with new tax or new money. It is just a function of being able to identify and collect it. It's already owed, but I would wager that very few people in our state are actually taking advantage of that line in their taxes and supporting a use tax for the books they buy on Amazon or the diamond they buy from Blue Nile on-line. That's not happening. [LB1031]

SENATOR HADLEY: Thank you, Mr. Wright. Questions? [LB1031]

THOMAS WRIGHT: Any questions? [LB1031]

SENATOR HADLEY: Seeing none, thank you, Mr. Wright. [LB1031]

THOMAS WRIGHT: Thank you. [LB1031]

SENATOR HADLEY: Next proponent. [LB1031]

RON ROMERO: Good afternoon, Senators. My name is Ron Romero, that's R-o-n R-o-m-e-r-o. I'm the president of Schaefer's. We're a local appliance and electronics store here in Lincoln. We've been in business since 1946. We're a family owned business. I have been back to Washington and was successful in talking with Senators and encouraging them to vote for the Main Street Fairness Act. Just to give you a little background on what happens, Mr. Wright was very eloquent in speaking about customers coming in and using your showroom. There's a term in the industry called "showrooming" where they'll come in and look for an item, get all the help that they need, how does it operate, how do I hook it up and everything, and then they say, thank you, I'll go home and think about it and be back. And they will go to the Internet and be able to buy the same product many times at the same price and avoid the sales tax. I'm not here to whine about saying, you know, I lost a sale because of this and that. We feel that we can compete with anybody on the Internet. We have fine products, fine service, and in pricing, you know, we can be aggressive in price to a competitor. However, when that competitor has a 7 percent advantage, that is a big disadvantage to my company and to our employees. By having a level playing field where it can be collected, everybody would benefit. The states would benefit by receiving what is due them. Like you said, there is a place on your tax return, your state tax return, to indicate if you purchased anything on the Internet for the past year, you know, how much did you spend. But again, how many people do that? I know as a retailer, if I do business with an Internet company or buy something out of state, not just on the Internet, we submit that with our monthly sales tax. So there is a way to collect it that way through businesses, but it's a very, very fine line on doing that with the individuals. I feel that

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when I went back to Washington there was some confusion. A lot of people think that this is a tax increase. It's not a tax increase because it's there. And by collecting this tax, we feel that it should reduce the taxes that people pay in the state. I've had customers blatantly tell me they don't care if it's 7 percent cheaper and they're not collecting tax. And I've had occasion where I said to somebody, I said, do you not drive on our streets, do you not drive on the highways, do your kids not go to school here? And he said, I don't care. He said, you know, it's \$70 or \$100 less and I'm going to buy it there. A hundred bucks is a \$100. Well, you know, that is taking money away from the state and it's taking money away from our company and our employees and their families. So I know that it has not passed in Congress yet. However, I think that it will send a good message if the states have a way to say this is how we're going to spend the money. It's going to be a reduction in taxes. Thank you very much. Anybody have any questions? [LB1031]

SENATOR HADLEY: Thank you, Mr. Romero. Are there questions for Mr. Romero? Senator Hansen. [LB1031]

SENATOR HANSEN: Thank you. So there was two business people here that had gone to Washington to lobby our state delegation. How were you received there by the House members? [LB1031]

RON ROMERO: We were received very openly. All but a couple of them we were able to meet directly with the Senator or Congressperson. They wanted...there was some confusion. Some people thought that it was a tax increase and so, you know, we had to explain to them, much like what I talked about here. We brought examples and showed them what was happening. And I feel that we made headway with them. And obviously, and I'm not going to take all the credit because there was people meeting with all kinds of Senators there, but the Senate did pass it. [LB1031]

SENATOR HANSEN: But how about specifically our three House members? [LB1031]

RON ROMERO: There was one House member that we were not able to speak with. [LB1031]

SENATOR HANSEN: Okay. [LB1031]

RON ROMERO: We met with an aide. We did get responses back. And we...I'm not going to say that it was encouraging but they listened. And I think now that they have a better understanding of what this is. [LB1031]

SENATOR HANSEN: Good. Thank you. [LB1031]

RON ROMERO: Uh-huh. [LB1031]

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SENATOR HADLEY: Any other questions for Mr. Romero? I grew up at 13th and G Street or 7th and G Street, so I remember your stores down on 13th and F Street... [LB1031]

RON ROMERO: Right down where we started, right down the street. [LB1031]

SENATOR HADLEY: ...right down the street... [LB1031]

RON ROMERO: That's right. Right. [LB1031]

SENATOR HADLEY: ...many times. And I compliment you on your success in business, sir. Thank you. [LB1031]

RON ROMERO: Okay. Thank you, Senator. [LB1031]

SENATOR HADLEY: Next proponent. [LB1031]

JIM OTTO: Senator Hadley, members of the committee, my name is Jim Otto, J-i-m O-t-t-o. I am president of the Nebraska Retail Federation and I'm here to speak in support of LB1031. And we thank Senator Kintner very much for introducing LB1031. I think the testifiers ahead of me have explained the importance and I think you all already understood the importance of passing the Marketplace Fairness Act. I'd just like to address a couple things that are kind of...I kind of heard about it. One of them is the fact that, gee, we don't want to...maybe we shouldn't advance legislation like this in the Nebraska Legislature because we don't want to obligate a future Legislature. Well, I'm not an attorney but I just don't get that. Presently, we have a 5.5 percent sales tax, state sales tax in Nebraska. A future Legislature could change that to 5 or change that to 6, but somebody set it at 5.5 so how did that obligate a future Legislature? I don't see...somebody is going to have to explain that to me better than how anything that this Legislature would do would obligate a future Legislature. So we're very supportive of what has been said before. We think it's very important that we send a message to our Congressional delegation that any dollars that come in extra from Marketplace Fairness would go to tax reduction. As Senator Kintner stated, maybe the committee needs to decide exactly what kind of tax reduction. Maybe a future Legislature decides what kind of tax reduction. We think it's just very important that a message be sent to our delegation. And thus, that's the reason we support and are very appreciative of this bill. [LB1031]

SENATOR HADLEY: Are there questions for Mr. Otto? Seeing none, thank you, Mr. Otto. [LB1031]

JIM OTTO: Thank you. [LB1031]

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SENATOR HADLEY: Any other proponents? Opponents? Neutral? Senator Kintner, would you like to close? [LB1031]

SENATOR KINTNER: You know what. You've heard enough. Thanks a lot, guys. [LB1031]

SENATOR HADLEY: Thank you. With that, we'll close LB1031 and go to LB1057, Senator Davis. [LB1031]

SENATOR DAVIS: (Inaudible) the last bill on the last day. [LB1057]

SENATOR HADLEY: Last bill, last Friday. You're all that's between us and... [LB1057]

SENATOR DAVIS: I want to make you so happy, you'll just want to Exec this right out and get it on the floor. And you got me out of Judiciary. [LB1057]

SENATOR HADLEY: Yes, Senator, the other committee that is not smart enough to get done before the last day, right? [LB1057]

SENATOR DAVIS: (Exhibit 7) I do have an amendment here. [LB1057]

SENATOR HADLEY: Okay. [LB1057]

SENATOR DAVIS: Good afternoon, Chairman Hadley, members of the Revenue Committee. I am Al Davis, A-I D-a-v-i-s, and I represent the 43rd Legislative District. I am here today to introduce LB1057. The bill would direct the first year of sales tax receipts on Internet transactions to the Property Tax Credit Cash Fund. Obviously, these receipts will only be available if the United States Congress enacts legislation that allows states to collect these taxes. Because of the uncertain timing of the federal process, Section 1 of the bill would allow the Department of Revenue to implement the tax collection process when the time comes. The bill now in Congress is known as the Marketplace Fairness Act of 2013. It would allow states to start collecting these taxes in 18 months after it is signed into law. Nebraska is already a member of the multistate Streamlined Sales and Use Tax Agreement, which is the mechanism the federal government would use to allow the states to collect these taxes. LB1057 would prepare the way in our state to take advantage of this evolution in federal law. Section 2(c) of the bill on page 2, lines 17 through 21, specifies that only the first year of these sales tax receipts would be earmarked for property tax relief. Putting a one-year time limit on the use of the money would allow future Legislatures to make policy judgments about the best uses of the funds after they know the amount of revenue the tax generates. I am offering AM2149 to LB1057. AM2149 is a cleanup amendment that clarifies the definition of "remote retailer" and the certification process for determining the revenue

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attributable to tax on purchases made from remote retailers. I'd be happy to answer any questions if I can. [LB1057]

SENATOR HADLEY: Are there any questions for Senator Davis? Seeing none, thank you, Senator Davis. [LB1057]

SENATOR DAVIS: Thank you. [LB1057]

SENATOR HADLEY: You can stay to close or you can go back to Judiciary. [LB1057]

SENATOR DAVIS: Think I'll just stay to torture you. [LB1057]

SENATOR HADLEY: Okay. We will have proponents, opponents, then neutral. And again, if you testified before on the earlier bill, you don't have to give us your complete testimony. You can just say same, if you want to come up. First proponent. [LB1057]

RENEE FRY: (Exhibit 8) Good afternoon again, Chairman Hadley and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute here today to testify in support of LB1057. We all know that property taxes are a concern for Nebraska families, and it's no surprise as property taxes have been increasing faster than inflation since the late 1990s. And property taxes aren't just a rural issue. They are a statewide issue and have been for decades. Property taxes account for 37 percent of all tax revenue generated in Nebraska and 44 percent of revenue generated from the three major taxes. In recent years, Nebraska has grown increasingly reliant on property taxes. Nebraska ranks fourth nationally in terms of reliance on property taxes to fund K-12 education. Residential property taxes account for the greatest share of property tax revenue, but in the past decade the state has become more reliant on property taxes from agriculture. While the state doesn't collect property taxes, its policies have a direct effect on property taxes. For example, decreased state aid to local governments like counties, municipalities, and school districts has contributed to higher property tax rates, and the Legislature helped lower property tax rates in the 1990s by increasing state aid to K-12 education. This took school funding pressure off local governments and temporarily led to lower property taxes. We hope that Congress passes the Marketplace Fairness Act because current law puts local stores at a competitive disadvantage with out-of-state on-line and catalog sellers who can't be required to collect sales tax unless they have a physical presence in the state. And I'll skip the rest of this since you've heard this before. If the Marketplace Fairness Act passes, utilizing the revenue to lower property taxes is a win-win for Nebraska. It would level the playing field for Nebraska's retailers and it would provide property tax relief for Nebraska's residents without diverting funding from the General Fund, which would take away resources from vital services like education, or from the Cash Reserve Fund, which is not sustainable and would deplete our savings. We would prefer to see a mechanism different from the Property Tax Credit



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Program to provide more targeted and meaningful relief but support using the Property Tax Credit Program in the meantime. Thank you. And I'd be happy to answer any questions. [LB1057]

SENATOR HADLEY: Are there questions for Ms. Fry? Senator Hansen and then Senator McCoy. [LB1057]

SENATOR HANSEN: This...let's see, where was I going with that. This would, if everything worked out right, somewhere between \$30 million and \$50 million into the property tax reserve fund. [LB1057]

RENEE FRY: So that... [LB1057]

SENATOR HANSEN: And it would be distributed equally to anyone who owned any property. [LB1057]

RENEE FRY: Correct. There is a variation. I think you heard that before. I thought I had it here. I do. The NCSL has estimated about \$118 million. I will note, though, that the Marketplace Fairness Act only applies to retailers that collect revenue over \$1 million. So I think that number is probably going to be a little bit high because that was looking at all on-line sales. A University of Tennessee study estimated about \$61.3 million and they estimated that we're already collecting \$181 million now. Again, that's quite different from what we've seen on fiscal notes. And then the Department of Revenue estimated \$45 million. So \$45 million, between \$45 million and \$118 million are the estimates that we've seen. [LB1057]

SENATOR HANSEN: That's quite a range. [LB1057]

RENEE FRY: Yeah, it is. [LB1057]

SENATOR HANSEN: We have a bill here in Revenue that says that you know...and we had sent a letter to the Appropriations Committee suggesting about \$47 million this year that would keep us in line with the 2007 funding level. Does your group have any feeling about that... [LB1057]

RENEE FRY: The reason that we... [LB1057]

SENATOR HANSEN: ...\$47? [LB1057]

RENEE FRY: Right. So the reason that we support this bill is because it's a new revenue source... [LB1057]

SENATOR HANSEN: Yeah. [LB1057]

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RENEE FRY: ...and so it doesn't compete with other General Fund obligations. The forecast, it looks like we have \$99 million that the forecast is projecting in addition over the next two years, so there may be revenue in the Cash Reserve. The problem with doing that though, by depleting that Cash Reserve, we do set ourselves up, if we have another downturn, that we're not going to have adequate resources. The other piece of it and the reason why we like this is it's more consistent from year to year. You know, using money from the Cash Reserve to fund property tax relief isn't sustainable. [LB1057]

SENATOR HANSEN: At some point the Cash Reserve is going to get big enough that we all ought to agree that we ought to send it back to some taxpayers that have overpaid. [LB1057]

RENEE FRY: Sure. Yeah, no, no, I would agree with that. [LB1057]

SENATOR HANSEN: We've overcharged... [LB1057]

RENEE FRY: But our concern is the sustainability. So with this, it could be an ongoing, whereas with the Cash Reserve, you know, I don't know what the impact is by increasing the property tax credit one year, then it coming back down, and then going back up. That would be our concern, especially if people are budgeting based on their prior year property tax bill. [LB1057]

SENATOR HANSEN: If you had your pick, which would you rather have, this bill or the one from Senator Bolz that creates the educational cash reserve, so to speak? [LB1057]

RENEE FRY: It's a tricky question and I thought about that a lot because I thought we might be asked. As you've heard us testify before, we very much support increasing state aid to K-12 schools and believe that... [LB1057]

SENATOR HANSEN: But when we do put money in the state aid school formula via the Education Committee and all their work, we don't get dollar-for-dollar property tax relief, and I'm not sure we ever did since 1992. [LB1057]

RENEE FRY: We do see a direct correlation, though, between property taxes and state aid, so there is a direct effect. I don't know that we've looked dollar for dollar what that impact is, but we have looked and you can... [LB1057]

SENATOR HANSEN: Penny for dollar. [LB1057]

RENEE FRY: What's that? [LB1057]

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SENATOR HANSEN: Penny for a dollar. [LB1057]

RENEE FRY: I don't know. We haven't looked at it. It's a great question. [LB1057]

SENATOR HANSEN: It's a broad range. It's a broad range, just like use tax. [LB1057]

RENEE FRY: Yeah. Yeah. It would vary. It would vary quite a bit from district to district. So, you know, so I'm torn because we would like to see more money for state aid and we do think that would address our reliance on property taxes and help to bring those down. Obviously, this is direct, and part of the conflict is we're not real crazy about the property tax relief program because it isn't targeted, but we don't have another mechanism right now, so. [LB1057]

SENATOR HANSEN: But a school district has to get state aid before they get property tax relief. [LB1057]

RENEE FRY: Yes. [LB1057]

SENATOR HANSEN: And there's 120 of them that don't get any. Better let Senator McCoy ask... [LB1057]

RENEE FRY: Right. [LB1057]

SENATOR HANSEN: ...a question, if that's all right, Chairman. [LB1057]

SENATOR HADLEY: Yeah, Senator McCoy. [LB1057]

SENATOR HANSEN: We got to get on the road and drive through some snow. [LB1057]

SENATOR HADLEY: Yeah. Senator McCoy. [LB1057]

SENATOR McCOY: Well, I would just kind of dovetail on what Senator Hansen said. And in your last paragraph there, Ms. Fry, you talk about that you prefer to see a mechanism different. Is that the circuit breaker system? But that you support using the Property Tax Credit Program in the meantime. [LB1057]

RENEE FRY: Right. [LB1057]

SENATOR McCOY: In your mind, in light of, and you mentioned it, the findings of the Economic Forecasting Board, what is the correct amount in the Property Tax Credit relief (sic) Fund? [LB1057]

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RENEE FRY: That's a great question. And we just got the numbers. I just saw them on my phone, so we would have to go back and look and see what our balance is going to be in the Cash Reserve. I would caution that 40 percent of the time the economic forecast has been high and so there is, you know, a little rate of error there. There's a risk of error if we use up everything that we're anticipating. So I think we'll have to go back and look. It looks like about 30...I think it was \$36 million in new revenue this year that they would anticipate, which does put us above the recommended level of \$725 million by \$40 million or \$50 million. So it looks like that will be a point of the discussion. Part of the challenge, too, is we have other...you know, there have been discussions about water and about prisons and there are other competing interests. So we definitely support putting some funding. I saw the Appropriations Committee put Senator Davis' bill out that puts \$25 million into the Property Tax Credit Program, and I just can't speak for the committee in terms of what the other competing obligations are. But as we've testified all through the Tax, you know, at the Tax Modernization Committee, we have seen those property taxes going up. We do see that as a priority to address, which is why we would support this mechanism in the meantime. Again, we'd like to see that circuit breaker, but until we have something in place that can do that, I think the Property Tax Credit Program is probably the best, most immediate way to achieve that goal. But we have to go back and look at the numbers. I can't give you a number off the top of my head since I just literally got them about one minute ago. [LB1057]

SENATOR McCOY: Thank you. [LB1057]

RENEE FRY: Thanks. [LB1057]

SENATOR SCHUMACHER: Any other questions for Renee? Seeing none, thank you for your testimony today. [LB1057]

RENEE FRY: Great. Thank you. [LB1057]

SENATOR SCHUMACHER: We're on proponents, LB1057. [LB1057]

THOMAS WRIGHT: Again, I'm Thomas Wright, W-r-i-g-h-t. I would, in essence of time, only comment that the comments I made on the previous issue could stand direct for this issue. If there's any questions, I would be sure to answer. [LB1057]

SENATOR SCHUMACHER: Any questions? Senator Hansen. [LB1057]

SENATOR HANSEN: Going to give you the option too. Do you want property tax or income tax? [LB1057]

THOMAS WRIGHT: I really don't have a dog in that fight. I really... [LB1057]

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SENATOR HANSEN: Good. (Laughter) Never heard that one before. [LB1057]

THOMAS WRIGHT: Either. Either is of interest to me. [LB1057]

SENATOR HANSEN: Okay. [LB1057]

THOMAS WRIGHT: As long as it's earmarked as a tax reduction, I'm very happy. [LB1057]

SENATOR HANSEN: Okay. Thank you. [LB1057]

SENATOR SCHUMACHER: Any other questions for Mr. Wright? Seeing none, thank you for your testimony. Further proponents, LB1057? [LB1057]

RON ROMERO: Once again, I'm Ron Romero, R-o-n R-o-m-e-r-o, and my previous testimony you've heard. Again, I support this bill. The main thing that I want to emphasize is I think that Washington, the Congress, would understand a tax reduction, and that's what they are all about. They don't want to raise taxes. They thought at first that this was going to be a tax increase, so I think the message there is that it is a tax reduction. Any other questions? [LB1057]

SENATOR SCHUMACHER: Any questions for Ron? [LB1057]

RON ROMERO: Okay. Thank you. [LB1057]

SENATOR SCHUMACHER: Seeing none, thank you for your testimony today. Further proponents, LB1057? [LB1057]

JIM OTTO: Senator Schumacher, members of the committee, my name is Jim Otto, J-i-m O-t-t-o, president of the Nebraska Retail Federation here to testify in support of LB1057 and thank Senator Davis for introducing it. As the others have said, my previous testimony can stand for this bill too. We're very supportive of the dollars that come in from Marketplace Fairness going to some sort of tax reduction and we're not specifying what that should be. We're thinking that's what you guys get the big bucks for. So I do want to say Senator Hadley mentioned earlier that he had been at a Streamlined meeting in, I believe, in Chicago and they had mentioned that they were surprised it passed the Senate, so...with such a wide margin, and that the Chairman of the Judiciary Committee in the House had established seven criteria. And I just would like to...I asked the people that I communicate with in D.C. about when it would come up in the House. I'd just like to read to you quickly a couple sentences that describe. Says: Chairman Goodlatte of Virginia has...signals his support for addressing the issue by soliciting ideas that comport with his principles and holding a hearing on March 4. And

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his principles, I would believe, are referring to the seven criteria that Senator Hadley mentioned. Congressman Chaffetz of Utah has recently been vocal in support of addressing the issue and is working on legislation that will address the shortcomings of the Senate bill and comply with the Chairman's principles. Most importantly, the Internet Tax Freedom Act is set to expire in November of this year and it is generally considered that it is "must pass" legislation. And the running assumption is that the Senate will likely demand that the Internet Tax Freedom Act be combined with some version of Marketplace Fairness, and the House leadership has acknowledged this possibility. So the idea is that prior to November something may be done in the House, and I would just submit that that is before this Legislature would be in session again. And the...I believe one of the main reasons it passed the Senate with such a wide margin is many people, just like the two small business people that testified here, from states across the nation went back to talk to their Senate Representatives and convince them about it. The same thing will occur, I'm sure, when it is brought up in the House. And it would just be such a great thing to have a very effective tool in their tool box when they go if they could say, for fairly certain, that the Nebraska Legislature would put this money towards tax reduction. And so with that, I just want to emphasize how important it is that some signal be sent by this committee. Thank you. [LB1057]

SENATOR SCHUMACHER: Any questions for Mr. Otto? I just have one. Would you have any problem if we first paid the merchants for collecting the sales tax out of this fund? [LB1057]

JIM OTTO: Oh, I would have no problem with that, Senator. (Laughter) Thank you very much. [LB1057]

SENATOR SCHUMACHER: Thank you. [LB1057]

JIM OTTO: I would add that the Senate bill does not...that would be up to each individual state what they reimburse the merchant for. It's not a part of the federal bill. [LB1057]

SENATOR SCHUMACHER: Thank you for your testimony. [LB1057]

JIM OTTO: Thank you. [LB1057]

SENATOR SCHUMACHER: Further proponents, LB1057? [LB1057]

HARVEY SANKEY: Good afternoon, Senator Schumacher and members of the Revenue Committee. [LB1057]

SENATOR SCHUMACHER: Good afternoon. [LB1057]

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HARVEY SANKEY: My name is Harvey Sankey, H-a-r-v-e-y S-a-n-k-e-y, and I represent Printing Industry of the Midwest, specifically for Nebraska. I'm in favor of this bill and I'd like to make it short. If Ms. Fry would agree to it, if I can use her testimony and also add just a few things to that. Everybody heard during your meetings this past year for the Tax Modernization Committee that everybody wanted property tax relief. I attended a couple of those meetings and that's what everybody was looking for--property tax relief. I think it would be fair to give this back to the people of the state of Nebraska. Everybody would benefit from this if it was for property tax relief. That's what they want, your constituents wanted. Give it to them, please. Thank you. [LB1057]

SENATOR SCHUMACHER: Thank you. Any questions for Mr. Sankey? Seeing none, thank you for... [LB1057]

HARVEY SANKEY: Just one more thing. [LB1057]

SENATOR SCHUMACHER: Sure. [LB1057]

HARVEY SANKEY: Including the \$47 million, but I wish it was more. (Laugh) [LB1057]

SENATOR HANSEN: Yeah, me too. [LB1057]

SENATOR SCHUMACHER: Thank you, Mr. Sankey. Any other proponents on LB1057? [LB1057]

ANTHONY AERTS: Good afternoon, Senator Schumacher and other members of the Revenue Committee. My name is Anthony Aerts, A-n-t-h-o-n-y A-e-r-t-s. I'm here to testify in support of LB1057 on behalf of the Nebraska Farm Bureau. I think the details have been pretty well fleshed out at this point, so I will just reiterate our member-adopted policy, which is supportive of establishing a system to collect the sales tax on Internet transactions. And also we are very specific in that we feel like any new sales tax generated should be directed, at least in part, towards providing meaningful property tax relief. So this bill hits the nail right on the head in terms of those policy objectives and I'd be happy to answer any questions that you have. [LB1057]

SENATOR SCHUMACHER: Any questions for Anthony? Seeing none, thank you for your testimony. Further proponents on LB1057? Seeing none, opponents, LB1057 opponents? Seeing none, neutral capacity, LB1057? Seeing none, Senator Davis. [LB1057]

SENATOR DAVIS: Thank you, Senator Schumacher. In the interest of being brief, I'm not going to say much more. The people who testified back behind me have done a great job making the case. But you know, all of you know, that I attended four of the five Tax Modernization meetings and took a lot of notes, and it was consistently, one after

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the other, property tax, property tax, property tax, property tax. Senator Sullivan and I serve on the Education Committee. At almost all the hearings outstate it was property tax, it's a problem, it's a problem, it's a problem. You heard Renee Fry talk about property tax being 44 percent of the tax burden. Traditionally in Nebraska we always looked at the three-legged stool. It's what we've all talked about. If that doesn't point out that property tax is the factor that's out of whack, I don't know what does if we're 11 percent over. This doesn't solve all the problems but this sends another message to the taxpayers that we are paying attention. The Governor has talked about tax reform and tax reductions. This is a way for us to do that easily and I think it will be very beneficial for our constituents. You have to remember that a lot of the property tax burden is because of state mandates that come down from Lincoln for education, for roads, county roads, county bridges, everything else. This is a way that we can send some money back to those local entities in another form, not as a subsidy but as a tax reduction for the people. It's a good policy. And I hadn't thought of the discussion that was brought up by the gentleman who testified recently, but it would be wonderful if this committee would pass this bill, blend it into another bill and get it out on the floor and get it passed. And with that, we can send a letter to Washington and say this is what Nebraska has done, we've taken all the revenue from this and put it towards tax reduction, which I think will solve a lot of the anxiety that the folks in Washington have about passing the Internet fairness bill because I think they think, well, it's just going to be a spending mechanism. So with that said, I'm going to wrap it up and thank you for your time and hope that you'll Exec this out and we can get something done. [LB1057]

SENATOR SCHUMACHER: Any questions for Senator Davis? Thank you, Senator Davis, for introducing this bill and for your testimony. [LB1057]

SENATOR DAVIS: Thank you. [LB1057]

SENATOR SCHUMACHER: That concludes the hearing on LB1057 and concludes our agenda for today. [LB1057]

SENATOR SULLIVAN: And our hearings for the session. [LB1057]

SENATOR SCHUMACHER: And the hearings for the session. [LB1057]

KRISSA DELKA: Can you read that one off for the record? [LB1057]

SENATOR SCHUMACHER: (Exhibit 9) Oh, before we do finally conclude it, LB1057, there was a letter of support from Jeff Rudolph of the Nebraska Cattlemen. Now we conclude it. [LB1057]