

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office  
Government, Military and Veterans Affairs Committee  
February 06, 2009

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[LB337 LB348 LB350]

The Committee on Government, Military and Veterans Affairs met at 1:30 p.m. on Friday, February 6, 2009, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB348, LB350, and LB337. Senators present: Pete Pirsch, Vice Chairperson; Robert Giese; Charlie Janssen; Russ Karpisek; Rich Pahls; Scott Price; and Kate Sullivan. Senators absent: Bill Avery, Chairperson.

SENATOR PIRSCH: Very good. We'll get things going then. Welcome to the Government, Military and Veterans Affairs Committee hearing. I am State Senator Pete Pirsch, representing Legislative District 4, western Omaha. I am joined here today by my colleagues, members of the committee, and I'll let them introduce themselves starting on my right.

SENATOR PAHLS: Rich Pahls from Millard of Omaha, District 31.

SENATOR JANSSEN: Charlie Janssen from Fremont, District 15.

SENATOR GIESE: Bob Giese, District 17, Dakota, Dixon, and Wayne Counties.

SENATOR PRICE: Scott Price, 3rd District, Bellevue to Gretna.

SENATOR PIRSCH: Just a few remarks. Oh, by the way, Sherry Shaffer is our committee clerk, and so she is on the end over there on the left. Just a few remarks. Bills will be taken up in the following order today. We're going to start with LB348, Senator Janssen is the senator of; then we'll move to LB350, Senator Lautenbaugh's bill; and finally LB337, Senator Friend's bill. These...the agenda is posted outside the door. Sign-in sheets are at both entrances. Sign in on the beige sheet here only if you're going to testify...going to come up here at the table and testify and give...give this sheet then to the committee clerk, Ms. Shaffer. If you're not going to testify, but you would like to be on the record either as a proponent or opponent of a bill, there's another sheet you can fill out and that is a white sheet and that is available also on the tables near the entrances. On either sheet, print your name and indicate who you are representing. If you are coming up to testify, please spell your name for the record, even if it's a simple name. It's very helpful. Introducers, the Senators, will make initial statements followed by first proponents, then opponents, and then finally neutral testimony. Closing remarks will be reserved for the introducing senator only. I just ask that you listen to the testimony of those who testified before you to the extent that your testimony would be duplicative, I'd like it, you know, to limit our testimony to the nonrepetitive type of matters. If you are...if you have a prepared statement or exhibit, if you could give it to our...one of our two pages here today who will distribute it or make copies, we need to have 12 copies. If you have less than that, just let one of the pages know and they'll make the additional copies for you. And our pages for the day are Nick Bussey from

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Lincoln and also Becky Armstrong from Lincoln as well. And so with that, we will turn to the first bill, which is LB348. Senator Janssen, you are the sponsor. If you'd like to... [LB348]

SENATOR JANSSEN: (Exhibit 1) Good afternoon, Senator Pirsch, members of the Government, Military and Veterans Affairs Committee. My name is Charlie Janssen, C-h-a-r-l-i-e J-a-n-s-s-e-n. I represent District 15 in the Nebraska Legislature. I'm here to introduce LB348. I proposed this legislation to help provide information to the public. Specifically I'm referring to those statements commonly known as 521 forms that record the purchase price and address of property that has been bought and sold. For many years, the warranty deeds that transfer ownership of a piece of property have been recorded in the register of deeds office in each of our county seats. The 521 form is recorded first at the register of deeds office, then it's transferred to the county assessor's office. Current law has historically provided for review of these documents only in the county assessor's or Tax Commissioner's office. The 521 form is a document that is filed in multiple parts. As near as our research can tell, we believe the reason for not making it public at the register of deeds office is due to the social security numbers being on the top copy of the 521 form and removed on the other copies. The form has not been requested, excuse me, the form has not requested a social security number for many years. In some counties, the register of deeds or county clerks may hold these 521 forms until the end of the month and transfer all of them en masse to the county assessor. While this is certainly legal, it does mean that the public isn't able to access those records unless the county clerk carries them over to the county assessor. This inconveniences the newspapers that choose to print this information, real estate agents and/or title and escrow companies that need access to this information, as well as others that are looking to know what certain properties in their neighborhood sold for. LB348 just cleans all that up. I would like to offer an amendment at this time. AM191 removes the provisions that exempt legal newspapers from paying copying fees to the county offices for copies of this information for publication. This decision was made in consultation with the Press Association and Media of Nebraska in order to prevent the creation of separate exempt class from our statutes. I thank the committee for the consideration of LB348. I believe there are going to be some people coming up to speak as proponents of this, but I'd be happy to answer any questions if you have them. [LB348]

SENATOR PIRSCH: Thank you very much, Senator Janssen. Any questions for the Senator? Seeing none, we'll move to our proponents. Is there anyone here to testify in favor of LB348? [LB348]

LARRY DIX: Senator Pirsch and members of the committee, for the record, my name is Larry Dix, spelled D-i-x. I am executive director of the Nebraska Association of County Officials and appearing today in support of the bill as amended. We appreciate working with Senator Janssen. Certainly as this bill was initially drafted, we had some specific

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opposition to it. We appreciate working with Senator Janssen to be able to remove that opposition. And we think it is good that you can obtain that document not only from the county assessor but also from the register of deeds. And let me give you a little bit of information on those 521s because just recently--as recently as last year--the 521 form has changed. In recent years...that used to be a three-part form and a copy would...the document would be filed at the register of deeds and then there was a copy identified for assessors and a copy identified for the Property Tax Administrator. And the state looked at that...looked at and said, here is a way we think we can create some efficiencies and cut down on some costs. And so that form is now a one-part form and you can go, I believe, up to the property tax's Web site and get a copy of it and there are some companies that provide that form. And with that, what happens now is that document is filed, it is brought to the register of deeds office, they look at it to get documentary stamp tax information off of it. Once they are finished with it, the original is physically moved to the county assessors office and then...now, the process is that the county assessor stacks those up and will send those in to the department Property Tax Administrator once a month. And that is at the request of the Property Tax Administrator to send those into them at one time. And so that, the 521 has changed a little bit as we know it. But we certainly have no problem with the public having the access to the form and the register of deeds full well knowing that that form only is in the register of deeds for a period of time and then it moves...does move down the hall to the assessor's office. [LB348]

SENATOR PIRSCH: Very good. Are there are any questions for Mr. Dix? Oh, Senator Price. [LB348]

SENATOR PRICE: Mr. Dix, just to make sure I have this right, how will the public know other than going to the window that the document has moved? Are we envisioning that they're going to have to have some type of tracking system? I mean, if someone's sick at the department and someone comes in looking; now we have to have a record showing, a charge record, if you would, you know, so we know where it is? [LB348]

LARRY DIX: Yeah. Typically when the 521s are handled by the register of deeds, I mean, that usually, depending on volume, if somebody brings in, obviously at 4:55 in the afternoon, it's going to be stamped received. The register of deeds is probably going to handle that on the following day. Once that is done, then the original moves down to the assessor's office. So that document typically isn't going to stay in the register of deeds very long. It...but it is going to be in one of those two locations. That is by the very nature of the change that we went to...to have only one, to have that only be a one-part document. [LB348]

SENATOR PIRSCH: Very good. Any other questions? Seeing none, we'll move on to the next proponent. Good afternoon, Mr. Brady. [LB348]

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JUSTIN BRADY: Good afternoon, Senator Pirsch and members of the committee. My name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist of Media of Nebraska in support of the bill as amended or as proposed amended by Senator Janssen. Media of...real quick, Media of Nebraska is a group of the newspapers, radio stations, and TV stations that meet and really kind of look at public records and open meetings and First Amendment issues, and they support access to public documents. They do also support the amendment; they've never felt that they should be a special class that get these documents for free. They should be treated just like anybody else walking in from the public and, therefore, that's why they're in agreement with the amendment that would strike the for free provision. So with that, I'd try to answer any questions. [LB348]

SENATOR PIRSCH: Very good. Any questions for this testifier? Seeing none, I thank you for coming down here today. Are there any other proponents of this bill, LB348? Seeing none, we'll move on to opponents. Is anyone here to testify in opposition to LB348? Seeing none, is there anyone here to testify in a neutral capacity with respect to this bill? Very good. Senator Janssen would you like to...Senator Janssen waives closing. And we will conclude then the hearing on LB348 and move on to the next hearing, LB350. Senator Lautenbaugh is the sponsor of that measure, and we will start whenever you're ready, Senator. [LB348 LB350]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. My name is Scott Lautenbaugh, and I'm the introducer of LB350. This is a technical bill. I will admit that it's, in a lot of ways, hard to follow as to what we're trying to accomplish with the underlying statute, and I'll represent to you up front that this is not my area of expertise either, so I have the same learning curve. The good news is that I do have what I would call experts in the field coming behind me that are going to be much more well-versed in the problems with the law as it exists and the reason for these proposed changes. I will tell you briefly that we're talking about industrial tracts and trying to get some control over the process whereby cities will be able to annex them after an amount of time or when certain conditions have come to pass. The law, as it is currently written, makes it very difficult on municipalities to work around these tracts and bring them back into the...or into the city as growth dictates. And so this bill was designed to address some of those concerns. I would obviously be happy to take any questions you might have, but I would also encourage you to wait for the more knowledgeable people that will...one of whom will step into this chair the minute I step out of it. So, but I'll be happy to take a stab at anything if you feel strongly about asking me directly. [LB350]

SENATOR PIRSCH: Very good. Any questions? Seeing none, we'll move on to proponents then. Are there any proponents of this bill, LB350? Thanks for coming in today, if you can just start with your name and if you can spell that. [LB350]

PHIL GREEN: (Exhibit 1) Great. Thank you, Mr. Chairman. My name is Phil Green,

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P-h-i-l G-r-e-e-n. I'm the assistant city administrator for the city of Blair. I guess I'd like to start off a little bit with some background information of our understanding of this particular area of the statute. Industrial tract legislation was first enacted back in 1957, and I think it's very important for the committee to understand that at that point in time it really was the only economic development incentive that was available. Industry could locate near a municipality with the understanding that they would not be annexed; therefore saving the amount that they would pay on local property taxes. Please note that I would like to stress that they would and continue today to still pay property taxes both to the county, to local school districts, and to every other taxing entity that happens to be in their particular area. Well, since that time in the late fifties and early sixties, LB775, the Nebraska Advantage program, LB840 which obviously allows local municipalities to use some of their local monies for economic development purposes have all been implemented. I would also like to stress that under the Nebraska Advantage program, even local option sales tax monies are refunded to corporations that are participating in that particular program. Each of these new incentives have been used numerous times throughout the state and by the city of Blair. And as one example, Novozymes, which is a Danish manufacturer of enzymes that are used in the ethanol production industry, is a recent example in the city of Blair. Novozymes is investing \$100 million into Nebraska's economy, creating 100 good-paying jobs. Nebraska Advantage program helped bring them to Nebraska, and the city of Blair itself is investing \$800,000 through our LB840 fund. Industrial tract designation, as an incentive, was never even mentioned during this process. Our concerns with the current industrial tract legislation is twofold. First, in many cases, the only political entity that is affected is the local municipality through the loss again of their local property taxes by not being able to annex these particular areas--areas that are adjacent, contiguous, and oftentimes served by local utilities. There are some situations, though, in Nebraska where you have a local school system that is the school system in charge inside the city limits. You have a different school system that may be in charge outside the city limits, and if there's isolated pockets even within the municipality, some of those property taxes may go back to the countywide school district as opposed to the local. Second, and please understand this point, this is the only economic development incentive that is perpetual and never ends. As long as the property is used for industrial purposes, the benefit continues. With the Nebraska Advantage program, as you are aware, businesses usually have five to seven years to attain credits and an additional seven to ten years to utilize those credits. In most cases, these incentives then cover approximately a 15-year period. Blair's industrial tracts have existed for 29 years. Other cities have industrial tracts which have existed for longer than 30 years, and even with the changes suggested in this bill, those incentives will last at least ten more years. LB350 contains 12 sections; 8 of those sections only contain minor changes in wording, such as the changing of city or village to municipality or the...using the common phrase "real estate tract" instead of individual words such as land, tract or just real estate. So of those 12, 4 of the sections really have some of the major changes, and I would like to walk through those sections for you at this point in time. Section 1, which is...again, is

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on page 2, line 3, deals primarily with the change of the definition of industry. It's important because this is the section that county boards then use when they determine if an existing parcel in the industrial tract still qualifies for industrial tract designation. Back in 1979, the Legislature added this review process that's in Section 13-1121 because nonindustrial businesses such as retail stores, contractor offices, personal property storage units, had all begun to locate in the industrial tract area and were unfairly receiving the advantage of not having to pay local property taxes compared to the businesses in town that they would compete against. So that's why this section was added, so that county boards would have an opportunity to kind of review what industry was. Our recommendation, that is some changes to some of these definitions. The first begins in subsection (2)(a) where it clarifies manufacturing as any entity whose primary function...and that's currently in the statute, but now it goes on to define, primary function as "based on total annual gross receipts" in this manufacturing business. As an example, in the city of Blair we have a contractor who fabricates some metal panels primarily for their own use, and yet the county board considered the whole business to be manufacturing, even though, again, it is not their primary function. Subsection (2)(b) then removes the word "storing" as a definition for industry, and goes on to clarify warehousing and distributing for industrial uses, which as you read through the statute is commonly referred to as "agricultural, manufactured, mineral, or chemical products." And it also moves a little subclause dealing with retail sales down to the end of this whole section, therefore clarifying that retail sales are not allowed for any of these particular uses. In the city of Blair, we had a situation with storing where, again, as we went back to the county board to ask for a particularly small parcel to be removed, it had had no development on it within the required seven years. A local contractor literally has a piled crushed concrete on that lot and was able to argue before the county board that that wasn't storing in the content and the intent of what this legislation lays out for you, and we would obviously disagree with that. Subsection (2) then goes on and clarifies the definition of research and development and specifically limits it to industrial uses, again, "agricultural, manufactured, mineral, or chemical products." Again as an example, we have a building solutions company that provides customer management and accounting software--and that's an exact quote from their Web site--that has, again, convinced the county board that their primary function is research and developing new products because they continually modify and upgrade their software. As with all these examples, we love these companies and we are thrilled that they are in the Blair community. We just simply look at it and say: Is that really the intent of the legislation? And would they be unfairly being able to compete with someone else, maybe, that was also existing in the community but inside the city limits and therefore having to pay property taxes? Where, again, if you go down to the next section, page or Section 5, I should say, which is on page 5, line 15, the next major change. Beginning on line 24, it changes the assessed taxable valuation level at which annexation is allowed even if a parcel is within the industrial tract. Evidentially this was added so that relatively smaller parcels would still be able to be annexed by the local municipality. Again, the statute was first enacted in 1957. According to the U.S. Bureau of Labor Statistics Web site,

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\$286,000 in 1957 is equivalent to today \$2,162,048.04. We believe that the intent of the legislation was to provide an incentive to large industries, large agricultural and manufacturing facilities, and not some of these smaller ones. And in the legislation, we have suggested \$5 million as an appropriate assessed value level for this kind of incentive or benefit to these businesses. Then on page 6, lines 4 and 6, there was a change to the exceptions that are allowed that allow annexation above the assessed taxable valuation level. And as even Senator Lautenbaugh said, statute gets rather interesting to read at this point in time. Basically, again, there is a dollar level that's in the statute right now, \$286,000, at which and under you could still annex them. Above that level, there's a few exceptions that would be allowed, and one of the exceptions was if it was located within a county of a population of at least 100,000. Our recommendation that's in the bill would be to lower that number from 100,000 which, again, currently only covers three counties: Douglas, Lancaster, and Sarpy to 10,000 which would cover 25 separate counties in the state of Nebraska. This section then also removes the requirement that the city or village did not participate in the original designation when it was first enacted. Again, several minor changes then in other sections. Then down to Section 10 which, again, is on page 9, line 2, this adds a brand-new section allowing municipalities to remove the industrial tract designation beginning five years after the creation of any industrial area with a ten-year notice. So, again, has to be at least five years past creation of the industrial tract; then the municipality could issue a notice to that property owner that ten years hence the industrial tract designation could be removed. Keep in mind, simply removing industrial tract designation does not annex anything, but it does then allow the local municipality the option of deciding whether that would be the proper thing for them to do or not. And, again, this section would apply to both current as well as new industrial areas. As with the new Super Tier 6 of the Nebraska Advantage program, the industrial tract benefit would last for ten years from the date of the filing of this notice to the company. This section does not require the municipality to remove the industrial tract, but it does give them the local option since they are the only political entity normally that directly is affected by this benefit that is given out. Finally, the fourth section that has some major changes is Section 11, again, pages 10, line 7. This is the section that was added in 1979 to allow biennial review of the industrial tract if requested by the municipality. This section then clarifies that only one hearing is required by the county board to determine if a particular parcel should be removed from the industrial tract. We did have some discussion in Washington County based on the way the statute currently reads, whether the county board needed to have a preliminary hearing to find out, quote, if there was a problem, and that's the technical phrase used in this statute right now to determine if there was a problem with the industrial tract standing and if there was, do they have to have a separate meeting later on to actually determine if there is a problem. And that's the method that our county chose to do. This would standardize that just to one meeting so that you could request that, they would notify the property owners, everyone could come for one meeting and decide it, if you will, once for all, whether this parcel still qualified for the industrial tract designation. This section also has minor changes to the

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notification requirements to businesses. And it adds a section clarifying that the hearing should be held within 90 days after the request of the municipality. Again, if you're familiar with this statute, municipalities are allowed in the month of March in every even-numbered year to come to the county board and request a review. We have had a situation in the past where that was done in March, and the actual hearing wasn't held until December. And so we felt like having a requirement for 90 days was legitimate. Finally, then this adds a sunset clause of September 4, 2019, for the limitations that are put on the county board to remove pre-August 24, 1979, parcels; keeping in mind that this section of the statute was enacted in 1979, and there was a limitation put on county boards at that time that previously existing industrial tracts could only be removed if the use that was on that tract did not meet the definitions. There are other options for industrial tracts that have been created post-1979, such as if it's not developed within seven years, it shall be removed, some things like that. But this clause was there to allow those preexisting ones to continue on. Again, our recommendation, if it's approved with the ten-year notification that therefore, you'd have ten years from approximately when this bill would be enacted and to allow those businesses to have that full ten years. So that's the end of my testimony. If you have any questions for me... [LB350]

SENATOR PIRSCH: Very good. Senator Pahls. [LB350]

SENATOR PAHLS: Thank you, Senator Pirsch. Mr. Green, I have a question. Have you been talking with the Department of Economic Development? [LB350]

PHIL GREEN: We have had some discussions with them. We have not had any real clear indication exactly what their concerns or lack of concerns are. I have had some extensive talks with Paula Hazelwood who is the executive director of our local economic development corporation. And again, one of the things that she has told us is she has never had a situation in dealing with an industry where they ask or even seem aware that this opportunity exists. [LB350]

SENATOR PAHLS: Okay. For...is this strictly coming from the city of Blair? I mean, I understand it affects like...this is, to be honest with you, a very well-defined and researched document. [LB350]

PHIL GREEN: Thank you. [LB350]

SENATOR PAHLS: And this almost feels like it's coming from some department from the state, and I was just curious. [LB350]

PHIL GREEN: I appreciate that. Our city attorney worked hard on it, so I'll give him the kudos. It really did develop through some of our frustration with dealing with our county board at the local level. There are other municipalities though that I know will be here to be proponents of this, and I think they've had similar challenges in their communities.



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[LB350]

SENATOR PAHLS: Okay. Could you just give me...if this...if everything went your way, how many dollars would, approximately, the city of Blair, just roughly, I mean, would gain from this? [LB350]

PHIL GREEN: Well, again, and I really want to stress to all of you that just because industrial tract designation is removed does not mean the decision would be made to annex anybody. [LB350]

SENATOR PAHLS: Yeah. [LB350]

PHIL GREEN: We clearly have some businesses in our municipality that we feel don't qualify right now, that if you properly understand the intent of the legislation, shouldn't be included and therefore should be available to be annexed. You know, those would represent maybe \$4 million to \$6 million worth of valuation in our community. But we do have very large industrial complexes, such as the Cargill location and all the associated ones with them, that there's been no discussion whatsoever and no plans whatsoever about ever annexing them. Doesn't mean it might not happen sometime down the road, but that is not the intent of this statute. It really is the smaller individual businesses that, for one reason or another, seem to continue to remain in the industrial tract, and we don't believe that they should. [LB350]

SENATOR PAHLS: But you have no ambition to annex the Cargill operation? [LB350]

PHIL GREEN: Not at this time. [LB350]

SENATOR PAHLS: But it would be potentially a very... [LB350]

PHIL GREEN: It absolutely could, and I guess, you know, as a municipal guy, I like local control and I like local authority. And to me, these are the people that we work with and interact with on a continual basis. Our council is fully aware how important they are to our community and so they will, to me, be the most sensitive of anybody to not wanting to do anything that would harm any of the businesses, you know, in the municipality. [LB350]

SENATOR PAHLS: Okay. Okay. Thank you. [LB350]

SENATOR PIRSCH: Senator Price. [LB350]

SENATOR PRICE: Senator Pirsch, thank you. Sir, from your testimony, let me...here again, you have no intentions at this point in time to annex any business within that...in and around Blair at this time? [LB350]

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PHIL GREEN: Senator, no, that's not what I said. We have no intention right now of annexing Cargill or there has been no discussion, let me put it that way, at the council level for that. Their frustration over the years, again, have been several of the smaller businesses. A few of them we've been able to work with the county and get removed, other ones we haven't been, many of the ones that I had mentioned to you. You know, again, a contractor who has a small part of his business that's somewhat manufacturing and therefore qualifies for the whole business, therefore, to be able to not be annexed. Those are the kind of things that I think our council would like to see removed, because I don't believe that it fits with what the statute says. And we have lots of other economic development tools available to us. [LB350]

SENATOR PRICE: It just seems to me to be an end-around to an existing statute to go against...to do something. That's why I say that. I mean, you just said it here, you know, you're not having success in the current statute so you'll create a new one to supersede it to get to your ends. And I was just concerned that when we start doing things...I mean, we had Elkhorn annexed. They weren't real happy about it. So anything with annexation right now is really something to be...give cause for concern. And then you'd say, well, no, we don't really want that plum out there, we only want these little ones. But then the plum is available and we need to be very cautious about moving forward. Thank you. [LB350]

SENATOR PIRSCH: Senator Giese. [LB350]

SENATOR GIESE: Thank you, Senator Pirsch. Mr. Green, just to flip that around a little bit. So have you...let me just ask you, have you had anybody that has asked to be annexed? [LB350]

PHIL GREEN: We actually do have one industry--it's a concrete plant, because of their location. And, again, keep in mind because large sections of this area on the eastern side of Blair have not been annexed, the county is still responsible for the maintenance of the roads, and they happen to be along one of those county roads. They are in the industrial tract so they don't qualify right now. They could opt themselves out based on the current statute. They haven't chosen to do that yet, but as is often the case with municipalities, if you're physically outside the corporate limits, there's a sort of water rate that you pay that's different than what people within the municipality pay. It would be to their advantage to be annexed and within the city limits. That's not done, partly because, again, there are other properties in-between us and them that, you know, if they couldn't be annexed as well, wouldn't make it worth our while to annex them at this point in time. [LB350]

SENATOR GIESE: Thank you. [LB350]

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SENATOR PIRSCH: Have you had direct discussions with some of these larger companies, Cargill, Novozymes, in your area about your intention or coming forward with this plan? [LB350]

PHIL GREEN: We have not. We obviously have had some discussions with some of these smaller businesses as we've worked through the process of trying to have them removed. They understand that that is one of the goals that our city council has. But, again, we've not talked with anyone directly, especially for those that they have no plans in looking to annex right now. [LB350]

SENATOR PIRSCH: Uh-huh. Have they...you indicated you didn't think it was part of their...the inducement that they were looking at, Nebraska Advantage, you felt...I mean, is that something that comes from...is that supposition on your thinking or is that something they have kind of related as that because they didn't talk, you're saying that they didn't ever correspond with you about that aspect? [LB350]

PHIL GREEN: Right. And, again... [LB350]

SENATOR PIRSCH: Or is it something that they've said, we're not...we didn't really come here because of that? [LB350]

PHIL GREEN: Again, there's been no direct conversation with them, as I said, or the executive director of our economic development corporation has been very clear that it's never come up. In fact, one of the interesting situations that happened as some early negotiations were going on and talking with Novozymes about locating, the Omaha Chamber, which we deal very closely with in these regards, when they were making a presentation to them, actually included as the property tax rate that potentially then would be able to be rebated back to Novozymes through the Nebraska Advantage program. They included all of Blair's valuation in that, and they shouldn't have. And we notified them soon after we found out about that, that no, they're right now outside the city limits and that wouldn't be included. So in Novozymes' case, they saw the full dollar amount and obviously still thankfully decided to come to Blair. [LB350]

SENATOR PIRSCH: Very good. Are there any other questions? Seeing none, we'll move on then, and thank you for coming down here today and testifying, to the next proponent. [LB350]

TOM CRISMAN: (Exhibit 2) Good afternoon, Senators. My name is Tom Crisman, T-o-m C-r-i-s-m-a-n. I'm the mayor for the city of Crete. I'm here to testify in support of LB350. I would like to personally thank Senator Lautenbaugh on behalf of the city of Crete for introducing this bill. The act relating to industrial tracts has been beneficial for the state of Nebraska, benefitting many industries, and providing relief from property taxes that would otherwise be paid to local municipalities. If the property located within

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the tract were included in the municipality, it has also benefitted the citizens of the state of Nebraska living near where these industries are located by providing needed jobs and tax revenue to support the state, county, schools, and all other taxing entities except the municipalities. However, the act fails to provide affected municipalities with reimbursement for lost tax revenue. Further, the act restricts municipalities affected from exercising local zoning and planning control to deal with local industry and/or tract owners. Further, the city of Crete understands that under some economic development incentive programs, the city may be charged for state programs that benefit industries even though located outside the city limits and may be in an industrial tract. It is the city of Crete's position that the modification of LB350 will allow communities to take action to better utilize some of the industrial tracts and yet still provide the benefits to the industry. It is only through state and local government partnerships together with industrial development that this state will continue to grow and prosper. The city of Crete is only asking to be allowed to be a player in controlling its own growth. I thank you for your time and consideration you can give the city of Crete in supporting the passage of LB350. [LB350]

SENATOR PIRSCH: Thank you for your testimony. Are there any questions here? I just have one. I think the prior testimony of the gentleman from Blair and the city administrator was that \$4 million to \$6 million in valuation was encapsulated in the industrial area that he was talking about, and I think that excluded the Novozymes and the other large companies like Cargill. What is...do you know what the total value in terms of valuation is? [LB350]

TOM CRISMAN: The taxable valuation... [LB350]

SENATOR PIRSCH: Yeah. [LB350]

TOM CRISMAN: ...was of the industry that is in Crete, and you have to understand, the industry we are talking about is totally inside the city limits. It is completely surrounded by the city of Crete. It's sitting there as an island, as a county industrial tract, but yet we provide the services to it. The valuation on this particular piece of property is just a little over \$8 million. [LB350]

SENATOR PIRSCH: Okay. And... [LB350]

TOM CRISMAN: But this doesn't mean that we're going to annex it. But it... [LB350]

SENATOR PIRSCH: It leads to the potentiality... [LB350]

TOM CRISMAN: Yes. [LB350]

SENATOR PIRSCH: Or it can lead to the potentiality. So and you've had the chance to

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look at the bill, I just had some questions. [LB350]

TOM CRISMAN: Yes. [LB350]

SENATOR PIRSCH: It's a little lengthy. Could you explain the feature then a little bit where right now? Currently, if you're a county of over 100,000, this would allow you access to annex currently, correct? [LB350]

TOM CRISMAN: Yes. [LB350]

SENATOR PIRSCH: And the proposition embedded in this bill would be that you...that population center would be... [LB350]

TOM CRISMAN: Would drop to... [LB350]

SENATOR PIRSCH: ...lowered to 10,000. Right? [LB350]

TOM CRISMAN: Yes. [LB350]

SENATOR PIRSCH: And Blair is about, what...12,000 or so and Crete is? [LB350]

TOM CRISMAN: Crete is about 12,000 population as well. [LB350]

SENATOR PIRSCH: Twelve thousand dollars as well. [LB350]

TOM CRISMAN: Or, well, the city is 6,000; Saline County is about 12,000. [LB350]

SENATOR PIRSCH: Okay, is it the population of the city, the municipality, or the county? [LB350]

TOM CRISMAN: No, of the county. [LB350]

SENATOR PIRSCH: Okay. And so if then the county is, thereby, mixed at that level, over 10,000, they also, with respect to ability to annex is that...automatically, immediately you have the ability to annex these areas? Is that correct or is that a process in place? [LB350]

TOM CRISMAN: No, there was a process. [LB350]

SENATOR PIRSCH: And that's the...after five years, and then you have a ten-year notice, right? [LB350]

TOM CRISMAN: Yes, sir. [LB350]

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SENATOR PIRSCH: And then after...so essentially 15 years is the soonest amount of time. [LB350]

TOM CRISMAN: Yes. [LB350]

SENATOR PIRSCH: The type of industry that were attracted to there...and I'll just confine my remarks or questions to your city, Crete. The industry that have located in your industrial area, are those...were they, in your opinion, attracted to the location there in Crete originally because of that status? [LB350]

TOM CRISMAN: That I don't know. [LB350]

SENATOR PIRSCH: Okay. [LB350]

TOM CRISMAN: That industry located in Crete in the sixties. [LB350]

SENATOR PIRSCH: I see. [LB350]

TOM CRISMAN: And, you know, I was still in high school then, (laugh) so. [LB350]

SENATOR PIRSCH: You bet. You bet. The types of jobs that are there currently in the industrial tracts, are those large employers of people in Crete? [LB350]

TOM CRISMAN: This particular industry employs 350 people, maybe 400. [LB350]

SENATOR PIRSCH: Oh, the totality or one particular company? [LB350]

TOM CRISMAN: This is just one...this is one industry, one small industrial tract that has been completely surrounded by the city... [LB350]

SENATOR PIRSCH: I see. [LB350]

TOM CRISMAN: ...as it's grown. [LB350]

PETE PIRSCH: So one company alone has 350 employees? [LB350]

TOM CRISMAN: Yes. [LB350]

SENATOR PIRSCH: Okay. Thank you very much. Are there any other questions? Senator Karpisek. [LB350]

SENATOR KARPISEK: Thank you, Senator Pirsch. Mayor Crisman, how are you?

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[LB350]

TOM CRISMAN: Senator. [LB350]

SENATOR KARPISEK: Good to see you. I suppose we don't want to say who this is? I don't know. [LB350]

TOM CRISMAN: You can if you want to. [LB350]

SENATOR KARPISEK: Well, I don't know. (Laughter) I guess the new industrial park, the hospital, and all that, is that in the... [LB350]

TOM CRISMAN: That's already in the city limits. [LB350]

SENATOR KARPISEK: That's already in the city limits. So this is... [LB350]

TOM CRISMAN: City limits, this industry, city limits and then city limits on the back side of it. [LB350]

SENATOR KARPISEK: Maybe heading out of town that way--east. Okay. [LB350]

TOM CRISMAN: But you know, we seem to be growing that way. [LB350]

SENATOR KARPISEK: Sure. Okay. That's...I mean, it doesn't matter. What I wanted to get out at was the new industrial park, because at first I thought that's what you were talking about when you said that you didn't know if they...this enticed them to come. Well, that's why you built the industrial park, (laughter) so I gave you a funny look. [LB350]

TOM CRISMAN: But see, that's all in the...that's all in the city limits. [LB350]

SENATOR KARPISEK: That's all in the city limits already. I'm with you now. Thank you. [LB350]

TOM CRISMAN: And none of those industries asked for any incentives to come to Crete. [LB350]

SENATOR KARPISEK: Um-hum. [LB350]

TOM CRISMAN: And the one south did not ask for any incentives either. [LB350]

SENATOR KARPISEK: Thank you for clearing that up. Thank you, Senator Pirsch. [LB350]

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SENATOR PIRSCH: Yeah. Do you know if they were aware of the incentives or is that a matter of speculation to ask you that question, at the time that they located there? [LB350]

TOM CRISMAN: You know, like I said, I was in high school. (Laugh) It didn't really matter to me back then. [LB350]

SENATOR PIRSCH: Thank you. Very good. Okay, are there any other questions? Very good, thank you for coming down here today and testifying. [LB350]

TOM CRISMAN: Thank you. [LB350]

SENATOR PIRSCH: And we'll move on to the next opponent...I'm sorry, proponent. [LB350]

JOE MANGIAMELLI: Senator Pirsch and members of the committee, my name is Joe Mangiamelli, J-o-e M-a-n-g-i-a-m-e-l-l-i. Taking the lead from Senator Pirsch, I'm going to try to be brief and nonrepetitive of what you've already heard. [LB350]

SENATOR PIRSCH: Thank you. [LB350]

JOE MANGIAMELLI: We do want to support both Crete and Blair in this effort to get the legislation changed. It all has to do with the ability of a community that is supporting industry to grow and continue to grow. If the city can't grow, then industry isn't going to be there long. [LB350]

SENATOR PIRSCH: And Joe, I'm sorry to interrupt you,... [LB350]

JOE MANGIAMELLI: Yes, sir. [LB350]

SENATOR PIRSCH: ...could you state the organization you're with,... [LB350]

JOE MANGIAMELLI: Oh, I'm sorry. [LB350]

SENATOR PIRSCH: ...just for the edification of the members here? [LB350]

JOE MANGIAMELLI: I am sorry, Senator. I'm the city administrator for Columbus, Nebraska. [LB350]

SENATOR PIRSCH: Very good. [LB350]

JOE MANGIAMELLI: Columbus, Nebraska, which by the way, had the first industrial



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park in the state, maybe in the...west of the Mississippi back in the thirties, I believe. The current legislation, as you've heard, is pretty well dated. And it was, at the time that it was adopted by the Legislature, the only local incentive that was available to companies and for communities to offer to entice industry to come to their locations. Since then, as you've heard, LB775, the Nebraska Advantage Act, the Super Advantage Act and of course, the local option sales tax commitment through LB840 is available. And I think Senator Pahls asked about the Department of Economic Development. We work very closely with the Department of Economic Development in identifying what are the incentives that, in Columbus, we can make available to industry that is considering locating in Columbus. The LB775 in prior years and now the Super Advantage Act and our ability to offer them some local incentive through our LB840 is what we are seeing industry value. Would they specifically come and ask about, can we get deferral or elimination of local property taxes? I've never heard that that was the case. Senator Price, you asked about annexation. In the bill, I want you to clearly understand that annexation is not automatic with the adoption of this bill. The annexation laws require adjacency and contiguousness of the property that's being proposed to annex. So while Columbus has a number of properties that are industrial sites, we would not be able to annex them until and unless they become adjacent and contiguous to the city. Okay. So is this a chicken or an egg situation? We can't annex because they're industrial. Okay. So the situation is that we...as we see an industry that is adjacent and contiguous and would be eligible under this bill in ten years, the very soonest, ten years out, then we would consider whether it makes sense to annex. And of course, there is the public hearing process and all that goes through that. The bill, as it was done in the late fifties did not include the word forever, that this would be an incentive forever. But the way...the way it's been effected never for the cities is apparently there because we could never annex as long as this, the current bill is on the books. Senator Price...Senator Pirsch, you did ask about valuation, and I think in Columbus, we'd probably be looking somewhere between \$50 million and \$100 million. But, again, it is outside of the city and so far out that it will be a long time before we could ever become adjacent...that those properties could become adjacent and contiguous. Now, to follow up on your question as...I think you asked it, has any...have any of the industries ever asked. We do have our biggest industry, our biggest employer is considering or at least has considered. And the reason is, is because when we provide water service, sewer service, and other public services to these industries, it's all at the regular taxpayer's expense. They're not sharing. But as far as specifically water service, our water rates structure is such that they pay a higher rate on water that they are using in their plant, in their process, and in the normal course of their business. This industry is looking at the offset of paying a slightly increased property tax versus paying this huge water bill. Not only are they the biggest industry in town, the biggest employer, but obviously the biggest water user as well. So there, you know, it'll be a decision that they make, and we've asked them to take a look at just strictly on comparing apples and apples. What are you be paying now versus what would you paying later? So if that's a possibility, under the current legislation, they could voluntarily become annexed, but that would be

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their choice. It wouldn't be something that the city could force on them or even with this bill, even if we tried, it would be at least ten years out. So we appreciate the fact that if this bill could be advanced, that there is a window of opportunity for the cities to better control their opportunity for growth and that we're not precluded and confined in the boxes that we currently are. [LB350]

SENATOR PIRSCH: Thank you very much for your testimony. Any questions based on that testimony? Senator Karpisek. [LB350]

SENATOR KARPISEK: Thank you, Senator Pirsch. Mr. Mangiamelli,... [LB350]

JOE MANGIAMELLI: Mangiamelli, yes, sir. [LB350]

SENATOR KARPISEK: ...sorry I didn't catch the beginning of this bill, but would this move where the property taxes go in, in this situation, any of these situations? [LB350]

JOE MANGIAMELLI: There could be some shifting for possibly school districts. The situation as it exists now, Senator, is that the only taxing authority excluded from a share of property taxes is the local municipality. All NRDs, county, etcetera, they're all getting their share of the property tax. [LB350]

SENATOR KARPISEK: But it could shift in school districts. [LB350]

JOE MANGIAMELLI: Yes, sir. [LB350]

SENATOR KARPISEK: Okay. [LB350]

JOE MANGIAMELLI: I believe that's the case. [LB350]

SENATOR KARPISEK: Okay, thank you. Thank you, Senator Pirsch. [LB350]

SENATOR PIRSCH: Just kind of an off, uninvolved question, but there are...it's obviously industrial tracts, right? And those are the areas that are in question we're talking about, right? Industrial tracts, things, and...but there are within these, what we're calling here industrial tracts, some businesses that are more of a retail nature. Is that why we had to have this tightening last time of companies that sold to the public, so to speak? [LB350]

JOE MANGIAMELLI: In Columbus, we don't have so many of...so much of that, Senator. [LB350]

SENATOR PIRSCH: Okay. [LB350]

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JOE MANGIAMELLI: We do have a quirky little thing unique to our city that our county board entered into an agreement with the sale barn. And when Marion VanBerg was big in horse racing, he owned the sale barn and the county entered into an agreement with him that as long as he trained horses, including race horses, on the property, they would consider that industry. So now the heirs to the business keep a horse out there throughout the year, just so they can maintain the industrial... [LB350]

SENATOR PIRSCH: I see. [LB350]

JOE MANGIAMELLI: ...connotation. [LB350]

SENATOR PIRSCH: I see. And your county board has interpreted that to meet the requirements, is that what it is? [LB350]

JOE MANGIAMELLI: Yes, sir. And we would have a similar horror story like Blair had. We've got a contractor that about every other year will put out some concrete steps that they've made and put it out in front of the building so they can, say, see, this is our manufacturing, we made these steps. [LB350]

SENATOR PIRSCH: Um-hum. [LB350]

JOE MANGIAMELLI: It really is ridiculous. If nothing else, the county board's portion needs to be tightened up. [LB350]

SENATOR PIRSCH: Okay. So, I appreciate that. Are there other types of buildings, say governmental buildings, schools, or anything on these tracts that we're in reference to now? [LB350]

JOE MANGIAMELLI: We don't necessarily have tracts, per se, Senator. [LB350]

SENATOR PIRSCH: Um-hum. [LB350]

JOE MANGIAMELLI: We have industrial sites... [LB350]

SENATOR PIRSCH: Okay. [LB350]

JOE MANGIAMELLI: ...that we, as a city, interpret to be what the statute is referring to. [LB350]

SENATOR PIRSCH: Okay. [LB350]

JOE MANGIAMELLI: And yes, one of our school districts does have a school in the area. [LB350]

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SENATOR PIRSCH: On an area in which the municipality is not levying a tax, but the school district is? [LB350]

JOE MANGIAMELLI: The...yeah, the outside school district is. The suburban school district is, yes, sir. [LB350]

SENATOR PIRSCH: How do you know then if there's a mixture of different uses in reality and substance going on, on these, is it that originally in the 1950's the municipality was free to designate the certain areas which outlined the boundary lines of that, and then is that how we're...how these areas are identified then? [LB350]

JOE MANGIAMELLI: I think that's probably the case. And I know that in Columbus' case, the first tract that was identified, even before the statute, again, was identified and created by the local community, by interested parties in the local community to designate this land as available for industrial development. Now I think that Columbus is referred to as the most industrialized city in the state per capita. [LB350]

SENATOR PIRSCH: Sure. [LB350]

JOE MANGIAMELLI: And it's because of that industrial nature of our community that we do...we are able to attract additional industry even today. [LB350]

SENATOR PIRSCH: But the way things were set in the fifties, was it a geographical boundary was set up by the municipality and said, this area is available for such usage, this industrial usage, but there wasn't any zoning enacted within the...by the city? Well, I guess it wouldn't be within the purview at the time to then zone, right, because you don't have the cities... [LB350]

JOE MANGIAMELLI: We can...most of... [LB350]

SENATOR PIRSCH: ...and your class can't zone outside the city boundaries at that time, correct? [LB350]

JOE MANGIAMELLI: Excuse me for interrupting. We do have zoning jurisdiction two miles outside of our corporate limits. [LB350]

SENATOR PIRSCH: Okay. And you did in the fifties? [LB350]

JOE MANGIAMELLI: And so these industrial sites that I referred to, even though they may not have been designated, and that's the term in the statute is designated industrial tract. [LB350]

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SENATOR PIRSCH: Um-hum. [LB350]

JOE MANGIAMELLI: We treat them as that because they've been acquired or our local economic development organization, our public power district, has options on some of this land specifically for industrial development. [LB350]

SENATOR PIRSCH: Can you use your zoning as kind of a tool in your arsenal to...what you're hoping to do is weed out the misuse of what you intentionally, I mean, what you originally or intentionally hoped for, which is industrial use in its true meaning, is that right? Or has, I mean, let me clarify. Are there...is your intent now to somehow reach a purer form of what the original intention was in the 1950s which was to achieve an area that is purely industrial in those industrial tracts that were set aside to be industrial or is the intent now to say in these areas that we did set up for industrial usage, maybe we need to look at maybe the need for having industrial areas set apart from the...set apart from the city's ability to levy taxes, that that wasn't...perhaps that's not needed now. You know what I mean? Two different kind of concepts here. Do you...I mean, can you address that? [LB350]

JOE MANGIAMELLI: You asked a couple of questions there. [LB350]

SENATOR PIRSCH: Sure. [LB350]

JOE MANGIAMELLI: Let me start with the first one. Our problem is not weeding out. [LB350]

SENATOR PIRSCH: Okay. [LB350]

JOE MANGIAMELLI: Our problem is the long-term ability for our city to grow and the fact that this bill would put a sunset, even though it's a long time out there, there is a window that we can see through that will allow us at some point in time, that we will be able to bring these areas into the city. [LB350]

SENATOR PIRSCH: Okay. [LB350]

JOE MANGIAMELLI: That is our goal. [LB350]

SENATOR PIRSCH: And your desire to bring these areas into the city, is that based upon...I mean, what are the factors would kind of mitigate? Why do you want to take over these areas directly? [LB350]

JOE MANGIAMELLI: We're already providing services as has been stated before. [LB350]

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SENATOR PIRSCH: Uh-huh. [LB350]

JOE MANGIAMELLI: We're providing all of the public safety services. The streets are being plowed by the city forces, etcetera. Everything that goes on in a community is being provided by the city. [LB350]

SENATOR PIRSCH: I see. [LB350]

JOE MANGIAMELLI: Serving this...serving these areas. [LB350]

SENATOR PIRSCH: I see, you have all the costs, you just haven't been...the area hasn't been paying into the kitty, so to speak,... [LB350]

JOE MANGIAMELLI: That is correct. [LB350]

SENATOR PIRSCH: ...for the services that are being provided to them? [LB350]

JOE MANGIAMELLI: That is correct. [LB350]

SENATOR PIRSCH: Okay. Senator Price. [LB350]

SENATOR PRICE: Senator Pirsch, thank you. Sir, let me get this right. I've heard in two testimonies now, we want this so we can grow cities. Yet we're not going to get rid of them, all we're going is incorporate them and then we'll grow around them and keep on moving. So the cities actually grow, and you can grow anything, you just want them, as Senator Pirsch said, to add to your tax rolls. But it's not impeding the growth of the city? [LB350]

JOE MANGIAMELLI: Yes, it is, sir. In Columbus, the entire section of the county which is north, excuse me, southeast of the city limits of Columbus,... [LB350]

SENATOR PRICE: Uh-huh. [LB350]

JOE MANGIAMELLI: ...is the industrial area where most of the industrial sites are. And so we cannot grow that way. Industry is going in there. There is some retail that's going...being built in that area. And it will be very difficult for us to consider even 10 or 15 years out the annexation of those as long as the current bill remains in place. And again, for some of the industry that is in and around Columbus, it will be at least 10 to 15 years, if not longer, before we could even look at annexation. So annexation is not the primary focus of the bill. The focus is to get better control over these, and in the long term, perhaps if annexation is appropriate, when you meet the other criteria--adjacent and contiguous as is required in another statute--the annexation statute, then it might be right for us to look at those areas. [LB350]

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SENATOR PRICE: Okay, I guess I'm thinking in Crete, they had it right in the middle of town. Obviously, they can grow. They're not growing inward, they're growing outward. So that's why I was asking the question and I received a... [LB350]

JOE MANGIAMELLI: And we have one of those, too. We have one that's right in the center of town. Yes, sir. [LB350]

SENATOR PRICE: All right, thank you. [LB350]

SENATOR PIRSCH: Are there any other questions? Very good. Thank you very much for coming down. [LB350]

JOE MANGIAMELLI: Thank you. [LB350]

SENATOR PIRSCH: Next proponent. [LB350]

PAUL HILLYER: (Exhibit 3) Mr. Chairman and committee, my name is Paul Hillyer, P-a-u-l H-i-l-l-y-e-r, and I am representing the Columbus Public School District in this matter. And I would like to start off by asking you to look at the handout that is going around and our interest or expertise is not in the technicalities of this law that have already been expressed by the very able people that came before me. Where I would like to give some testimony is in the practical applications and maybe some of the unintended consequences of having industrial areas such as we have in Columbus that cannot be annexed into the city and the impact that has on us as a school system. And as you look at the first page of the handout I gave you, you can see the three school districts that are in Platte County. And as you go across to the second column, you can see the number of students that each of us serves, you can see the total valuation that we have as school systems. And then the next column is the one I would really like to focus on for a minute, and that is the per student valuation that each of us has to work with as a result, partly as a result, at least, not totally as a result, partly as a result of the fact that our city is not able to annex the industrial part of our community. And then you can see that in particular the Lakeview School District which is the school district that does have the valuation for the industrial park area of our community has almost double our valuation. And a large portion of that is due to the industrial base. And you can see after that, the state rank that each of us has as far as per student valuation and then the percentile rank where that puts us as a state. Before I talk about valuation at all, I do want to just give a bit of an overview on valuation in general as far as school systems go on this state. And that is, I know, not the topic of this particular bill, although it does address it. Across our state, there is a tremendous inequity in per pupil valuation, and that has been addressed on the operational side through the TEEOSA bill which tries to equalize some of the funding in our state for pupil expenditures. But of course, that has...there is no such instrument on the capital side to bring equity within our state in

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this valuation situation. And the problem that that causes for school districts such as ours and many other school districts in the state is it puts a tremendous burden on the residents of the community and on the retail on the community to bear the burden of the taxes for the school system, and especially on the bonding taxes that every single school system basically entails. And that's something that I would hope at some point in time can be addressed in some way, shape, or form through the legislative process to bring some equity to the state just as it has done through the TEEOSA system. When you look at that situation, you can see that industry as a whole, when we look at this, reaps a lot of the benefits from having the strong schools that we do have in our community. Most of the workers that work in our industry send their students to our schools, and so they reap the benefits of our school system without really having to support them. This allows them to attract good families to the area to work in their plants, and allows them to utilize our graduates in their work forces. But, again, they reap all those benefits just as they do in a lot of the city services without having to actually pay for them. And I guess maybe I'm going to just close by saying we are not the only school district in this particular situation. There are others in the state such as Blair, Fremont, Grand Island, Crete, and Schuyler who are in a similar situation and if we cannot at least partially address this through LB350, I would hope, too, that the Legislature can look at other possible solutions. And if you look in the handout that I gave you, there are three columns that are included in there that were written for our newspaper that gives some of the other possibilities for trying to address the valuation situation for school districts across the state. So with that, I will close my commentary. [LB350]

SENATOR PIRSCH: Very good. Well, I appreciate your testimony as those who testified before you here today. I'd just start off with one question,... [LB350]

PAUL HILLYER: Um-hum. [LB350]

SENATOR PIRSCH: ...and I may have heard wrong, but I had thought that the inability to levy a tax upon these areas was restricted only to municipalities, the cities,... [LB350]

PAUL HILLYER: Um-hum. [LB350]

SENATOR PIRSCH: ...and did not extend to the reach of school districts. [LB350]

PAUL HILLYER: Well, the difference is that the city school district,... [LB350]

SENATOR PIRSCH: I see. [LB350]

PAUL HILLYER: ...Columbus Public Schools, does not receive any of the valuation benefit from the property in the industrial park. That would all go to the Lakeview School District. [LB350]



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SENATOR PIRSCH: Do you have the ability...now the city can't touch this property because of the current law, but can you...is there an ability of the school district to reach that land if you so choose? [LB350]

PAUL HILLYER: No, there isn't. [LB350]

SENATOR PIRSCH: Are you confined also to the geographic borders of the city? [LB350]

PAUL HILLYER: Yes. [LB350]

SENATOR PIRSCH: Is that why you can't...to the extent the city is bound so, too, are you? Correct? [LB350]

PAUL HILLYER: Correct. Um-hum. [LB350]

SENATOR PIRSCH: Okay. Okay. I appreciate that testimony. That clarifies things for me. Senator Price. [LB350]

SENATOR PRICE: Senator Pirsch, thank you very much. Sir, I'd like to ask you to make a comment to how this will impact the state aid formula for your schools by this new revenue stream? [LB350]

PAUL HILLYER: That's a great point. Yeah, in trying to equalize valuation in a county such as ours, how...the impact would be, we would get less operational funds from the state. I actually think if something like this were incorporated across the state, it would probably lessen the state responsibility for funding of school districts, actually. If this were to come to pass in Platte County, the Lakeview School District would qualify for more state aid than they do currently. So they would receive more equalization aid, we would receive less. I think the overall impact would be a net savings to the state. [LB350]

SENATOR PRICE: And also are you looking at forming a learning community of any sort out there or also to help redistribute some wealth from other counties to help these school districts? [LB350]

PAUL HILLYER: We have recommended that, yes, but the other school districts aren't interested in entering into that type of agreement. [LB350]

SENATOR PRICE: I can't imagine why. [LB350]

PAUL HILLYER: Oh, I can't either. [LB350]

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SENATOR PRICE: Thank you. [LB350]

SENATOR PIRSCH: Uh-huh. Well, I appreciate that testimony. [LB350]

SENATOR PRICE: Thank you. Thank you, sir. [LB350]

SENATOR PIRSCH: Are there any other questions of this testifier? Seeing none, thank you very much for coming down today. [LB350]

PAUL HILLYER: Thank you. [LB350]

SENATOR PIRSCH: Very nice of you. And Ms. Rex, you're next. [LB350]

LYNN REX: Senator Pirsch, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First, we would like to thank Senator Lautenbaugh for introducing this measure, we are in strong support of it. This measure went before all of the first-class cities of the state of Nebraska, Lincoln and Omaha, and first-class cities have a population of 5,000 or greater, as well as the smaller cities legislative community that we have that represents about 40 different individuals that represent all of the rest of the villages and second-class cities in the state of Nebraska. Basically, this was identified as a problem for a number of reasons. And the main purpose for us being here today is because a lot has changed in 30 years. Essentially, the Legislature has enacted numerous tax incentive programs. Many of those have been mentioned today. Some are state programs, some are local programs. But at the time that LB217 was passed in 1979, essentially this was about the only incentive program that was there. And the Legislature did, in fact, make a major change in 1991 and that was with passage of LB76, and that was a bill introduced by Senator Withem and Senator Hartnett, and they did that to allow for planned growth for cities in Lancaster County, Douglas County, and Sarpy County. And that's the population differential. And what we're here today is to ask you to allow other cities to also engage and have planned growth because this does affect planned growth. And as noted before, just because you have an area or a business that's no longer designated in a county industrial tract, that does not, in and of itself, mean that they're going to be annexed. We also have the requirements, as many of you know, of the contiguous and adjacent requirements. Joe Mangiamelli addressed that. So this is an issue of being able to open up possibilities for municipalities down the road. It is an opportunity for those industries that benefit from the police protection, the fire protection, the schools within that locality, as well as utilities to basically help pay their share. And there's a time frame as well in this which we think is more than fair. The state of Nebraska itself, to our knowledge, has no tax incentive program that lasts longer than 15 years. This basically says after five years, you can be given notice, and basically it's another ten years before you would be subject to annexation, if at all. If you're not contiguous and adjacent, that

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doesn't apply. But we have cities that are developing with donut holes of public service. That simply doesn't make any sense. I would submit to you that the Legislature has not only changed tax incentive laws, you've also changed the tax base for municipalities through various exemptions that have been granted over the years, and rightful exemptions. We're not criticizing those exemptions. We're just saying there have been a series of exemptions granted. Our formulas for aid have changed. Everything has changed. I mean, think about the last 30 years, and most regrettably I can actually...I'm probably one of the few people in this room that can say I was around when LB217 passed in 1979. And I was also here in 1991 when Senators Withem and Hartnett introduced this legislation to accord those cities in Douglas, Lancaster, and Sarpy the right to have planned growth. And that's what we're asking for today for other municipalities in this state with a population of 10,000. So I would be happy to respond to any questions that you have. We would hope that you'd be willing to work with us on this measure. We think it is very important, and I'm sure you're going to hear testimony from some today that might say, well, look, we located there and we thought it would never change. Realistically, I can tell you that the industries, in many cases, themselves have changed, the companies themselves have changed. Some companies that may have started out as really heavy industrial now are really not that. And so we think tightening up the definitions is very appropriate, in fact, necessary. The sunset, we think, is appropriate. The valuation change is appropriate, and so is the population change. We think that this probably is about ten years overdue. And we really appreciate the courtesy of the committee in listening to us this afternoon. [LB350]

SENATOR PIRSCH: Thank you very much for your testimony. You look like you have a question, Senator. [LB350]

SENATOR PRICE: Senator Pirsch, thank you. Now, just one quick question, how many counties would not be eligible for this? [LB350]

LYNN REX: Let me go back and verify that. I don't want to give you an answer... [LB350]

SENATOR PRICE: Well, I mean, if we are going to do it, we might as well plan for everybody. That's why I'm asking the question. [LB350]

LYNN REX: My understanding is...my understanding is, but again, I want to go back and verify the numbers, Senator, about...this would open it up for 26 municipalities...26 counties. [LB350]

SENATOR PRICE: Twenty-six counties. Okay. Thank you. [LB350]

LYNN REX: Because we're looking at a population base of 10,000. [LB350]

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SENATOR PRICE: Right. [LB350]

LYNN REX: And that would open it up for 26 counties. [LB350]

SENATOR PRICE: Thank you. [LB350]

SENATOR PIRSCH: Just a follow up question, I'll ask you as well. With respect to the possible problem of having these areas inhabited by businesses that are not, when you look at the substance, industrial in nature, rather retail or whatever, and first of all, was that part of the problem? [LB350]

LYNN REX: That is part of the problem, yes. [LB350]

SENATOR PIRSCH: Can that piece of the...and I understand there's other problems that are...that you feel is inherent with this, but can that piece of the problem be got at through other mechanisms such as zoning, the zoning power of the municipality or is that... [LB350]

LYNN REX: No, you would have to...no, Senator,... [LB350]

SENATOR PIRSCH: Okay. [LB350]

LYNN REX: ...my understanding is you would definitely have to tighten up the definitions and also, I think, on the back end, clarify the process by which those companies could be given notification and therefore, taken out of the county industrial tract. And that's really important, because if you have someone in that county industrial tract that's competing with someone doing the same thing within the corporate onus of a city,... [LB350]

SENATOR PIRSCH: Um-hum. [LB350]

LYNN REX: ...but one is paying property taxes, the other one isn't. That's really an unfair, unfair competition. And, again, we really do think that it is time to really review carefully this law because it does involve tax base, it involves tax fairness, and tax equity. [LB350]

SENATOR PIRSCH: Thank you very much for your testimony here today. [LB350]

LYNN REX: Thank you. [LB350]

SENATOR PIRSCH: Did you have a question, Senator Giese? [LB350]

SENATOR GIESE: No. No. [LB350]

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LYNN REX: Oh, okay. [LB350]

SENATOR PIRSCH: Yeah. Very good. [LB350]

LYNN REX: Thank you very much. [LB350]

SENATOR PIRSCH: We will take the next proponent. [LB350]

ROD STORM: Senator, committee members, my name is Rod Storm, R-o-d S-t-o-r-m. I'm the city administrator for the city of Blair. I'd just like to reiterate a couple...a couple of points is that this is not a bill from the Blair standpoint of any...trying to be antibusiness or anything of that nature. The city of Blair has been a very active partner with the Nebraska Economic Development and others in creating and bringing new industry and business to the state of Nebraska and Washington County. We've put in, between spending and committing, already over \$2 million of local dollars to do that. The lack of being able to expand in some of these areas has caused and will cause the future expanded demands upon our infrastructure. There is less dollars for highway dollars. There is less dollars for whatever it is today. And we may need some of those mechanisms in the future to be able to get some of these businesses and industries to help pay for a fair more equitable share of those improvements that's needed to continue to be viable entities for the state of Nebraska and Washington County and the city of Blair. A couple of other quick things is the thing that we have to remember is in most of these common industrial sites, these were created by the county boards back 25, 30, 40 years ago. Some cases, the cities participated in the initial approval of those creations. But I don't think at that time anybody realized that the creation of those, that that went on forever, and at some point in time you couldn't do something with them. I can tell you we've had endless--as Mr. Green has put in his testimony--contacts with industries and business. And, yes, they're all looking for every advantage. This is not one that normally comes up. TIF, AID 40, you name it, they all request it. So from our standpoint, you know, it's very important that this is not anything to do with being, you know, against industry and business. We've spent, like I said, over millions of dollars and committed millions of our local funds to help expand the economy for the city of Blair, Washington County, and the state of Nebraska. So I'd be happy to try to answer any questions that you might, to clarify any of these. Again, with that I think there's been some discussion on the zoning. This has nothing to do with the zoning. The zoning can have certain definitions which are allowable in an area. And that's how some of these businesses have gotten located in these geographic areas that were once 25, 30, 40 years ago designated as a county industrial area. The zoning may allow that business to be in that area, but it doesn't mean they should be protected under this county industrial designation from being annexed and having an unfair advantage over somebody else in other parts of that city or area that's paying a higher tax. So I think that's one of the distinctions that a lot of people, and we run into locally, well, I'm going

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to have to move if I can't...if you take me out of this industrial area. It has nothing to do with the zoning. You're legally allowed to continue to operate there. That has nothing to do with it. It's just that restriction that as part of that county designation you could not be annexed and, therefore, the municipality could not get a fair share for your share of the infrastructure. [LB350]

SENATOR PIRSCH: Well, thank you very much. I'll just start off with one question I have. So just as a clarification, say right now, and there has been a litany of kind of, shall we say, suspicious type of business activities in an area that was set forward to be an industrial usage area and all of a sudden, you have perhaps the type of businesses that perhaps permeate a smell that tend towards maybe a little more retail or nonindustrial type of usage. And the question isn't whether they can continue to exist there within the area if we were to grant the request of the sponsor of this bill. But I guess to the extent that that is a problem, say for the sake of argument here, there is some sort of a retail operation going down in this industrial area. But if it's within the zoning sphere of influence of Blair, say, for the sake of argument which in, I believe, that's what we're talking about here kind of...why can't...cannot Blair through its zoning powers which they already...which already exist, say, from now on, when we say industrial, we mean industrial. And we will not...so you cannot operate anything that even smells of a retail operation. Isn't that an inherent power that exists right now? [LB350]

ROD STORM: Oh, very much. And if we've allowed somebody to locate in those areas in violation of our zoning ordinances, shame on us. But what you have is you have businesses and industry that fit under the definition of your zoning definition for industry... [LB350]

SENATOR PIRSCH: I see. [LB350]

ROD STORM: ...which allows them to go in there. But they don't necessarily meet the definition that was established by the Nebraska Legislature in '59 and '79 as industry qualified to be in the industrial tract area for inclusion, you know, not to ever be included, or not to be included in the city limits. [LB350]

SENATOR PIRSCH: So you're saying there's two different purposes...two different statutes and two different, then, definitions? And you're saying for the purpose of our zoning ordinance, ordinances, they do fit the definition of industrial so we can't get at them that way, right? [LB350]

ROD STORM: Right. [LB350]

SENATOR PIRSCH: But for... [LB350]

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ROD STORM: Now, if we, you know, if we was to change that and say, well, it's a retail area out there, then those areas would be grandfathered in for a period of time and so forth. So that's the biggest conflict that we see, the hardest thing for people to understand. You have this county industrial designation... [LB350]

SENATOR PIRSCH: Um-hum. [LB350]

ROD STORM: ...that encompasses this tract or tracts of land that was created by the county, like I say, 20, 25, 30 years ago. [LB350]

SENATOR PIRSCH: Um-hum. [LB350]

ROD STORM: And then you have the city's zoning jurisdiction... [LB350]

SENATOR PIRSCH: Um-hum. [LB350]

ROD STORM: ...which says these are eligible businesses. And the definitions there may be less restrictive than what they are in the county industrial tract. So you have some of these that's listed or located in that tract because I can buy the ground, there's no prohibit for me, I can build my building, and I can operate there. [LB350]

SENATOR PIRSCH: Yeah. But to the extent... [LB350]

ROD STORM: But I can't be annexed unless the county board or somebody takes me out because I don't meet these definitions. Part of the frustration has been... [LB350]

SENATOR PIRSCH: Um-hum. [LB350]

ROD STORM: ...from the standpoint, is the statute not necessarily being clear of what those definitions are so that when you can remove them from the county industrial tract label, if I could put it, maybe rather than designation. [LB350]

SENATOR PIRSCH: Okay, well, thank you for your testimony here today. [LB350]

ROD STORM: Okay. [LB350]

SENATOR PIRSCH: Are there any follow up questions? Senator. [LB350]

SENATOR PRICE: Senator Pirsch, thank you. Sir, just to make sure, too, so we don't end up causing a quagmire, this would have no impact on previous legislation that was done by Senators Withem and Hartnett, correct, for Sarpy, Saunders, and Douglas County or are there others involved? [LB350]

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ROD STORM: They are already over the 100,000. Those would be exempt as far as my knowledge, as far as any of the industrial. [LB350]

SENATOR PRICE: Okay, so it doesn't just take it to 10,000, everything else above, we've slotted it then? [LB350]

ROD STORM: Right. [LB350]

SENATOR PRICE: Okay. Thank you. [LB350]

SENATOR PIRSCH: Any other questions? Seeing none, thank you very much for coming down today. And we'll take the next proponent. Any other proponents? Okay, seeing none, we'll move on to opponents. Are there any opponents of LB350 that would like to testify? [LB350]

TOM MAUL: (Exhibit 4) Good afternoon, my name is Tom Maul, M-a-u-l and I'm a lawyer in Columbus, Nebraska. And I appear here this afternoon on behalf of Cornhusker Public Power District as well as the Nebraska Rural Electric Association in opposition to LB350. I find it interesting, you know, we're talking a lot about this doesn't, isn't going to affect annexation. This bill, I think, is all about annexation. And one of the two things that happen when you have annexation, especially in Nebraska, it changes the boundary lines for schools which you've brought up and you're going to hear more about, but it also changes the electric provider, the utility that provides electricity for that area. Columbus is served generally by two public power districts. Cornhusker serves the commercial customers on the east...generally the east end of Columbus. About 20 percent of Cornhusker's revenue comes from these commercial customers. So if there is a change in the city lines, okay, a change in the corporate limits of the city, then Cornhusker stands to lose, stands to lose that revenue. So when we talk about is this bill going to cause a cost shift, it definitely is. It's going to affect the school districts, again, which you're going to hear about and it clearly is going to affect the customers...the customers of Cornhusker. When you talk about expanding--expanding the city--you know, I've been in Columbus 28 years and as Mr. Mangiamelli said, we don't have any problem with industrial or economic development. Columbus is very good at it. We are not hindered in our growth. But what does stand on the eastern side of Columbus are these...are these very good industries that came here, the city clearly was involved with getting them here, and they're outside of the city limits and as a result, they get to be served...they get to be served by Cornhusker and their taxes for school purposes go to Lakeview which you are going to hear. This...the intent of this bill, if it was just to fix the situation, as Senator Pirsch said, where it talks about the abuses in the county industrial tracts, we don't...I don't think we have those abuses in Platte County, not in Columbus. You have the law, as you've indicated. Every other year they can go to the county...they can go to the county board and say this industry doesn't fit. It no longer fits the definition of what can be included in a county industrial area. Our city



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knows how to do that and they do that religiously and they do it very well and for all the right reasons. We don't need LB350 in order to do...in order to do that. It clearly, when you talk about annexation, when you talk about, moving if you will, the corporate limits, then you are going to have a direct and immediate effect on rural public power districts all across the state that find themselves in this...find themselves in this situation.  
[LB350]

SENATOR PIRSCH: Thank you very much. Was there anything else? [LB350]

TOM MAUL: No. I'd be happy to answer any questions that you might...that you might have. [LB350]

SENATOR PIRSCH: Okay. Are there any questions for this testifier? Senator Giese.  
[LB350]

SENATOR GIESE: Thank you, Senator Pirsch. Sir, could you tell me then...so if I'm a city and I'm looking to expand,... [LB350]

TOM MAUL: Correct. [LB350]

SENATOR GIESE: ...then why would I not want to do this or can you give me your take on that, why I shouldn't be able to do that then as a city with this bill? [LB350]

TOM MAUL: Which will have the effect of when you expand then, you're going to affect the utility provider for those customers who you are now annexing, who you are now bringing into the city, and you're going to shift the cost, if you will, to the rest of the rural electric customers. But if you're a city, you want to do this. [LB350]

SENATOR GIESE: Um-hum. [LB350]

TOM MAUL: If you're a public power district who surrounds the city...the public power districts, who serves, as you know, in Nebraska, that's all run through the Nebraska Power Review Board. They determine. You can't choose your electric provider in Nebraska, okay? And so we have very definite lines and one of the things that does change when the city boundaries change, the service provider, the electric provider can change also. Now, please understand the utility that loses that customer does get some compensation. The statutes provide a formula for that compensation, but it's not near going to make up for the lost revenue. The other issue that you've talked about here that I think is important, I think these industries came here, they came into these areas, we have this law. And, again, I think Columbus and Platte County were clearly the first to use it, and they came knowing that they were not going to have to pay the municipal tax. Now, so to speak, in the middle of the stream, middle of the game, we say, oh, by the way, okay, we'd like to have a larger tax base, so we're going to go ahead and

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annex this area. Those industries are then going to lose that benefit that, I would submit, they clearly thought they were getting when they came and located there. But again... [LB350]

SENATOR GIESE: But there was no guarantee that they would have those forever. [LB350]

TOM MAUL: Well, there was no guarantee except there was no...no provision that it was going to...no provision that it was going to change. And understand, I clearly understand that the law has changed and this is a situation where we've got all these other economic benefit things that happened. Okay, it seems to me you're using...the cities are using the things like TIF where they're having these multimillion dollars in improvements, and they're not taxing them because of the TIF program. It seems to me this is one attempt to say, you know what, we'll go against the older, the more established companies, we'll do what we can to bring them into the city now so that we can...we can increase or expand that tax base. Now, I think this bill is all about annexation and, again, who stands to lose are the rural customers who are served by the rural utility as well as the outlying school districts. [LB350]

SENATOR PIRSCH: Thank you. Senator Karpisek. [LB350]

SENATOR KARPISEK: Thank you, Senator Pirsch. Mr. Maul, I think you hit the nail on the head. If, if we would look at some sort of grandfathering of, say, the rural electric and the school, would that make it more palatable? [LB350]

TOM MAUL: That absolutely...good point. You remember what you did a few years ago to, with the ethanol plants, and I think it was the cities of the second class. They said that you allowed a city to go out and annex where the ethanol plant was going to be. And you specifically said in this statute, however, the electric provider is not going to change. So city, you can annex it for all the benefits that you get by having that plant in your city, but we're not going to change the electric provider. It's a good point. You can certainly make that amendment to this bill as far as the rural electric utilities. That would go a long way in certainly easing some of our concerns about this. [LB350]

SENATOR KARPISEK: And the school districts. [LB350]

TOM MAUL: And you'll hear from the school district. [LB350]

SENATOR KARPISEK: Okay. Yeah, I shouldn't ask you. [LB350]

TOM MAUL: But, no, but that's a good point. And I think that's right. Grandfather...and you can also say, you know what, we're not going to change this now, but any rural and industrial area created thus far, which we had that language five years after they're

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created, then we can give the notice ten years. You certainly could have it effect on those in the future and grandfather in, so to speak, those that already exist. [LB350]

SENATOR KARPISEK: Thank you, Mr. Maul. Thank you, Senator Pirsch. [LB350]

SENATOR PIRSCH: You bet. And well, let me ask you a question of...and focusing your attention on business and industry now, are you aware...have you spoken with any in either the business or industry...in business or industry who have indicated opposition to this bill based on the fact that they were of the understanding when the original deal came through that this was...that this was the advantage to coming there and who have voiced opposition? Are you aware of any personally? [LB350]

TOM MAUL: You know, I have not. I have not personally spoken to those. I mean, we clearly do...you know, we do our customer calls routinely to all our industrial customers and talk about the rates and all those kinds of things. I mean, we had a situation...Columbus, Cornhusker Public Power serves in six counties, okay. Albion, Columbus, Schuyler, those are the larger communities. Now we had a situation in Schuyler where a new industry came and they were not able to be annexed by the city because the county industrial area, so to speak, stood in their way. Now you can, under the current law, the county industrial area, the person that has that designation, they can say, you know what, we don't want to be in the city more. We can take part of it and give up part of our distinction, we can give up part of our land and in that case, they didn't want to give up their distinction except a small strip around it. Ultimately, it didn't, it didn't work because you can't have strip annexation in this state. But this is...the effect of this is to put a sunset clause on that to say, oh, by the way, you are going to, after the period of ten years, you are going to be eligible to be annexed. Now, again, you have to have, as Mr. Mangiamelli said, you still have to be adjacent and contiguous and all of that. But it does open the door to something that they never had before. [LB350]

SENATOR PIRSCH: Thank you. Any other questions? Seeing none, thank you for coming down and testifying here today. [LB350]

TOM MAUL: Thank you [LB350]

SENATOR PIRSCH: We'll take up the next opponent of LB350. [LB350]

PAUL CALVERT: (Exhibit 5) Good afternoon, Senators. [LB350]

SENATOR PIRSCH: Good afternoon. [LB350]

PAUL CALVERT: Hi. My name is Paul Calvert, P-a-u-l C-a-l-v-e-r-t. I represent the Lakeview Community Schools as the superintendent. I am here to also oppose LB350. To give you a little bit of a history on the Columbus Lakeview Community Schools. It

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was a school that was formed. It's a former Class VI district which, unlike Blair and unlike Crete, the passage of this bill would directly impact us even more for the reason that any industrial tracts that are inside the school district of Blair and Crete are already within their school district boundary lines. In the case of Columbus, that is exactly the opposite. In regards to Lakeview, a majority of our assessed valuation comes from the industrial tract of land, as you can see in the attachments to my handouts here today. Lakeview could stand to lose approximately 20 percent of this valuation if the entire industrial tract were to be annexed. Lakeview is also a district that currently receives no state aid. Well, I take that back. This year we're getting a small percentage of state aid, but traditionally, over the last eight to ten years, we have received no state aid for our school district. And to lose 20 percent of that valuation potentially in the future would ultimately shift that cost to the residents of our district. One of the things that you will not hear me argue is for the growth of the city. We're all for the growth of our areas and the continued growth of those areas. The significance of this bill unfortunately though makes one school district a winner and one a loser because one gains and one ultimately loses in the form of valuation. Nowhere in this bill is there any adjustments made to state aid nor does it address, you know, a fiscal manner. So therefore, you see the reasons for concern for us as a nonequalized district in the state. I guess I'll stop there and answer any questions that you might have. [LB350]

SENATOR PIRSCH: Great. Any questions? [LB350]

PAUL CALVERT: I guess one thing I would like to add is that in the handout, you'll see...I got this information from our county assessor which names virtually every industry within our area, both Columbus Public and Columbus Lakeview, and you will see or notice that Columbus Public is already receiving a significant amount of tax dollars from this industrial portions of land within those districts. [LB350]

SENATOR PIRSCH: And if I can follow up on that, you're saying even though it's in the industrial tract, somehow the Columbus Public Schools are receiving, do they have the ability to tax levy those areas? [LB350]

PAUL CALVERT: The areas identified under the Columbus Public column there, yes. [LB350]

SENATOR PIRSCH: Was that...but in other cities, they don't have that reach. Is that correct then or... [LB350]

PAUL CALVERT: In other cities, I don't think they would have that, that problem, because the industrial tracts of land are already within the school district boundaries, as I understand them. Whereas Lakeview, the school district boundaries are right on the edges of town. And the industrial portions of land actually sit in county industrial sites. [LB350]

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SENATOR PIRSCH: I'm a little bit confused. I thought it was the testimony of...during the proponents of a gentleman, I think, from Blair who had indicated that within the industrial tract area, there are...there is a school, right, that...well, I guess what he was saying is that because of the nature of the system, that they could not tax the land or the school district could not tax the industrial area in Blair. Is that, I mean, was that your understanding when you heard him testify or did I mishear that? [LB350]

PAUL CALVERT: That's not my understanding, sir. And what I can tell you...and I'm not an expert in that particular area. [LB350]

SENATOR PIRSCH: Yeah. [LB350]

PAUL CALVERT: What I can tell you is that within my school district, the industrial portions of land are taxed. Where they receive their savings is not paying the additional city taxes. They go on top of that. [LB350]

SENATOR PIRSCH: Right. [LB350]

PAUL CALVERT: But the regular property tax we receive as a school district. [LB350]

SENATOR PIRSCH: Yeah, the industrial area may be within a certain school district, maybe within a certain municipal boundaries, but the municipality cannot levy a tax but the school district can is...is your situation... [LB350]

PAUL CALVERT: That may be true. [LB350]

SENATOR PIRSCH: In your town, correct? I mean when... [LB350]

PAUL CALVERT: Well, in my situation... [LB350]

SENATOR PIRSCH: In your situation. [LB350]

PAUL CALVERT: Again, Columbus is a former Class... [LB350]

SENATOR PIRSCH: Columbus. [LB350]

PAUL CALVERT: Lakeview is a former Class VI which means we are a rural district. Even though our citizens live around the surrounding community, we have no municipality or very little that we ever draw from as a tax base. We have no city. We are a rural district. [LB350]

SENATOR PIRSCH: I see. [LB350]

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PAUL CALVERT: Although our residents go into...a lot of them, the town of Lakeview and work and spend additional sales tax dollars and those types of things, we as a school district do not have that avenue as a municipality. We're probably one of three in the state of Nebraska. [LB350]

SENATOR PIRSCH: Okay. Thank you. Senator Price. [LB350]

SENATOR PRICE: Yes, thank you, Senator Pirsch. Sir, a twofold question, if I might. I'd like to spend a moment talking about bullet point ten please, about how \$5 million valuation has no significant effect? [LB350]

PAUL CALVERT: As I read through the bill, there's a...and this may be part my understanding or lack of understanding of the bill, but in one of the revisions of the proposed bill, they raise the number of the annexability, for lack of a better term, from I believe it was \$280-some... [LB350]

SENATOR PRICE: Old year dollars to current year dollars. [LB350]

PAUL CALVERT: Yes, to current year dollars. And...but then right after that it also includes wording that, you know, I think a belief that has to do with the contiguous and adjoining when the city starts to grow around, it's still able to be annexed. So I guess I had that as a point, and as I listened to testimony, I didn't bring that up in my oral presentation here because I'm not sure of the effect, so I left that out of... [LB350]

SENATOR PRICE: Great. And as we're talking to funding for school districts and state aid, and we talked about how that would impact each other, I mean, is forming a learning community something that you all are interested in to help your school districts next to you? [LB350]

PAUL CALVERT: We have met, in fact, we have met with Columbus Public. And I know Dr. Hillyer testified earlier that, at the time, it didn't seem to be a real open suggestion, but the reasons for that are quite different. Some of the things that are included in a learning community include a certain number of students, and probably the most problematic area would be countywide because in order to form a learning community it must be a countywide project with a common levy, which, as Lakeview, we're not that far off from Columbus with our levy. We could live with that. In fact, that would be a better option than to not change the annexation because Nebraska, unlike our counter...our surrounding states or at least from...and I don't know this for sure, but I know it's sure in several, but in most states when annexation occurs, school district boundary lines remain the same. And when Elkhorn was annexed by the city of Omaha, I believe their school district boundary lines somehow in that negotiated agreement remained the same. Were that to be the case, then I would have no problem with this

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bill. Where Lakeview is in peril is through the annexation that naturally has to come into our district because of the formation of Platte River on the south side of the community. So any form of annexation directly comes into our district. And we have seen areas of that over the course of time and how that has affected other Class VI districts in our state such as Grand Island-Northwest and Hastings-Adams Central and some of those areas. And those are some of the areas that we want to try to protect. [LB350]

SENATOR PRICE: Okay. Thank you. [LB350]

SENATOR PIRSCH: Very good. Any other questions? Thank you very much for coming down to testify today. [LB350]

PAUL CALVERT: Thank you. [LB350]

SENATOR PIRSCH: Are there any other opponents of LB350 that would like to testify today? Any other opponents? Seeing none, we'll move on to individuals who are interested in testifying in the neutral capacity, so. Good afternoon, Mr. Sedlacek. [LB350]

RON SEDLACEK: Good afternoon, Senator. Senator Pirsch, members of the Government, Military and Veterans Affairs Committee. My name is Ron Sedlacek, S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce. And I'm going to be testifying in a neutral capacity today, and kind of what I would call perhaps a bit of a placeholder testimony in the sense that we have not yet arrived at a full conclusion, have not had the ability yet to speak with our membership that might be interested in these particular issues. So we very well could take a position in regard to LB350 in the future and would reserve that right and would like to communicate that with you once we have. So saying that, we have, over the past couple of days, and particularly yesterday when we had a number of economic developers in town, began to get a number of inquiries in regard to LB350, asking us, we had reviewed it, do we understand the implications that although the bill might be targeted for a couple of communities, these really has some statewide impact and we'd better be serious about this and start involving those other chambers or businesses or interested, interest groups that may have, across the state of Nebraska, other stories to tell. And to take a look at this bill and examine it carefully. And in that regard, I've learned a lot during this particular hearing as to the intent behind the legislation. Also, however, knowing the history of these industrial tracts and what they signify, that's also something that we should take into consideration as a committee before this bill is just heard and then advanced, so I would caution you in that regard. I think that there's, you know, obviously with any legislation, you can continue with the status quo. You can repeal the act. It seems like a number of people are testifying to the fact that it seems to be outmoded or outdated. I would not advocate that, but the other alternative is to review and revise, that's always a possibility too. In that respect, I have talked with Senator Lautenbaugh,

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the introducer of the legislation, offering our assistance in this regard. I also would like to work with the League of Nebraska Municipalities as a statewide organization to take a look at this...these particular provisions rather than working on a local basis trying to address one community's needs which is different than another community's needs, which may be totally different in northeast Nebraska or western Nebraska. We've had input from the Columbus area, from Fremont, up north. We've had also input from a number of economic developers. And would like to at least to get a little bit more sense as to how they feel this bill might be addressed. One of the questions that was asked, for example, is in regard to retail. And if you take a look in Section 1 of your bill, on lines 14 and 15, are current law which would be...it's the stricken language. It says right now: "specifically excluding those operations whose primary function is to directly sell to the general public." The idea is not to cover your normal course of retailing. That's very apparent right now in present law and it's being struck and reworded down below. However, when you take, when you think about this and you begin to realize what kind of affect would this have, the new language, on direct market organizations, such as, let's say, a company that processes, packages meats, and sells worldwide. They may sell to some Nebraskans, but the vast majority of their sales are not in Nebraska. There's other retailers that fit in that regard, too, from selling school supplies and trinkets to fishing and hunting gear and so forth. So I mean, we're dealing with a number of various entities here that, yeah, they're retailers in a sense, but they're not really the typical retailer that was perhaps being thought of before. I would like to be sure that that is taken in consideration. When we look at the research and development activities in the Section 1, the question becomes why are we looking at old-time R&D, so to speak, rather than a lot of the...where research and development efforts ought to be concentrated upon which are essentially restricted with the new language of the bill? For example, biotech, information technology, a number of those areas where there is some really cutting edge programs, we are restricting by saying it's going to be only agriculture, manufacturing, mineral or chemical. Why are we doing that? Why not...if we're going to look at this and revise this, why are we thinking old time here with language that may have been relevant back in the seventies, but not today? So again, I would urge the committee to consider those particular aspects. In regard to Section 10 of the bill, this is where we're faced with some complex issues here in regard to not only just those businesses that are located in the area, but those that are not and they may be in competition. We always get that particular argument. There are those that say, you know, this is...this was a primary motivating factor in coming in this county, by this community, this was part of the package and that was a nice promise, but now the rules of the game have changed. The question that nags me in the back of my mind is this: If you give notice and you have ten years, why even have the area? If that's a motivating factor, is that going to promote development? What kind of a tool is it? Has it become more valuable or less valuable? And that's a question for you as a policymaker...as policymakers here to decide. Are we actually providing an incentive or not? And if we're just keeping the statute just to keep it but we really don't mean it, then we might want to rethink how we're...how we're handling this particular designation and if it's worth it.



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Sounds somewhat neutral-negative, but these are items to think about and we truly are, at this point, neutral. I would also like to offer involvement with other economic developers, get their input, and communicate that with the introducer, Senator Lautenbaugh, as well as this committee, and with the Nebraska League of Municipalities and see if there's something that we agree upon here. And that's the end of my testimony, and I'd be happy to answer questions. [LB350]

SENATOR PIRSCH: Thank you very much for your testimony? Are there any questions based on that? [LB350]

RON SEDLACEK: Thank you very much. [LB350]

SENATOR PIRSCH: Seeing none, thank you. Are there any other individuals here to testify in a neutral capacity? Very good. Seeing none, then we will ask Senator Lautenbaugh if he wishes to close. [LB350]

SENATOR LAUTENBAUGH: Thank you, Mr. Chairman and members of the committee, and I will be brief here as this has been a very comprehensive airing of this bill. And I do thank all the witnesses for coming, including the preliminary yet comprehensive neutral testimony of the Chamber. (Laugh) I do look forward to more to come. That said, there was something in the hearing that I did want to react to very clearly--when this was described as an end-around. I don't see this this way. This is a bill or a statute that exists and several municipalities in the League saying look, if there are problems with it, it does need to be updated. We do have dollar amounts that are dated. I mean, we're...if we don't adjust things for inflation, we're not carrying out the original intent of a bill, in my mind, so many years later when we still have these artificially low thresholds. With the panoply of other incentives that have become available, this is not as big a factor as it used to be. I mean, you'll notice you really didn't hear from actual taxpayers today about this bill in opposition to this change. These are the incentives, I would argue, have been so much overshadowed by what's gone on in the years since this was the only tool in the tool box. I believe it is dated. There are some circumstances where it does give an unfair advantage to businesses that are located in these areas, rightly or wrongly. I do think some of the clarifications of the definitions that Phil Green from the city of Blair went through are needed. The story of the vacant lot with the concrete debris stored on it as a storage facility was particularly appalling to me. This is not being applied uniformly. We are, of course, willing to work with the Chamber, we're willing to try to work with any concerns you have as well, but we do believe that there is something important that needs to be done here, and on one level we have what appears to be perhaps a relatively trivial incentive to business, but a big factor to cities throughout the state, not the largest cities anymore, because they're kind of exempted from this by the population limits there, but important to cities throughout the state nonetheless otherwise. So I will work with anyone on this to get a bill people can live with, but something that is hopefully meaningful for the cities as well. And I thank you for your

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time and attention. [LB350]

SENATOR PIRSCH: Very good. Very good. (See also Exhibit 6.) We'll take up LB337, then. Welcome, Senator Friend. Good afternoon, and you are the sponsor of LB337, so begin any time you're ready. [LB350 LB337]

SENATOR FRIEND: I am. Thank you Vice Chairman Pirsch and members of the Government, Military and Veterans Affairs Committee. For the record, my name is Mike Friend, last name is F-r-i-e-n-d, and I represent the 10th Legislative District in northwest Omaha. I'm here to introduce LB337 on behalf of State Treasurer Shane Osborne. LB337 would permit the name of an officeholder to be used in advertising or promotional materials relating to the Nebraska Educational Savings Plan Trust beginning January 1, 2011, except such use would be disallowed beginning January 1 of the year in which a Governor is elected and continuing through the day of the general election of that year. Currently, an advertisement or a promotional material for the Nebraska...specifically for the Nebraska Educational Savings Plan Trust may include a reference to the public office, but not to the officeholder by name which tends to get a little bit awkward. LB337 utilizes the same standard provided in Nebraska Revised Statute 84-733, which permits the use of the name of the officeholder for advertisements and promotional material, except during an election period from January 1 of the year in which a governor is elected and continuing through the day of the general election of that year. It's a real simply bill, it's one page, and I think that it solves some awkwardness problems. I mean, if somebody is going to actually try to promote the Nebraska Educational Savings Trust Plan, the whole...the commercial just looks kind of funny when you've got...you know who the people are, they can't say their names, it just seems kind of strange. I talked to Treasurer Osborne about it this summer, that and on a couple of other items, and this seemed like it had some common sense wrapped around it, too, so that's it. [LB337]

SENATOR PIRSCH: Thank you very much. Are there any questions for Senator Friend? Seeing none, we'll move on to the proponents then. [LB337]

SENATOR FRIEND: Thank you, Vice Chair Pirsch. I will waive closing too. [LB337]

SENATOR PIRSCH: Oh, you will waive closing. [LB337]

SENATOR FRIEND: I will. [LB337]

SENATOR PIRSCH: Okay. Very good. [LB337]

JASON HAYES: (Exhibit 1) Hello, Senator Pirsch and members of the Government Committee. My name is Jason Hayes, spelled J-a-s-o-n H-a-y-e-s, and I serve as the Deputy State Treasurer. I want to thank Senator Friend for introducing this bill on behalf

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of the State Treasurer. LB337 would permit the name of an officeholder to be used in advertising or promotional materials relating to the Nebraska Educational Savings Plan, except that such use would be disallowed during a primary or general election period. Currently, promotional materials for the Educational Savings Plan may include a reference to the public office, but not to the name of the officeholder. Now the reason for such a change is because the use of an officeholder's name in advertisements often lends its credibility to a governmental program. The integrity of the official is often used to demonstrate the integrity of the plan or the program. It is a way by which the public can help to be reassured that the program or announcement is, in fact, sponsored by the government and is not from some for-profit business or other entity. The issue recently came to light when an advertisement was made showing the Governor and State Treasurer encouraging people to save for college through Nebraska's 529 Plan. Dave Heineman and Shane Osborne could refer to themselves as the Governor and the Treasurer, respectfully, but they could not say their names in the ad. As a result, the ad sounded odd, sort of like if I approached you in the hallway and said, hello, I'm the deputy state treasurer, or if you approached a constituent and said, hello, I'm the senator, but never said your own name. If just does not present the level of modesty and the regular kind of person appeal which Nebraskans come to appreciate from their elected officials. This legislation, if passed into law, would not going into effect until January 1, 2011, so it would not impact any currently elected officeholders until after the next general election. LB337 provides the same standard in advertisements as permitted for other state officeholders to help ensure that such ads are not utilized during an election period for purposes or intentions that are outside of the programs they are intended to promote. Thank you for your attention to this matter, and I would respectfully ask the committee to advance the bill to General File. And I'd be happy to take any questions. [LB337]

SENATOR PIRSCH: Great. Thank you very much for your testimony. Are there any questions for the testifier? Seeing...oh, Senator Giese. [LB337]

SENATOR GIESE: One question. Thank you, Senator Pirsch. Mr. Hayes, then...so this is radio, TV... [LB337]

JASON HAYES: And print material. [LB337]

SENATOR GIESE: And print material. [LB337]

JASON HAYES: And also I have attached a copy of 84-739 to show the other language. [LB337]

SENATOR PIRSCH: Oh yeah, I'm sorry. Senator Sullivan. [LB337]

SENATOR SULLIVAN: Thank you, Senator Pirsch. So regarding printed materials,

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then... [LB337]

JASON HAYES: Uh-huh. [LB337]

SENATOR SULLIVAN: ...in the year that they can't be used, how do you gather them all up? [LB337]

JASON HAYES: I think we would gather them up. I don't know what other constitutional officers do, but I guess my thought would be is you gather them up and then you would hold those during the period because you wouldn't want any improper use of those materials during an election year. Obviously, that would only be once every four years. I guess there could be...I guess even though you may have a state treasurer that doesn't run again for election, they wouldn't be able to use it again. [LB337]

SENATOR SULLIVAN: From an efficiency standpoint, maybe on the printed materials, it would be best not to have the name of the officeholder at all and just the office. You know, you could... [LB337]

JASON HAYES: That's a possibility. [LB337]

SENATOR SULLIVAN: Um-hum. [LB337]

JASON HAYES: I mean, I think it's the awkwardness that I described certainly appeals more to the ad or the radio. [LB337]

SENATOR SULLIVAN: Um-hum. Um-hum. [LB337]

SENATOR PIRSCH: Very good. Senator Price. [LB337]

SENATOR PRICE: Senator Pirsch, thank you. But just to be clear, we currently already have constitutional officers who operate under this very same set of rules. [LB337]

JASON HAYES: That is correct. [LB337]

SENATOR PRICE: Thank you. [LB337]

SENATOR PIRSCH: Very good. Any other questions? Seeing none, thank you... [LB337]

JASON HAYES: Okay. [LB337]

SENATOR PIRSCH: ...for coming down and testifying and we'll move on to any additional proponents of LB337. Anyone else? Seeing none, we'll move on to opponents

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then of LB337. Anyone here to testify against the bill? Seeing none, is there anyone here to testify in the neutral capacity with respect to the bill? Very good. Seeing none, and I believe Senator Friend indicated that he had waived his closing, and so we'll call to an end both the hearing on LB337, and this session of the committee. [LB337]

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Disposition of Bills:

LB337 - Held in committee.

LB348 - Placed on General File with amendments.

LB350 - Held in committee.

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Chairperson

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Committee Clerk