[LB73 LB75 LB123 LB216 LB217 LB218]

The Committee on Revenue met at 1:30 p.m. on Friday, January 30, 2015, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB216, L217, LB218, LB73, LB75, and LB123. Senators present: Mike Gloor, Chairperson; Paul Schumacher, Vice Chairperson; Lydia Brasch; Al Davis; Burke Harr; Jim Scheer; and Jim Smith. Senators absent: Kate Sullivan.

SENATOR GLOOR: Good afternoon. I'm Mike Gloor. I'm the Chair of the Revenue Committee. I'm District 35, which is Grand Island. The committee is going to take up the bills today in the order posted in the back, the original agenda that's posted in the back of this office, in front of our office, and have a few general rules. One is, please turn your cell phones off and put them on the silent mode. We will have an order of testifying today that will be the presenter, and then proponents of that bill, and opponents to the bill, those who may be in a neutral capacity, and then we'll let the introducer close for that bill. If you would like to testify at anyone of those three times, please fill out one of the green sheets in the back of the room and give that to the clerk when you come up here. If you have copies of items you would like to distribute, we need ten copies so that everybody can have a copy. And if you don't have copies, now would be a good time to let one of the pages know so that, hopefully, we will have time to get copies made for you. We are glad to do that for you. We have five minute time frame for testifiers and we would ask you to adhere to that. We have a light system. We go green to begin with, and then with one minute left, it will go yellow, and then it will go red and at that point in time if you're not finished, I'll be nudging you conversationally in that general direction. Please give us your name and spell it out for us. That's for the transcriptionists, as opposed to us. Please speak into the microphone and a reminder to the senators, please, as best you can, get close to the microphone because we're having problems and the transcription folks have already called us and said they're not picking up a lot of our discussions. So, for both you and for us, we'd like to make sure that we get ourselves closer to the microphone. Let's see. If you would also like to have us register you, but you don't want to testify being for or against, you're welcome to fill out a sheet in the back also. Put your name down and who you represent, if anyone, and we'll make sure that that's part of the record. You don't necessarily have to be testifying to show up as a supporter, opponent, or a neutral...in a neutral capacity. Let me introduce members of our staff. Mary Jane Egr Edson is committee counsel on my right; Krissa Delka is the clerk...not the county clerk, but committee clerk. She's on my left, and on my right is Kay Bergquist, and she's the research analyst for the committee. And I will ask the senators to introduce themselves. Senator Brasch.

SENATOR BRASCH: I'm Senator Lydia Brasch and I represent Legislative District 16.

SENATOR HARR: Burke Harr, H-a-r-r, and I represent Legislative District 8, Dundee, Benson, and Keystone neighborhoods.

SENATOR DAVIS: Al Davis, District 43, north, central and western Nebraska.

SENATOR SCHEER: Jim Scheer, District 19, Madison and a little bit of Stanton County.

SENATOR SMITH: Jim Smith, Legislative District 14 in Sarpy County.

SENATOR GLOOR: And Senator Schumacher is testifying...presenting one of his bills in another committee right now. Senator Sullivan is unable to be with us today. And with that, we'll start with LB216. Welcome, Mr. Speaker.

SENATOR HADLEY: Members of the esteemed Revenue Committee, my name is Galen Hadley, G-a-l-e-n H-a-d-l-e-y. I represent the 37th District which is basically Kearney and about a third of Buffalo County. I am bringing three bills today. They are basically revisory measures. They were brought for me for staff to make simple corrections, but I think they're corrections that need to be made. LB216 would amend Sections 77-2712.03 to correct a reference to membership in a streamlined sales and use tax agreement by changing incorrect reference to Articles...from Articles to Article. There is only one word change. See page 2 of the green copy, line 2. Thank you, Mr. Chairman. [LB216]

SENATOR GLOOR: Thank you, Senator Hadley. Are there any questions? Senator Harr. [LB216]

SENATOR HARR: Mr. Chairman, Mr. Speaker, as a fellow member of this streamlined sales and use tax committee, I'm glad you brought this complicated bill. You explained it very well. [LB216]

SENATOR HADLEY: Thank you, Senator Harr. [LB216]

SENATOR GLOOR: Any other questions? Seeing none, thank you, Senator Hadley. I know you're staying because you've got the next two bills. Anybody else that would be a proponent that would like to speak on behalf of this bill? Any opponents on behalf of this bill? Anyone in a neutral capacity? Senator Hadley, you're recognized. Senator Hadley waives. And that will close the hearing on LB216. We'll now move to LB217. [LB216]

SENATOR HADLEY: Mr. Chairman, my name is Galen Hadley, G-a-l-e-n H-a-d-l-e-y. I represent the 37th District, which is Kearney and about a third of Buffalo County. I'm introducing LB217, would restructure and recodify Section 77-918 by adding subsection numbering. This would make it easier to reference specific portions of this statute addressing the premium taxes. The numbering changes appear on page 2 of the green copy, line 2. [LB217]

SENATOR GLOOR: Any questions of Senator Hadley? Seeing none, thank you, Senator Hadley. [LB217]

SENATOR HADLEY: Thank you. [LB217]

SENATOR GLOOR: Anyone who would like to speak as a proponent? Anyone who would like to speak as an opponent? Anyone who would like to speak in a neutral capacity? Senator Hadley waives closing and that will end the hearing on LB217. [LB217]

SENATOR SCHEER: It's about like going to the gym, isn't it? [LB218]

SENATOR GLOOR: We can give you a second to catch your breath if you would like or we could move right to LB218. [LB218]

SENATOR HADLEY: Mr. Chairman, my name is Galen Hadley, G-a-l-e-n H-a-d-l-e-y. I represent the 37th District, which is Kearney and about a third of Buffalo County. LB218 would amend Section 77-2716 to correct references to the federal Jobs and Growth Tax Act by adding the term "Relief Reconciliation." The two changes appear on page 5 and 7 of the green copy, changes of the title of the federal Jobs and Growth Act to Jobs and Growth Relief Reconciliation Act. Thank you, Mr. Chairman. [LB218]

SENATOR GLOOR: Thank you, Senator Hadley. Questions? Seeing none, any proponents for this bill? Any opponents? Anyone in a neutral capacity? Senator Hadley waives and that's the end of LB218. Great timing. We'll now move to LB73. Welcome back, Senator Schumacher. [LB218]

SENATOR SCHUMACHER: Which one we got up first here? [LB73]

SENATOR GLOOR: LB73. [LB73]

SENATOR SCHUMACHER: (Exhibit 1) LB73. Thank you, Senator Gloor and members of the Revenue Committee. Thank you. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature. And I want to thank the committee for its indulgence as we explore ideas as we have regrettably come to realize that we're kind of boxed in with the present tax system. Income taxes disincent productivity. Sales taxes dilute purchasing power, and property taxes simply extort money from property owners. So, you know, we have a hard time finding justice in the way to be fair and to finance our activities. When Governor Heineman came before this committee a year or two ago, he called for a modern tax system. And for those of you that were on the committee at the time, I questioned Governor Heineman as to what he meant by a modern tax system. [LB73]

SENATOR GLOOR: Hang on just a second. Sorry, Senator Schumacher, we've had problems going back to last year, I understand, with the machine, so. Hopefully, this doesn't continue again. [LB73]

SENATOR SCHUMACHER: Well, if we'd spent some money on ourselves we could have a fancy new little machine instead of that old box that's sitting over there. Any rate. The question was raised, what is a modern tax system and while it was pretty clear that the Governor knew that what we had was not a modern tax system, not a whole lot of thought had gone into what might one look like. I mean, you start thinking about a modern tax system, you have to almost begin to imagine flows of money, large flows of money at which strategic locations in the flow, you can impose a tax. The larger the flow, the less the tax could be. And as money flows through the economy, if you're really, really smart with a big enough computer, you should be able to figure out where you can impose the taxes on a almost real-time basis to generate revenue with minimum packed on the economy. And my guess is that probably 50 years from now our tax system will look something like that. Pretty hard in the old world when there was cash and checks to understand where money was, how it was flowing, how long it was stockpiled in one spot before it began to flow again. But the world is changing rapidly and green money is rapidly disappearing, as are checks, and things are flowing digitally through the system without ever a dollar bill changing hands. In fact, there's new phenomena out there, the life of which would be hard to guess offhand called the bitcoin in which actually the bitcoin knows where it has been, and you can tell how long it stayed wherever it was been. And so as that flow moves through the system, you should be able to manipulate it and should be able to tax it. Well, do we have anything now that approximates flows in the system, flows of money that would be more precisely measured in a world of bitcoin-like currency that might exist down the road. And the answer is, with almost every flow of money associated with it, is an element of leverage or an element of debt. And with almost every increment of debt is interest. And interest is something we're pretty good in keeping track of, pretty good at knowing where it's generated at, who is paying it, who is receiving it. A lot of that infrastructure is already in place. Now, with all the things we've heard before Revenue Committee, and the Tax Modernization Committee, everybody wants relief. But reality is, 30 or 40 million dollars of relief doesn't go very far. It doesn't reflect in very much income tax relief, or sales tax relief, or doesn't even scratch the surface in property tax relief. The 40 million or so extra dollars we poured in last year to property tax relief, in the case of most farmers, probably wouldn't fill up the combine with a tank of gas. It just...you need a lot of money in order to do something in a meaningful way, something more than a trip for the family to a burger shop or to a convenient little restaurant. So, the idea emerged, what if we put a sales tax on money. We have no problem putting a...if you rent a car and you make your rental payment, which is kind of part of a pass through interest payment and pass through principal payment to whoever owns the car, we have no problem attaching a sales tax to the rental of that capital asset. It's just a fact of life that we pay on the rental of the asset. And really, interest is just rental of money. And in a world where we have a 5 percent interest rate loan, were we to buy a sales tax to that loan, let's just say 5 percent, the net effect of the loan payment would be 5.25 percent. Tiny change. We've seen that much fluctuation in the interest rates of the treasury bills and of the feds routinely. It's almost like the gas tax being maxed...massed in the fluctuations of the price of gasoline. It should have very little economic impact as far as an economic disincentive. It is easy to pay. The mechanisms are in place for reporting. Certainly, the people who deal in interest can handle reporting it as well as a convenience store that has to report on the sales tax of things that it sells. And so the proposition is here and I don't think anybody knows how much money could be generated, but certainly it looks as though it's in the hundreds of millions of dollars. And a lot depends whether you apply this notion to just commercial loans or just individual loans, but we're talking about a lot of money available for the application of really what amounts to a very small rate of tax. And oddly enough, this particular memo which again is highly speculative in nature because this is kind of a new idea that Dr. Thompson was kind enough to prepare for me, indicates that this mechanism may actually result in enhanced economic growth. All very speculative, but what I wanted to do is get this notion out before the committee, out for some public discussion, and so that we can begin to model who would pay this, who would benefit, whether or not we could direct proceeds to meaningful tax relief, and whether it's a kind of thing that might work. Quite honestly, it probably work a lot better at the federal level than it would work at the state level because the federal level you wouldn't have to deal with a lot of the state issues that are implicit in this kind of attempt to apply just to the state. But nevertheless, it is...with interest rates so very, very low, it is an interesting way in which we can generate large amounts of money reasonably painlessly. And I would offer that to the committee as something that we should talk about. Hopefully, we can get a little public discussion, and begin to put it in our mix of tools which long term we can begin to try to do something meaningful with taxes rather than a shell game of just shifting things back and forth, or doing things that are detectable by the public to be just unfair because they either pay for the wealthy or favor a selected class or just can't be uniformly applied. And one of the good things about taxing interest, it's kind of an automatic mechanism for tax relief is for the elderly because your house mortgages, those kind of things should be paid off. And thus, you don't pay the tax. You don't borrow as much money, you don't pay the tax. In some respects, it's almost a voluntary tax. People will...it won't stop people from borrowing, but you don't have to borrow the money and you might even be encouraged to save a little money even though that's kind of out of vogue these days. But nevertheless, it's something that I wanted to bring before the committee and get some public discussions on. But what is amazing is the huge amount of money that it could generate. [LB73]

SENATOR GLOOR: Thank you, Senator Schumacher. Questions? Senator Scheer. [LB73]

SENATOR SCHEER: Well, it's Friday, so just one real quick one. Were you looking at this as an interest collective or charged? [LB73]

SENATOR SCHUMACHER: When you pay interest, you would pay the tax on the rental side. [LB73]

SENATOR SCHEER: If you have a loan that is not producing, you...the lender would not be required to continue the interest and that payment to be provided even though it hadn't been paid. [LB73]

SENATOR SCHUMACHER: The lender would be like Avis. They wouldn't have to...if they didn't get paid the rent on the car, there would be nothing to pay in. [LB73]

SENATOR SCHEER: Okay. [LB73]

SENATOR DAVIS: So, Senator Schumacher, if you go out and buy a new car for $20,000, and then borrow the money, you pay the tax the first year, then you still have an outstanding balance of $18,000 the second year, you still do tax on that $18,000? [LB73]

SENATOR SCHUMACHER: No, tax on the interest on the $18,000. [LB73]

SENATOR DAVIS: Interest on the $18,000. [LB73]

SENATOR SCHUMACHER: Yeah. There would be no tax on the principal payment but the tax on the... [LB73]

SENATOR DAVIS: The interest the banks get, the banks or whoever the... [LB73]

SENATOR SCHUMACHER: Would end up collecting and remitting just as though it was the convenience store that sold you a candy bar or something. [LB73]

SENATOR DAVIS: And credit cards the same thing? [LB73]

SENATOR SCHUMACHER: Yeah, I would think so. And your...any...if anything that comes to mind is the gentleman from a year ago said that the idea of a good tax system is to get the maximum plucking for the minimum squawking. And this may be a way to...for less squawking and still revenue. [LB73]

SENATOR GLOOR: Well, we haven't gotten to the squawk part of the program yet, so. [LB73]

SENATOR SCHUMACHER: Well, I'm sure we're going to hear that because if it... [LB73]

SENATOR GLOOR: Other questions? Seeing none, thank you, Senator Schumacher. [LB73]

SENATOR SCHUMACHER: Thank you. [LB73]

SENATOR GLOOR: We'll move to proponents. Are there any proponents of this bill? We'll move to opponents of this bill. [LB73]

JERRY STILMOCK: (Exhibit 2) Good afternoon, Senators. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska Bankers Association in opposition to LB73. As the pages passing out my testimony, just share with you a few of our thoughts, our opposition. You know, just when the economy, some believe, is creeping back, some believe is stagnant, we believe this five and a half percent of tax on interest would stagnate and bring back whatever recovery, however you would care to phrase it, minor recovery, slow recovery, stuck in neutral, would add to bringing Nebraska along. Think in terms, if you would, of a young person. Perhaps reflect about your own life as you started out, after we broke ties with mom and dad and borrowed some money. We start out with, you know, perhaps no assets. So we begin our home as a single or perhaps a married couple and we go borrow to buy the washer and drier. We borrow to maybe buy a car, maybe a used car for us. All those items that are acquired by a young couple, by a young single person stepping out, assuming that they're getting started and acquiring debt, they would now be hit with a five and a half percent tax on that interest and we think that would be, obviously, detrimental, not only for married folks, but on the business side. Look at the business side of wanting to expand. We heard enough about the federal level of healthcare and how that has crippled businesses. It's speculated that perhaps it's crippled businesses or at least held them back. And what would a new or perhaps an expanding business do? Maybe it would slow down growth. Maybe it would slow down hiring new employees because the cost of borrowing just went up. That five and a half percent. Same thing with ag. We were riding high, we, the state, not we, the Nebraska Bankers Association. 2011, 2012, prices of grain were great. And now they've come down. Is this reality? Is this the bottom or is this where we're going to stay for a while? The point being is, ag relies on the lending area and that additional five and a half percent would be a blow, I think, to agriculture. It would require new infrastructure by our members in order to collect and remit this tax. The taxes, as Senator Schumacher has pointed out, would be paid on a monthly, every 30 days on a monthly basis. The borrower would pay based on their regular payments. And we think this would serve...severely curtail borrowing in Nebraska and would hurt Nebraska as compared to other states. We had a lender put together just a quick example. I included that in my testimony. One hundred fifty thousand dollar seemed to be the average amount of the loan. It appears on the bottom of page 3. The average amount of loan $150,000 on a home for this particular lender, 4 percent interest, new tax...excuse me, the interest of $327 would be the increase of that tax based upon a 4 percent. And we think that would be significant not only to new home buyers, but also those that are replacing. And finally, in the secondary market, we understand that it's so competitive in the secondary market that this would put Nebraska borrowers at a disadvantage when compared to our neighboring states. And for those reasons, we're opposed legislation and respectfully request that LB73 be indefinitely postponed. Thank you. [LB73]

SENATOR GLOOR: Questions? Senator Smith. [LB73]

SENATOR SMITH: Thank you, Mr. Chair. How would this apply to credit card loans, or...? [LB73]

JERRY STILMOCK: The...I don't think the definition of what is considered debt under LB73 recognizes because it envisions that it's collateral...collateralized by real estate or by an item that would require a financing statement filed with the Secretary of State, Senator. So I think, at least my interpretation of reading it would be that it would be not included within that character of LB73 debt, sir. [LB73]

SENATOR SMITH: All right. Thank you. [LB73]

JERRY STILMOCK: Yes, sir. [LB73]

SENATOR GLOOR: Seeing no other questions, thank you, Mr. Stilmock. [LB73]

JERRY STILMOCK: (Exhibit 3) Yes. Senator Gloor, I'd also like to submit a letter on behalf of the National Federation of Independent Business in opposition. I'll hand that to the page, if I may. [LB73]

SENATOR GLOOR: Okay. [LB73]

JERRY STILMOCK: Thank you. [LB73]

SENATOR GLOOR: Thank you. Others in opposition? [LB73]

BRANDON LUETKENHAUS: (Exhibit 4) Good afternoon, Chairman Gloor and members of the Revenue Committee. My name is Brandon Luetkenhaus, B-r-a-n-d-o-n L-u-e-t-k-e-n-h-a-u-s, and I am here on behalf of the Nebraska Credit Union League. Our trade association represents Nebraska's 68 credit unions and their 465,000 members. We come in opposition to LB73. We understand what Senator Schumacher is trying to do here in to lower the tax burden, but frankly we see this bill as adding to the tax burden of many consumers, including many of our credit union members that come in to the credit union to finance a home, to put a roof over their head, finance a car to get to and from work and school, and we believe this would hurt them in that and just simply raise taxes in addition to having to pay property taxes, sales taxes, and income taxes. So we, for those reasons, we are opposed to LB73. [LB73]

SENATOR GLOOR: Thank you, Mr. Luetkenhaus. Questions? Seeing none...Senator Scheer. [LB73]

SENATOR SCHEER: You're opposed to it and I get that, but I'm just trying to think out loud as far as really what additional costs it would be. So if you've got a loan or mortgage at 4 percent and this is only 5 percent, 4 percent really is somewhat insignificant isn't it? I mean, truly. [LB73]

BRANDON LUETKENHAUS: Well, some may think that, but to some Nebraska consumers it may be significant. I mean, it's to the eye of the beholder, of course, but it still is an additional tax. [LB73]

SENATOR SCHEER: Well, I understand, but I mean, it's...I understand. And as presented by Senator Schumacher, I mean, looking for a new string, but if you're looking at a 4 percent tax, I mean, you're really looking at what, .2, 2/10ths of 1 percent is actually the additional charge. And, I mean, there's more flexibility in interest rates for, you know, even in your facilities, I'm sure, based on credit worthiness from...you know, at three and a half to six and a half depends on where you run on that margins on the line. So, I mean, you know, that amount isn't a huge portion of the big picture. Would that be an accurate assessment? [LB73]

BRANDON LUETKENHAUS: Well, I don't...like I said, I think it depends on the consumer. Some consumers may say, yeah, they have...they've built up wealth over the years and they're just taking out a loan for convenience. That's one thing, but some people have to take out loans. And when you add that five and a half percent on to the interest that they're already paying, I think, that can be...have a negative impact on most folks. [LB73]

SENATOR SCHEER: Fair enough. Thanks. [LB73]

BRANDON LUETKENHAUS: Thank you. [LB73]

SENATOR GLOOR: Other questions? Thank you, Brandon. [LB73]

BRANDON LUETKENHAUS: Thank you. [LB73]

TIP O'NEILL: Senator Gloor, members of the Revenue Committee, I'm Tip O'Neill, that's T-i-p O'N-e-i-l-l. I'm the president of the Association of Independent Colleges and Universities in Nebraska, here to testify in opposition to LB73. Not a bill we would normally appear on, but again, I represent nonprofit entities that serve the greater public purposes. And in this bill, our borrowings would be subject to a tax for the most part, except for, if those borrowings were bond borrowings. It exempts loans to governmental entities. So, again, we feel it would be discriminatory against entities such as private colleges, parochial schools, nonprofit hospitals, entities like that. Just in terms of we would be paying a tax that our governmental competitors would not be paying, and that's why I'm here opposing the bill. Be happy to answer any questions that you might have. [LB73]

SENATOR GLOOR: Yes, Senator Harr. [LB73]

SENATOR HARR: Thank you. Are there any for-profit hospitals in Nebraska? [LB73]

TIP O'NEILL: I don't represent hospitals. I don't know. There used to be, I know. Tenet, at one time, was doing business in Nebraska. [LB73]

SENATOR HARR: It's not here anymore, is it? [LB73]

TIP O'NEILL: Not here anymore that I'm aware of, yes. [LB73]

SENATOR GLOOR: Seeing no other questions, thank you, Mr. O'Neill. [LB73]

TIP O'NEILL: Thank you. [LB73]

SENATOR GLOOR: Other opponents? Anyone who would like to speak in a neutral? [LB73]

WALTER RADCLIFFE: Senator Gloor and members of the committee, my name is Walter Radcliffe, W-a-l-t-e-r R-a-d-c-l-i-f-f-e, and I'm appearing before you as a registered lobbyist on behalf of the Nebraska Realtors Association in opposition to LB73. Simply put, the realtors believe, and I think correctly so, that this would significantly add to the cost of a home through the mortgage interest rates. To your point, Senator Scheer, about a small percentage of a small percent. As you know, if you look at an amortization table of a 30 year loan, the interest on the front end of that loan is substantial and the interest...excuse me, the tax on that amount, the percentage would be a substantial amount. But I should just quit right there with my testimony. (Laughter) But, I do have to...I haven't gotten to lobby because Senator Schumacher and I were talking. I said, Senator, where do you come up with this stuff? (Laughter) And we ruled out alien abduction and space travel and he said something to me and it made a lot of sense. And I think you've heard him say it too. And I said the realtors, and it kind of drove a point home. He said, well, if we're going to do something with property taxes and it isn't going to come from sales and it isn't going to come from income tax, and it's going to have to be a substantial amount of money, I'm looking for areas where we can raise that substantial amount of money outside of direct sales...well, now this is sales, I'll admit, outside of sales income tax. And I mentioned that to the realtors and I said, hey, property taxes are a big deal for you. I said, what you're really telling me in opposing this is that, yeah, you want to do something about property taxes but, you know, you don't want to really pay to do something about property taxes, and you really don't want it to come from the property. So, they still sent me down to oppose the bill, (laughter) but nonetheless, I think Senator Schumacher has raised a very legitimate point issue topic, not just with LB73, but with a number of those other bills that came from the backside of the Planet Zoron. But, so with that, I'll try to answer any questions, Senator Gloor. [LB73]

SENATOR GLOOR: Are there any questions for Mr. Radcliffe? Apparently none. Well, Senator Davis. [LB73]

SENATOR DAVIS: Thank you, Senator Gloor. Mr. Radcliffe, so your concern at this point would be that the up-front charge on the interest is going to be very excessive. [LB73]

WALTER RADCLIFFE: That would...I was responding to Senator Scheer's point there and certainly on mortgage interest that would be the case. And that is the primary concern that the realtors have, yes. [LB73]

SENATOR DAVIS: So couldn't you sort of amortize that or collateralize it in some fashion... [LB73]

WALTER RADCLIFFE: Absolutely. [LB73]

SENATOR DAVIS: ...and then back-load it so...we figure out that it's $30,000 you're going to pay, but in the first year you only pay $500 and the last year you're paid up. [LB73]

WALTER RADCLIFFE: Oh, absolutely. I mean you could, and you could give green stamps with it. (Laughter) I mean, you could do anything you wanted....... [LB73]

SENATOR DAVIS: Do they still have green stamps? [LB73]

WALTER RADCLIFFE: I don't know. [LB73]

SENATOR GLOOR: That could be another bill. [LB73]

WALTER RADCLIFFE: That could be another...yeah. We could authorize them again. [LB73]

SENATOR GLOOR: Any other questions? Thank you, Mr. Radcliffe. [LB73]

WALTER RADCLIFFE: Thank you. [LB73]

RON SEDLACEK: Good afternoon, Chairman Gloor and members of the Revenue Committee. For the record, my name is Ron Sedlacek, and that's S-e-d-l-a-c-e-k. I'm here today representing the Nebraska Chamber of Commerce and Industry. I'm also asked to represent the Nebraska Independent Community Bankers, who...both entities would take the position in opposition. Not to be redundant...I'm not going to be redundant, let me put it that way. Probably the comments we've heard, most are from our financial institution memberships. It comprises about a third of our membership in state chamber. But we've also heard from a number of businesses who were concerned about start-up businesses, entrepreneurial atmosphere in Nebraska...environment, I should say, in Nebraska, and how that would affect. Those start-ups, those businesses that rely on a (inaudible) seasonal cash flows and the necessity to borrow some times, particular points in the year, in order to...in order to keep the doors open. Another question raised by the...on the tax side by a number of attorneys who practice in that field. There's not a lot of commentary in looking for research as the background on this issue. However, the question was raised as to nexus issues, and the ability to effectively collect a sales tax, excise tax, whatever it might be characterized by those institutions who would not have nexus within the state of Nebraska. Would that encourage essentially borrowing by remote borrowing as opposed to using our own financial institutions here within the state. It appeared that we could not reach to collect...or to force them to collect such a tax. So I know that could be ironed out with a use tax provisions perhaps and so on, but at any rate, that did raise concerns. With that, I probably should be quiet too and just entertain any questions. [LB73]

SENATOR GLOOR: Questions? Seeing none, thank you, Mr. Sedlacek. [LB73]

RON SEDLACEK: Thank you. [LB73]

SENATOR GLOOR: Other opponents? Anyone in a neutral capacity? Good afternoon. [LB73]

HARVEY SANKEY: Good afternoon, Senator Gloor and members of the Revenue Committee. My name is Harvey Sankey, H-a-r-v-e-y S-a-n-k-e-y, and I represent Printing Industry Midwest. My one question here is, can't...this money is going to the General Fund. If we're going to reduce property taxes, can this money, if it comes about, go to the property tax credit fund? That's a question I have. I don't know if that's possible. [LB73]

SENATOR GLOOR: We would have to... [LB73]

HARVEY SANKEY: But I would rather have it that way. [LB73]

SENATOR GLOOR: Why don't I tell you that I will ask that question of the introducer when he closes. [LB73]

RON SEDLACEK: Okay. [LB73]

SENATOR GLOOR: Because we're here learning like you are. So we can't answer that question. [LB73]

RON SEDLACEK: Okay. All right. Thank you. [LB73]

SENATOR GLOOR: Thank you. Anyone else in the neutral capacity? Seeing none, Senator Schumacher, would you like to close? [LB73]

SENATOR SCHUMACHER: Thank you, Senator Gloor and members of the committee. Actually, I figured I'd have a far bigger piece of hide taken out of me than what was. Pretty good discussion getting started. None of the issues raised are fundamental issues. None of the issues raised are fatal issues. When the bankers started out and said, gee, think back, just think back when you were young about how hard interest was to pay. Well, I think our first house loan was 9.75 percent and the first car loan was 11 point something percent. And I'm looking at 4 percent? And two-tenths of a point above that? And I'm thinking, you know, this thing is doable. That $27 a month or whatever, if it can be channeled to provide a source of revenue, and I think the $27 a month figure came out of what the testimony of the credit union's was on a kind of an average house, we may be on to something here. In answer to Senator Smith's question, I think the bill is drafted so it would apply to credit cards because they are collectible in our courts. And so I...if it isn't drafted exactly that way, I would think that's a major source of revenue from this particular theory of taxation and it certainly is intended to be captured in that. And where the money can go, first, probably to the old senators' retirement fund. (Laughter) But it can go wherever, you know. This is focusing on where we can get money rather than where we should put money and it basically is on an idea that isn't that big of deterrent to small business. Look at the fluctuations in interest on the ten-year treasury. We've seen it go up one full percent and down in the last 18 months or so. With interest rates as low as what we're dealing with now, we are dealing with very, very little cash impact in this kind of a theory. And it is, I think, when you begin to think about, if we can use the proceeds for some reasonable tax relief, a mechanism that might be fair and might be easy to administer with already existing infrastructure, and I feel maybe I accomplished something today here. [LB73]

SENATOR GLOOR: Senator Schumacher, I noticed that Dr. Thompson's paper was done like a year and a half ago, last October. Did you ruminate on this during the last session? Was there not enough time to piece together a bill? I'm just curious why there's been that gap between when you got it and when it turned up. [LB73]

SENATOR SCHUMACHER: Well, this is a...actually, I was ruminating right after Governor Heineman because I think that paper came after Governor Heineman's proposal of taxing manufacturing inputs, and agricultural inputs. So I've been ruminating on this a fair length of time and when I try to reality test it on the backside of Zoron, it seemed to at least survive until the sun rise on Zoron and so it's here. [LB73]

SENATOR GLOOR: And again to honor my comment to Mr. Sankey, is designed, it goes into the General Fund, but you're not necessarily wed to that as the bill. [LB73]

SENATOR SCHUMACHER: No. [LB73]

SENATOR GLOOR: It could go to property tax credit or whatever we amend it to say. [LB73]

SENATOR SCHUMACHER: Right. I wasn't counting my chickens before they were hatched. I figured we first got to hatch them before we figure out who eats the chickens. [LB73]

SENATOR GLOOR: Okay. Senator Davis. [LB73]

SENATOR DAVIS: The $27 a month, could you elaborate on that just...? [LB73]

SENATOR SCHUMACHER: That, I think was, I pulled out a testimony of the credit unions. They took a...if I read it right. I just read it briefly. They took an average loan and did the computation and came up with $27 a month. [LB73]

SENATOR DAVIS: So isn't this probably going to produce $27 in property tax savings for the average loan? [LB73]

SENATOR SCHUMACHER: You know, I'm not a good enough guru to know exactly how we funnel it through and a lot of that we'll refunnel...if we don't funnel anything to property tax relief, but funnel it towards income tax relief... [LB73]

SENATOR DAVIS: But if we did funnel it to...? [LB73]

SENATOR SCHUMACHER: I would...well, look at the amount of money. We're in the hundreds of millions of dollars and we're beginning to talk turkey then, rather than trying to scrounge up, you know, 20 million, 50 million, and end up buying the property taxpayer a candy bar a month. [LB73]

SENATOR DAVIS: Do you want to address the nexus issue on it? [LB73]

SENATOR SCHUMACHER: The nexus issue...I meant that's...and that's why I said initially it would be probably better and easier to pull off as a federal taxing mechanism. And, in fact, there's been inquiry since this bill has been filed about whether or not it doesn't have some applicability there. But, certainly, in the things that are enumerated in the bill, we have nexus. We have the Nebraska courts, we have Nebraska filings for security interests. There's nexus dripping out of this bill and property. So, you know, if something like this were to move forward, no doubt the nexus issue would have to be double-checked and make sure that we cover those. But, there's a lots of nexus in this bill. And what we don't have nexus on, of course, we couldn't tax, but there's just a lot of money already clearly under the umbrella. [LB73]

SENATOR DAVIS: So then, I guess, the final question is, we all know that taxes always matriculate out to whoever can't get out from under it anymore. So, assuming that happens, it's going to be the consumer only that pays the price one way or the other. [LB73]

SENATOR SCHUMACHER: It's going to be whoever engages in the flow of money that pays the price. And it can be consumers, it would be the same people probably paying the taxes now, but maybe in a bit different and a bit fairer proportions. And it's just a novel enough idea that I couldn't leave it on Zoron. [LB73]

SENATOR DAVIS: Thank you. [LB73]

SENATOR GLOOR: Senator Scheer. [LB73]

SENATOR SCHEER: Senator, just...I'm assuming you, on the five, on a street sign, is there any magic to the five percent, or...? [LB73]

SENATOR SCHUMACHER: No, it happened to be our sales tax, so. But there's no magic. It could be two, it could be ten. In fact, if it's a really good idea, you maybe jack it up. If it's a really rotten idea, you take it to zero. [LB73]

SENATOR GLOOR: Well, it certainly is an interesting concept and some...when you look at it from the standpoint of taxing the rental of money, things like on-line sales and how to tax on-line sales, all those things look a lot different. And I think you're right, as we move into the future, we have to look at the flow of currency, however we define that, in different ways. And how we raise money from it in different ways. So, interesting thoughts. I'll fall asleep tonight thinking about this, I'm sure. [LB73]

SENATOR SCHUMACHER: And think about one other part, integrate, or into here, that I haven't come up with an answer yet. What is money? That's a tough question when you get right down to it. What is it? [LB73]

SENATOR GLOOR: Any final questions? Thank you, Senator Schumacher. [LB73]

SENATOR SCHUMACHER: Thank you. [LB73]

SENATOR GLOOR: And you may segue right into your next bill, if you would like. That will end the hearing on...and by the way...excuse me for a second. I forgot to mention the names of our two pages. Colin over there is from Wayne and Donnie from Lincoln. We appreciate their help today. So, we'll move on to the hearing on LB75. [LB73]

SENATOR SCHUMACHER: Thank you, Senator Gloor, members of the Revenue Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, testifying today on behalf of LB75 as its introducer. I serve District 22 in the Legislature. For a long time I've thought that Nebraska's biggest problem, not education, not roads, not prisons, not all the things we commonly think of as our biggest problem, but our biggest problem is we do not have a effective mechanism for investing our capital in Nebraska. Think about it. Where is your retirement plans invested? How are they invested? If you had an extra hundred, two hundred thousand dollars or more, meaningful amounts of money, where are you going to invest them in Nebraska? You might do what many of the people in the agricultural community has done and that is, plow it back into farmland because they aren't making any more of that, because you're afraid of zero percent interest rates, and because you don't like the roller-coaster of the stock market. But we see the ramifications of that in our property tax discussions every day. And the ramifications of that are inflated land prices, things that don't cash flow, and a lot of bellyaching about the taxes being disproportionate to the income produced, which, of course, is the result of no place to invest your money. If you have that access money to invest, you've worked hard and saved some of it, what are you going to do, build an 8-plex and worry about thawing out the pipes in the middle of the winter for the renters. We don't have a good vehicle for people to invest in Nebraska and the very nature of our culture of investment and our heritage of basically being an ag population that came over from working the fields in Europe to working the fields here, we aren't very sophisticated financially in most of the state. That probably doesn't apply to some of the very sophisticated folks that are in downtown Omaha. But as a general rule, we're not terribly sophisticated. Our level of sophistication used to be, you take your money down, you put it in a C.D. with the local banker would give you whatever interest rate was and give you a toaster as a boot. But today, you can't even get a toaster, much less any interest. And so, how do we construct a vehicle. We're afraid, we're probably way too immature as a investing society talked about equity vehicles where you can buy stock and enterprises that are of a local nature. But it strikes me that one of the ways we can invest is in some of the infrastructure that could grow the state and fairly arbitrarily. Maybe other places to put the money that would have equal social return on investment, but in this particular bill, which was advanced out of committee and did get as far as debate on the floor a couple of years ago, and caused some concern with the Fiscal Office which I tried to address in this version, but was to pick out, in this case, roads programs, and say, okay, if you wanted to put in an extra tax payment with your taxes, overpay your taxes in essence, you would then at the end of five years be able to get a credit, not against the state, but against your own taxes. So you're kind of selling a tax credit here. A credit against your own taxes equal to what you put in, adjusted for inflation, which right now is very low, but nevertheless, whatever the adjustment was, so that you at least got value in, value out, and a interest equal to the ten-year treasury, which right now is, I think, slightly less than 2 percent. And so, you would be able to invest in Nebraska, that capital could be deployed here on roads or whatever is, we figure we can get a social return on investment in, and that return on investment would in all probability be higher than what the cost of the additional credit is. And keep some of that money working here instead of either driving up farmland, half of which probably goes out of state to out-of-state heirs who are inheriting it, or putting it on the stock market and sending our Chamber of Commerce people back to boardrooms around the country saying, golly, gee whiz, would you please bring some of our money back to us and we will give you all kinds of advantage credits or whatever we can dream up for incentives, to bring it back here. And so this is a mechanism for Nebraskan's to be able to invest in Nebraska in projects that probably will bring more return than what we have to pay in the additional credit they're given. And I did put a limit in here of $10,000 a year for investments. There was some concern a couple of years ago that somebody would invest billions into this, and that would cause all kinds of fluctuations and a total gross program thing that could, if the sky fell, be covered easily within the range of our cash reserves which wouldn't be touched anyway. I mean, it would be a revenue shortfall that would have to pull those down, but that's kind of a super emergency mechanism in case something went terribly awry in the way this thing flowed, and I don't anticipate that, but it is a safety belt in there. So, I ask the body to consider advancing this again. Unfortunately, there's only so many limits of priorities that are available to anybody, but it's an idea that I think is very important because we have to find a way to have people with cash be able to invest in Nebraska rather than invest in other parts of the country. And if we don't give them an option, and we haven't, they will continue to do what they're doing, drive up the price of farmland and invest in other parts of the country. [LB75]

SENATOR GLOOR: Senator Schumacher, we're a pretty mobile society. What happens with somebody who moves out of the state? They get transferred on the job or retires. [LB75]

SENATOR SCHUMACHER: There's provisions in here where they can...they waive the return on investment, but they can sign out the principal to other people. [LB75]

SENATOR GLOOR: Is...wouldn't that be a huge disincentive for most people who want to participate? [LB75]

SENATOR SCHUMACHER: You know, most Nebraskans don't move out. I mean, we really don't. And regardless of what we've been hearing in this committee, the idea of somebody looking at a teeny-weeny difference in taxes suddenly saying, I'm moving to another state. They're here because they own businesses here, they're here because they have land here, they're here because they have relatives here. And the idea that you, you know, the determining factor of where you take your first job, or what you do with your life is going to be the first thing you check is whether or not taxes are half a percent higher or lower than the next place is pretty hard sell. [LB75]

SENATOR GLOOR: Senator Scheer. [LB75]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Schumacher, aren't we sort of turning the state into another financial institution to the extent that they'd be competing against our own local banks within the state, or other financial institutions, or areas of capital investment, to the extent that it's tax free or however we're going to do it, we're going to a tax credit so it equalizes a better return. You don't think that would have any effect on the capital markets? [LB75]

SENATOR SCHUMACHER: You know, to the extent we're able to raise a few hundred million dollars this way and accelerate roads programs or whatnot, I don't think you're going to have a market effect on capital markets. That...if I take money now and send it to a broker in New York because I think that the broker in New York can get me better than a zero percent interest in rate of return, it's leaving the state there. I don't see that this is going to make any big surge and to a certain extent, government is...and this pretty much, even some of the philosophy of the far right, government is in competition with private sectors. Every time we tax somebody we are taking some money out of circulation from the private sector, but we're doing it because we have a public purpose that we figure gives better return to society as a whole by having a road or a school or a medical program or something, than in supplement of the private sector. [LB75]

SENATOR SCHEER: Thank you. Thank you, Senator Gloor. [LB75]

SENATOR GLOOR: Senator Brasch. [LB75]

SENATOR BRASCH: Just one very brief comment. It sounds like a Pay It Forward Program. [LB75]

SENATOR SCHUMACHER: From the taxpayers' point of view, that's what you're doing. You're...instead of, right now, if you wanted to, you can pay your quarterly payments in. You can pay a chunk in your first quarter and not pay anything in the next three quarters and you'd come out okay. This is like paying it in the first year and not having to pay it in the last year and you get a little boost so that you preserve your purchasing power and a little tab of interest better than... [LB75]

SENATOR BRASCH: Kind of like a prepay, so you can just drive on through. [LB75]

SENATOR SCHUMACHER: I don't like a prepay. Right. [LB75]

SENATOR BRASCH: Very good. Good thinking outside of whatever planet. [LB75]

SENATOR SCHUMACHER: Zoron, I think is where Mr. Radcliffe said I was, so. [LB75]

SENATOR BRASCH: All right. No other questions. [LB75]

SENATOR GLOOR: Senator Davis. [LB75]

SENATOR DAVIS: Senator Schumacher...thank you, Senator Gloor. Senator Schumacher, we had the bonding bill last year on roads which requires...that a state is not permitted to carry debt. Aren't we...isn't this essentially the same thing? We're using this revenue, but we owe the debt. [LB75]

SENATOR SCHUMACHER: No, you don't owe it. The state doesn't owe this to you. You owe it to you as a credit toward the taxes you would otherwise pay. If there's a problem that way with this, there's also a problem with the Advantage Act because this is a credit against what you would otherwise owe. The state doesn't...will never write you a check. The state isn't obligated to write you a check. [LB75]

SENATOR DAVIS: I get that. I just...I guess I'm curious about the constitutionality of doing something like this. [LB75]

SENATOR SCHUMACHER: And that's a really good point because to the extent there's a constitutionality issue here of applying...calling the credit a debt, then that taints every one of our credit programs. And even more so, those credit programs where they're refundable credits, where those credit programs where the employer gets to keep the employees withholding, all the...I mean, this kind...the little anomaly that caused you to ask that question is inherent in all of them and maybe one day we'll find out we can't do any of these things. [LB75]

SENATOR DAVIS: Thank you. [LB75]

SENATOR GLOOR: Seeing no more questions, thank you. That's kind of your work desk. You're welcome to leave some of that up here if you'd like. (Laughter) We'll move to other proponents of the bill. Opponents of this bill? [LB75]

JERRY STILMOCK: (Exhibit 1) Senators, Chairman Gloor, thank you. My name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of our client the Nebraska Bankers Association in opposition to LB75. The basis of the resistance to the bill is community banks in Nebraska, our members already have a...provide a place for depositors to invest their money. Our community banks are involved in the communities. Our community banks pay taxes to the state of Nebraska and though we compete, and some people might say relish the competition among community banks among themselves, just don't believe that Nebraska banks should have to compete against the state. And that basically formulates the basis of our objection and we respectfully request the committee to indefinitely postpone LB75. Thank you. [LB75]

SENATOR GLOOR: Are there questions? Yes, Senator Harr. [LB75]

SENATOR HARR: Is the fear you'd have to pay a higher interest rate to get the money? [LB75]

JERRY STILMOCK: I think the fear is, is that we would be competing against another entity, another government sponsored entity, that it just isn't fair. I mean, if the bank is going to compete, it should compete against other entities of which are taxpaying entities, entities that are similar to them. Would we have to pay a higher rate of interest if the state became involved in this manner? I don't know, but I guess that's a possibility, sir. [LB75]

SENATOR HARR: Okay. Thanks. [LB75]

SENATOR GLOOR: Other questions? You know, what's interesting conceptually though is, and it's sort of a comment to which you can respond, this is...gives the taxpayer an opportunity to be somewhat of a determinate about how the state uses my money, that there is no third party involved in this. It's just myself and the money that I'm otherwise going to give the state in taxes. I'm giving it to the state a little earlier for basically the same uses that it was going to have in the uses in the past for which I get a rate of return that's pretty modest and pretty reasonable. But it takes out the third party in the process. And I understand, banks and others are the third party and that's problematic for you, but it does certainly have its attraction because of that model. [LB75]

JERRY STILMOCK: Yes, sir. [LB75]

SENATOR GLOOR: Other comments? Questions? Thank you, Mr. Stilmock. [LB75]

JERRY STILMOCK: Thank you, Senators. Good afternoon. [LB75]

SENATOR GLOOR: Other opposition? Anyone in a neutral capacity? Seeing none, Senator Schumacher. [LB75]

SENATOR SCHUMACHER: Thank you, Senator Gloor. There used to be something said about banking that it operated under the 3-6-3 Rule. You paid three percent on deposits, you collect six percent on interest, and you're on the golf course by three. (Laughter) And I, from talking with bankers recently, they're complaining about not being able to be on the golf course by three anymore. You know, they don't even give you a toaster anymore to invest in a C.D. Last time I talked to a banker about moving some money into his bank, he was told, we really don't want it. We really don't want it because what we end up doing is having to pay an FDIC fee on the money and losing money on it. We want money, we'll borrow it from the fed for nothing. We don't want your money. And that's part of this whole problem, not paying anything on the money, they really don't want the money, and so, the argument that you heard may have been one with some validity back in the days when there was really a competitive market in the loaning of money. That's gone. And so, because it's gone, because you can't invest in the local bank in our own way of doing it of taking your money down to the bank, putting it in a C.D. and, you know, keeping it below the FDIC limit, and that's gone. You don't do that anymore. And that's why our money is leaving either for speculative stock market stuff, or the curse that we've had for driving up the price of farm real estate. And so, what we're seeing here is part of a bigger problem and a bigger issue. And this is one tiny way to say, okay, this problem exists. It may not exist forever. It may not be here five or ten years from now. This is certainly not the kind of program that couldn't be terminated, phased down rather quickly. But for right now, we can take this unhappy phenomena and build some roads or some other things, whatever the object of the game that the Legislature decides it could be, and have something sooner than we would. A road between Norfolk and Omaha complete, or between Columbus and Omaha complete, or a Heartland Expressway complete that otherwise we wouldn't have and would have to wait years to get around to. And maybe those things would really help grow Nebraska. [LB75]

SENATOR GLOOR: Any final questions? Seeing none, thank you, Senator Schumacher. [LB75]

SENATOR SCHUMACHER: Thank you. [LB75]

SENATOR GLOOR: And that ends the hearing on LB75. We'll now move to LB123. [LB75]

SENATOR SCHUMACHER: Thank you, Senator Gloor and members of the Revenue Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, District 22 in the Legislature, here today to introduce LB123. This one is not my own concoction. This one is the concoction of the gentleman who preceded me in the Platte County Attorney's Office, so maybe it's in the water. But this deals with the issue of warrants on...issued by Sanitary Improvement Districts. And whether...how they are paid. Sanitary Improvement District is kind of a poor man's way to creating a city or a village and facilitating either a road or a sewer system or whatnot. And basically what happens is they decide they want to put in a sewer system and assess it toward the lots. And they issue warrants in the first step of the proceeding to have a contractor come out there and put the...dig the sewer system in and then those warrants are either refinanced through bonds or paid off in order of their issuance from the taxes raised from the property within the Sanitary Improvement District. Now, the question then becomes what happens if you decide that, gee, we've got our sewer system in but it sure would be nice to have a road. And you issue warrants for the road and levy an assessment to pay off those warrants too. Okay, now you have two sets of warrants out there, and is the money in one pool in which the guy has the first warrants gets paid first, and the other guy has to stand in line? If it is, it would be pretty hard to get the second guy to get in line, or do you create separate funds? And can you create separate funds and fund each checkbook, so to speak, separately, one for the sewer system, one for the road system? And that's the issue that's presented today. Mr. Baker, who is going to follow me on this, has extensive experience in dealing with the SID business. In fact, he probably has done a whole lot of work since he left the county attorney's office back in the early '70s and is much more conversant. I would ask you to direct your questions to him and give him plenty of opportunity to explain the position before any...so that he escapes the red light a little bit and gives everyone a full understanding of the problems that he is encountering in the SID field. I'd take any questions now, but my depth of knowledge is probably not as extensive as his. [LB123]

SENATOR GLOOR: Are there any questions? I think we're going to wait on the questions. Thank you, Senator Schumacher. We'll move to...are there proponents? [LB123]

RAYMOND BAKER: Chairman Gloor and members of the committee, my name is Raymond Baker. That's R-a-y-m-o-n-d, Baker, B-a-k-e-r. I represent SID 7, Platte County SID. The one in Butler County, Office represents SID 6 in Platte County. I think that in order to really understand what's the issue, maybe I should go through what warrants are and how they work. Warrants are, when issued in payment of a debt such as a contract for an SID are equivalent to a check, and if there is money in the treasurer's office, the treasurer pays the warrant. However, if there is no money in the fund for which it's issued, then the treasurer registers the warrant. And the warrant then when it's registered, becomes less like a check and it's more evidence of indebtedness. Once it's registered then, the contractor is entitled to receive the warrant but, of course, the contractor doesn't want the warrant, he wants the money. And that's where the investment banking firm comes into play. For a fee of 2 percent they will buy, I think, sometimes hold, more often or not sell the warrants. In other words, the warrants are signed to them and they pay the contractor his money and his bill. So the investment banking firm or their investor are holding those warrants. When the project is complete, normally the lot owners of the subdivision are assessed. And number one, the statute provides that assessment is a lien on the property. Number two, it says in Section 31-754 that special assessments are a sinking fund for purposes of paying the costs of the improvements. And the statute, in case you'd like it, create a lien, is 77-1917.01. So the landowner comes in and pays his assessment. The question then becomes, what happens to the money? Well, it's used to retire warrants. And the statute says when he pays the assessment, the warrants must be retired. The problem arises because the statute 77-2206 says in the first sentence, it shall be the duty of every treasurer to pay each registered warrant in the order of its registration. The investment banking firm...an investment banking firm that we've dealt with has taken the position that that is done irrespective of the subdivision...of the project. So, we had a project involved to levy. Issued warrants, they were sold. Assessments were made, payments come in. The position of the banking firm...let me back up just a second. Payments come in. Everything is fine. Then we start another project for the purpose of installing streets and sewers. When those warrants are paid, the banking firm's position is, that money goes to the old ones on the levies. Why? Because the statute says that it shall be the duty of every treasurer...impeach registered warrant in the order of its registration and the warrants...there are some warrants on the levy outstanding. So, when we look at the fact that there's a lien on the land for the assessment, and that those assessments are a sinking fund to pay for the improvements, it's rather clear that those assessments and the payments on them are intended to defray the cost of those particular improvements that's the warrants issued for them. When you look at the second part of 77-2206 it talks about giving notice and the notice is given to warrants from the proper fund. So, I think I can wind it up by simply saying the problem arises because of the inconsistency in the statute and LB123 clarifies it. It's coordinated and makes it clear that you can have proper funds, separate funds, and no longer will say that they can...that they can...the treasurer has to pay each registered warrant in the order of its registration. It can be order of its registration from the proper fund. Questions? [LB123]

SENATOR GLOOR: Thank you, and I appreciate...I'm certain the committee appreciates the quick tutorial on this, but is this an issue now because one investment firm has raised that issue? I mean, there's the issue of how the statute is being interpreted and how most counties operate and it's my guess that most counties are operating the way that Senator Schumacher hopes to change the statute, or am I leaping to a conclusion? What's the practice? What's the actual practice for most counties? [LB123]

RAYMOND BAKER: I can tell you that we are at the present time utilizing our interpretation of the statute, which is contrary to the other interpretation of the statute. And I really don't know of any other SID that's had multiple projects going where the first project isn't paid off. I can't tell you that. There may be and I can't deal what their practice is, but I do know our position so far...because what's really happened here is that an individual who wanted to buy all warrants, we saved the 2 percent, we take the warrants to bond council, they approves them, they go to this individual, a qualified investor, and that's contrary to what the investment banking firm would like to see happen. Now the problem is, is that if you take their interpretation once they's got an outstanding balance on you, you can't go anywhere else. [LB123]

SENATOR GLOOR: Yeah. Senator Harr. [LB123]

SENATOR HARR: I just want to make sure I get this clear. This is a classic robbing Peter to pay Paul type situation. Is that...? [LB123]

RAYMOND BAKER: I don't think it's a classic. I think it's one where they just claim a priority which would...which would tend to inhibit the subsequent supplier of funds from participating. [LB123]

SENATOR HARR: Well, and maybe I need to be a little clearer. St. Paul, St. Pat's...or, Paul and St. Peter, two churches in London, right? One was built first. [LB123]

RAYMOND BAKER: Okay. [LB123]

SENATOR HARR: The church, the government of England use to put a tax everyone had to pay to the church of England, and I think it was St. Peter's wasn't keeping up its funds. And so the money that was supposed to go St. Paul's went to St. Peter's. Is this the same situation? [LB123]

RAYMOND BAKER: Yes, that's essentially is what's happening here. The money collected on the second project would go to pay the first project. [LB123]

SENATOR HARR: Yeah. All right. [LB123]

RAYMOND BAKER: It doesn't make any sense really, but that's...particulary in view of the fact that the statute says...the statute says that the money paid in constitutes a sinking fund for the payment of improvements. And number two, the notice goes only to those people with improvements, so it's pretty clear what the statute means, I think. It just needs to be clarified. [LB123]

SENATOR HARR: So, let me follow up then. If there's a lien against an SID, why wouldn't I, if I'm the lender, or why wouldn't someone ask for a subordination agreement? [LB123]

RAYMOND BAKER: Excuse me? [LB123]

SENATOR HARR: Why wouldn't someone ask for a subordination agreement to avoid this issue? They say, hey, the funds to this go over here to this? [LB123]

RAYMOND BAKER: I'm not sure I can see how a subordination agreement would operate. The statute providing for the lien says that the...in fact I have it here and it says that there should be a lien on the real estate within boundaries for all special assessments due thereon. So if the lien follows a special assessment, and that's by statute... [LB123]

SENATOR HARR: So, I guess my question is, if I'm the general contractor doing the work on the second project, I mean, I would...doesn't that contractor usually say, hey, I'm not going to do this if I take subordinate to another, a loan prior. How do you get that person to do it? [LB123]

RAYMOND BAKER: That is a potential problem. There is a potential problem in terms of second project is getting the financing for him. [LB123]

SENATOR HARR: So how do you...I mean, who would provide that financing? I can't imagine anyone would. [LB123]

RAYMOND BAKER: Well, there's a private individual involved that, I think, is going to provide the financing. [LB123]

SENATOR HARR: Okay. I'll qualify to that...(inaudible). [LB123]

RAYMOND BAKER: The purpose is simply to clarify the statute. [LB123]

SENATOR GLOOR: Other questions? Thank you. Appreciate your time and explanation. Other proponents? Are there any opponents to this bill? Anyone in a neutral capacity? Senator Schumacher to close. [LB123]

SENATOR SCHUMACHER: Thank you, Senator Gloor and members of the committee. I think Mr. Baker did a comprehensive job of explaining what's going on. Basically, as I gather the problem, you open a new checkbook for each project and you get your tax money to put into it. You put tax money from this project in the one checkbook and the other project in that checkbook. That's one interpretation and you write out to the creditors. On the other hand, there's a claim that could be made because of the lack of clarity in the statute that you got to put all your money into the first checkbook and the guy is holding checks on the second account have got to just wait in line until you get the first checkbook paid off. And I guess that's what it boils down to and clearly there's statutory language that exists now that would suggest the two separate checkbooks are how it's meant, but there's also the language that says the treasurer pays them in the order of warrant, so the color of the check bank doesn't make any difference. It's the date on the check that makes a difference. And that's the essence of this particular issue. [LB123]

SENATOR GLOOR: Any other questions? [LB123]

SENATOR SCHUMACHER: Thank you. [LB123]

SENATOR GLOOR: (Exhibit 5) Seeing none, thank you, Senator Schumacher. And that ends the hearing on LB123. Before we adjourn, we did have a letter here on LB73 that was a letter in opposition from the Corn Growers to LB73. So we'll add that to the record. And with that, we'll adjourn the meeting. Thank you members for your input and energy during the last three days and have a good weekend. [LB123]