[LB961 LB962 LB963 LB1048 LB1050 LB1089 LB1090 LB1091]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 7, 2018, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1089, LB1090, LB1091, LB1048, LB1050, LB961, LB962, and LB963. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Burke Harr; Tyson Larson; Brett Lindstrom; and Paul Schumacher. Senators absent: Mike Groene.

SENATOR SMITH: (Recorder malfunction)...and welcome to Revenue Committee public hearing. My name is Jim Smith, I represent the 14th Legislative District in Sarpy County and I chair the Revenue Committee. The committee will take up the bills in the order that's posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation that is before us today. To best facilitate today's proceedings, I ask that you abide by the following procedures. If you would first please turn off cell phones or mute them and any other electronic devices so as not to interfere or interrupt individuals that are testifying before us. The order of testimony will be the introducer of the bill, proponents, then opponents, neutral testimony, and closing remarks. I know we've varied from that in the past, but given the number of people that are with us today, I think we'll just follow the normal process. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written materials that you would like to have distributed to the committee, please hand those to the page to distribute. We will need 11 copies. If you need help making those copies, if you'd go ahead and let the page know we can help you with that so we can have that ready for you when you come up to testify. When you do testify, we will need you to both state and spell your name for the record. We are going to use the light system. We're going to set the time at five minutes. So the green light will be on for four minutes. It will then turn to an amber color for the remaining minute. And once it turns to red, if you have not concluded your testimony we would appreciate if you would make certain it's wrapped up and that gives us time to ask questions from the committee. If your remarks were reflected in a previous testimony or if you would like your position to be known but do not wish to testify, we offer that you sign the white form in the back of the room, as it will be included in the official record. Please do speak directly into the microphone so that the transcribers will be able to pick up your testimony and record it properly. Allow me to introduce our staff with us today. To my immediate right is legal counsel, Mary Jane Egr Edson. To my immediate left is research analyst, Kay Bergquist. And to my left at the end of the table is committee clerk, Krissa Delka. I will allow the committee members to introduce themselves and we will begin with Senator Harr.

SENATOR HARR: Burke Harr, Legislative District 8, representing the true central part of Omaha.

SENATOR SCHUMACHER: I don't know how I can beat that. Paul Schumacher, District 22, representing Platte and parts of Colfax and Stanton Counties.

SENATOR BRASCH: Lydia Brasch, District 16, Burt County, Cuming County, and Washington County.

SENATOR FRIESEN: Curt Friesen, District 34, Hamilton, Merrick, Nance, and part of Hall County.

SENATOR SMITH: Senator Lindstrom and Senator Groene are introducing bills in other committees, so they will be with us a bit later perhaps.

SENATOR LARSON: Tyson Larson, District 40.

SENATOR SMITH: And our page today is Heather Bentley, from Miller, Nebraska. Heather is a junior at UNL majoring in agricultural economics. Please be mindful that senators will come and go during this committee proceeding. They have commitments in other committees, so please bear with us. Please do not take offense at that. They do have those obligations, but you will see folks coming and going. We are going...we have a full plate today, but it's not as bad as it may look. We have a list of eight bills before us and some of these are technical bills and conformity bills dealing with the Revenue Committee, so for a couple of these bills I'm going to have our legal counsel provide the introduction and Ms. Egr Edson will be followed in testimony by representatives of the Revenue Department. So we're going to kick off with LB1089. This is a technical corrections bill for the Revenue Committee. It relates to changing provisions relating to confidential tax information, refundable income tax credits, and homestead exemptions. [LB1089]

MARY JANE EGR EDSON: Thank you. Chairman Smith and members of the Revenue Committee, my name is Mary Jane Egr Edson, spelled M-a-r-y J-a-n-e E-g-r E-d-s-o-n, and I serve as your legal counsel. I am introducing LB1089 today. This was brought by Senator Smith at the request of the Department of Revenue. And as he mentioned in his opening, this is the annual technical corrections bill that the Department of Revenue has had. For as long as I can remember, there's always been one. With all of the legislation that gets introduced every year, tax legislation, court cases from time to time and frequent issues that keep recurring, the department tries to address those issues, clarify those issues, make corrections as are necessary. And there are four components to LB1089. The first one is pretty straightforward, it simply provides that methods and techniques used by the Department of Revenue to detect fraud and other items on tax returns or in tax information would remain confidential information. The second section of the bill deals with property that has been destroyed or damaged by a major calamity. This is an issue that's come before the committee several times before about what happens with property taxes in the case of a major disaster or natural disaster. It's similar to a bill that you heard earlier this year, LB829 that was introduced by Senator Erdman, but it does have some distinct differences and I'll let the department get into that. The third piece of the bill is with regard to refundable income tax credits and whether or not those are overpayments or not. There was a Supreme Court decision on this some time ago and the department is still attempting to get this clarified. And then the bulk of the bill really deals with various aspects of the homestead exemption program. Some of you will recall two years ago in 2016, Senator Craighead introduced LB683, which the Legislature adopted that allowed for surviving spouses of a serviceman or a servicewoman who remarries at the age of 57 or older to retain the homestead benefits. For some reason, we don't know exactly, it was in one section of the homestead bill and it just doesn't make sense for it to be over there by itself, so this bill merges it in with other categories. With regard to homestead, there's a lot of other merging and harmonizing that's going on in here. If you've never had to go through the homestead or deal with the homestead program, it's a patchwork program that's kind of been put together and amended over the years. And probably at some point when the Department of Revenue has more time, they'll probably look at reworking it and kind of getting it back into shape. That's about the extent...those are the four major provisions of the bill and I would try to answer any questions that anybody might have. [LB1089]

SENATOR SMITH: Thank you, Ms. Egr Edson. Questions. Senator Harr. [LB1089]

SENATOR HARR: Thank you, Mr. Chairman. You're much more familiar with the tax code than I am. Would you agree with that? [LB1089]

MARY JANE EGR EDSON: Yes. [LB1089]

SENATOR HARR: Okay. In your opinion, are there any policy changes in this bill or are these merely clarifications? [LB1089]

MARY JANE EGR EDSON: I can't say that there's anything in here that I would consider to be a policy change. [LB1089]

SENATOR HARR: Okay. That's all I wanted to know. Thank you. [LB1089]

SENATOR SMITH: Remaining questions from the committee. I see none. Thank you, Ms. Egr Edson. [LB1089]

MARY JANE EGR EDSON: Thank you. [LB1089]

SENATOR SMITH: We now take the next testimony in support of LB1089. Proponent. Welcome, Commissioner. [LB1089]

TONY FULTON: Thank you, Mr. Chairman. [LB1089]

SENATOR SMITH: And congratulations on your new deduction. [LB1089]

TONY FULTON: (Exhibit 1) Well, thank you. Chairman Smith and members of the Revenue Committee, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I am the Tax Commissioner for the State of Nebraska, here in support of LB1089, the department's annual administrative bill. This was touched on earlier, but I'll put a little more detail on the four components of the bill. Number one, LB1089 would assure that audit selection criteria and standards, discovery techniques, and the design of automated detection systems remain confidential information. Number two, it would allow property that is destroyed by a major calamity before July 20 of the tax year to be reassessed. A petition to reassess the property may be filed by either the property owner or the county assessor. If such a petition is filed, the county assessor is to file a report, including the current value of the property, with the county board which makes the final decision. Three, it would provide that a refundable tax credit is only an overpayment to the extent that the refundable credit exceeds tax liability; this is a follow-up of Section 3 of LB776 from 2016. That bill provided that refundable credits are considered overpayments for purposes of statutes of limitations, interest, offsets, and similar issues. LB1089 further clarifies that policy. It would limit this treatment to only the extent that the refundable credit exceeds tax liability. This means that a refundable credit that is requested after the statute of limitation for refunds has expired would be allowed to the extent of liability so that only that part to be refunded would be denied. Number four, it would simplify the homestead exemption program by combining two categories of beneficiaries, eliminating a redundant certification process, requiring a notice of rejection of a homestead for any reason within ten days after the rejection, granting more time to file a transfer application for some homestead applicants, and including the county assessor with the county treasurer as the county officials responsible for certifying the lost tax revenue due to granted homestead. The county assessor has the information initially, but the county treasurer will be receiving the reimbursement. This is already the current practice in most counties. I ask for advancement of the bill and can answer any questions or try to, if you have any. [LB1089]

SENATOR SMITH: Thank you, Commissioner Fulton. Senator Harr, then Senator Schumacher. [LB1089]

SENATOR HARR: Thank you for coming, Commissioner. And thank you, Mr. Chairman. You've reviewed the bill? [LB1089]

TONY FULTON: Yes. [LB1089]

SENATOR HARR: Okay. And did you hear the question I asked committee counsel earlier? [LB1089]

TONY FULTON: Yeah, I did. [LB1089]

SENATOR HARR: Okay. Is it your opinion that there are no policy changes in this legislation, but merely clarifications? [LB1089]

TONY FULTON: It is, but I will say that...let's see. The section having to do with property that's destroyed by a major calamity, I think it could be considered that that would be a change in policy. [LB1089]

SENATOR HARR: Okay. And have you seen the letter from the Douglas County Assessor/ Register of Deeds with her concerns regarding LB1089 as it applies to that section? [LB1089]

TONY FULTON: I have not. [LB1089]

SENATOR HARR: Okay. All right, we'll make sure you get a copy of that, see if we can clarify that. Looking this over, I see there will be some changes to some forms. Would you agree with me? [LB1089]

TONY FULTON: Yes. [LB1089]

SENATOR HARR: Okay. How come there is not a one-time programming charge to the Office of CIO for mainframe development cost and/or for changes to Web-based filing systems that I see on every other fiscal note that seems to have some changes? [LB1089]

TONY FULTON: That's a question I ask also. On this bill, though, I don't know that this is a change to income tax forms. We have someone from our Property Assessment Division who's here. [LB1089]

SENATOR HARR: But it's not just income tax, right? It's any form...I've seen...you know, there's going to be changes to the Web site, I see charges to CIO. This goes back to a fundamental problem that you and I are well aware of that I just try to create a record of. It appears to me when an agency wants something they can absorb the cost, when they don't want something there always seems to be a Web-based charge, there seems to be a programming charge. And I didn't want to draw attention to it, but if you look last week at the difference between LB947 to the exact same language as in LB1080, there were different charges for the exact same description within the Department of Revenue. All I'm saying is, be consistent. I find this...and you didn't do the fiscal note, but I think you probably signed off on it. And I'll have a bill later today where I'll say, there's $57,746; no different than this bill. Right? In this political climate we live in with death by fiscal note that anything that has a General Fund allocation is dead, right, so you're killing bills and we're creating policy through fiscal notes and that's wrong. So if you can come back at a reason for me why there isn't a fiscal note on this, I'd be interested in hearing, but I can't tell a difference. We're changing stuff the same as we're changing it in my bill later today. Thank you. [LB1089]

TONY FULTON: And, Senator, if I may ask, was there a...is this LB1048? [LB1089]

SENATOR HARR: What's that? [LB1089]

TONY FULTON: Which bill is this for yours that... [LB1089]

SENATOR HARR: Mine is LB1050 later today. [LB1089]

SENATOR FULTON: Okay. [LB1089]

SENATOR HARR: We can go through and look at another one I have today. I'll deal with this with you off-line but can show you where the same thing, bills that are almost identical have different fiscal notes and the descriptions are the exact same, it's just the amounts differ. [LB1089]

TONY FULTON: Okay. Yeah. [LB1089]

SENATOR HARR: And we need to have a better explanation. And I'm coming with a bill later today with a fiscal note and since you're here I'm going to tell you, I'm going to be attacking the Department of Revenue because they say there's a fiscal note; $10 million and not one mathematical equation at how they came up with it. I couldn't tell you if it was right or if it was wrong, all I can tell you is the number you gave. And I can't assess the final number if I don't know how you get the input. And this is a continuing frustration that I have and I've had it for eight years and you guys have outlasted me. Right? "Webes," we be here before you, we be here after you. Congratulations, you won because I'm gone. Hopefully, someone else will pick up the tablet and say, why are we making policy through fiscal notes? [LB1089]

TONY FULTON: Okay, fair enough. I'll just say to you, Senator, as I'll say to all of your colleagues, I recognize...I had the frustration with fiscal notes. If you have a specific question, ask, I'll do the best to respond to you. [LB1089]

SENATOR HARR: How is there not a fiscal note on this? [LB1089]

TONY FULTON: Well, this one, I don't know that there's a change to the mainframe. I mean, your question was general. [LB1089]

SENATOR HARR: Changes to the Web site. [LB1089]

TONY FULTON: The Web site is not something that we would need a fiscal note. [LB1089]

SENATOR HARR: You don't charge for changes to the Web site? [LB1089]

TONY FULTON: Not if it's minor. [LB1089]

SENATOR HARR: Okay, I'll look at that. [LB1089]

TONY FULTON: I mean, we can do that in-house. [LB1089]

SENATOR HARR: And there are no changes to any forms? [LB1089]

TONY FULTON: There well could be. I'm referring specifically to the property, what happens with respect to... [LB1089]

SENATOR HARR: Well, and I can point you to fiscal notes that have line items for changes to forms as being charged, so I'd better not find out that there's one form changed, which, by the way, they're already updated every year. So I'm not sure why...if you look at the bottom of all your forms they have the date on them and they're updated almost every year. So why do we charge some years and why do we charge for some legislation and not others? I don't know, but just know I'll be watching carefully to make sure not one form is changed, not one. Can you tell me today, based on this legislation, not one form will be changed? [LB1089]

TONY FULTON: I cannot tell you that. [LB1089]

SENATOR HARR: And yet you put a fiscal note on it that said not one will be changed. [LB1089]

TONY FULTON: No, that's not what we're saying. There are some forms that may require change at the county level within the Property Assessment Division. My understanding is that there will be no changes to the mainframe. [LB1089]

SENATOR HARR: No changes to any state forms? [LB1089]

TONY FULTON: I'm not able to say that. [LB1089]

SENATOR HARR: But you did because you didn't put a fiscal note on it. [LB1089]

TONY FULTON: Not every form change requires a charge to the OCIO. We don't get charged for everything that... [LB1089]

SENATOR HARR: Explain to me the difference, because I've only been here eight years, which forms get charged for changes and which ones don't, so I know in the future and we can have a record for future people. [LB1089]

TONY FULTON: My understanding, when we get charged it's for a change to the mainframe and I don't want to explain what the mainframe is, I just...I would assume you know what it is. When there is a change that's required, we don't actually make that change. Our department does not. That work has to be done by the CIO, so if there's work that has to be done outside of our department, we have to pay for that. And so that's...when a form change requires a change to the mainframe and there may be other things...generally, when it's outside of our department's control, we get charged for it. And so...I don't know... [LB1089]

SENATOR HARR: Okay. I'm a simple senator. Talk to me like a fifth grader. How do I know if there's a change to a form if it's a mainframe or a nonmainframe change? [LB1089]

TONY FULTON: I suppose that would be when you get your fiscal note. And if you have a question about it, then you could ask us about that specific change. And that's what I've offered to all the senators when I first got here and I continue to offer it. [LB1089]

SENATOR HARR: Okay. So you're telling me today there will be no mainframe change of any sort based on this bill? [LB1089]

TONY FULTON: That's correct. [LB1089]

SENATOR HARR: Okay. How do you know that? [LB1089]

TONY FULTON: Because we don't have anything that is contemplated in this bill is going to be done within the department and we don't have to go to the Office of the CIO. [LB1089]

SENATOR HARR: Okay. How do you know nothing has to go to the mainframe? [LB1089]

TONY FULTON: Because we've looked through this bill and there aren't...these changes are changes we can make in the department. The only thing that I would see that could potentially be a change in any form would be the...yeah, with respect to the major calamity section, Section 2 I think. [LB1089]

SENATOR HARR: I could see a change based on the homestead exemption, too. The state handles homestead exemptions. [LB1089]

TONY FULTON: Right. [LB1089]

SENATOR HARR: Okay? There will probably be a change to the form because we're changing...we're making a little bit of a change there. So my question is--and I still don't have an answer--how did you--not how would I know--how did you know that nothing goes to the mainframe on this bill as opposed to a bill we'll here in this committee later today, it will go to the mainframe? Who makes that determination if it goes to the mainframe or not and how do you determine that? [LB1089]

TONY FULTON: Okay. Within the department...hopefully, this will be illustrative such that it can answer your question. When I first came to the department this was my first question, how are your fiscal notes developed? We have different divisions within the department and each of those divisions will look at all of the bills that come before...that get assigned to us. This is probably a good place to point out that it's the Legislative Fiscal Office who controls fiscal notes, which you should be aware, they're set in your rules. When that comes to our department, each of our divisions will look at the bill to determine if that division is going to be impacted. Generally, it's our IT, internet technology division or section which will make a determination as to what can be done in-house and what will have to go out to the OCIO. We actually have an employee within the department who is an OCIO employee that works with the Department of Revenue who helps make that determination. But that's the process by which we make that determination on a fiscal note, so that would have been the process that this bill also would have fallen under. [LB1089]

SENATOR HARR: Okay. So I'm looking at a sheet of paper here that says, state agency name, Department of Revenue, and it says approved by Tony Fulton. That's you, correct? [LB1089]

TONY FULTON: That is me, yes. [LB1089]

SENATOR HARR: Okay. I just want to verify. And on here it has no cost for these changes in LB1089. [LB1089]

TONY FULTON: Okay, yeah. [LB1089]

SENATOR HARR: We've already conceded that there will be some changes to some forms. Okay? How am I, as a layperson, supposed to know what causes a change to the mainframe? That's the question. [LB1089]

TONY FULTON: I don't know that you'd know as a layperson unless you were... [LB1089]

SENATOR HARR: Okay. How do you, having approved this, know that there's no change to the mainframe? What did you look at to say...what criteria did you look to say, you know what? There's not going to be a change to a mainframe, yes, there will be changes to a form, but changes to a mainframe, no, as opposed to another bill we'll hear later today, changes to a form and changes to a mainframe. What do you use to determine the...what is the determining factors to determine whether something is a change to the mainframe, goes to a third party where we charge ourselves? Right? It's a fixed cost, but nevertheless we charge ourselves, and what isn't? [LB1089]

TONY FULTON: We charge ourselves, you mean the state? [LB1089]

SENATOR HARR: Yeah, the state charge. All it is is a transfer of money between agencies, but that's fair. We're not here to debate that. What I'm here is, how do I know there's no fiscal note because no change to the mainframe, this LB1050 later today, change in a form changes a mainframe so that when someone is crafting legislation they know, I don't want my bill to be killed by a fiscal note, I want it to go through. So I'm going to make my changes...make sure my changes are minimal so it changes a form but doesn't require a mainframe change? [LB1089]

TONY FULTON: Yeah. So your question is, how would a layperson know? [LB1089]

SENATOR HARR: Or a senator or how did you determine? Let's say...you're not a layperson, you're a head, you signed off on this, how did you determine there wasn't a change to the mainframe? [LB1089]

TONY FULTON: I'm relying on my internet technology staff to determine whether we can do this in-house. And if we can do it in-house without incurring a charge, then that's what's reflected on the fiscal note. [LB1089]

SENATOR HARR: Did you ask them how they made that determination? [LB1089]

TONY FULTON: For LB1089? I did not ask specifically on LB1089. [LB1089]

SENATOR HARR: Okay. Have you asked them on any bill, how do you make a determination what has to go to mainframe? [LB1089]

TONY FULTON: Sometimes, yeah. Sometimes I do. [LB1089]

SENATOR HARR: Okay, and what did they tell you? [LB1089]

TONY FULTON: That's because this is something that the OCIO is going to have to do. Senator, if you can...I'm...it seems as if I'm trying to respond to a specific question in a general way. I mean, if you could tell me what is in LB1050, maybe we'd be able to tell you to your satisfaction where that charge is necessitated from. But just speaking generally, we have a fiscal note process controlled by the Legislature which we participate in. If there is a question on one of the fiscal notes, I have personally visited very single one of the senators and said, please, come forward with your question, because I had the same frustration that you're having. [LB1089]

SENATOR HARR: And I am coming forward. [LB1089]

TONY FULTON: And so that is a question of specificity, so I would gladly... [LB1089]

SENATOR HARR: Okay, specificity. What does the technology department look for in determining this raises to the level...need mainframe changes...this form change, no mainframe. What do they look to? And, obviously, there is something because you signed off on this. [LB1089]

TONY FULTON: Say that again. Obviously, there's something because I signed...what do you mean? [LB1089]

SENATOR HARR: You must know why this doesn't, because you signed off on it that there's no cost, which was then the basis for the Legislative Fiscal Office to say, no basis to disagree. I always like to say, comma, no basis to agree. But because I don't know the basis for agreeing or disagreeing and I'm asking you, what was your basis for signing off on this and saying, no fiscal note. If you're saying, I relied on my technical department, I get that. What I want to know is a follow-up, what did they use to determine no mainframe change, mainframe change, because it's obvious...I don't think you know it today and I sure as heck don't know it today, but it has huge impacts on what we do as a body. And so I think it was fair that the citizens of Nebraska know what is a mainframe change and what isn't. That's all I'm asking. You signed off on this. It's obvious you don't have the answer today, you relied on somebody. And that's fine. If you can't trust your staff...I mean, you should be able to trust your staff. [LB1089]

TONY FULTON: I do trust my staff. [LB1089]

SENATOR HARR: And I'm not disagreeing with that, but I was hoping you would have a basis for knowing why you trusted them. [LB1089]

TONY FULTON: Respectfully, Senator, there aren't...within this bill the form changes that are contemplated I believe would be--if there are any--I believe they would be under this Section 2 of the bill, which is the major calamity section. Those aren't...many of our charges, many of our changes for which we have a charge have to do with income tax forms as they come in from taxpayers. We're not...we've already said, we think this is a clean-up or administrative bill. We don't see anything different with our practice going forward than what has been done in the past, with the exception of this property that's destroyed by major calamity. And that's where I could see there could be a need for some change. [LB1089]

SENATOR HARR: And I don't want to take all day, but who runs the homestead exemption program? [LB1089]

TONY FULTON: Who runs it? [LB1089]

SENATOR HARR: Yeah, who oversees that program? [LB1089]

TONY FULTON: Yeah, it's our Property Assessment Division, Department of Revenue. [LB1089]

SENATOR HARR: Okay. Thank you. [LB1089]

SENATOR SMITH: Before we go to Senator Schumacher for the next question, let me ask you something, Commissioner Fulton. If this is correct, my understanding, if you add a line to the income tax return, such as 1050 or 1090, that requires a change to the mainframe. But forms, such as like the homestead forms, are taken care of inside the department and they're not returns and therefore they handle inside. Is that correct? [LB1089]

TONY FULTON: Generally, yes. Yeah, maybe you've articulated it better than me. [LB1089]

SENATOR SMITH: I don't know about that, but thank you. Senator Schumacher, then Senator Brasch. [LB1089]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you, Commissioner Fulton, for working with us on these issues. You've always been very good to work with on these, probably because you've sat on this side of the table. So my question deals with actually the first change in this bill that says, basically, nothing...notwithstanding anything, the audit procedures, discovery techniques, technological assistance to detect problems, shall be considered confidential information. The department may disclose this information to certain persons to further its enforcement activities. That suggests where my question is coming from. Is this a change in law from what we have now? [LB1089]

TONY FULTON: I actually asked that question on the walk over here to be certain. There's nothing explicit in the law addressing the confidentiality of this section, so this would be what we believe a clarification. If someone were to ask for this information today, we wouldn't give it, we'd fight it. So we believe this is a clarification of a practice of the department. [LB1089]

SENATOR SCHUMACHER: But if someone filed a Freedom of Information request for the information, what would you cite today as your reason...your basis for denying that information? [LB1089]

TONY FULTON: Yeah, there's not something explicit in the statute that can be cited. [LB1089]

SENATOR SCHUMACHER: Okay. And I don't know if you see where I'm going with this, but the Legislature has a certain oversight role. And we boxed ourselves in on a lot of things by saying, this is confidential, don't tell anybody, don't even tell us. And we've done that on various Advantage Act programs, things like that. We are affirming that here and saying, don't tell us. I assume that this means, don't tell us. That I, as a member of this committee, or Senator Smith, as Chairman of the committee, were to say, okay, I want the lowdown on the discovery techniques, you could then say, sorry, Senator, can't do that. You passed a law saying, don't tell anybody. [LB1089]

TONY FULTON: That's what we're looking for, but this is specific to discovery techniques. And the rationale, hopefully it can be seen why we say this...well, I'll just...I'll do this by way of example. When I first got to the department, there's a company with whom we work--and actually it was the Legislature who pushed this along--we work with a company to help discover fraudulent activity. [LB1089]

SENATOR SCHUMACHER: It's a Texas company, isn't it? [LB1089]

TONY FULTON: I don't think it's in Texas. [LB1089]

SENATOR SCHUMACHER: I remember that one. [LB1089]

TONY FULTON: But yeah, I think it was Senator Mello's bill. But anyway, that's something the department, we ventured into a contract with this company. So it was maybe the first few months I was at the department and I have a background with technology so I had some interest and curiosity and as I delved into this one of the things that was shared with me I'll share with you, because this was a wake up for me. There are any number of bad actors out there who are trying to get money from the state. Many of these actors are foreign actors and so there are activities to try to claim refunds that aren't even...they're not even of the...a person's identity gets stolen and a refund is tried to be obtained with that person's identity. One of the criteria that we've been able to discover is there's a certain dollar amount...in different years there's a certain dollar amount that this fraudulent activity centers around. And so one of the advantages of contracting with the company who is working nationally is they can see what's going on in other states. So if someone were to come and ask, well, how much is it this year, we wouldn't want to disclose that. That would be the type of thing a bad guy would want to know. So if the dollar amount for a refund is X and we disclose that, hey, this year it's X, then they're going to...obviously, they're going to request something other than X. So that was one of numerous checks that we have in place to make sure that fraudulent activity is not going on and we're not compromising a fraudulent activity. So that's why we don't want to share this. There's nothing explicit...I asked this question, can any old "Joe" just ask for this information? And the response I got was, well, they can ask, but we can't share that. And so we'd like to make it explicit this has been our practice. We're not going to share certain audit techniques and discovery methods, so that's where this is coming from. [LB1089]

SENATOR SCHUMACHER: But at the same time, a very legitimate...I understand exactly where you're coming from that. In the role...this is very broad in what it covers. It includes, apparently, if we're interpreting this right, this committee, the Executive Board of the Legislature, Speaker of the Legislature, anybody in this branch of government who has a responsibility for some type of oversight...I mean, you could be conducting Watergate-style break-ins into accountants' offices to get inside information and it's confidential. But you see...should we have or...would it be terrible, would it impair upon your ability to function as a Department of Revenue for us to say, at the end of this paragraph something to the effect "except that a duly constituted committee or the Chair of a committee or the Speaker and somebody in the Legislature can make such a request for oversight purposes"? [LB1089]

TONY FULTON: I'd want to talk this over with the rest of the department, but at first blush I don't think that's unreasonable, that request. We have a provision in here to allow for the sharing of such...for disclosing of some of this information with law enforcement. As part of the Legislature's oversight capacity, I don't think that's unreasonable. [LB1089]

SENATOR SCHUMACHER: Thank you. Thank you. [LB1089]

SENATOR SMITH: Senator Brasch. [LB1089]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Commissioner Fulton. I hesitate to return back to this subject, but now I'm curious. Does the Revenue Department still maintain a systems division or is that now the CIO? There was a forms design section and then there was a systems, where programming takes place. [LB1089]

TONY FULTON: We don't have a systems section. [LB1089]

SENATOR BRASCH: I didn't think so. And that's where, as I'm looking at the information here, it talks about it clarifies language and that it's...and I had highlighted here. It clarifies language, basically. And my understanding of the way the old Revenue Department ran in 1990, let's say then, is there was a systems division. And if it required an additional line of information, that required programming. But if it was text copy and it did not change it, then it was simply done by one of the forms analysts there that did computer graphics. And why it was important then was because each form, you have the side where the reader, the person filling it out, but then you also have the fields that are used in programming and those are machine generated and not human generated. So whenever it required a field change or an additional line, we had to work with a programmer and the programmer then had to make the computations, the mathematics, the line change. It became very technical and that then was the expense. And from what I'm understanding, the systems division has now consolidated into the CIO, which seems efficient. And so you basically job out the programming part. [LB1089]

TONY FULTON: Yeah, we don't have a systems division. [LB1089]

SENATOR BRASCH: No, you don't. Okay. And that's where I see from reading here, it's clarification, procedural language changes, and no additional lines or fields are required. [LB1089]

TONY FULTON: Yeah, I think so. And if there were, like I said, I think it would be under this...I should just figure out which section it is. Yeah, Section 2 of the bill, that doesn't...I don't know if that we have a database, if there's a change to a database we don't run all of our databases, that goes to the OCIO. If it's a spreadsheet in-house, that's something that we're operating. If it's a change to a database we can't do that, that's outside. If it's obviously filed on paper, that's something that we'll do in the department if it's filed... [LB1089]

SENATOR BRASCH: But this is updates and language clarification. [LB1089]

TONY FULTON: Yeah, that's right, LB1089. [LB1089]

SENATOR BRASCH: It's basically just switching words out and information and dates. [LB1089]

TONY FULTON: Yeah, with the exception of Section 2. [LB1089]

SENATOR BRASCH: Okay. All right. I have no other questions. Thank you. [LB1089]

SENATOR SMITH: Remaining questions from the committee. I see none. Thank you, Commissioner. We continue with the next proponent of LB1089. Welcome. [LB1089]

GEORGE KILPATRICK: Thank you, Chairman Smith. Members of the Revenue Committee, my name is George Kilpatrick, G-e-o-r-g-e K-i-l-p-a-t-r-i-c-k. I'm an attorney with the Policy Section at the department. I don't have prepared testimony. I guess I was here to follow up on any questions that might be asked and basically to confirm the homestead exemption program is a program that's within our Property Assessment Division. None of those property assessment type forms that we do do--which, incidentally, we're doing for counties--when the Tax Commissioner responded that the department oversees homestead, it's a shared oversight because the counties have plenty of significant roles with regard to homestead as well. What we check on our end is the income, because as you know, the amounts vary depending on the income of the individual, so that's our role. But we also prepare forms for the homestead program, as well as other programs within the Property Assessment Division. None of those are what we call mainframe applications, those are all prepared internally. The mainframe applications are income tax. And so when it is income tax and when the change either results in a new line or a different calculation, because it also does internal...the mainframe also does some internal calculations, it checks the math, and makes sure that the stuff in the box adds up to the numbers that end up on the side and that sort of thing. Then that tends to be, whether it is or is not, the answer. The how much answer is actually a much more difficult one. The charge from the OCI to the Department of Revenue is $100 an hour. And so when we get these bills and determine that, yes, there would be a change, we also have to...and our IT guy makes an estimate as to how many hours it will actually be. And so it does vary some from time to time and that's a little...I guess maybe a little more problematic and hard to predict. Whether it's there or not depends on whether it's income tax or not. [LB1089]

SENATOR SMITH: Thank you, Mr. Kilpatrick. Questions? Senator Harr. [LB1089]

SENATOR HARR: Thank you. So there's only a mainframe charge if it's a change to an income tax form? [LB1089]

GEORGE KILPATRICK: That results in either a new line or a new calculation within the form. [LB1089]

SENATOR HARR: And how much it costs is anyone's guess? [LB1089]

GEORGE KILPATRICK: Well, I hope we've had enough experience and so forth it is not just a guess, but, yes, there is more typically in predicting the number of hours than there is predicting whether it will occur or not. [LB1089]

SENATOR HARR: So educated guess. [LB1089]

GEORGE KILPATRICK: It's an educated guess, yes. [LB1089]

SENATOR HARR: So that's why some legislation costs more to change tax forms than others? [LB1089]

GEORGE KILPATRICK: That's correct. [LB1089]

SENATOR HARR: Okay. So if there's just changes to Web sites there's no charge? [LB1089]

GEORGE KILPATRICK: To our Web site, no. No. [LB1089]

SENATOR HARR: Do other departments charge for change? [LB1089]

GEORGE KILPATRICK: We have something called NebFile, which is an automatic system that... [LB1089]

SENATOR HARR: Who's we? Is that state of Nebraska or the department... [LB1089]

GEORGE KILPATRICK: I'm sorry. The state of Nebraska Department of Revenue has a NebFile program. It's a free program for folks with relatively simple returns to file on-line automatically and something that we maintain. So if we're talking about that, there may be charges because that's a mainframe application, there may be charges. But for our Web site that we maintain, there will never be a charge for that. [LB1089]

SENATOR HARR: Okay. So but other departments, obviously, may charge or if you know. I do. I can tell you Department of Ag charges for changes to their Web site, but Department of Revenue does not. [LB1089]

GEORGE KILPATRICK: That's correct. [LB1089]

SENATOR HARR: Okay. Okay. It's a crazy little world how we charge ourselves. "Alrighty," thank you. [LB1089]

GEORGE KILPATRICK: Is that helpful? Are there other questions? [LB1089]

SENATOR SMITH: Remaining questions. Senator Schumacher. [LB1089]

SENATOR SCHUMACHER: Just a couple of questions. The programming that's done outside the department, is that done by private contractors? [LB1089]

GEORGE KILPATRICK: If it were big enough, it's possible. Generally, no. Generally, no. I should say that. [LB1089]

SENATOR SCHUMACHER: So that's done by in-state... [LB1089]

GEORGE KILPATRICK: OCIO folks, generally. If it's large enough, it might, but I think that's generally the answer. [LB1089]

SENATOR SCHUMACHER: So, generally, the state is paying these people anyway. [LB1089]

GEORGE KILPATRICK: It's what we call in "budgetspeak" a revolving fund, which I don't know how much detail you want to get into that. [LB1089]

SENATOR SCHUMACHER: Well, not really, because we don't have all day and it would take all day to understand it. But so when we say there's a cost, in some respects the cost is a bookkeeping item rather than a real check written by a taxpayer somewhere. [LB1089]

GEORGE KILPATRICK: I think I agree, it's a charge to...from the OCIO, which fancies itself as essentially cash funded by other agencies. That's what makes it revolving, I guess. [LB1089]

SENATOR SCHUMACHER: I guess that's it. Thank you. [LB1089]

SENATOR SMITH: I see no further questions. Thank you, Mr. Kilpatrick. Next proponent of LB1089. Seeing no further proponents, opponents. Anyone wishing to testify in opposition to LB1089? Welcome. [LB1089]

TOM PLACZEK: Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Tom Placzek, T-o-m P-l-a-c-z-e-k, I represent the Nebraska Association of County Assessors and I'm on the NACO board. Our opposition to LB1089 is primarily on the calamity section of the bill. While this is a vast improvement over, in our opinion, LB899, Senator Erdman's bill, I believe there's still a lot of issues with this that will cause problems, not only for us, but I think some interpretations. We believe there is a big disconnect between the idea of calamity and the definition of significant property damage. A major calamity contemplates and describes things like fire, flood, tornado, etcetera. But significant property damage means in excess of, in this case, $10,000 or 10 percent of the property's assessed value in the prior tax year, whichever is less. Ten thousand dollars in today's world is fairly insignificant. I mean, it's a porch, a front porch. It could be some minor kitchen damage you could have $10,000. It hasn't made the house uninhabitable, anything like that, generally speaking. But in the larger scheme of things, $10,000, if you're talking about 2 percent levy, which in a lot of towns, that's true, out in the rural it's usually less than that, you're talking about $200. Now, there's a part of this bill that talks about a professional appraisal. Now who's to pay for that? Sounds to me like the taxpayer has to go out and get a professional appraisal of what the damage is and that could be anywhere from $300 to $500. Well, the cost of that appraisal is more than what the tax is on a $10,000 damage amount. So in our opinion, if this bill was to pass, we think that would be one change that needs to be done, is increase the amount of the significant damage amount. We think it should be at least $25,000, $25,000 to $50,000, somewhere in there. There is also when the owner petitions the assessor for a reassessment, does he have to provide any documentation as to what the damage is, whether it's an insurance adjuster's report or if it's just a repair estimate for somebody? I don't think that's spelled out. And I think the thing that actually distresses most of us the most about on this bill is the time frame on this is extremely tight. Number one, we're in the middle of protest season. If the petition is coming in at the 15th of July, we have to have by the 25th, I'm telling you this probably isn't going to happen in most cases. Most boards don't meet weekly, they meet at best two times a month. That's what it is in Platte County. And this time of year we're at protest time, so this is an extremely busy time and we're trying to get all that done. So I think that's going to cause a major issue in the calendar in trying to get this all taken care of at that time. This has been brought up many, many times in the past. I know Larry Dix with NACO has brought this up. I think even some of the members of the Department of Revenue's Property Tax Division, Assessment Division have said that any time you change the assessment day, an assessment calendar, you run into all kinds of unforeseen consequences. And one thing I just thought of today is, okay, assessment day has always been January 1. Now all of a sudden we're making it some other day in the year. We have just started down the slippery slope of changing when this date of assessment actually is, in my opinion. When is the next thing going to come along that's going to say, well, now that door is open, let's go...let's do this. We've changed it before, why can't we change it again? And lastly, and I don't know how this could be, but let's say there is a calamity. The town of Pilger a few years ago had a tornado go through. If this was enacted, I'm not sure what the ultimate fiscal situation it would put the town of Pilger in if all of a sudden all of these properties go off the books for that year and there's this massive decrease in valuation for that community, how that would affect levies. If they're near their levy limit, how does that actually affect that situation. I don't know. I know in speaking with Stanton County Assessor and the Wayne County Assessor--you know, Wayne was hit a few years ago--they both said they had virtually no inquiries as to do this. The people evidently didn't feel they should have to go to the government to have this taken care of for them. These are some of our issues. I think if this is to be changed, I beg that some of these changes are considered and made. And with that, I will close. [LB1089]

SENATOR SMITH: Thank you, Mr. Placzek. Senator Harr. [LB1089]

SENATOR HARR: Thank you. Thank you for coming down. I always find your testimony enlightening. My first question is, do you think this is a policy change? [LB1089]

TOM PLACZEK: Yes. [LB1089]

SENATOR HARR: Okay. Next questions is...and, obviously, you reviewed this. I don't know if you have a copy of it in front of you. [LB1089]

TOM PLACZEK: I don't have it, it's back there. [LB1089]

SENATOR HARR: Okay. So major calamity is a fire, flood, tornado, or any event which affects an area to such an extent that...or that causes a Governor to declare a state of emergency and it causes damage exceeding $25,000, as determined by a professional appraiser. If you disagree with that, do you...does this law allow for any...because, right, when we get these copies we get a little portion of the law, we don't get the overall and it can be frustrating. And we don't have the statute books here, so I apologize. If you disagree that it cost $10,000, maybe we change it to $25,000, but the cost $10,000, do you have a way to appeal that under this law? [LB1089]

TOM PLACZEK: I don't see that in the law. [LB1089]

SENATOR HARR: Okay. [LB1089]

TOM PLACZEK: It isn't like...yeah, you can't go to some other board or something and say, hey, we say it's only $8,000 and they're claiming it's $15,000. You know, I don't know that I see that in there. [LB1089]

SENATOR HARR: Okay. And so there's no way for you to deny it. So if an assessor comes in and says or appraiser comes in and says...professional appraiser, it's $10,000 or more than 10 percent of the value, you automatically have to allow that. So there's no appeal to TERC or any of the other, you just have to say, okay, I guess we're accepting this. [LB1089]

TOM PLACZEK: Yeah, I think that's probably the way it would be done. And if it's all submitted in that short time frame we're not going to have much chance to look at it anyway and give it a fair trial. [LB1089]

SENATOR HARR: And so it says, major calamity means any event causing significant property damage, including but not limited to fire, earthquake, flood, tornado, as I read earlier. If I get a major infestation of some animal in my house that causes this $10,000 or...does that qualify then? [LB1089]

TOM PLACZEK: Good question. I think it's kind of vague. I know of a situation in Columbus where the house was infested with bats and it was a $250,000 house that we found out later, you know. That's a calamity to them, I guess. But it's not...I don't know how...I think it's vague. [LB1089]

SENATOR HARR: I leave town, my kids have a heck of a party. Egg the house from the inside out, people come in and spray paint it, is that a major calamity if it cost...is it...does it have to be an act of God or could it be an outside...my kids throw a party at my house, do more than $10,000 or 10 percent of the property's assessed value. Then do I get my right to have my property reassessed? [LB1089]

TOM PLACZEK: Well, as I read it, it doesn't have to be an act of God, because a fire could be just an electrical fire. [LB1089]

SENATOR HARR: What's that? [LB1089]

TOM PLACZEK: I don't see it as necessarily an act of God, because a fire doesn't have to be like a lightning strike, it can be an electrical fire that was caused because there was something faulty in it, something done. That's not an act of God. It's certainly a fire. It could be vandalism. I think it's kind of vague. [LB1089]

SENATOR HARR: So my kids' party could qualify? [LB1089]

TOM PLACZEK: It could, I guess. I'm not sure. I think this is a question I would have to ask somebody, because I'm not sure it does. [LB1089]

SENATOR HARR: So that's the question, then. We don't know. So I show I have that more than $10,000. Is there a way for you to deny and say, we don't think it's an act? And then what is the civil procedure to appeal that? [LB1089]

TOM PLACZEK: I don't know. I don't know the answer to that. [LB1089]

SENATOR HARR: Okay. Thank you. [LB1089]

SENATOR SMITH: Remaining questions from the committee. I see none. [LB1089]

TOM PLACZEK: Thank you. [LB1089]

SENATOR SMITH: (Exhibit 2) Thank you, Mr. Placzek, for your testimony in opposition. Other opponents to LB1089. Anyone wishing to testify in a neutral capacity on LB1089. We do have one letter for the record that was submitted as a neutral letter and that is from Diana Battiato, representing Douglas County Assessor/Register of Deeds. We do waive closing on LB1089 and that closes the hearing on LB1089. And I will open on LB1090. Good afternoon, members of the Revenue Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I am here today to introduce LB1090. LB1090 is introduced in response to the federal Tax Cuts and Jobs Act of 2017, and I will refer to that as the TCJA. Although the TCJA results in impacts on Nebraska's corporate and individual income tax receipts both, LB1090 seeks only to address the most significant individual income tax changes. Additional time and understanding is needed before a similar bill as LB1090 is introduced to address the corporate income tax law. There are five primary areas of the Nebraska Tax Code that require change in order to keep Nebraska citizens and businesses whole. The first and largest change involves the federal repeal of the personal exemption. Under the Internal Revenue Code, individuals currently receive a deduction for each person in the household for which the taxpayer is providing more than 50 percent of their support. Nebraska has a 2018 personal exemption credit equal to $134 times the number of personal exemptions on the federal return. Without the fed's personal exemption, Nebraska has no means of applying the Nebraska credit. LB1090 creates Nebraska's own credit to ensure Nebraska filers continue receiving the same credit amount. Without this adjustment Nebraska citizens would have more than a $200 million increase in 2018. The second change relates to gradual tax increases that would occur from changes to inflation adjustments. The TCJA abandons use of the CPI for inflation adjustments in favor of the chained CPI, which grows more slowly. Nebraska currently uses the Internal Revenue Code adjustment method to adjust the personal exemption credit, the standard deduction, and the income tax brackets. LB1090 would retain use of the regular CPI for future adjustments, parting from the federal approach. Without LB1090, this federal change increases Nebraska taxpayers' burden by approximately $8 million in 2018. The final three changes incorporated into LB1090 will be adjusted with a single change to the standard deduction. Under the TCJA, itemized deductions would no longer be phased out for high-income taxpayers. This federal change reduces Nebraskans' tax burden by about $11 million. The TCJA allows immediate expensing of most capital expenditures until 2027, affecting individual returns of sole proprietors and from pass-through entities. This federal change reduces business tax burden by about $10 million in 2018. And then finally, the TCJA nearly doubles the federal standard deduction to $12,000 for single returns, $24,000 for married filing jointly, and $18,000 for head of household. For Nebraska tax purposes, those who use the federal standard deduction must also use the Nebraska standard deduction. Therefore, many taxpayers who would be better off itemizing rather than claiming the lower Nebraska standard deduction will not have the opportunity, resulting in increases in Nebraska revenues of approximately $11 million in 2018. The TCJA also eliminates and limits itemized deductions, especially for property taxes, increasing Nebraska revenue by approximately $22 million. The federal changes relating to repeal of the three prior topics, that is phase out of itemized deductions, increases to federal standard deductions, and immediate expensing have a net affect of increasing Nebraskans' tax burden by about $12 million in 2018. To offset these increases, LB1090 proposes to adopt a slightly higher standard deduction. This concludes a very high-level overview of LB1090. Following me in testimony today will be representatives of the Department of Revenue to make certain any and all questions will be addressed that may arise. I have asked the representatives of the Department of Revenue that if they are asked out of order, we'll bring them back in, in neutral testimony to make certain everything gets answered that needs to be answered. Appreciate your time and thank you for your attention on this bill. [LB1089 LB1090]

SENATOR FRIESEN: Thank you, Senator Smith. Any questions from the committee? Seeing none, proponents. [LB1090]

SENATOR SMITH: Welcome. [LB1090]

GEORGE KILPATRICK: (Exhibits 1, 2, 3) Thank you, Chairman Smith. Members of the Revenue Committee, again my name is George Kilpatrick, which is G-e-o-r-g-e K-i-l-p-a-t-r-i-c-k, I'm here to testify for the administration, I'll say, in favor of LB1090. I do have prepared remarks, which you have. Senator Smith's opening was good in detail, so I may skip over some of that. But I do want to spend...well, I'll start, but I also would like some indulgence because I'm passing out two other pieces of paper to you. One of those is a report that the department put out this morning. It's a report required by 77-27,222. It's a bill that, conveniently enough, was enacted last year, it came originally from Senator Schumacher, it was part of 2017 and it requires us to issue a report within 60 days after a federal change. So it turned out to be timely. That 60-day period is actually...it wouldn't be up for about almost two weeks, I think, calculating. But because it relates to this and because it relates to the forecast and because it relates to what we're talking about today, we wanted to make sure it went out. And so I do want to talk a little bit about that and, hopefully, you'll indulge me in terms of the time. On December 22, President Trump signed the Tax Cuts and Jobs Act of 2017. It's probably the most sweeping reform we've had since 1986, and there's a lot of changes. There's changes to rates, there's changes to the levels of deductions, there's new credits, there's removed credits, there's all sorts of things that are going on there. And many of them, because Nebraska couples "at federal adjusted gross income" and begins our calculation at that point, many of them don't impact Nebraska, but many of them do. And they impact Nebraska's revenue stream in ways that aren't necessarily obvious at first blush. So in that sense, the report and LB1090 becomes timely in that we have to...as Senator Smith said, if we do nothing, if we do nothing it would result in a very significant tax increase on Nebraskans on their state taxes, to the tune of on a tax year basis about $226 million. There are some other changes and in looking at the report...well, okay, let me say what LB1090 does. I perhaps should stick to my script a little better than I have so far. At the time that this passed, we of course were required to do analysis which we would have done anyway and try and determine what the impacts are. And we were given some instructions to try and do our best to make sure that taxpayers weren't going to get hurt. Okay? And so what we did in approaching and recommending--and we had a briefing for many of you and Senator Harr, I know you had a conflict, were unable to be there. Senator Schumacher was there for approximately half I think or somewhere, Senator Lindstrom--so I know that you weren't all present for the briefing. But what we talked about is many of the things that Senator Smith just described and how those impact and what our recommendation at that time was to do. And it was sort of a blending of a couple of concepts. First of all to try and neutralize to the greatest extent possible those changes within Nebraska while at the same time balancing that against some semblance of what's simple as opposed to complicated, looking at every one of those items and trying to get every taxpayer into precisely the same place that they would have been had it not passed would have resulted in numbers of adjustments to adjusted gross income, add backs, all sorts of stuff. So what we recommended and what LB1090 reflects is a general reduction that is equal to the increase that we would otherwise see with some simplification provided, as Senator Smith described. Rather than deal with some of the facts that certain itemized deductions got capped or eliminated or restricted in some fashion, whereas some other expense items were greater and some of those of course passed through through pass-through entities on the individual returns. And trying to balance all of those items, we instead, as Senator Smith described, recommended an increase in the standard deduction to try and make the dollars come out right. So with that, let's take a little bit a look at the report. It starts with basically a description of the things we did federally and a lot of those changes in rates and so forth that don't necessarily affect Nebraska and that's much of the first description. Then there's a description of the personal exemption credit. And as Senator Smith said, effectively, by eliminating federal personal exemptions, you essentially eliminate the personal exemption credit that is present in Nebraska. And that is, by far, the largest impact from any of these changes is from the loss of the personal exemption credit. Additionally, there were some changes in itemized deductions, some restrictions, some expansions, but some other changes like that. At the briefing we spent some time talking about the 20 percent deduction of pass-through income. And if you recall or those of you who were there may be able to recall, we had at that time come to the conclusion that our first impression was wrong and that effectively this was specifically designed to not affect adjusted gross income--and, in fact, it's far way down on the forms--and concluded that at least directly for Nebraska tax purposes it does not affect the Nebraska revenue. But there has been some discussion about it and I know Senator Friesen mentioned something that deals with the difference between a co-op and a regular pass-through and how that plays through. This does not deal or affect any of those things, but those issues as far as I know remain. And I guess I don't know any more now than I did last month on that particular issue, but we talked about those things some. And then we talked about a group of things, particularly with the itemized deductions. And the principal items with regard to itemized deduction is when the federal government doubled or almost doubled its standard deduction. There are people who for in the Nebraska standard deduction simply increases by the inflationary amount that's in the statute under that method. Then there are a number of folks who, because they are essentially forced into the federal standard deduction because it's far better for them, can no longer take the Nebraska itemized deductions, even if the level of their deduction would have been somewhere between those two amounts. And so that results in some people being forced out of itemized deductions for Nebraska purposes that they would not otherwise have been. And that has some impact. There was also an impact that we described about a feature called "added tax" because the phase out of itemized deductions triggers where the "added tax" provisions go in. We talked about that some and that has some impact on Nebraska revenue. And then the accelerated depreciation aspects, including direct expensing of certain things and expansion of the use of 179 also affects it. And what we've said is, you know, these things, there's some positives, there's some negatives, and it nets out to approximately $12 million. And so LB1089 chooses to recognize that through an increase in the standard deduction. There is some discussion about the state tax. But what I really want to get to begins on page 6 of the report. And I know you're just getting it now and it was just produced now and so I hope you'll take the time to look at it at some time. It's important and it's important to your decision making. The thing I want to point out is on page 5, and as Senator Smith described, the tax cuts...the tax increases would otherwise occur that we're talking about. We've always measured on a tax year basis. What happens to 2018 taxes and what happens to 2019 taxes and so forth, the tax year basis. One thing about state budgeting is, of course, we budget on a fiscal year that starts in the middle. And it creates some dislocation sometimes when you make changes and particularly large changes. So all of the material that we presented at the briefing and the other things, the discussion that we've had and the discussion that's been in the paper and everything else has always talked about the tax year impact in 2018. What we show here on page 6 is the fiscal year impact, because what happens of course is here we are a month...a little more than a month into 2018, Nebraska has not changed its withholding. So we are collecting from employees--and those making estimated payments aren't due until April--but in any event, in the same rate as if this tax increase were not going to happen. And so for the rest of this particular fiscal year, through June we'll be collecting at a lower rate than what should be collected had we...if we simply assumed that we were going to collect $224 million additionally in tax or $226 million I guess, $227 million. So at the same time, when that would actually hit people would be on their final payments, typically in April of next year. And at the same time, we would have adjusted the withholding for 2019 taxes in January of 2019. So there ends up being a double aspect that we have to keep clear when we examine fiscal notes and we compare tax years with fiscal years. So when you look at what we have estimated for the fiscal year impact, you see a really big number in the first year, because it's a year and about five months' worth of revenue that's reflected. And then when you go over to the fiscal note for LB1090 what you'll find is a fairly similar number in terms of the tax decrease that would offset it, because of the reverse impact of what I just described. So I hope that's helpful and useful information to you. The next thing I want to point out to you is one of the requirements of the report that you have in front of you is its impact on different taxpayers...different types of taxpayers is what it says. And there's some interpretation involved, but one thing that we have done for the committee at times--when requested--is do what we call a decile analysis. Now, that's done in a different methodology and it's done with a different database because there's more detail that we can get off federal returns when they come in two years later. But having said that, this report then goes off and shows where the increases are by decile type. The lowest 10 percent of the tax returns, the next 10 percent, and so forth to the top. And as you see, the first increase is not so bad; a number of those pay no tax. Some of them actually pay negative tax because of earned income tax credits and items like that. The largest increase is in the next group and then you see those increases all the way down within the report, again still on page 6. So the second sheet that I handed out to you describes what LB1090 does from this relative to this higher base and what the net-net would be and how much change there would be...that we would estimate there would be had there been no change except for the LB1090 change. So it's sort of we're trying to net the net, because we think that would be helpful to you and how much that would be relative to these particular deciles. And as I said before, we've tried to strike a balance in our recommendation and in the bill between perfect neutralization and some level of simplicity in calculation. And so it isn't exactly who and what groups, but it is close, fairly close as you look down. Again, comparing that table, what you'll find is, well, 12.72 percent looks pretty big. I think it's important to point out it's $285,000. It's still a decrease for that particular group. And then, again, as we notice, there are actually slight decreases for the lower-income deciles, for the most part, and slight increases--pretty good dollars--but slight percentage increases for the higher-income groups, which is what you would expect when you counter things like limiting itemized deductions and compensate for them by an increase in the standard deduction. So that, I hope, describes how we arrived to LB1090 and what's it's--at least--designed to do and it's comparison to the report, which again I apologize, you haven't had a lot of time to review. Fortunately, they turned off the lights rather than giving me the red light, so I apologize for running over. But I hope that's helpful to you. Are there any questions? [LB1090]

SENATOR SMITH: Thank you, Mr. Kilpatrick. It does take some time to go through and explain it, so I appreciate that. Any questions? Senator Harr. [LB1090]

SENATOR HARR: Thank you. Thanks for coming down here and thanks for your long explanation, because I did have a lot of questions. I think you've answered most of them. But I think my first and basic question is because I haven't had a chance to...and thank you for this report. But I haven't had a chance to review it. I see it that Senator Smith...this is dated February

7, Senator Smith's bill is dated January 18, so let me take a step back. Were there any surprises in here that you didn't expect? [LB1090]

GEORGE KILPATRICK: No. [LB1090]

SENATOR HARR: And by this, for the record, I mean the report. [LB1090]

GEORGE KILPATRICK: No. The report mostly sprung from the briefings and we had to do a little more detail, we put a little more text and we did the fiscal year analysis, which we did not have at that time. But that's really the change. [LB1090]

SENATOR HARR: Okay. So based on this report, you don't feel there needs to be any amendments to LB1090? [LB1090]

GEORGE KILPATRICK: Based on the report, the LB1090 seems to approximate, by these decile groups and overall, the tax increase that would otherwise occur, with the goal of trying to balance the difference between identical and simplicity. If that's your goal, then, yes. I agree. [LB1090]

SENATOR HARR: Okay. I just want to make sure. And then that leads to the next question. Were there any new...the Trump tax plan was passed without really having a committee hearing and it was passed in a rather quick manner and we discovered some things. For instance, co-ops versus nonco-ops. Have there been any...outside of this report, have there been any other changes or surprises that you learned of that you think maybe we should address in LB1090? [LB1090]

GEORGE KILPATRICK: I don't know of any changes. I will...again, you were not at the briefing so I'll...and I've not talked about the corporate side at all, incidentally, today. [LB1090]

SENATOR HARR: Okay. [LB1090]

GEORGE KILPATRICK: What we talked about at the corporate side was fairly brief, but we talked about the unpredictability of our estimating techniques, which is something that you have mentioned a number of times over the eight years, and the fact that much of it was due to repatriation of foreign income, which is a big deal. And so our recommendation at that time, and remains, that we not attempt to do that. I suppose reasonable minds might differ, but that is our recommendation and this bill does not do anything. [LB1090]

SENATOR HARR: And I think in your report you gave us, I read the report and it even said, it's highly volatile. [LB1090]

GEORGE KILPATRICK: It is. [LB1090]

SENATOR HARR: And that's a direct quote. That's why I was wondering if there was anything we should be looking at. [LB1090]

GEORGE KILPATRICK: Not that I have discovered yet...we, we, collectively, I suppose. [LB1090]

SENATOR HARR: Okay. And that's a fair answer. And I was just trying...so now you take personal exemptions to the chained CPI index, is that correct? [LB1090]

GEORGE KILPATRICK: Oh, I'm sorry. What I didn't mention is that what this bill does is it restores or reestablishes regular CPI, all urban consumers, instead of chained CPI. [LB1090]

SENATOR HARR: Okay. [LB1090]

GEORGE KILPATRICK: I'm sorry. I did not mention that. Senator Smith did, but I did not. [LB1090]

SENATOR HARR: Okay. All right. And our CPI index for brackets or indexing on our income tax brackets is regular CPI as well, too, so they're consistent. [LB1090]

GEORGE KILPATRICK: That's exactly right. It's the personal exemption, the brackets, and the standard deduction. [LB1090]

SENATOR HARR: Right, so we'll make them consistent. [LB1090]

GEORGE KILPATRICK: Yes. [LB1090]

SENATOR HARR: Perfect. I just wanted to clarify that. And then we double the standard exemption deduction...which one are we doing? The standard deduction. [LB1090]

GEORGE KILPATRICK: The federal nearly, it's not quite, but nearly doubled the standard deduction. This bill does not. [LB1090]

SENATOR HARR: Okay. And I'm confused. How do we handle...because I heard you say and I don't disagree with this, this is going to push more people to take itemized...away from itemized deductions to standard deductions. Did you account for that in this bill? [LB1090]

GEORGE KILPATRICK: Only to the extent that we increased the standard deduction from what it otherwise would have been in 2018 and beyond by an amount that's $500 for a joint filer and $250 for single and there's head of household and elder and some of that stuff, but not directly, no. [LB1090]

SENATOR HARR: Not directly? [LB1090]

GEORGE KILPATRICK: We did not do that or this does not do that. [LB1090]

SENATOR HARR: Okay. So first...and so that leads to two questions. First question is, the federal bill for personal, corporate, permanent personal tax changes only through 2025. [LB1090]

GEORGE KILPATRICK: You're correct, it is. [LB1090]

SENATOR HARR: Does this bill go through 2025 or does it keep it in place past that? [LB1090]

GEORGE KILPATRICK: It keeps it in place if they actually restore to where...if it actually goes back to the way it was, it should merge seamlessly. But we don't know what will happen...well, either here or there, I suppose in those six years. [LB1090]

SENATOR HARR: Okay. And so then my next question is...and if you don't...they always say don't ask a question you don't know the answer to and I don't the answer to this one. We have a differential between marginal and effect rate today on individual taxes, correct? [LB1090]

GEORGE KILPATRICK: The marginal rate is the top rate at which you're playing. The effective, is division against the whole income. [LB1090]

SENATOR HARR: Yeah. Do you see that spread increasing or decreasing based on the changes in the federal taxes and if LB1090 is implemented? [LB1090]

GEORGE KILPATRICK: Well, do you mean federally or state? [LB1090]

SENATOR HARR: No, state. [LB1090]

GEORGE KILPATRICK: We haven't changed rates, so... [LB1090]

SENATOR HARR: No, we haven't changes rates, but there may be a change in the standard or the marginal versus effective, based on pushing taxpayers away from itemized to standard. And I was just wondering if you thought that spread would remain about the same or different or... [LB1090]

GEORGE KILPATRICK: Well, again, we've estimated that at...the impact of that at $12 million, as being...people who are disadvantaged by that tradeoff, over 800,000 returns, I guess. So I mean, is that significant? [LB1090]

SENATOR HARR: Yeah, right. It is if it's you, right? [LB1090]

GEORGE KILPATRICK: Well, I suppose. [LB1090]

SENATOR HARR: Yeah, yeah, yeah, okay. And that's a fair answer. That's a fair answer. And my last question is, the Forecasting Board meets at the end of this month. [LB1090]

GEORGE KILPATRICK: They do. [LB1090]

SENATOR HARR: Near as I can tell, that's going to be a very confusing headline, right, because it can't contemplate LB1090. And so it will look like we have $326 million surplus that we will probably eliminate by passing LB1090 to neutralize the effect. Is that a correct statement? [LB1090]

GEORGE KILPATRICK: That's the goal. Yes. Yes, that is a correct statement. [LB1090]

SENATOR HARR: Okay. [LB1090]

GEORGE KILPATRICK: The forecast has to consider everything that it knows. And because we do a forecast based on models that forecast economic growth and our share and trends, it will not have otherwise considered these impacts. So what we effectively do--well, in the Revenue Department side and I assume in the Fiscal Office side do--is sort of look at the trendline and then add what we think the increase is in order to say this is what we think it is. And all that is noted in their paperwork. [LB1090]

SENATOR HARR: Yeah. And so we shouldn't...but I read headlines only. I seldom could read past that. [LB1090]

GEORGE KILPATRICK: It is a confusing...it will be a confusing day and it will be a confusing (inaudible). I agree. [LB1090]

SENATOR HARR: So I shouldn't get excited till $327 million, is that what you're saying basically? [LB1090]

GEORGE KILPATRICK: I think it's easy to predict that the forecast will be up, even if the economy isn't. Is that fair? [LB1090]

SENATOR HARR: Yeah, that's a fair statement. Okay. I appreciate your time. Thank you very much. [LB1090]

SENATOR SMITH: Senator Schumacher. [LB1090]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for your testimony. So they've tried to simplify life. Right now, you get $134 times your federal exemptions. Federal exemptions are going to zero, therefore, we multiplication times zero, we get nothing if we do nothing. [LB1090]

GEORGE KILPATRICK: That is correct. [LB1090]

SENATOR SCHUMACHER: And the state saves that amount of money, so basically if we take 1.9 million Nebraskans times $134, assuming everybody files their paperwork, we come up with about the numbers you came up here. [LB1090]

GEORGE KILPATRICK: Yeah. There's a little extra because of the blind and the elderly and some of those aspects that are going on. [LB1090]

SENATOR SCHUMACHER: But that's basically what's happening here. [LB1090]

GEORGE KILPATRICK: And that's not far off the mark. [LB1090]

SENATOR SCHUMACHER: And then the federal law went to a different form of inflation calculation. [LB1090]

GEORGE KILPATRICK: That's correct. [LB1090]

SENATOR SCHUMACHER: And because we didn't...if we keep doing the way we did, then we need to make an adjustment and say, don't do it the way the feds do, do it the way it was done. [LB1090]

GEORGE KILPATRICK: If we keep it the way it is, our...with personal exemption, the brackets and so forth would, over the future, grow more slowly than what we have thought traditionally and what folks have been used to. We've recommended that that's something that's relatively easy for us to neutralize, because both sets of statistics are widely available. And so we might as well simply stick with it. [LB1090]

SENATOR SCHUMACHER: And the third thing, the feds allow a standard deduction if you don't itemize and they've doubled theirs in the federal act. And what are we doing here with ours? [LB1090]

GEORGE KILPATRICK: It's growing, but not doubling. It's growing by, again, about $500 for a joint return from what it would have been otherwise and $250 for a single return, and I think the head of household is...I'm not sure. [LB1090]

SENATOR SCHUMACHER: Is that a growth that we would not have had if we... [LB1090]

GEORGE KILPATRICK: Yeah. We have already indexed to 2018 and then added $500 or $250, whatever it is. [LB1090]

SENATOR SCHUMACHER: And what is the purpose in adding the $500? [LB1090]

GEORGE KILPATRICK: The purpose in adding the $500 is to return to the taxpayers about $12 million that would otherwise have been an increase through some of the things that Senator Harr and I were talking about, particularly the limitation on itemized deductions forcing people out of itemizing that might be better off statewise if they were. Those would be the two biggest. [LB1090]

SENATOR SCHUMACHER: And then we don't get down to the weeds in this bill on depreciation, accelerated depreciation, whether...and we're assuming that this 20 percent exclusion or whatever it is from earned income, pass-through income, that that is not going to impact our AGI, what we do the numbers with. [LB1090]

GEORGE KILPATRICK: Yes. That is a below-the-line deduction with the exception of...if for what...the way Senator Friesen described it to me now, and I'll say I don't necessarily know a whole lot about it, but if there's a change of behavior to do things in the one way instead of another way, then there's some change in behavior that I suppose might have an impact. But, no, we have not modeled that at all. [LB1090]

SENATOR SCHUMACHER: So basically, this is...the fundamental thing we're doing here is trying to say, look, on state revenue, the federal changes, to the best we can read a crystal ball with any certainty, is just being neutralized here. This isn't a positive, it's not a minus, it is a stand down and try the best we can guesstimate it, come pretty close to where we were. [LB1090]

GEORGE KILPATRICK: That was our task that we took on and we believe this does that, yes. [LB1090]

SENATOR SCHUMACHER: Thank you. [LB1090]

SENATOR SMITH: Senator Friesen. [LB1090]

SENATOR FRIESEN: Thank you, Chairman Smith. So when you say the Revenue Forecast Board, when they look at the forecast they go by what the current law is and not knowing what's going to happen in the future, they go by what is in statute. [LB1090]

GEORGE KILPATRICK: Well, yes. Yes, they're required to. [LB1090]

SENATOR FRIESEN: So if I understand the mistake that was made at the federal level, it's going to take six months or longer to change and they all say they want to change it but no one will say they're going to change it. And if I understood correctly the process, I have the ability to take my income down to zero. [LB1090]

GEORGE KILPATRICK: But not below, I believe. [LB1090]

SENATOR FRIESEN: Not below by their mistake. That's going to make quite a change in federal tax. But does it impact my state tax? [LB1090]

GEORGE KILPATRICK: I think it is possible if, depending upon how the patronage shows up on the K-1, well, I'll call it a K-1 for a co-op. It may not be a K-1 for a co-op, I'll tell you I'm not all that familiar with it. But that's...but a comparable document. I think it's possible, but I don't know the extent to which...first of all, I don't know how much income flows through to the individual members from cooperative income on tax exempt cooperatives. [LB1090]

SENATOR FRIESEN: What they were going to do is it would be 20 percent of my gross amount. And so basically by using that, if I would market everything through a co-op, pretty good chance that--if it was explained right to me by my accountant--I only needed to sell 60 percent of my grain through the co-op in order to bring my income to zero. [LB1090]

GEORGE KILPATRICK: And I assume you're not alone in that, so. [LB1090]

SENATOR FRIESEN: I would assume not. [LB1090]

GEORGE KILPATRICK: I really don't have a very good answer for you, but we did not...that is sort of a...that's what I call a sort of change in behavior type impact. And, no, we did not factor in that aspect. We are looking at it more directly and we were...it was confusing enough to figure out which side of the line it was on, to be honest with you. And I'll confess, I've not really followed up on it since our conversation last month. [LB1090]

SENATOR FRIESEN: Okay, thank you. [LB1090]

SENATOR SMITH: Senator Schumacher. [LB1090]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Do co-ops pay income to the state on their income? [LB1090]

GEORGE KILPATRICK: My understanding of the cooperatives is maybe yes, maybe no. I think there are at least two types of cooperatives, a tax exempt cooperative and a taxable cooperative. My understanding of taxable cooperative is it looks more like a regular corporation. And the answer to that would be, yes. I'm not sure that's the majority. I think generally they're sort of membership-type organizations that pass through, through patronage, what they call patronage dividends. That's my understanding. It's not really my area of expertise. [LB1090]

SENATOR SCHUMACHER: So have we done any thought on...let's just suppose that people do what people have to do and try not to pay income taxes. And the new income to the co-op is not being taxed and as might be in most of the cases, so that produce moving through the co-op isn't producing tax revenues much. And the guy who now is not a co-op who does pay tax on their profit is having a tough go of it because he can't compete effectively with a co-op. He's no longer going to be paying that tax, because he's not going to be making money. So how much is that going to cost us? [LB1090]

GEORGE KILPATRICK: Well, again, we don't know. But I will say this, the way it's described to me--and basically, I know the same amount you do, I think, and no more--is I don't know how you fix our counterbalance on the state level anyway. I think we're left with a federal solution or not to the problem. [LB1090]

SENATOR SCHUMACHER: Let's just assume that they don't get along in Washington. I know that's a big assumption, but let's assume they don't get along and paybacks are really painful and they don't fix this or at least in any big rush. Are we talking a possible loss of big revenue from these businesses that would have paid tax on their profits who are no longer going to pay as much? [LB1090]

GEORGE KILPATRICK: Okay. Well, keep in mind what we're talking about is income passed...that's passed...what's called qualified business income. It can be a proprietorship. I shouldn't say pass through, it isn't always pass through, it can be in either form. So when we're talking about the business, if the business (inaudible) is taxable is not going to receive any of this. What we're talking about is the members or the patrons, so to speak, of the cooperative and how much income they might have and how it's passed through. [LB1090]

SENATOR SCHUMACHER: But let's say I run something that competes with the cooperative but I'm not a cooperative and I pay income tax... [LB1090]

GEORGE KILPATRICK: You do. [LB1090]

SENATOR SCHUMACHER: ...on my profits. But now, because I'm at this bad economic disadvantage with competing with my friend across the street who's a cooperative, I'm not going to send you income tax on my profits because I'm not going to have very much for profits. [LB1090]

GEORGE KILPATRICK: Perhaps. My understanding is it had to do with who you're selling your grain to, that I can sell it to on the open market, I can sell it to the nearby ethanol plant, or I can sell it to the cooperative. And we're talking about my income and how my income gets affected. [LB1090]

SENATOR SCHUMACHER: But if you're not...if I'm in the business of buying your stuff and giving you your income and you shift it over to Senator Friesen's cooperative, then I no longer have the opportunity to make my income off of your business and I then don't have to send a check into the state. [LB1090]

GEORGE KILPATRICK: I will not argue with your characterization. I think that's possible. I do not know its impact. [LB1090]

SENATOR SCHUMACHER: We're just flying blind on that. [LB1090]

GEORGE KILPATRICK: We are. [LB1090]

SENATOR SCHUMACHER: Okay. Good reason to lower the cash reserve then. Thank you. [LB1090]

SENATOR SMITH: Additional questions from the committee. I see none. Thank you, Mr. Kilpatrick. Appreciate the testimony. Next proponent. We'll bring Commissioner Fulton back to see if there's any questions for the commissioner. [LB1090]

TONY FULTON: Thank you, Mr. Chairman. For the record, it's Tony Fulton, T-o-n-y F-u-l-t-o-n, the Tax Commissioner for Nebraska, testifying in support of LB1090. I don't have any prepared testimony, I just wanted to make myself available. The guru extraordinaire preceded me. Are there any questions I can... [LB1090]

SENATOR SMITH: Mr. Kilpatrick is a hard act to follow, isn't he? [LB1090]

TONY FULTON: Indeed. [LB1090]

SENATOR SMITH: All right. I see no questions. Thank you, Commissioner. Next proponent of LB1090. Welcome. [LB1090]

RON SEDLACEK: Thank you. Mr. Chairman and members of the Revenue Committee, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k, and mostly because of hearing conflicts I'm going to enter testimony on behalf of the Nebraska Chamber of Commerce, Greater Omaha Chamber of Commerce, Nebraska Bankers Association, and National Federation of Independent Business or NFIB Nebraska. We come before the committee to express just general...in general concept only, and that is that we would be supportive of a response to the changes of federal tax law and how that affects Nebraska. I didn't come with details to get into the weeds on this. Learned a lot just listening to the previous testimony, have not yet had the opportunity to look at any formal reports in this regard, but we are here generally to express the concept that the need is there that the Legislature should be looking at and responding to these changes. A CPA who has testified on our behalf before this committee in the past went through his legislative history experiences years ago when there was federal tax reform. And he did caution us in saying, there is going to be a trailer bill. There will be technical correction legislation. Let's not get too far ahead. But as mentioned before in testimony and questions, we don't know if that will happen, when it will happen, and in what phase. By that experience from 1986 and the response, as it turned out from what I understand at least that there was a bit of additional taxes being collected because there's always winners and losers. And so the Legislature had to come back, if not one, perhaps two years later to continue to make corrections. And for those who will be on this committee at that time, that will be something probably for you consider and for some not. But that's the testimony we have in general support of the concept. [LB1090]

SENATOR SMITH: Thank you, Mr. Sedlacek. Questions. I see none. [LB1090]

RON SEDLACEK: Thank you. [LB1090]

SENATOR SMITH: Next proponent of LB1090. Welcome. [LB1090]

BRUCE BOHRER: Thank you. And good afternoon, Chairman Smith, members of the committee. Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce. The name is spelled B-r-u-c-e B-o-h-r-e-r. Very similar to the support testimony from Mr. Sedlacek, we support the general concept. I came today really thinking I probably wouldn't even testify, but we have discussed this at a policy forum this morning, also with my executive committee. And the general idea that was, I think, expressed by Senator Schumacher is the fundamental thing we're trying to do is to neutralize and come out pretty close to where we were. So the assumptions that we have or the interaction between state tax law and federal law was one way before, whenever the law was passed on December--what was it--the 27th or whenever it was. So things changed there and we think you should neutralize it as closely as you can. Also, I guess, the other idea that we talked about is just a concept or a principle of, if you're going to collect more revenue from the citizens of Nebraska, there should be some vehicle for discussion and debate and having senators taking a stand on that. I know there's been some talk of just letting this happen and I think there's...some people call it a windfall, some people call it a tax increase, but I think you should have a vehicle for having senators and any state policymaker that might benefit from that having a stance on that, taking a vote on it. That will conclude my remarks and I'd be happy to answer any questions. [LB1090]

SENATOR SMITH: Thank you, Mr. Bohrer. Questions from the committee. I see none. Thank you. Next proponent of LB1090. Welcome. [LB1090]

NICOLE FOX: (Exhibits 4, 5) Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, Director of Government Relations for the Platte Institute and I'm here today to testify in support of LB1090. The last major change to the federal tax code was in 1986, and Nebraska along with all of the other states with broad-based income taxes at the time conformed to the federal changes. The conforming legislation allowed states to collect a revenue windfall and the big question at the time was if states were going to spend the additional revenue or choose tax cuts. In 1987, the year following federal tax reform, 35 states made changes to their income tax in addition to conforming to the federal law. The same situation is before this legislature as it was 30 years ago, the need to conform to federal tax code changes. I have included in my testimony a table of major tax changes that took place in last year's federal tax reform and how it impacts Nebraska's tax code, for your information. In some cases, Nebraska's tax code conforms to the federal code, and in some other instances the state decouples from specific federal provisions. Because the new federal tax changes included many base-broadening provisions, most states will experience a revenue increase, and Nebraska is expected to receive approximately $200 million according to the Department of Revenue. The vast majority of filers will receive a tax cut at the federal level, but they could easily see a state tax increase unless the state acts to prevent one. LB1090 creates a new state tax personal exemption. Federal tax reform removed the federal personal exemption, which Nebraska is tied to under current state law. The state has its own standard deduction and LB1090 increases that deduction amount. Both of these provisions will help to counter the accidental tax increase that will occur on Nebraskans if no action is taken. In addition to a tax increase on Nebraskans, there are other important aspects to consider. When states conform to the current version of the Internal Revenue Code it offers greater certainty and reduces both administrative and compliance costs. It also cuts down on tax planning. According to a Tax Foundation report, when states comply with the federal tax code it allows state administrators and taxpayers to rely on federal statutes, rulings, and interpretations, which are generally more detailed and extensive than what any individual state could produce. Conformity provides consistency of definitions for those filing in multiple states and reduces duplication of effort in filing federal and state taxes. It permits substantial reliance on federal audits and enforcement, along with federal taxpayer data. For the filer, it can make things easier by allowing the filer to copy lines directly from their federal tax forms. Federal conformity has been often referred to as "delegating up," by allowing states to conserve legislative, administrative, and judicial resources while reducing taxpayer compliance burdens. The federal tax reform changes will promote economic growth across our country, including Nebraska. It is not unprecedented for Nebraska or any other state to comply with federal tax code changes. I ask you to support LB1090 and make the needed adjustments, just as Nebraska did in 1987 after the last major tax reform. Thank you and I'm happy to answer any questions. [LB1090]

SENATOR SMITH: Questions for Ms. Fox. Senator Friesen. [LB1090]

SENATOR FRIESEN: Thank you, Chairman Smith. I'm just curious if the federal tax law changes would have lowered our tax liability here, would you be supporting in favor of bringing it back up into a neutral capacity? [LB1090]

NICOLE FOX: Neutrality is essential to good tax reform. [LB1090]

SENATOR FRIESEN: Thank you. [LB1090]

SENATOR SMITH: (Exhibit 6) I see no further questions. Thank you, Ms. Fox, for your testimony. Next proponent of LB1090. Seeing none, anyone wishing to testify as an opponent to LB1090, opposition testimony? We do have a letter for the record sent in in opposition of LB1090 from Jenni Benson, representing NSEA. We now move to neutral testimony, anyone wishing to testify in a neutral capacity. Perhaps we'll just have Mr. Kilpatrick come up to see if there's any questions. If there's none, that's fine. Senator Schumacher. [LB1090]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for coming back up. I have one question that came up. We're dealing with a big chunk of money here, it's $134 a pop. Is there any analysis available? Let's just say we undo it only to the extent of for families making less than $150,000 a year. What's the number that we would save by doing that? [LB1090]

GEORGE KILPATRICK: I don't know if I know that exact number, but Senator Harr's bill coming up will give you some notion about what that is. It's not that particular level, but that's the concept kind of. [LB1090]

SENATOR SCHUMACHER: Okay. I'll ask Senator Harr when he gets on the hot seat. [LB1090]

SENATOR HARR: Son of a... [LB1090]

SENATOR SMITH: Very good. Any further questions for Mr. Kilpatrick? I see none. And that concludes the testimony on LB1090, as I will waive the closing on LB1090. We now move to introduction of LB1091. Again, I'm going to ask the committee legal counsel to come up and to provide opening introduction on LB1091. This relates to a conformity revenue bill. Welcome back. [LB1090 LB1091]

MARY JANE EGR EDSON: Thank you, Chairman Smith. Members of the Revenue Committee, again, my name is Mary Jane Egr Edson, spelled M-a-r-y J-a-n-e E-g-r E-d-s-o-n, and I am legal counsel to the committee. LB1091, Senator Smith's bill, is our annual conformity bill, as we like to refer to it. It is what we refer to as rolling conformity to the Internal Revenue Code. What it does is it ties us to the federal revenue code as of a date certain. Probably the best way to understand what this bill actually does is that we conform to the federal code all the way down to adjusted gross income for individuals, federal taxable income for corporations, trusts, and estates. After AGI we have our own rules in Nebraska law about how we calculate your Nebraska tax liability, individual, federal, trust, and estates. We do, in certain of our income tax provisions, tie back to or refer back to the federal provisions, such as the standard deduction and things like that, calculation of indexing, CPI calculation for indexing, and those sort of things. But those are not automatic conformity. Those are simply provisions that we use to reference our own provisions of our income tax law. Attached to the bill summary every year I put the list of all the bills that sections of statute that are excluded from our conformity to the federal law. That's all of our individual income tax, our corporate income tax, and our tax incentive programs. They're not automatically conformed. We do not automatically conform, but as I said, we do utilize definitions and dollar amounts or other provisions of federal law by reference in our own state statutes. Hopefully, that clarifies it a little bit and I'd try to answer any questions. [LB1091]

SENATOR SMITH: Thank you, Ms. Egr Edson, for your testimony. Questions from the committee. Senator Schumacher. [LB1091]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, M.J., for introducing this bill. So...and maybe I was just mistaken and it won't be the first time, but that we had to do this conformity bill because otherwise we would be delegating our tax policy to the federal government. [LB1091]

MARY JANE EGR EDSON: That's true, yes. [LB1091]

SENATOR SCHUMACHER: Okay. So how is it that we have some automatic conformity that just happens and then we need this bill for nonautomatic conformity? [LB1091]

MARY JANE EGR EDSON: I guess the best example I can give you is in...on the federal side on individual income tax. When you file your return, the IRS, the Internal Revenue Code, the IRC, starts with the definition of gross income. And there are certain things that are excluded from your federal gross income. And this bill and this statute every year, we conform to that. Whatever happens at the federal level and the calculation of gross income, that's fine, we conform to it. Once we get to AGI, we have our own provisions and in some cases we will refer back to the federal, we'll do a credit that's a percentage of the federal or whatever. But this conforms us to sort of the starting point where the original calculation of a person's gross income. [LB1091]

SENATOR SCHUMACHER: Then why was it a couple of months ago or maybe six weeks ago when we started talking about this, that there's...I thought I was told that, look, we don't have to make some changes in response to the federal law because we automatically follow the federal law. [LB1091]

MARY JANE EGR EDSON: Did I say that? [LB1091]

SENATOR SCHUMACHER: It was...I don't want to say you said it, but it was in these conversations that we had. [LB1091]

MARY JANE EGR EDSON: Mr. Kilpatrick and I were talking earlier today and though we can't pinpoint it, we both have this fuzzy recollection that at one point in this state's history we used to do the reverse conformity where we listed all the things that we conformed to. And now it's, over the last 15 years or so, somewhere along the way it got changed so that instead of listing everything we conform to, we just say, we conform to it except for these sections of statute. [LB1091]

SENATOR SCHUMACHER: Okay, thank you. [LB1091]

SENATOR SMITH: Senator Harr. [LB1091]

SENATOR HARR: Thank you, Mr. Chairman. So is this bill constitutional? [LB1091]

MARY JANE EGR EDSON: Yes. [LB1091]

SENATOR HARR: Thank you. [LB1091]

MARY JANE EGR EDSON: I thought today was no-staff-question Wednesday. [LB1091]

SENATOR SMITH: Senator Harr has been saving that question until this moment in time. Any further questions from the committee? I see none. Thank you, Ms. Egr Edson. And now we move to proponents of LB1091. Seeing none, opponents of LB1091. Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, there were no records submitted in any position on this bill and closing is waived and that concludes the hearing of LB1091. We now invite Senator Harr to the hot seat to introduce LB1048, related to changing provisions relating to the personal exemption credit. Welcome, Senator Harr. [LB1091]

SENATOR HARR: Thank you, Chairman Smith. Fellow members of the Revenue Committee, my name is Burke Harr, H-a-r-r, and I am here on LB1048, which is more conservative and cheaper fiscally than the Governor's bill. I've been waiting eight years to make that comment and I finally got to. This bill was introduced prior to Senator Smith's LB1090 and it piggybacks on a lot of the same ideas and a lot of the same concepts. My only difference is that I have, to answer Senator Schumacher's question, I phased it out. And the reason for that is because this was not just a...the Trump plan was not just a $1.5 trillion tax cut on the federal level, but it was also tax reform. And as was argued at the time, the first major tax reform since Ronald Reagan in 1986, with the assistance of Mr. Slone, who was today named head of the Nebraska Chamber. And so because of that, there's tax reform. There is a...the purpose behind tax reform is to change people's behavior and, quite frankly, Mr. Kilpatrick covered this earlier, we're not quite sure how people's lives are going to change based on this bill. And we are in a tough financial time and so based on that, I took a little bit more fiscally conservative route. And so I phased it out and I didn't really address the standard deduction, with the understanding that in fact more people will probably be pushed towards taking standard deductions because of that change in the federal tax system, because you can't, as was stated very eloquently by Mr. Kilpatrick earlier, you can't take a standardized on a federal level and then itemized on the state. It you do it with one, you've got to do it with the other. So to answer Senator Schumacher's question what is the cost of a phase out, mine is $259 million versus $326 million. Now, not all that is from the phase out, because I also know it changed the standard deduction. But that gives you a ballpark that we can work from. A lot of the ideas that are underlying policy behind this I think was, as I stated already, eloquently covered by Mr. Kilpatrick. This is a different approach and I think it gives us room to negotiate and to talk about what approach we should take on...as a Revenue Committee and how do we address the changes that have been made and how do we want to anticipate any changes in behavior that may or may not occur based on federal taxes. With that, I would entertain any questions anyone may have. [LB1048]

SENATOR SMITH: Thank you, Senator Harr, for your opening on LB1048. Questions from the committee. Senator Schumacher. [LB1048]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you, Senator Harr, for bringing this. Now you don't address in here the issue of the inflation adjustment by doing it the other way or do you? [LB1048]

SENATOR HARR: I keep it at chained. I keep it at a lower, so yes. I mean, by not doing anything it keeps it at the chained, which slows that increase more then. Again, LB1090 keeps it consistent between fed-state...within the state government. I keep it consistent with the federal government. It's just two different ways to skin the same cat. [LB1048]

SENATOR SCHUMACHER: Right, but basically that number would grow slower under your plan than under the prior bill? [LB1048]

SENATOR HARR: Again, I am a fiscal conservative. [LB1048]

SENATOR SCHUMACHER: So you're slower. [LB1048]

SENATOR HARR: That, too. [LB1048]

SENATOR SCHUMACHER: And why did you pick the $200,000 level? [LB1048]

SENATOR HARR: Why 50 eggs? It's a good question. I think that's somewhat of a definition for a married couple of the upper end of middle class. Above that...and I'm not going to call it a millionaire's tax. There was a bill last week by Senator Vargas that put it at $200,000. You had to put it somewhere and I figured that's a good point that we can start phasing out. Again, I'm open to any changes on that. [LB1048]

SENATOR SCHUMACHER: But what I'm thinking of is that the folks who are two well-paying... [LB1048]

SENATOR HARR: Two professionals. [LB1048]

SENATOR SCHUMACHER: ...professional jobs, they're probably going to make more than $200,000 a year and they probably had very high state and local taxes, because 6.95 percent because they probably didn't get any special deals off to the side with special programs that have been enacted. So they're paying a real heavy tax to the state of Nebraska for income tax. And because of the federal deduction elimination they are going to get it in their total tax picture rather hard because they lost that ability to deduct those state and local taxes above...well, basically lost that ability. [LB1048]

SENATOR HARR: That is true. [LB1048]

SENATOR SCHUMACHER: And so what you're doing is doubly hitting them, you're hitting at the federal level and also a little bit here at the state level. [LB1048]

SENATOR HARR: That is an argument that could be made that I probably wouldn't disagree with. And like I said, I was scared when I introduced this bill because normally a bill with a fiscal note of $259 million, I'm not going to get beat by the Governor. But I did here. And I was worried because we are in tough times. So the idea was we had heard that...it's an imperfect world we live in. When I introduced this bill, the common knowledge, the rumor out there was that this changes in our...the changes in the federal taxes, this will have a net effect positive of $200 million to the state. And so doing back-of-the-napkin calculations this $259 million scared me. Right? Because we're already $200 million in the hole, this was kind of like $59 million on top of that, so I tried to be cautious and careful. Now, the good news is, what we're hearing is that these changes from Trump will add a positive to our revenue predictions of $300 million. But I was going off of the information I had at the time, as imperfect as it was, and now there's more information out there. But, again, these are all, at best, guesstimates; educated guesstimates, but guesstimates. [LB1048]

SENATOR SCHUMACHER: But the $300 million positive is due simply to the fact that we would not be giving this $134 away. I mean, there's no extra $300 million coming in, is there? [LB1048]

SENATOR HARR: I think there's an extra...due to the changes in the corporate taxes, there's an extra $325 million coming in was what we just heard from the last testifier on LB1090. [LB1048]

SENATOR SCHUMACHER: And that was due just to the personal exemptions. [LB1048]

SENATOR HARR: Personal? Well, that's about 90 percent of it. If you look, in that report it looks like...again, we just got the report and I just kind of played around with it. It looks like about 90 percent of that is personal exemptions, yes, and the other 10 percent from other changes, yeah. [LB1048]

SENATOR SCHUMACHER: So basically, we're not talking in terms of any...if we do this, we'd come pretty close to canceling out the effect. [LB1048]

SENATOR HARR: Well, if we do this, we actually are net positive. If we do LB1090, we're net neutral. [LB1048]

SENATOR SCHUMACHER: LB1090 will cancel it. So we'd profit a little bit off of doing it this way, at the expense of the higher income taxpayer. [LB1048]

SENATOR HARR: Yes. Yes, that's a fair statement. And, again, and it's all based on, as you stated earlier, we're guessing how people change or don't change their behaviors. And there will be some changes in behavior based on the new tax law that at this point I don't think we can determine what those are. And if Senator Friesen, God willing and the creek don't rise is back in two years, we'll probably have to make some changes on that. [LB1048]

SENATOR SCHUMACHER: He's not going to have to pay income tax in two years because he's going to take that 20 percent deduction. [LB1048]

SENATOR HARR: Well, let's see what happens. [LB1048]

SENATOR SCHUMACHER: Thank you, Senator. [LB1048]

SENATOR HARR: Thank you. [LB1048]

SENATOR SMITH: Senator Friesen. [LB1048]

SENATOR FRIESEN: Thank you, Chairman Smith. So first my self-esteem gets hurt because I'm not in the middle class. As an ag producer, I'm not even close to that $200,000, so I'm feeling bad now. And then I read through there and there's nothing about property taxes in here at all. What is this? [LB1048]

SENATOR HARR: Well, luckily I have another bill for property tax relief, which was last week, LB1108. All this...this bill...the intent of this bill is the same as LB1095 brought by Senator Smith on behalf of...I'm not sure if it was the Governor or the Department of Revenue, but brought on behalf of the executive branch, was to take the tax changes from the Trump tax law--and I can't remember the acronym, TCJA--and try to keep us as revenue neutral as possible so that we (inaudible). [LB1048]

SENATOR FRIESEN: Did you take into account any of the 199 tax issues then? [LB1048]

SENATOR HARR: What's that? [LB1048]

SENATOR FRIESEN: The cooperative...did you take that into account? [LB1048]

SENATOR HARR: The cooperatives? [LB1048]

SENATOR FRIESEN: Yeah. [LB1048]

SENATOR HARR: No, I did not. Again, this a broader, more general than that. I didn't take into effect that I will be going from itemized tax deduction to standardized tax deduction and increase the standardized tax deduction. It's not perfect and I would...but what I'm saying is, it's a conservative approach given our financial situation and given the changes that are occurring to help give us a little bit of breathing room, but still hold the state or individual taxpayers as harmless as within a certain degree of acceptability. [LB1048]

SENATOR FRIESEN: You're very thoughtful. Thank you. [LB1048]

SENATOR HARR: Thank you. [LB1048]

SENATOR SMITH: Additional questions. Senator Harr, the...so the quick math, this is kind of about $67 million positive on the receipts with your bill I think because if I took... [LB1048]

SENATOR HARR: Sixty million dollars did you say? [LB1048]

SENATOR SMITH: About $67 million, not $6 million or $7 million. [LB1048]

SENATOR HARR: Yeah. [LB1048]

SENATOR SMITH: And not all of that is a pick-up in the personal exemption over that $200,000... [LB1048]

SENATOR HARR: No. [LB1048]

SENATOR SMITH: ...because you don't address some of those others. [LB1048]

SENATOR HARR: No. And if you look at that report we were handed, it looks like about 90 percent of the cost of your LB1090 is personal exemptions. So you could probably deduce, to answer Senator Schumacher, working that math backwards you could deduct $32 million, which would get you to about $290 million. So the difference by phasing out would be the difference between $290 million and $260 million, so $30 million. Again, back of a cocktail napkin or back of the envelope, depending on the time of day. [LB1048]

SENATOR SMITH: Not exactly a Laffer curve. Cocktail napkin, right? All right. Any remaining questions from the committee? I see none. Thank you, Senator Harr. [LB1048]

SENATOR HARR: Thank you. [LB1048]

SENATOR SMITH: Thank you, Senator Harr. We now move to proponents of LB1048, proponents. Welcome. [LB1048]

TIFFANY JOEKEL: (Exhibit 1) Chairman Smith, members of the Revenue Committee, my name is Tiffany Joekel, T-i-f-f-a-n-y J-o-e-k-e-l, Policy Director at OpenSky Policy Institute. We're here to testify today in support of LB1048. You've heard a lot about the explanation of what LB1048 does and a really good explanation of the bigger issue for LB1090 this morning. In a nutshell, we are here to support LB1048 because we believe it's a more targeted effort to prevent the majority of the estimated tax increase as a result of the Tax Cuts and Jobs Act. While the additional changes in LB1090 are not without merit, our concern is the inherent uncertainty in trying to make revenue neutral tax changes as proposed in LB1090. It is very difficult to anticipate how taxpayers will react to such a significant change in tax policy at the federal level. LB1090, if being revenue neutral, provides very little margin of error at a time when the state is already facing significant challenges to our revenue system. We support LB1048 because it provides a prudent path forward, preventing the majority of the tax increase that would occur as a result of the Tax Cut and Jobs Act while also providing some margin of error. I think the department has done a phenomenal job in trying to do their best to figure out where this is going to land. I haven't seen the most current report. The analysis I have is based on preliminary estimates, but it's really a moving target and to predict personal exemptions is fairly straightforward. We can kind of make a pretty straightforward count about that, so that's why we think this is the most prudent way forward. Itemized deductions is a little more difficult. I think you can make some calculations and assumptions about what will change for people there. I would note that in 2015, which is the most recent data that we have, about 27.5 percent of Nebraskans itemized, so the changes to itemization at the federal level will impact a small segment of taxpayers in Nebraska. But expanding the standard deduction will then benefit everybody else that didn't itemize, which is 72.5 percent in 2015. There will be even more people as a result of the federal change. So I completely believe the Department of Revenue did their best to try to neutralize a lot of moving pieces, but that standard deduction change is a little bit broader. And the personal exemption piece, by addressing that, you're really getting the majority of the change that will impact low- and moderate-income taxpayers. I did some back-of-the-napkin math, which is always scary and the Department of Revenue can provide much more concrete numbers, but I looked at the statistics of income to try to figure out what amount of personal exemption credits was being claimed. So above $100,000 for all taxpayers--this doesn't calculate filing status--but was $51.7 million. And then above $250,000 was $11.2 million in personal exemption credit amounts. So I think all of the numbers that we've tried to put together give us a rough idea. But you're right, Senator Smith, LB1090...the difference between the two would also include the inflation adjustment and the standard deduction change. So with that, I would be happy to answer any questions if there are any. [LB1048]

SENATOR SMITH: Thank you for your testimony. Questions from the committee. I see none. [LB1048]

TIFFANY JOEKEL: All right. Thank you. [LB1048]

SENATOR SMITH: Thank you. Next proponent of LB1048. Seeing none, anyone wishing to testify in opposition to LB1048? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, we invite Senator Harr to close on LB1048. [LB1048]

SENATOR HARR: Thank you, Mr. Chairman. As I stated earlier, this bill provides us with options and I would ask that you take a look at the fiscal note closely, which we will be addressing parts of that in LB1050, as promised earlier. With that, I would answer any questions. [LB1048]

SENATOR SMITH: All right. Remaining questions for Senator Harr. I see none. Thank you, Senator Harr, for your closing on LB1048. And we invite you now to open on LB1050, related to adjustments to income for certain charitable contributions. [LB1048]

SENATOR HARR: Thank you, Mr. Chairman. Members of the Revenue Committee, my name is Burke Harr, not to be confused with Ken Haar, mine is H-a-r-r. I am here on LB1050, which is a policy bill based on changes that occurred in the Trump tax cut. So the Trump tax cut said, hey, let's double the standard deduction and let's really try to make our tax returns on a federal level as simple as possible. And the idea was, maybe a postcard was all we needed. And that's good and well and fine, but what they did was eliminate some individual deductions that I think we, on a state level, still hold near and dear to our hearts, specifically, contributions to nonprofits. I know Senator Brasch has a bill regarding nonprofits and contributions made to further nonprofits. Senator Smith has a bill that says, not only are what we're giving not enough, but we should be encouraged to give more. And so we all, I think, agree that giving to nonprofits is a good thing and should be encouraged. By going from an itemized deduction to a standard deduction, we're pushing people off of getting that deduction for giving to that charity of their choice, whether that's their church, their school, or their kids' education, or to some sort of research that they might find important in their lives that is a 501(c)(3). And there's a concern out there among the nonprofits that their charitable contributions may be reduced because some people when they give take into account the--I'll call it--the state's contribution through a deduction or reduction in state and federal taxes. Now, I can't do anything about the federal, but I wanted to do something on the state. Currently, there are 800--and I think we saw in that report earlier--850,000 taxpayers, approximately 28 percent to 30 percent file itemized right now. Some of those are going to be moved off. I can say I'm one of them. I don't know how many. But it seems to me that people should be encouraged to give to nonprofits. And maybe in the past I overlooked it and thought, if you take a standard deduction you don't get that write-off. But I think maybe they should get that, too. And we should be encouraging them to give to their society and to help society in ways that right now maybe it's not a tax advantage. So that's where LB1050 comes from, is to allow standard...people who take a standard deduction because--again, if you take on one level on the federal, you have to take the same on the state--to allow them to have the same privilege to give a little bit more to the nonprofit of their choice and let the state pick up the tab, not just to those wealthy individuals. So LB1050 is introduced. And what it does is it says you can take, for an individual, up to $1,000 off your AGI or $2,000 if you're a married couple. So think about what that does. If we have a tax rate of...effective rate of approximately 7 percent, let's say--I don't think it's that high--for $1,000 that's $70 for an individual, $140 for a couple, that the state kicks in for that contribution. Now let's look at the fiscal note. Eight hundred thousand people pay taxes. The fiscal note is $10 million, $10 million. And remember, you're still going to have itemized people out there. And you say to yourself...and the next year jumps to $26 million. How did we get that number? How did the Department of Revenue get that number? That's a great question. So I looked at the fiscal note and I'd encourage you to look at it. Near as I can tell they put on a blindfold, took a dart, threw it at a wall. I have absolutely no idea. How many people are itemized do they assume? How many are not itemized that they assume? How much they assume an individual is going to give, how much they assume an individual is not going to give. But it's $10 million the first year, $26 million the next. I...again, Mr. Gibb says we have no basis to disagree with the Department of Revenue's estimate. He's right. But I would add: comma, no basis to agree, because I have no clue. And I hope someone from the department comes up here and tells me how they came up with that. And if I were them, I would be embarrassed to throw this number out. Again, approved by Tony Fulton. If I were Director Fulton, I'd be embarrassed, absolutely embarrassed. So then we keep reading the fiscal note down a little further. The Department of Revenue indicates they will require a one-time program cost of $57,746 paid to the Office of CIO for mainframe development cost and to add a new line on the NebLine--singular--NebFile for individuals' Web-based filing system. Fifty-seven thousand dollars, is that reasonable? I have no idea. So let's take a look at LB1090, almost identical language. They changed the verbiage around a little bit and it's $7,000, $7,000 to do the exact same thing. Again, it's to change a line. I don't have mine in front of me. Now I go to LB1048, my previous bill which changes exemptions. There's going to be a change on your tax line and your filing, right? We all...I think that there would have to be if there is on LB1090, there would have to be on LB1048. And, again, no cost. I don't know how these fiscal notes are made and I don't know how we're supposed to make tax policy. I really don't. These should be self evident by reading them, how they came up with those costs. They aren't. And I hate to dwell on this, but I feel I have to because nothing has been changed. And I'm taking away from the underlying greatness of this bill, of us giving a charitable contribution and giving ourselves the empowerment to help nonprofits in Nebraska. And we talk about how the individual can make the decisions better than the government. Here's a way to do that. That's what I'm trying to do, but instead I'm sitting here saying, I don't know. Ten thousand dollars, I don't know, is that a fair number? Is $26,000? How does it jump one year from $10,000 to the next year $26,000? I think I have an idea, because the county universe is fiscal year, but doubling $10,000 still only gets me to...$10,600 doubled only gets me to $21 million. How do we get to $5 million more? And then the next year it only jumps $1 million and the next year $1.5 million. Guys, I have no idea. I have absolutely no idea. With that, I would entertain any questions you may have. [LB1050]

SENATOR SMITH: Thank you, Senator Harr, for your opening on LB1050. Questions from the committee. I see no questions. [LB1050]

SENATOR HARR: Thank you. [LB1050]

SENATOR SMITH: (Exhibit 1) Proponents of LB1050, proponents. We do have a letter that was sent in for the record in support of LB1050 from Nick Faustman, representing American Cancer Society Cancer Action Network. Opponents of LB1050. Seeing none, anyone wishing to testify in a neutral capacity on LB1050. Seeing none, Senator Harr, you're welcome back to close on LB1050. [LB1050]

SENATOR HARR: I'd just like the record to state, while I respect the Department of Revenue, that there are individuals here from the Department of Revenue who chose not to take the stand or to come up and to justify that fiscal note, that there are people here also from the executive branch here, PRO Office who reviews all fiscal notes, who chose not to come up here and to justify how that number came about, because I don't think that number is justifiable. And, again, we're making tax policy and we're making policy based on fiscal notes and I have no idea why. And when people ask me what did you like most and what did you like least about the Legislature, I think it's a safe assumption that I will say, our fiscal notes and the transparency of them, to say it nicely. Thank you. [LB1050]

SENATOR SMITH: Thank you, Senator Harr, for your closing on LB1050. Remaining questions? I see none. Thank you. And that concludes the hearing on LB1050. And I'm going to take the seat and open on LB961, LB962, and LB963. Again, good afternoon, members of the Revenue Committee. I would like to take up LB961, LB962, and LB963 all at the same time, just to save time. All three bills, LB961, LB962, and LB963 are placeholders or shell bills for the Revenue Committee's use. It is not my intention that any of these bills would be taken up in committee in their current form. And that's all I have to say on the introduction of all three bills. [LB1050 LB961 LB962 LB963]

SENATOR FRIESEN: Thank you, Chairman Smith. Any questions? Senator Schumacher. [LB961 LB962 LB963]

SENATOR SCHUMACHER: Thank you, Senator Friesen. Thank you, Senator Smith, for introducing these shell bills. Would it be then the proper procedure to take from the bills that we have out there that have had proper hearings and then incorporate elements from those bills to fill these shells? [LB961 LB962 LB963]

SENATOR SMITH: We could possibly do that. I had no prior thoughts on how to use these, other than as somewhat traditional for us to have shell bills sitting in a committee. One deals with individual income tax, one deals with corporate income tax, and one deals with property taxes. And so that's...I have no expectations other than that. It could be that they are not used at all or it could be that as we go through our deliberations in Exec Session that something emerges that we need a vehicle. [LB961 LB962 LB963]

SENATOR SCHUMACHER: I guess the question that I have is, to the extent there was nothing to discuss today and nothing where the public could respond to today, then if we put some meat in these bills, do we have another hearing? [LB961 LB962 LB963]

SENATOR SMITH: Well, it would be based on something that we do have a hearing on. We would not take up something in these bills that we did not have a public hearing on. [LB961 LB962 LB963]

SENATOR SCHUMACHER: Okay, thank you. [LB961 LB962 LB963]

SENATOR FRIESEN: Thank you, Senator Schumacher. Any other questions from the committee? [LB961 LB962 LB963]

SENATOR SMITH: My apologies. I probably should have been more clear on that, but thanks for dragging that out of me. [LB961 LB962 LB963]

SENATOR FRIESEN: Seeing no further questions, thank you, Chairman Smith. Is there anyone who wishes to testify in favor of any of these bills? [LB961 LB962 LB963]

SENATOR SMITH: (Exhibits 1-3) Seeing no testimony, I waive closing. We do have letters for the record. There were no proponents. Anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity? Seeing none, we do have letters for the record that were submitted in opposition to LB963 from Marilyn Hladky from Seward County Assessor; Todd Wiltgen from Lancaster County Board of Commissioners; and from Diane Battiato, Douglas County Assessor/Register of Deeds. And again, all those were submitted in opposition to LB963. I do waive closing. And that concludes the hearings on LB961, LB962, and LB963 for the day. And that concludes our hearings for today. Thank you all. [LB961 LB962 LB963]