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Revenue Committee  
February 19, 2010

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[LB775 LB796 LB1052 LB1108]

The Committee on Revenue met at 1:30 p.m. on Friday, February 19, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1108, LB775, LB796, and LB1052. Senators present: Abbie Cornett, Chairperson; Greg Adams; Galen Hadley; LeRoy Loudon; Pete Pirsch; Dennis Utter; and Tom White. Senators absent: Merton "Cap" Dierks, Vice Chairperson.

SENATOR CORNETT: (Machine malfunction)...to my left would be Senator Cap Dierks. He is excused today. Senator Greg Adams from York will be joining us. Senator Hadley from Kearney; to my far right, Senator Pete Pirsch; Senator Dennis Utter from Hastings; Senator LeRoy Loudon from Ellsworth, and Senator Tom White from Omaha. Research analysts today are Bill Lock to my left and Steve Moore to my right, I believe will be joining us. The committee clerk is Erma James. The pages today are Abbie Greene and Ryan Langle. Before we begin the hearings today, I'd please ask everyone to turn your cell phones to either off or vibrate. The sign-in sheets for testifiers are by both back doors on the tables and need to be completed prior to coming up to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you do come up to testify, please hand the sheet to the committee clerk. There are also clipboards in the back of the room to sign if you do not wish to testify but wish to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or representative will present the bill followed by the proponents, opponents, and neutral testimony. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies for the committee and staff. If you do not have copies, we will make them for you. And please give those handouts to the pages as you begin your testimony. With that, we will begin hearings for the day. Senator Nordquist, you are recognized to open on LB1108.

SENATOR NORDQUIST: Thank you, Senator Cornett and members of the committee. My name is Jeremy Nordquist. That's N-o-r-d-q-u-i-s-t, and I represent District 7 in Omaha. LB1108 seeks to foster the growth and development of Nebraska's natural gas vehicle industry by providing a mechanism for natural gas providers to recapture some of the sales tax charged on their services and use those funds for incentives to build CNG infrastructure in the state. This is modeled after LB1001 in 2008 which this committee passed and which passed the Legislature and to use the same model to capture sales tax to increase investments in home energy efficiency. Under the bill, natural gas providers can designate up to 10 percent of the sales tax paid by their customers to a sub-account of the newly created Compressed Natural Gas Innovation Fund. The designated sales tax funding must be matched by the natural gas provider. The funds may be distributed from the sub-account of the Compressed Natural Gas Innovation Fund for infrastructure investment projects relating to storage, distribution, or

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dispensing of compressed natural gas, acquisition of motor vehicles that operate using compressed natural gas, and conversion of motor vehicles that operate using compressed natural gas. Nebraska is poised to develop a vibrant natural gas vehicle industry, and we have an inter- and intrastate pipelines crossing the state. Many Nebraskans are already taking much interest in this gas. Almost all of it is produced in the United States and Canada, most of the natural gas that we use. It's 90 percent cleaner and it's currently about 50 percent of the price of gasoline. The infrastructure is slowly beginning to develop. A \$2.3 million federal grant will finance two public CNG filling stations in Omaha to accompany the private station currently owned by MUD. A Omaha Honda dealership has become certified as a natural gas vehicle seller and Happy Cab, an Omaha cab company, will be dispatching 50 CNG cabs, and is now certified in performing conversions of these vehicles. By having these funds available, Nebraska will be able to leverage even more federal funds to spur the growth of this industry. Nebraska is also fortunate to have a premier worldwide manufacturer of CNG fuel tanks right here in our state. The growth of a natural gas vehicle market means even more high quality jobs at Lincoln Composites and more private sector driven tax revenue for Nebraska. And also I'll point out that since CNG vehicles are typically or can be twice the price of a gas fuel counterpart, state and local governments stand to gain with increased taxes from motor vehicle sales. In its original form, the bill also added a ten-cent surcharge per gallon equivalent of compressed natural gas. Funds by this provision are designated for the Highway Trust Fund and are meant to hold the Highway Trust Fund harmless as the use of compressed natural gas increases in Nebraska. I included this originally as a way to show that I'm willing to work with folks who have concerns about the possible loss of roads funds. That discussion is continuing. I don't know that it's as prevalent as I thought, and if the committee chose to remove that section of the bill, I would be supportive of that. Last year this committee advanced legislation that I had that actually would have reduced the surcharges and fees on compressed natural gas by ten cents. We thought that would, at the time, was the best way to spur this industry. But after more study and research over the interim and talking to industry leaders, it really comes down to the high cost of building the filling stations and obtaining the vehicles, that that's really the holdup so any incentives we can work on in that direction I think would help this industry. Thank you. [LB1108]

SENATOR CORNETT: Thank you very much, Senator Nordquist. Senator Pirsch, you're recognized for a question. [LB1108]

SENATOR PIRSCH: Thanks. Just in way of background, can you tell me...are there...this is designed to...well, I imagine to help compressed natural gas cars and the problem is currently in the state, do we have any...say the average citizen with natural...first of all, are there any natural gas...how many natural gas powered cars are there? I know that MUD and a lot of the utilities... [LB1108]

SENATOR NORDQUIST: Yeah. There are a few, you know, maybe more, but of

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privately owned ones, and they...I believe they are all fueled by...you can buy a unit for your home and have installed for \$6,000 and I believe there are a few of those in the state, but that's pretty minimal. The largest problem is with those, they're hooked up to your home's natural gas which has...which isn't compressed and the compressing unit that you buy doesn't have a lot of pressure. So it really...it takes all night to fill up your vehicle where the public stations and the...the ones that cost a half million to over a million dollars to install fill up like you're in a regular gas station, a couple of minutes. And there's no...right now there's no public filling stations. There's one private one. MUD has worked with several other partners to get federal money that will be coming in to build two...I believe it's two public filling stations in the state, and then a small one also at the Lincoln Airport Authority. But there will be folks testifying after me to kind of explain what's going on right now. [LB1108]

SENATOR PIRSCH: But the bill in a nutshell just allows for the natural gas provider to create and administer a grant program for CNG (inaudible). [LB1108]

SENATOR NORDQUIST: That's right. To help offset some of those up-front costs of getting this off the ground. [LB1108]

SENATOR PIRSCH: And what would those projects do you...I mean, are those the (inaudible)... [LB1108]

SENATOR NORDQUIST: What would they be? They could be infrastructure like that. It could be grants to businesses or individuals to buy natural gas vehicles off the shelf, or it could be funds to help businesses do conversions on...convert to natural gas. So...and we really left it in the hands of the natural gas provider, so they would have to have the feasibility study and make sure the projects they're investing in are feasible, and they're not, you know, going to become financially unfeasible within a few years so. [LB1108]

SENATOR PIRSCH: Okay, thanks. [LB1108]

SENATOR CORNETT: Further questions from the committee? [LB1108]

SENATOR NORDQUIST: As I say, I have a work obligation in Omaha, actually, to get back to so I'm going to waive my closing, and I'd be happy to discuss this further with any member of the committee. Thank you. [LB1108]

SENATOR CORNETT: Seeing none, thank you. First proponent? [LB1108]

DOUG CLARK: Good afternoon, Chairman Cornett and members of the Revenue Committee. My name is Doug Clark, C-I-a-r-k. I am vice president of Government Affairs and Marketing for the Metropolitan Utilities District. I'm here today in support of LB1108. The district assisted Senator Nordquist in the drafting of the bill. We feel that it's a very

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necessary bill, number one, because of the up-front costs, and when you go to buy a vehicle that has been converted, it will double the cost of that vehicle. While you will save money over the lifetime of that vehicle, your initial up-front costs are significant to build the gas stations or fueling stations needed for the public sector. They're roughly \$1.3 million to do an adequate system, and so as you move forward, the delay here isn't in the quality of the fuel, isn't in how the fuel functions. Actually, it performs very well as a gas substitute or a diesel substitute, but the up-front costs are such that it's difficult to get large fleets converted or to get fuel stations built. And due to the weather today and the fact there's three other bills behind me, I'm going to let the people behind me talk more about their experience. One is an individual--Barb, who owns her own private car and fueling station at her home, and she can give you some details on how that's worked for her. And Happy Cab has sent John Davis down to testify on their process of converting 50 cabs. But I'd be happy to answer any questions from the committee that you might have. [LB1108]

SENATOR CORNETT: Seeing none, thank you. [LB1108]

DOUG CLARK: Thank you very much. [LB1108]

SENATOR CORNETT: Next proponent? [LB1108]

BARBARA IHLE: Chairman Cornett, members of the committee, my name is Barbara Ihle, I-h-l-e, and I am here testifying as a private citizen that owns a compressed natural gas vehicle. I began this project...well, actually, a year and a half ago, and a year ago, I offered written testimony. I wasn't able to be here, on LB421, and seeing this private citizenship, ownership, and compressed natural gas use in Nebraska will work. And now I have data to share with you today that's saying it does work. I put my natural gas Civic...I have infrastructure installed, and got my vehicle in April of last year. In that time, we have put 16,400 miles on the vehicle. I've used 417 gas gallon equivalent of fuel, and over that...that averages out to \$1.13 per gas gallon equivalent that I pay for my natural gas usage which averages out to about three cents a mile. So it's been a very good investment for us. The savings that I have incurred, I have just in the nine months alone that I've owned the vehicle, I have recouped 63 percent of my premium for installing the home fueling unit, and the premium I paid on a natural gas vehicle versus a just regular gas powered vehicle. So I am in support of this bill. I realize that it could possibly add ten cent per gas gallon equivalent to my bill per month, but I would still, according to the data that I have and that I've gathered over the past nine months, still only be paying \$1.23 per gallon which is still quite attractive. And... [LB1108]

SENATOR CORNETT: Senator Hadley. [LB1108]

SENATOR HADLEY: Ms. Ihle, does your vehicle run on both so if you were to get stuck someplace and run out of natural gas, you can get home or how does that work?

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[LB1108]

BARBARA IHLE: No, it is a dedicated natural gas vehicle, and we drive it with an operating limit of the vehicle which is 225 miles. We use it basically as a commuter vehicle within the area. [LB1108]

SENATOR HADLEY: Within the area that. [LB1108]

BARBARA IHLE: Um-hum. [LB1108]

SENATOR HADLEY: Okay. So right now you have to be very careful to be sure you're home before the 225 miles are up. [LB1108]

BARBARA IHLE: Definitely. [LB1108]

SENATOR HADLEY: Okay. Thank you. [LB1108]

SENATOR CORNETT: Senator Pirsch. [LB1108]

SENATOR PIRSCH: Just a quick question. You said...I'm trying to figure out...you have a certain up-front cost, right, to equip... [LB1108]

BARBARA IHLE: Correct. [LB1108]

SENATOR PIRSCH: ...and that was you took that Civic, is that what it was? You modified... [LB1108]

BARBARA IHLE: A Honda Civic, and I paid a \$6,400 premium on the vehicle and it was about \$6,700 to install my fueling unit. [LB1108]

SENATOR PIRSCH: And who did that customization? Does that...or modification. Was that...? [LB1108]

BARBARA IHLE: It came directly from American Honda Motor. It came to the dealership completely...there was no conversion. [LB1108]

SENATOR PIRSCH: Okay, okay. That way. Okay. And so it was six thousand and some odd dollars, you said, right, for that? And were there any other up-front costs other than the car coming that way you had to put in to your home? [LB1108]

BARBARA IHLE: I put in the home fueling unit which... [LB1108]

SENATOR PIRSCH: How much was that roughly? [LB1108]

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BARBARA IHLE: That was \$6,700. [LB1108]

SENATOR PIRSCH: Six thousand seven hundred dollars, too, so about 12--13, I'm sorry, \$13,000 up front. Were there any other costs up front or was that pretty much it? [LB1108]

BARBARA IHLE: No, there were not. And I actually purchased the vehicle through the Nebraska Department of Energy dollar...let me look. It is a... [LB1108]

SENATOR PIRSCH: There were some tax incentives that way, is...? [LB1108]

BARBARA IHLE: Dollar and savings loan that I applied for, for the state which is a low interest rate loan. [LB1108]

SENATOR PIRSCH: Oh. [LB1108]

BARBARA IHLE: And there is also a federal tax incentive for the natural gas vehicle, about \$4,000 and also there's a federal tax incentive of \$4,000 towards the infrastructure. [LB1108]

SENATOR PIRSCH: Okay. [LB1108]

BARBARA IHLE: So towards the home fueling unit. [LB1108]

SENATOR PIRSCH: Okay. Okay. Thanks, appreciate it. [LB1108]

SENATOR CORNETT: Senator Louden. [LB1108]

SENATOR LOUDEN: Yes. Thank you, Senator Cornett. Ms. Ihle, you say you have a home fueling station. What does that entail to have a home fueling station? You got to...do you have a pump or what do you have? [LB1108]

BARBARA IHLE: It is just a small compressor that hangs on the wall. It's about this big and is mounted, installed by a certified installer. In this case, it was A1 United Heating and Cooling, and then Metropolitan Utilities District was also involved because we live in an older subdivision in Omaha. We had to have our gas pressure boosted just a bit, and also, we had a sub-meter installed because since I'm required to pay a motor vehicle fuel tax to the state and federal that's collected by MUD, we had to sub-meter it in order to track the amount of natural gas that was going to be used for fueling. [LB1108]

SENATOR LOUDEN: Okay. And then it's some type of...it's got some kind of electric motor or something to compress that fuel? [LB1108]

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BARBARA IHLE: Yes. It's just a small compressor, and it is an overnight fill. It's a slow fill. It's not...I would much prefer to be able to have a public station access where you just drive up, you could go to... [LB1108]

SENATOR LOUDEN: Okay. Then does this electric motor run all night long compressing that, putting it...putting that fuel into your machine? [LB1108]

BARBARA IHLE: No, you...it compresses it. You plug it in, you push the start button. You can go into the house when the compressor senses that the vehicle's tank is full. It shuts the compressor off and waits for you to disconnect it the next morning. [LB1108]

SENATOR LOUDEN: Do you have some type of hose or something like that, that you have to tighten on to your vehicle and tighten on to the unit? Is that how it works? [LB1108]

BARBARA IHLE: It's similar to a hydraulic hose coupling that just snaps on to...it's just a hose that snaps on to the vehicle, and then you just pull back, and it disconnects, and you hang it back up on the wall. [LB1108]

SENATOR LOUDEN: Okay, similar to filling a propane tank or something like that with the hose? [LB1108]

BARBARA IHLE: Slightly different but similar. [LB1108]

SENATOR LOUDEN: Okay. And when you say it cost you \$6,400 now that was your out-of-pocket expense to put that in your car? [LB1108]

BARBARA IHLE: Yes, that was my out-of-pocket expense. [LB1108]

SENATOR LOUDEN: Okay. And then the tax incentive then, did you get to keep that or did that go to the manufacturer? [LB1108]

BARBARA IHLE: No, it comes directly to me. [LB1108]

SENATOR LOUDEN: To you. Then in other words... [LB1108]

BARBARA IHLE: It's a tax credit on my tax return. [LB1108]

SENATOR LOUDEN: Okay. And then you got \$4,000 back then? Is that what you said? You had \$4,000 tax credit? [LB1108]

BARBARA IHLE: Correct. There's the federal...well, the federal tax credit for

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infrastructure and for vehicle. [LB1108]

SENATOR LOUDEN: Um-hum. And it's been mostly what would you say? Mechanical...mechanical works real well or is problem free in that...? [LB1108]

BARBARA IHLE: Oh, it's worked flawlessly. We've had no problem. I've serviced the vehicle twice simply because of the mileage that it has on it. Just normally, what you would do with any vehicle. And we have had absolutely no problem with the compressor fuel maker whatsoever. [LB1108]

SENATOR LOUDEN: Now where's the fuel tank located? [LB1108]

BARBARA IHLE: The fuel tank is located directly behind the second seat in the vehicle, in the trunk. [LB1108]

SENATOR LOUDEN: Okay. Then it did away with the trunk? Or I mean, it filled the trunk up? [LB1108]

BARBARA IHLE: No, not completely. You have about this much space and then the width of the vehicle. [LB1108]

SENATOR LOUDEN: Okay. And is that some type of...what's the fuel tank made out of? [LB1108]

BARBARA IHLE: That question, I would defer to Lincoln Composite...Lincoln Composite here in Nebraska manufactures those fuel tanks. [LB1108]

SENATOR LOUDEN: Composite. That's made over here in town or someplace. [LB1108]

BARBARA IHLE: Right. [LB1108]

SENATOR LOUDEN: Yeah, okay. Thank you for your testimony. [LB1108]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1108]

BARBARA IHLE: Thank you. [LB1108]

SENATOR CORNETT: Next proponent? [LB1108]

KENNETH WINSTON: Good afternoon, Senator Cornett and members of the Revenue Committee. My name is Ken Winston, K-e-n W-i-n-s-t-o-n, appearing on behalf of the



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Nebraska Sierra Club in support of LB1108. The reason we're appearing in support of this bill is that we're constantly supporting efforts to establish cleaner energy sources and natural gas has a much lower level of emissions than traditional vehicle energy sources. I did want to make a comment that the format of this bill is similar to legislation that's already been enacted by the Legislature. LB1001 that was Senator White's bill a couple of years ago was...had a similar kind of rebate of sales tax, and this committee and Senator White got that bill passed. I believe it was in 2008, and so this is...there is a precedent for this kind of legislation. Be glad to answer questions if I can. [LB1108]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB1108]

KENNETH WINSTON: Thank you. [LB1108]

SENATOR CORNETT: Next proponent? May I see a show of hands of how many proponents are left? [LB1108]

JILL BECKER: Good afternoon, Senator Cornett and members of the Revenue Committee. My name is Jill Becker, appearing before you today as a registered lobbyist for Black Hills Energy. We appear today in support of LB1108. We certainly appreciate the efforts of Senator Nordquist and the Metropolitan Utilities District in trying to advance and further deploy the natural gas vehicle industry in Nebraska. While we don't necessarily support the tax portion of this bill, we firmly believe that doing something to do something for the entities involved in natural gas vehicles, doing something to reduce their out-of-pocket up-front costs that they would incur to move into the natural gas vehicle arena would certainly be admirable. There are a lot of benefits to using natural gas. Natural gas is a clean fuel; it's abundant. We have most of it here in North America, and primarily, the most important point is that natural gas is affordable. Historically, we have seen the price of natural gas be significantly lower than other fuels, and in addition to the environmental benefits that natural gas vehicles can provide, we also believe that both individuals and public and other private entities involved in natural gas vehicles would experience significant financial savings which, of course, is typically always something that those entities are always looking for. So with that, I'll be happy to answer any questions that anyone might have. [LB1108]

SENATOR CORNETT: Senator Utter. [LB1108]

SENATOR UTTER: Thank you, Senator Cornett. Ms. Becker, can you tell me what...what is Black Hills Energy doing to further the use of natural gases and motor vehicle fuel? What corporate plans might they have that you can disclose that is going to promote the use of this? [LB1108]

JILL BECKER: Yeah. Well, I would say that we as a corporation are a few steps behind

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MUD. As MUD will tell you, stuff like this doesn't happen overnight because there's a lot of planning that has to be involved. As a utility, we do have a fairly significant number of our vehicles that come back to the same location at night, and that's key to making a project like this feasible. Any project that we would look at doing whether it would be for us as our own company or for any other organization or even an individual involved in a project like this. Those feasibility studies are critical to make sure that the plan involved makes it worthwhile. And typically, it will. Fleet applications are the best because of the significant amount of fuel that's used. So what we see in a lot of other states and in the federal government too, is that those fleet applications have the biggest bang for the buck. [LB1108]

SENATOR UTTER: So do you have feasibility studies underway within the company? [LB1108]

JILL BECKER: We do for our fleet itself, and I can't speak definitively whether we do for...whether we have actual feasibility studies for specific projects, but we have definitely received inquiries from various entities, both private individuals and public entities that are interested in natural gas vehicles. One of the hang-ups, this...probably the biggest hang-up so far is those incremental costs straight out of the chute. They know that they can probably recognize significant savings, but it's those incremental costs that make it difficult for people to move off of center so. [LB1108]

SENATOR CORNETT: Senator Louden. [LB1108]

SENATOR LOUDEN: Yes. Well, that was a long answer, Jill for what I got out of it. [LB1108]

JILL BECKER: Sorry (laugh). [LB1108]

SENATOR LOUDEN: I want to know, does Black Hills Energy...are they planning on putting in any fueling stations here within the next couple of years? [LB1108]

JILL BECKER: I can...I would certainly say that we hope so. [LB1108]

SENATOR LOUDEN: No, I want to know either yes or no? (Laughter) [LB1108]

JILL BECKER: Well, I can't really win with answering that, Senator. I certainly hope so. As Mr. Clark mentioned, the fueling stations are incredibly expensive, and I don't think you're going to find any entity that is willing to roll out that kind of money without knowing that we've got entities interested in using it. Ultimately, what we need is both the fueling station and the demand to happen at the same time. That's our challenge. [LB1108]

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SENATOR LOUDEN: Okay. That was a long answer. (Laughter) But the other short answer to that is that Black Hills Energy made a killing when they bought out the gas company here in Lincoln, so I just wondered if they planned on putting anything back (laughter). [LB1108]

JILL BECKER: Well, Senator, I would not say that they made a killing. I mean, certainly, as a fuel company we're involved in a lot of different aspects of energy. Natural gas vehicles is going to be one of them. We have recently dedicated a person to natural gas vehicles. Interestingly enough, a couple of years ago, about oh, five or ten years ago, we did have a natural gas fueling station outside of our Lincoln facility. [LB1108]

SENATOR LOUDEN: Okay. Thank you. [LB1108]

JILL BECKER: You're welcome. [LB1108]

SENATOR CORNETT: Senator Pirsch. [LB1108]

SENATOR PIRSCH: Yeah, and thank you for your answer. I guess there's two different things I'm looking at, and to a certain extent when you're talking about setting up just a gas station with, you know, a regular type of retail operation. It's kind of a chicken and egg thing. What comes first, the demand by having the cars or do you...that no one is going to buy a car until you are certain that such a station exists? So, Utah, if I'm not incorrect, has kind of led the way. Is that right? Is it the state of Utah or is it Nevada that is atop a large natural gas field? Which, was it Utah? [LB1108]

JILL BECKER: It is...it's Utah. That's correct. [LB1108]

SENATOR PIRSCH: And they took the position that you have to have those stations available first before you can start to build demand, right, for the cars? Are you...are you familiar with how...? I think that started maybe a couple of years ago or something that the...I guess the commitment from the state to build...to fund those stations. Could you comment a little bit about their experience thus far? Has demand followed? Is that a successful model? [LB1108]

JILL BECKER: I can't speak for sure, Senator, on what numbers they have seen as far as the amount specifically. I don't have that information with me, but I can tell you that they have significantly increased the number of fueling stations that they have. I can only assume that since they've continued doing that, that the amount of natural gas vehicles and amount of natural gas use as a fuel has increased. I would say they've...go ahead. [LB1108]

SENATOR PIRSCH: I'd be interested in having some number...if...and I don't know if you have access to that type of information... [LB1108]

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JILL BECKER: Sure, yes. [LB1108]

SENATOR PIRSCH: ...but in terms of persuading that would be...you know, that certainly would be relevant information to me. And, I guess, one other question and then I'll stop. Is this the type of usage that you see this bill providing? Is this what Black Hills finds relevant about LB1108 that this is these stations for private citizens, or is this, as you said, probably the application that's first going to be the lowest hanging fruit, so to speak, as finding fleets...trucks returning to the same place night after night, and really private individuals are not...I mean, somewhere down the line that would be great. But this is really going to have application to private businesses and whatnot. [LB1108]

JILL BECKER: That's where I would see the most impact, Senator, is in those fleet applications and a public fueling station. Certainly, I... [LB1108]

SENATOR PIRSCH: Oh, and a public fueling station? [LB1108]

JILL BECKER: I think. I mean, we've seen...we've seen different models. Certainly, a particular fleet could have their own fueling station, and then you'll see some cities that will have both. They'll have fleets with their own private stations, and then they'll have a public one as well. So I would say that there's a mixture in what we're seeing in different states. [LB1108]

SENATOR PIRSCH: Okay. [LB1108]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB1108]

JILL BECKER: Thank you. [LB1108]

SENATOR CORNETT: Next proponent? [LB1108]

JOHN WOOD: Madam Chairman, members of the committee, I'm John Wood. I'm the executive director for the Lincoln Airport Authority. And why is an airport here talking about natural gas? We got interested in natural gas for our fleet a year and a half to two years ago when oil was \$150 a barrel, not only because of the price, but from security and a reliable source of energy for us, being a 24-hour operation so we began to look into it. To cut that short, we can go to about six or eight months ago when we found out through MUD that there was a Department of Energy stimulus money grant coming into the Midwest, and we became a sub-applicant to that. Our program is kind of in two phases. This first phase, we are going to purchase seven replacement vehicles for our street maintenance fleet, and the grant will pay for the conversion cost of those vehicles from gasoline to natural gas. We will also purchase two slow-fill stations similar to, but

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larger than the lady has in her home. The slow-fill stations that we're looking at would refill a pickup truck-size fuel tank in about three to four hours. So we'll have two of those for these seven vehicles. The intent then is to have a follow-on project, assuming we can obtain some grant funds, that would continue to buy vehicles. We buy three or four vehicles every year for our fleet, just normal turnover, and we would continue to buy more natural gas vehicles until the entire fleet is natural gas, and that's about 25 vehicles. Along with that second phase, we would intend to build a public natural gas station on airport property adjacent to Interstate 80, that could be used by the general public. We've had some early interest in some of our tenants like Duncan Aviation. Lincoln Composites is also one of our tenants and some other tenants that if we get to that point and build that publicly accessible fuel station, then they would also be interested in acquiring natural gas vehicles within their own operation. So, as an example of the kind of project that, in our case, a local government entity can do to get to a point where a publicly accessible fast-fill gas station is available for others to use. That's an example of what we're hoping to do here over the next...first phase, a year and a half, and the second phase, a couple of years after that. [LB1108]

SENATOR ADAMS: Are there questions for this testifier? Seeing none, thank you, sir. Oh, Senator Louden. I'm sorry. [LB1108]

SENATOR LOUDEN: Yeah. Do you use them on your trucks, bigger trucks or...because, I mean, I've been like in Washington and places like that. And the buses are...have natural gas and the gas tanks are all on top of them, and I... [LB1108]

JOHN WOOD: Right. Right now our plans are just for our street maintenance fleet, SUVs, and pickup trucks. Our heavy equipment, a lot of it, to our knowledge, they're just now coming on line with natural gas-powered engines that are large enough for some of those...that heavy equipment like snowplows. So as we progress, you know, if that becomes feasible, you know, several years down the road, then replacements of those could be natural gas also. [LB1108]

SENATOR LOUDEN: Do they have a fast-fill method? I mean, how long does it take you to fuel one up? [LB1108]

JOHN WOOD: Well, of course, we haven't bought anything yet. This is all...we've gotten the grant and we're getting the administration stuff done... [LB1108]

SENATOR LOUDEN: I see. [LB1108]

JOHN WOOD: ...and we're getting ready to do this, but, as I said, the two slow-fill stations that we're looking at are designed and are sized that they would fill a pickup truck from empty in about three hours. So with seven vehicles and two of those stations and, you know, we'll never have one that's completely empty. You can rotate those

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through every couple of days and keep the vehicles filled because we do have a fleet that generally never leaves the airport property, so it's a tight area. [LB1108]

SENATOR LOUDEN: And they...they have to have about 3,000 pounds per square inch in those tanks, is that right? [LB1108]

JOHN WOOD: You know, I'm not going to quote you the numbers, but yeah, it's a high-pressure tank. [LB1108]

SENATOR LOUDEN: Okay, thank you. [LB1108]

SENATOR ADAMS: Senator Pirsch. [LB1108]

SENATOR PIRSCH: Do you have some of these up and running right now, some of these trucks? [LB1108]

JOHN WOOD: No. We...this program is in place. The grant has been awarded, but we haven't...we haven't... [LB1108]

SENATOR PIRSCH: You've made the commitment to do it, though. [LB1108]

JOHN WOOD: ...we've made a commitment to do it, but we haven't bought anything yet. [LB1108]

SENATOR PIRSCH: Okay. And are you doing that because you've run the numbers, and they make sense, or are you doing this because it's just the right thing to do in terms of a...? I mean, I'm trying to get a sense of...if it is the...the former is what is the time period that you...you know, obviously, there's up-front costs that you have to amortize, and then at some point in time it flips and after that date it makes...you're actually saving money, I would assume, right? [LB1108]

JOHN WOOD: Our understanding is that the conversion cost per vehicle is in the neighborhood of \$18,000. [LB1108]

SENATOR PIRSCH: Okay. [LB1108]

JOHN WOOD: In our case, the federal grant is going to cover that cost. [LB1108]

SENATOR PIRSCH: I see. [LB1108]

JOHN WOOD: So we're just paying the normal cost of say, a new pickup truck. We'll see savings instantly just because natural gas is half the price of gasoline equivalent. If you were to add, I think in some of our initial calculations, based on our use of vehicles,

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if we had a \$9,000 or \$10,000 additional cost to a truck, it would...we'd break even in about five years. [LB1108]

SENATOR PIRSCH: Five years? What's the estimated...oh, so five years...you probably use it... [LB1108]

JOHN WOOD: On a \$9,000 or \$10,000. Now, still, the cost today to convert is \$18,000. I think that the whole idea behind this is to (a) help get infrastructure out there so that it becomes feasible for other people because they have a fueling source. And (b) the more of these vehicles that get built... [LB1108]

SENATOR PIRSCH: The whole cost structure comes down. Right...there's... [LB1108]

JOHN WOOD: ...the cost structure comes down; it becomes more normal, and you don't have that type of gap between... [LB1108]

SENATOR PIRSCH: Sure, and I...and that's understood that we're at the very infancy of the...and that...but even now you're saying, even in the infancy that you will recoup your costs within a five-, six-year period, is that what? [LB1108]

JOHN WOOD: I wouldn't...I wouldn't, if I didn't have the federal grant. [LB1108]

SENATOR PIRSCH: Okay. [LB1108]

JOHN WOOD: The conversion cost today is 18. In order for me to recoup costs within five years, I'd need it to be somewhere in the 8 to 10 range. [LB1108]

SENATOR PIRSCH: But even...say you're not to receive it,...at some point in time, would that double then the amount of time that you would need to recoup your costs then? Ten years, does that seem realistic? [LB1108]

JOHN WOOD: Oh, I'm sure if you could keep the vehicle running long enough, you could recoup the costs, but... [LB1108]

SENATOR PIRSCH: And that begs the question. What's the estimated lifetime of your vehicles, do you know? [LB1108]

JOHN WOOD: Well, you know, my understanding is natural gas burns cleaner in the vehicle than gasoline. Oil, for instance, doesn't need changed as often and that sort of thing. So I think mechanically under the hood, the engines probably last longer. That's what we understand. I think the other issue is, when you've got maintenance vehicles, just the structure of the vehicle, the cab, the frame, you know, at what point does it just wear out? The engine may be good, but the rest of the vehicle may be falling apart so

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whether you keep the vehicle that long is...is going to vary. [LB1108]

SENATOR PIRSCH: Would people who are availing themselves...if this infrastructure was built, the people who are purchasing those cars, would they be able to avail themselves of the tax incentives that you availed it? So, in other words, would they be able to experience the same...you said about five or six years, is that the crossover date and...where it starts...? [LB1108]

JOHN WOOD: Well, there again, I'm basing that on our use of maintenance vehicles and a...an additional cost if we had an additional cost that didn't exceed \$10,000 we could probably get that back in five years. An individual, I think, all of that depends on miles driven and use and, you know, there's a lot that goes into that equation. [LB1108]

SENATOR PIRSCH: Right. Well, thank you. That was very helpful. I appreciate that. [LB1108]

SENATOR ADAMS: Other questions? Thank you, sir. [LB1108]

JOHN WOOD: Thank you. [LB1108]

SENATOR ADAMS: Next proponent? [LB1108]

JOHN DAVIS: Good afternoon, members of the Revenue Committee. My name is John Davis spelled D-a-v-i-s. I am director of operations for the Happy Cab companies in Omaha which consists of Happy, Yellow, Checker, Cornhusker, and now Safeway cabs. Our fleet is currently about 200 cabs. I previously testified in support of LB421 in front of this committee, and I'm here to testify in support of LB1108. As you may or may not know, we are also one of the coauthors or coapplicants of the grant that was awarded by the Department of Energy. We are doing that, obviously, to assist with building infrastructure. We've had a lot of discussion here about infrastructure and chicken and the egg. Which comes first and that sort of thing, and, obviously, for a fleet manager such as myself and for Happy Cab, it really is a good marriage. Obviously, we have...with having the fleet and having a commitment to roll out 50 CNG equipped vehicles over the next two years, and then also working with MUD to put out the first public station in Nebraska there along the I-80 corridor just makes sense. We, obviously, will have the internal fleet to help feed that station, but as well as, you know, CNG is alive and well in other parts of the country. And people that use it, whether they're fleet managers or whether they're normal citizens, you know, believe it or not, they travel coast to coast with those vehicles. And what happens now is they have to take a southern route and go around Nebraska and Iowa because there are not public stations that are available. So, again, our intent is to assist with building that infrastructure by having that station available, and we certainly...it's our feeling that we'll have more members of the general public that will choose to purchase those vehicles



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whether they choose to purchase the Honda Civic GX which, again, as we've all heard, is the only vehicle that can be purchased at this time brand new from the manufacturer, but they're also...there's a strong market out there of used vehicles that either are what you would consider bifuel meaning that they burn CNG as well as gasoline or another fuel or just strictly CNG vehicles that are available. But again, without that infrastructure, it makes it hard for the average citizen to make that commitment of the \$6,700 for a residential fill unit. Once our station is out there that we're doing in partnership with MUD, again, that's a resource out there that will be available to other fleet managers which I've talked with, other fleet managers...I've had other fleet managers come here and testify in support to LB421. So it is the issue of the chicken and the egg, and we hope to have both of those in place here in Omaha as soon as we can. Other than that, we also are...have been certified through Natural Drive, which is a vendor, that has an EPA certified kit that we chose to have installed on our test vehicle that we did, and we did do a test vehicle last year. And we have become certified as installers and as far as I am aware, we are the only certified installer in the Omaha metro area, and I think in the state for these kits. So another reason that I'm testifying in support of LB1108 is that this helps with making this affordable for a consumer that wants to go out and purchase one of these vehicles because, essentially, it's going to double the value of this...this vehicle which is a Chevy Impala which typically you can buy a late model used Impala for somewhere in the range of \$9,000 or \$10,000. One that is converted is going to be in the range of \$19,000 to \$20,000, so it makes it hard for some people that maybe can't afford that type of vehicle, and we want to make sure the technology is available to anyone who, you know, can afford a vehicle in that \$9,000 to \$10,000 range. So that's the end of my testimony. If any of the senators have questions, I certainly am not a scientist, but I certainly will answer what I can. [LB1108]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you.  
[LB1108]

JOHN DAVIS: Thank you. [LB1108]

CHRIS DIBBERN: Good afternoon, Chairman Cornett and members of the committee. My name is Chris Dibbern, C-h-r-i-s D-i-b-b-e-r-n, and I'm the general counsel and a registered lobbyist for the National Public Gas Agency. We're made up of about 16 small towns in the Midwest that sell natural gas, and we're supportive of LB1108 for three reasons. First, the program proposed is voluntary as we read the bill. A natural gas provider may elect to set aside a portion of the sales tax collected and match that set aside with its own funds to create a compressed natural gas innovative grant fund. We support the provisions of a bill that allows a provider to elect this course rather than impose it. Secondly, we support the fact that the program has an independent funding source in the form of equally matching funds. I think that was a good carrot and match. Third, we support the goal of creating incentives for innovation in the use of compressed natural gas for transportation. As it was mentioned here before, we support the

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increased use of a cleaner burning, low carbon emission alternative to gas and diesel-fueled vehicles. I don't imagine that many of our towns will build a compressed natural gas filling station right away, but Hastings and Nebraska City and Fremont are a little bit larger communities that own their own natural gas system. And I think as this is created, there would be some encouragement to do that. And lastly, we just support it because it's a cleaner alternative and commend the senator for bringing the idea. Any questions? [LB1108]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent. Are there any further proponents? Are there any opponents? Is there anyone here to testify in a neutral capacity? That closes the hearing on LB1108. Senator Stuthman, how are you? [LB1108]

SENATOR STUTHMAN: Just fine, thank you. [LB1108]

SENATOR CORNETT: You are recognized to open on LB775. [LB1108]

SENATOR STUTHMAN: Thank you, Senator Cornett and members of the Revenue Committee. For the record my name is Arnie Stuthman and I...A-r-n-i-e S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District, and I'm here to introduce LB775. LB775 would allow the creation of transportation development districts to finance the improvements of construction of roads, streets, bridges, and related transportation structures within that designated district through an additional sales tax on the retail outlets. Under LB775, a city council or a county board would have the authority to propose the districts. A public hearing would be held on the issue, and if accepted by the board or the city council who called for the meeting, the issue could be put on the ballot. The additional sales tax would not go into effect until it was approved by the voters within the district by the designated district. Or if there are no voters in that designated district, then the vote would be by the registered voters and landowners, registered landowners in that district. The process for forming a transportation development district is very similar to a street improvement district. Once an area is designated as a transportation development district, an additional sales tax would be placed on all retail sales within that district. The amounts of the sales tax could be an eighth, a fourth, or a half a percent. The revenue generated from these taxes would then be used to service the bonds issued to construct or improve the transportation-related infrastructure within that district. The idea to introduce this bill came from members of the Columbus Area Chamber of Commerce in my community. Like many other cities of its size is working hard to develop retail in their communities. LB775 would really help more rural communities attract retail because it would reduce the developer's investment and ultimately lower the lease price in the building area within that district. It is another tool for a developer to use. And I think this tool is one that could be utilized a lot in many of the areas, even in communities such as Omaha or Lincoln. As I have stated, it is a sales tax collected in that designated area. I would also

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say I could relate to it as a user fee. People that are attracted to that retail outlets in that designated area would be charged an extra, let's say a half a percent sales tax to pay for the streets, the parking lots, the sidewalks, the sewer and water in that designated area. This bill has no effect on any sales tax on any part of the town. That sales tax stays the same. But it is a user fee. If you're willing to go to those retail outlets, you're willing to pay that extra half a percent of sales tax. And that would be voted on by the ones...it would most generally be by the landowners, property owners in the district where there is no development, just as in Columbus. We've got a new arterial road around the outskirts of town and we're looking for development, and it would be up to the developer to attract good retail outlets that would invite people to come to those retail outlets and are willing to pay that tax. The tax in that retail outlet would be a half a percent more sales tax than the ones downtown, but it is to pay for that. And we're trying to do that as a user fee instead of putting it onto the price of the lease that the developer is going to have to put on to the operations that are going to be invited into that designated area. So with that, I would ask for your support in passing this bill out. I would be glad to try to answer any questions. [LB775]

SENATOR CORNETT: Senator Utter and then Senator Adams. [LB775]

SENATOR UTTER: Senator Stuthman, so you're talking about a tax over and above the 1.5 percent local option tax. [LB775]

SENATOR STUTHMAN: Yes. [LB775]

SENATOR UTTER: An increase in taxes. [LB775]

SENATOR STUTHMAN: An increase in tax in that designated area. [LB775]

SENATOR UTTER: Okay. The second question I have is that I'm looking at the fiscal note, which I have a tendency to do on these bills, and adding this all up it looks like we're talking about a quarter of a million dollars roughly when we add everything together that they're talking about and the basis. Where do you suggest we get that money? [LB775]

SENATOR STUTHMAN: Well, I did look at the fiscal note at a quarter of a million dollars. But in my opinion, in my opinion I do not know where this came from. And I'll tell you the reason why. The only extra cost would be the cost of an election for this, the cost of the Revenue Department to segregate that half a percent out of sales tax generated in the community. And it would have a code number so that would be readily easily defined as to where that sales tax came from. I see no way that it could cost, you know, the quarter of a million dollars, \$125,000. [LB775]

SENATOR UTTER: It costs \$125,000 the first year, according to the fiscal note at least,

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\$126,000 the first year; \$46,000; another \$47,000 and then on down in the basis of it we're talking about an additional estimated cost of \$30,000. And all of a sudden that adds up. It starts out as little dollars adding to big dollars. [LB775]

SENATOR STUTHMAN: Yes, I realize that, but the way I look at it is if that development district got developed and the rent and the infrastructure would be paid by the developer and he would have to add that on to the rent of those facilities, say a franchise would come in there and... [LB775]

SENATOR UTTER: So you are suggesting that these costs that we're talking about here, the quarter of a million dollars, could be paid by the developer? [LB775]

SENATOR STUTHMAN: No, no, what... [LB775]

SENATOR UTTER: You're not saying that. [LB775]

SENATOR STUTHMAN: What I'm saying is that if development came to an area and we collected the 7 percent, the 1.5 or the 7 percent sales tax instead of the 7.5, we would be collecting sales tax on those additional retail outlets. Why would there be an expense to collecting sales tax, in additional sales tax retail outlets which would benefit the state of Nebraska? They're getting their 5.5 percent in the additional structures, in the additional retail outlets in that community. This is why I can't see why it should cost \$150,000 to put up a new facility that is going to generate the 7 percent or the 5.5 percent for the state of Nebraska and then also in addition to that the extra .5 percent that would go to service the bonds of that infrastructure. That is the question that I have on the fiscal note. [LB775]

SENATOR UTTER: Thank you. [LB775]

SENATOR CORNETT: Senator Adams. [LB775]

SENATOR ADAMS: Senator Stuthman, a couple three questions. [LB775]

SENATOR STUTHMAN: Okay. [LB775]

SENATOR ADAMS: So it would be the city or the county that draws the boundaries of this district. [LB775]

SENATOR STUTHMAN: True. [LB775]

SENATOR ADAMS: So...and correct me if I'm wrong in your thinking, you're probably envisioning an area where there isn't anything and you want to attract something. [LB775]

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SENATOR STUTHMAN: Definitely so. [LB775]

SENATOR ADAMS: So could they draw the boundary in such a way...so let's say we've got this 40 acres of ground and you draw the boundary, but there's a nice convenience store over here that's already pulling sales tax in. Could you include that convenience store in there? [LB775]

SENATOR STUTHMAN: Yes. [LB775]

SENATOR ADAMS: But that convenience store owner would have a vote. [LB775]

SENATOR STUTHMAN: Would have a vote because he's in the designated district. [LB775]

SENATOR ADAMS: So let's say that this developer looks at these 40 acres and developer buys the 40 acres so the developer is definitely going to vote yes. And the convenience store guy says, I don't want to do this, but they get included in the district and they got one vote. [LB775]

SENATOR STUTHMAN: That's right. [LB775]

SENATOR ADAMS: Uh-oh. On the issuing of bonds, so it would be the city and/or the county that would issue these bonds. And I'm assuming, well, they'd have to be a revenue bond rather than a GO bond... [LB775]

SENATOR STUTHMAN: Yes. [LB775]

SENATOR ADAMS: ...or a revenue bond and they would pledge the sales tax to that bond. [LB775]

SENATOR STUTHMAN: Um-hum, um-hum. [LB775]

SENATOR ADAMS: What happens if the developer comes in, lays the bricks and mortar, opens up shop, the bonds are issued, and two years later they're belly up? [LB775]

SENATOR STUTHMAN: Then those bonds are the responsibility of either the county or the city. [LB775]

SENATOR ADAMS: Not the developer. [LB775]

SENATOR STUTHMAN: Not the developer. [LB775]

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SENATOR ADAMS: The county or the city was the issuer. Okay. Thank you. [LB775]

SENATOR CORNETT: Senator Hadley. [LB775]

SENATOR HADLEY: Senator Cornett. Senator Stuthman, we've heard a lot of what I think we refer to as turnback tax proposals. [LB775]

SENATOR STUTHMAN: Um-hum. [LB775]

SENATOR HADLEY: This is really different because you're not turning back the city portion of the sales tax that they would normally collect here. You're adding an amount of tax... [LB775]

SENATOR STUTHMAN: Yes. [LB775]

SENATOR HADLEY: ...to fund this. [LB775]

SENATOR STUTHMAN: To fund that. [LB775]

SENATOR HADLEY: Is that correct? [LB775]

SENATOR STUTHMAN: It's adding an amount of sales tax to fund the bonds that were used to pay for the infrastructure in that designated area. [LB775]

SENATOR HADLEY: Why in the world would not the majority of the property owners in the district approve this? They don't have to pay it. [LB775]

SENATOR STUTHMAN: This is very true. It's a user fee. It's a sales tax. [LB775]

SENATOR HADLEY: I mean I don't have to pay it, right? I mean, if I can sock it to the customers that come in, I'm, you know, and then I get my improvements paid for. [LB775]

SENATOR STUTHMAN: And then once the improvements are paid for, that is sunset. Then the bonds are paid for, then that half a percent of sales tax is taken off. [LB775]

SENATOR HADLEY: I guess I would be much more in favor of a turnback type of thing where there's some commitment by the city or county to making this go. But now there isn't. I mean it's basically on the taxpayers. [LB775]

SENATOR STUTHMAN: Yes. [LB775]

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SENATOR HADLEY: Because they have to pay the extra...they're the ones that are going to pay the extra money. [LB775]

SENATOR STUTHMAN: But it would be up to the developer to attract the good retail outlets, you know, to generate that extra half a percent. [LB775]

SENATOR HADLEY: One last question. If I believe in economic theory and I have a convenience store, 7-Eleven, within the development and another one three blocks down the street and out and one is going to charge a half cent more for every product that they sell in there versus the one three blocks away, I would think the one three blocks away would do better than the one in the development because you're raising the price of all of the products in that... [LB775]

SENATOR STUTHMAN: And the only reason that I could agree with you is if the population went to the one because they're concerned about that half a percent difference in sales tax. But how many times, well, I don't ask any questions. [LB775]

SENATOR HADLEY: Yeah, yeah, I...thank you, Senator Cornett. [LB775]

SENATOR CORNETT: Senator Stuthman, I'm sorry, one second. Senator Stuthman, over the course of the last year we had a municipality and League of Municipalities come to us as individuals and as members of the Revenue Committee and ask us for a voter-approved sales tax increase for municipalities. No one could even be found to introduce that bill. How do you see this bill as different than that? And how do you not see this as an increase in taxes? [LB775]

SENATOR STUTHMAN: The reason I think this is different because this is a designated area. It's not the total municipality that wants to go over their 1.5 percent sales tax. It's this designated area by the developer, you know, in just that area. [LB775]

SENATOR CORNETT: But it is a tax increase. [LB775]

SENATOR STUTHMAN: It's a tax increase, but it's voted on by the people in there. [LB775]

SENATOR CORNETT: And with the businesses that we're seeing that are struggling and the revisiting of the turnback for the Qwest Center and all the different projects that are not doing as well as people expected, if this project doesn't do well, it doesn't fall back on the developer. It falls back on the city or the county which will then fall back onto the property tax. Am I correct? [LB775]

SENATOR STUTHMAN: Which I am sure it's that way, but I can definitely get you an answer on that whether it's the developer or...but I'm sure it's the county or...because

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they're the ones that would issue the bonds. [LB775]

SENATOR CORNETT: Okay. Senator Utter. [LB775]

SENATOR STUTHMAN: I'm not positive on that. Yes. [LB775]

SENATOR UTTER: Senator Stuthman, and my memory may be failing me, and that wouldn't surprise you or me either one, but we talked about development districts type bill...was it last year or was it this year? Anyway, where we were going to have an increase in taxes to provide parking lots and the improvements. How are these...would these two be related? That came from your Chamber of Commerce also, I think. [LB775]

SENATOR STUTHMAN: Then that would have been this bill because I'm not aware of... [LB775]

SENATOR UTTER: So this is not an addition to then. [LB775]

SENATOR STUTHMAN: No. [LB775]

SENATOR UTTER: Because it ran in my mind it had a sales tax increase in it too. [LB775]

SENATOR STUTHMAN: Yes. That's very true. That's very true. What this is similar to is a bill that was passed last year in the Legislature, Senator McGill's bill, where the city of Lincoln designated an area in where they took a portion of the sales tax for street improvements. [LB775]

SENATOR CORNETT: But that was... [LB775]

SENATOR STUTHMAN: But they took the existing sales tax and... [LB775]

SENATOR CORNETT: That's right. We're actually talking about an increase in tax. [LB775]

SENATOR STUTHMAN: But they're taking a portion of that sales tax away from other projects that would have benefited the city for special projects. This bill here adds up to a half a percent sales tax from the people patronizing, you know, those retail outlets for that infrastructure and new infrastructure. [LB775]

SENATOR CORNETT: Senator Stuthman, with what you just said about Senator McGill's bill and that they have to choose then how to use their local option sales tax and don't you feel that there's more need then for due diligence to make sure a project



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is successful and to prioritize your projects where this would just kind of give them free rein? [LB775]

SENATOR STUTHMAN: (Exhibit 1) Not necessarily, not for what our intent in our area is. And we're trying to develop an area that isn't developed. And that's the reason we do that. Other states have tried this. Missouri has it--very, very successful. I think there are some in Kansas also. I do...I would like to enter into the record a letter from K.C. Belitz, president of the Chamber of Commerce, and I'd like to have that passed out, in support. [LB775]

SENATOR CORNETT: Questions? Senator Hadley. [LB775]

SENATOR HADLEY: Just one more quick one, Senator Stuthman. I guess I go back and maybe I always look for the 10 percent, but I'm thinking if I'm a developer and I've got a 40-acre development, I'm the only one there and I say I want to use this, and is the city council and the county then bound because I say I want to use this? And it says the vote of the property owners within the district. Does the city council or the county have to do this and then two years later the developer skips town and all the other people within that county or city now pick up the tab? [LB775]

SENATOR STUTHMAN: That, Senator Hadley, that I will get clarified and get back to you on that. [LB775]

SENATOR HADLEY: Okay. Well, I just want, you know, just want to be sure that... [LB775]

SENATOR STUTHMAN: Well, and I see your point because, you know, in my opinion it's a bond issued to that development district that is needed to be serviced by that development district and I'm sure that it would be there. But I have to get it clarified in mind whether it's the developer or if it's the one that issued the bonds. [LB775]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB775]

SENATOR STUTHMAN: Thank you. [LB775]

SENATOR CORNETT: Next proponent. [LB775]

GARY KRUMLAND: (Exhibit 2) Senator Cornett, members of the committee, my name is Gary Krumland representing the League of Nebraska Municipalities. What's being handed out is a letter from the city of South Sioux City in support of both LB775 and the next bill, LB796. And I'd ask the committee's indulgence to put this on the record for both bills if that would be appropriate rather than hand out two copies of the same letter.

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LB775 is one of several proposals that offer ideas to fund transportation infrastructure. And as this committee knows, funding for transportation infrastructure, streets, roads, highways, has decreased over the last year, last several years. And in the last year, funding for cities and counties alone is down about \$14 million. And so I guess we are supportive of looking at any concept that brings out new ideas to look at ways to provide funding for infrastructure. LB775 has an idea of a local area raising money for a specific project, and we think that needs to be explored along with other ideas. And so I guess we're here asking the committee to look at this and other ideas in the whole scheme of things to see what can be done to help both the state and local governments in infrastructure transportation funding. I'd be happy to answer any questions. [LB775]

SENATOR CORNETT: Questions? Senator White. [LB775]

SENATOR WHITE: Thank you, Mr. Krumland. Mr. Krumland, the only real distinction between this and Senator McGill's bill is the tax increase, correct? [LB775]

GARY KRUMLAND: Um-hum, right. [LB775]

SENATOR WHITE: Is the League advocating a tax increase at this time? Is that the League's position? [LB775]

GARY KRUMLAND: Because of, I mean, several ideas that the League has proposed we...I'd say we do support a tax increase if it's used for a certain infrastructure and so, yes, I mean, I would say we would. [LB775]

SENATOR WHITE: Thank you. [LB775]

SENATOR CORNETT: Further questions? Seeing none, thank you. Next proponent. [LB775]

CURT SMITH: (Exhibit 3) Good afternoon, Senator Cornett, members of the committee. My name is Curtis Smith, S-m-i-t-h. I'm the executive director of the Associated General Contractors Nebraska Chapter, and I'm here to testify in support of LB775. From our perspective, LB775 provides a relatively straightforward, sensible method for local communities to direct those who recognize a need for an improvement to meet those needs. The bill's requirement to submit the plan and approve by the local voters would permit those people to make that choice themselves. It seems an excellent way to let the citizens make the choice of those decisions in the local communities. That really concludes my testimony. I also have a letter here from the Lincoln Chamber of Commerce that is in support of this bill that I'd like to enter into the record. If you have questions, I would try to answer them. [LB775]

SENATOR CORNETT: Senator White. [LB775]

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SENATOR WHITE: Now does the Chamber support a tax increase as well? [LB775]

CURT SMITH: I can't speak for the Chamber. The Chamber... [LB775]

SENATOR WHITE: Just the letter that you're carrying. [LB775]

CURT SMITH: That's their letter. I do not know, sir. [LB775]

SENATOR WHITE: Thank you. [LB775]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB775]

CURT SMITH: Thank you. [LB775]

SENATOR CORNETT: Next proponent. [LB775]

JACKIE McCULLOUGH: Good afternoon, Senators. I'm Jackie McCullough, J-a-c-k-i-e M-c-C-u-l-l-o-u-g-h. I'm executive director for the American Council of Engineering Companies of Nebraska. We're here to testify in support of the critical need for additional funding mechanisms for our transportation system. As you all know, the buying power of our current funding system is deteriorating rapidly. It's eroded not only by inflation but by the very fact that our national energy policy and environmental policy are in direct conflict with the way we fund transportation improvements. I think it's safe to say that we all realize there's a significant funding gap for road infrastructure needs across the state. We need another tool in the toolbox for these needs. We support expanded options for counties and municipalities road financing and support greater authority for local financing tools such as the authority to create transportation development districts as described in Senator Stuthman's bill. This bill is one of the approaches that we support and we encourage the committee to send the bill to the floor. Thank you again for your time, and I'm happy to try to answer any questions. [LB775]

SENATOR CORNETT: Questions? Seeing none, thank you. [LB775]

JACK CHELOHA: Good afternoon, Senator Cornett and members of the Revenue Committee. My name is Jack Cheloha, the last name is spelled C-h-e-l-o-h-a. I want to testify in favor of LB775 this afternoon on behalf of the city. We've analyzed this bill and looked at it closely. First of all, let me thank Senator Stuthman for introducing the bill. I know he's introduced it a couple of years in a row now and he's trying to bring forward new ideas in order to look at ways to fund capital and road improvements in our state. I've testified in front of the Transportation Committee a couple of times this year and over the years. In Omaha in terms of streets and roads, our needs are great. There's a

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MAPA study, MAPA stands for Metropolitan Area Planning Authority, and they've estimated that in the Omaha metro area we've got about roughly \$500 million or half a billion dollars of needs. And so the question always is how do we finance them? How do we pay for them? How can we meet the demands of the citizens of our area as for, you know, transportation in the Omaha community? So with that, we're supportive of this bill and the concept that it brings. We see it as a bill that's permissive. It offers local control to the communities. There's a safeguard, if you will, in it where you have to have voter approval before you can go forward with any type of revenue enhancement. And so for those reasons, we support the bill, and I'd try to answer a question. [LB775]

SENATOR CORNETT: Senator Utter. [LB775]

SENATOR UTTER: Mr. Cheloha, are you comfortable with the concept that a development district is formed, the tax is imposed, the development fails, and then this becomes the...the bonds become the general obligation of all of the taxpayers of the city? [LB775]

JACK CHELOHA: I appreciate that question. I think there's room within the bill for us to, as we do our contracts and agreement with the developers that go forward, that we could put some more safeguards in there and, you know, try to keep the developers more responsible. The key here is going to be on the bonds. [LB775]

SENATOR UTTER: How responsible is a broke developer? [LB775]

JACK CHELOHA: (Laugh) Well, it depends. Yeah, if they file bankruptcy, they're gone and they're out. But yet at the same time, there has to be some type of guarantee on the bonds or you'll never get the project off the ground so. [LB775]

SENATOR CORNETT: Mr. Cheloha. [LB775]

JACK CHELOHA: Yes. [LB775]

SENATOR CORNETT: Having looked into bonding off and on over the course of the last few years, a private entity cannot bond for public use. Am I correct? [LB775]

JACK CHELOHA: That's correct. [LB775]

SENATOR CORNETT: And a public entity can't bond for a specific private use. Correct? I mean they can't bond for someone else. They can bond for themselves. [LB775]

JACK CHELOHA: Right. [LB775]

SENATOR CORNETT: Correct? [LB775]

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JACK CHELOHA: The public can... [LB775]

SENATOR CORNETT: So how would you put safeguards in there that it wouldn't fall back onto the bonds if that developer went bankrupt? [LB775]

JACK CHELOHA: Well, in order for a developer to get city approval to do the project, there's going to have to be some decisions on, you know, up-front amount of capital, who's...how can we get the initial thing started? You know, do they have to put up any type of bond guarantee on their own as a performance, if you will, you know, things along those lines? You know, granted, I don't work on these but, you know, ultimately for there to be a meeting of the minds between the city and a developer, there's going to have to be certain ramifications of the contract. [LB775]

SENATOR CORNETT: Am I correct in that the city of Omaha was in front of this committee earlier this week and testified that they had to raise their property tax because they couldn't make their bond payment on the Qwest Center? [LB775]

JACK CHELOHA: You are correct. Our finance director testified that we raised property taxes on debt service. [LB775]

SENATOR CORNETT: And how do you see this would be any different if this failed? And I mean there was... [LB775]

JACK CHELOHA: I don't know if... [LB775]

SENATOR CORNETT: ...an incredible amount of due diligence done on the Qwest Center and it still has had issues. [LB775]

JACK CHELOHA: Absolutely. In a sense, I mean ultimately, the city is going to be responsible for the debt repayment in order for these projects to go forward. Granted, that could be one of the downfalls or shortsightedness of this. The good news is there's a number of ways to vet the project before you move forward with it. [LB775]

SENATOR CORNETT: Okay. Thank you. Further questions from the committee? I'm sorry, Senator Hadley. [LB775]

SENATOR HADLEY: Senator Cornett. Mr. Cheloha, I guess I'm back to...when you mention the Qwest Center, I think that was basically a turnback concept, wasn't it? Because the additional taxes that were going to be generated we were able to turn back some of those to help the Qwest Center and help the projects. [LB775]

JACK CHELOHA: That's correct. [LB775]

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SENATOR HADLEY: So I guess why are we now going to change from that concept to an additional tax concept because wouldn't the city of Omaha be getting it both ways then? You develop a new project, it generates new sales tax dollars, plus you add up to a half cent to pay for the project. So I guess I'm just...this sounds like a pretty good deal from that standpoint for the city of Omaha. [LB775]

JACK CHELOHA: Well, okay. First of all, I mean the turnback concept, you know, has a long history, if you will, and I don't want to take that much time, but it is a useful tool in terms of turning back the state's portion of the generated sales tax to help pay off the debts. I guess what I need to say is in any community you need to be able to grow, you need to be able to add new businesses, you want to serve the needs of your citizens, if you will, or meet their demands in terms of shopping, as we go along and as the city has obligations on wages for police and fire and other services. I mean granted there's inflation and so you need your revenue sources to have the potential to grow. Okay. So on one hand if there is a new business and it's within the city limits, we would gain that local option sales tax, which is just part of the natural growth process of the community, as Omaha grows and expands and gets bigger, if you will. At the same time, sometimes growth and development is hindered because of the need to pay for infrastructure, if you will. So Senator Stuthman offered LB775 today to come up with at least another alternative that wouldn't, if you will, burden the existing, you know, revenue streams that a city may have. [LB775]

SENATOR HADLEY: Just one quick aside. A few years ago we were able to get an extra half cent, the additional half cent for Kearney that we hadn't had forever. And it was a very tough sell. And the way we were able to sell is that it was for civic or it was for city projects--library, senior centers--and it still was a tough sell. So I can't imagine how tough it would be to sell voters that Walmart or whoever it might be needs an extra half cent to help pay for, you know, for a private company. I just throw that out because I could see... [LB775]

JACK CHELOHA: Oh, sure. No, I see your point. [LB775]

SENATOR HADLEY: ...that could be a tough... [LB775]

JACK CHELOHA: I see your point. [LB775]

SENATOR HADLEY: ...because it's enough of a tough sell to sell a library... [LB775]

JACK CHELOHA: Right. [LB775]

SENATOR HADLEY: ...an extra half cent for a library or something like that. So I just thought I'd throw that out. [LB775]

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JACK CHELOHA: Right, okay. Thank you. [LB775]

SENATOR CORNETT: Any further questions? Seeing none, thanks. [LB775]

JACK CHELOHA: Thank you. [LB775]

SENATOR CORNETT: Next proponent. Are there any further proponents? Are there any opponents? [LB775]

RICHARD HALVORSEN: Good afternoon. My name is Richard Halvorsen from Lincoln. I wasn't going to speak but I see Lincoln weighed in so I'll give you a tale of what happened here in Lincoln on something similar to this. [LB775]

SENATOR CORNETT: Sir, could you please spell your name for the record. [LB775]

RICHARD HALVORSEN: Okay. Richard, R-i-c-h-a-r-d, Halvorsen, H-a-l-v-o-r-s-e-n. A few years back a developer came to the city and they wanted to develop along Highway 77 and Warlick Boulevard just west of here. And bonds weren't issued but an agreement was reached that the city and county would build traffic improvements and then they would pay them back once they got the development up and running. So the result they committed something, I think close to a million dollars or more and we now have a nice roundabout out there and other traffic...nice new road. And guess what? The development didn't take off. There's nothing out there. You know, they projected big box stores, restaurants, and all that and there's nothing. And the city says, well, we'll eventually get our money back. I said, well, but maybe not in my lifetime. In the meantime, that million dollars could have been spent somewhere else. And I think the problem with this bill is I don't know if legally the city or whatever will be responsible, but I don't think you would sell the bonds. Nobody would buy the bonds if you didn't have a backup for city taxes. I don't think any responsible deal would stick because other people are well aware developers can and have gone bankrupt. And according to this bill, it says since it's submitted only to the residents of the development district, you might, in some cases here in Nebraska, you might have half a dozen people committing a whole town to a million dollars more of tax improvements that they might have to fall back on. So I think, like again, I just don't think it's a good idea. I think in the first place, I think if anybody were to make a sizable purchase, they could go a quarter of a mile down the road and pay a half a percent less. But even if they did, again, I think again you're committing cities to a potential tax increase that they're going to have to fulfill this obligation. So I think there are better ways to handle that. Thank you. [LB775]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB775]

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RICHARD HALVORSEN: Yeah. [LB775]

SENATOR CORNETT: Are there any further opponents? Is there anyone here to testify in a neutral capacity? Senator Stuthman, you are recognized to close on LB775 and open on LB796. [LB775]

SENATOR STUTHMAN: I am going to waive closing. [LB775]

SENATOR CORNETT: Okay. [LB775]

SENATOR STUTHMAN: (Exhibit 4) I'm going to open on LB796. I'm...they're waiting for me in another committee for another bill. Chairperson Cornett and members of the Revenue Committee, for the record my name is Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District. And I am here to introduce LB796. LB796 proposes a 5-cent increase in the gas tax. This 5-cent increase would be designated for the completion of the state expressway systems. Once this system is complete, the 5-cent increase would end. Some segments of the highway system that are not complete are the Highway 30 between Schuyler and Fremont, Highway 81 between Columbus and York, and the Heartland Expressway. This 5-cent increase would generate approximately \$60 million on an annual basis. It is estimated that the tax would be in place for at least 15 years based on the estimated time it would take to complete these systems, but then we would have the systems completed. I'm going to give you some information that I have gathered a short time ago as far as the difference in prices of fuel and the thing is, you know, if we're serious about completing these systems because we have four-lane roads, we have them that go to two-lane, and then we continue to go on to the four-lane. It's a safety issue. It's a user fee. Now I'm going to tell you some of the price differences that I've checked on in some of the communities. And also I want to mention that in a 19-day time frame in December fuel price raised 23 cents. In Lincoln the day that I checked the prices, there was a difference from \$2.61 to \$2.99 just in the city of Lincoln, a 38-cent difference, not 5-cent difference, 38-cent difference. In Omaha, \$2.84 to \$2.64, a 20-cent difference. So there is a variance in prices is what it is. And I do have some testimony here from the Chamber of Commerce in Columbus that I would like to have entered into the record in support of this bill. So with that, that is my opening. I will try to answer any questions if there are any. [LB796]

SENATOR CORNETT: Senator White. [LB796]

SENATOR WHITE: Thank you, Senator Stuthman. Senator, a couple of questions on this. People of Omaha will be paying for roads that obviously aren't in their area. Correct? [LB796]

SENATOR STUTHMAN: Yes. [LB796]



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SENATOR WHITE: All right. And we've done that traditionally. But user fees, a lot of these roads will be used by farm implements and farmers and trucks, move grain, things like that. Correct? [LB796]

SENATOR STUTHMAN: Very few. [LB796]

SENATOR WHITE: Well, then if it's not a big deal, do you support getting rid of the exemption from fuel tax for farm equipment because we need the cash to finish these? [LB796]

SENATOR STUTHMAN: There is not a fuel tax exemption for the equipment like trucks that are used on roads. The only one...the ones that are exempt from fuel tax are the tractors, not trucks. [LB796]

SENATOR WHITE: Grain trucks that haul grain. [LB796]

SENATOR STUTHMAN: Grain trucks are all paying taxes like anyone else on the road. [LB796]

SENATOR WHITE: Combines? [LB796]

SENATOR STUTHMAN: Combines...combines are only driven down the road from field to field. They're not driven from Omaha to Scottsbluff. They're field to field. [LB796]

SENATOR WHITE: So do you think then if it's not a big deal we should get rid of that so everybody is sharing the pain? [LB796]

SENATOR STUTHMAN: As far as the tax exemption? [LB796]

SENATOR WHITE: Um-hum. I mean if you want to increase taxes 5 cents, then everybody share the pain. [LB796]

SENATOR STUTHMAN: But then you're...the implements that are used in the field 99 percent of the time are going to be paying taxes on that fuel when they're not using the roads. That I don't agree with. [LB796]

SENATOR WHITE: How about construction equipment? They don't pay taxes. Heavy equipment used for road construction and other construction, should they? [LB796]

SENATOR STUTHMAN: I don't have an answer for that because I'm not aware of whether they pay taxes or not. Yes. [LB796]

SENATOR CORNETT: Senator Stuthman, I'm confused. Section 9 of the bill, page 14

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states that it will be a 5-cent tax on the producer, supplier, distributor, wholesaler, or importer, in addition to other taxes provided by law, shall pay a tax of 5 cents per gallon. Correct? [LB796]

SENATOR STUTHMAN: Yes. [LB796]

SENATOR CORNETT: On page 16... [LB796]

SENATOR STUTHMAN: Your initial page was what, Senator? [LB796]

SENATOR CORNETT: Fourteen. [LB796]

SENATOR STUTHMAN: Fourteen. [LB796]

SENATOR CORNETT: On page 16 you have the retailer paying the 5 cents. So are you talking a 10-cent increase? [LB796]

SENATOR STUTHMAN: No, it's not, not for a 10-cent increase. [LB796]

SENATOR CORNETT: You've got them referenced to two separate people paying it. [LB796]

SENATOR STUTHMAN: I will have to get an answer for that. No, it's...my bill... [LB796]

SENATOR CORNETT: Okay, because on page 14 you have the producer, supplier, distributor, wholesaler shall pay the 5 cents and on page 16 you have the retailer paying the 5 cents. So I was confused... [LB796]

SENATOR STUTHMAN: Okay, okay. [LB796]

SENATOR CORNETT: ...if you were actually talking about an additional 10 cents. [LB796]

SENATOR STUTHMAN: Yeah. No, it is a 5 cent. What lines were you in? [LB796]

SENATOR CORNETT: On page 16, line 3...well, Section 11, line 3. [LB796]

SENATOR STUTHMAN: Okay. [LB796]

SENATOR CORNETT: If you look in past Section 66-6,110, you have the retailer. [LB796]

SENATOR STUTHMAN: Okay. [LB796]

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SENATOR CORNETT: And on page 14, Section 9, line 17 you have the producer. So there's just...it's not clear. I wasn't sure if you were actually referring to a 10 cents increase. And if that's what the fiscal note where you generated the dollar amount. [LB796]

SENATOR LOUDEN: That's compressed fuel on page 16. [LB796]

SENATOR CORNETT: Compressed fuel, yeah. So you're talking about compressed fuel also. [LB796]

SENATOR LOUDEN: Well, that would be propane in trucks and cars. [LB796]

SENATOR CORNETT: Right. So you're talking about for both. [LB796]

SENATOR STUTHMAN: Yes. And I'm sure it's clarified in the bill. My issue is any fuel that is... [LB796]

SENATOR CORNETT: Any fuel. [LB796]

SENATOR STUTHMAN: Any fuel that is taxed at the present time, like compressed fuel that's,... [LB796]

SENATOR CORNETT: Okay, because I thought you were just referring to gasoline at first. [LB796]

SENATOR STUTHMAN: ...you know, not farm use and then gas on the road because you've got compressed fuel in some vehicles also that travel down the road. [LB796]

SENATOR CORNETT: Senator Utter. [LB796]

SENATOR UTTER: Senator Stuthman, do you...you're proposing this be a statewide tax for sure... [LB796]

SENATOR STUTHMAN: Definitely. [LB796]

SENATOR UTTER: ...and not just along the Heartland Expressway. [LB796]

SENATOR STUTHMAN: No, no. [LB796]

SENATOR UTTER: ...or...so let me ask you. If this was put to a vote of the people in Columbus today, do you think they'd vote in favor of this, this raise in the gas tax? [LB796]

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SENATOR STUTHMAN: They would be supportive of it because Columbus... [LB796]

SENATOR UTTER: Do you think it would pass in Columbus (inaudible)? [LB796]

SENATOR STUTHMAN: The 5-cent increase in gas tax, yes, it definitely would. [LB796]

SENATOR HADLEY: Senator Stuthman, I guess I think we know that we need to figure out some funding mechanism for our highways. I think there's no question we've got to figure out how we're going to do it. And you're on the Transportation Committee along with Senator Louden and we've talked a lot about it there. If we do this, aren't we basically saying that new construction then takes priority over preservation of the existing system? Because you're using any potential increase in the next number of years of 5 cents is dedicated to new construction, not preservation. So aren't we making it so that preservation goes down on the priority list? [LB796]

SENATOR STUTHMAN: Not necessarily. This 5 cents is dedicated for the completion of the expressway system. [LB796]

SENATOR HADLEY: That's right. [LB796]

SENATOR STUTHMAN: If we decide we need more money, you know, for other construction in the state of Nebraska, that would have to be in addition to that 5 cents. [LB796]

SENATOR HADLEY: And I guess that's my point. If we go for an increase in the gas tax knowing how hard it was last time, obviously to me it...you only get so many chances. And maybe I'm wrong, but, you know, we've got to make sure if increasing the gas tax is the way that we eventually go we've got to make sure we know exactly what we're going to use it for and what the impact on the entire road system is. [LB796]

SENATOR STUTHMAN: Definitely. Definitely, I would totally agree with you there because...and the reason that I'm emphasizing a fuel tax is that it's a user fee. I mean it...the more you use, the more tax you have. [LB796]

SENATOR HADLEY: You know, I loved that term when I was campaigning. I understood it completely, but everybody's door I knocked on called it a gas tax. (Laugh) (Inaudible). [LB796]

SENATOR STUTHMAN: That seems to be the... [LB796]

SENATOR HADLEY: A user fee wasn't big in their vocabulary. (Laugh) [LB796]

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SENATOR CORNETT: Senator White. [LB796]

SENATOR WHITE: Senator Stuthman, one of the concerns, a longtime concern I've had with gas tax are as vehicles move to becoming more efficient, hybrids, new cars are much more efficient, increasingly the tax falls on people who drive the older, more inefficient cars and becomes increasingly regressive. And you've got a guy making seven bucks an hour trying to make it on minimum wage who's got to drive like they do in Columbus sometimes from St. Ed's to Columbus or, you know, you got 15-, 20-mile drives, it gets worse and worse and worse. Do you really think throwing another 5 cents on top of a guy trying just to get enough money to pay for his gas and food for his kids is the right way to go about funding roads? [LB796]

SENATOR STUTHMAN: I'm very sympathetic to that, but someone placed a 23-cent increase in 19 days to that same individual, and I'm also concerned about that. [LB796]

SENATOR WHITE: In 1983? [LB796]

SENATOR STUTHMAN: No, in...just in this last December: 23-cent increase in gas price in 19 days in December this year. [LB796]

SENATOR WHITE: In taxes are you saying? [LB796]

SENATOR STUTHMAN: No, not on...on the price of gas. [LB796]

SENATOR WHITE: Well, listen, if we could get Exxon Mobil up here, we'd have a heck of a hearing, wouldn't we? [LB796]

SENATOR STUTHMAN: That's right. And the variance in the community, which I had stated, is over 30 cents in Lincoln, 20 cents in Omaha. [LB796]

SENATOR CORNETT: Senator Stuthman, can you outline for the committee where the expressway, the plans were originally? [LB796]

SENATOR STUTHMAN: The expressway plan? [LB796]

SENATOR CORNETT: Um-hum. [LB796]

SENATOR STUTHMAN: I think I have a map somewhere, the ones... [LB796]

SENATOR CORNETT: Just highlight the major communities you're talking about. [LB796]

SENATOR STUTHMAN: The major communities? The major communities are

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Columbus to Fremont; the Heartland Expressway which is out...Scottsbluff, out that area. We've got Highway 81; we've got one that's in the Sioux City area; we've got one I think in the southern southeast corner, but the ones that are identified in the 1980-something expressway system. [LB796]

SENATOR CORNETT: Let me just explain why I have a problem with this. The way this is set up, if it was just a gas tax for roads and then someone determined the priority of projects based on traffic flow and everyone throughout the state was paying for that based on studies of where the traffic flow was and where it was needed, I would be much more favorable because I do agree that we need to do something with roads and gas tax. But the way this is structured, the metropolitan area is going to bear the brunt of this when they are not seeing any benefit. And the metropolitan area has just as great or greater needs for transportation at this time. I particularly have an area in my district that was at capacity when it was opened. But we're talking about designating 5 cents just to areas that were identified in the eighties as needing to be completed but haven't been completed because there were other projects that had higher need. [LB796]

SENATOR STUTHMAN: Yes, yes. I sympathize with that. The main reason that I put this bill forward is the fact that because of these systems were started, were started with 50 miles of four-lane, 20 miles of two-lane, and 50 more miles of four-lane. [LB796]

SENATOR CORNETT: Right. [LB796]

SENATOR STUTHMAN: It is a definite safety hazard... [LB796]

SENATOR CORNETT: Oh, I know, around Fremont it is particularly. [LB796]

SENATOR STUTHMAN: ...in there. And I'm trying to find a way so we can complete these roads. Yes, I realize there's a lot of traffic in the metropolitan area. [LB796]

SENATOR CORNETT: I was going to say we have a significant safety issue...actually I don't, Senator Pankonin does on Highway 75 but... [LB796]

SENATOR STUTHMAN: That's very true, very true. [LB796]

SENATOR CORNETT: ...my problem is that we are designating an area not based on need. [LB796]

SENATOR STUTHMAN: In my opinion, I'm basing this on completions of existing projects. [LB796]

SENATOR CORNETT: Senator White. [LB796]

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SENATOR WHITE: Senator, back in the day when I was first here and we had a lot of money, remember those days? It seems so long ago. [LB796]

SENATOR STUTHMAN: Yes. [LB796]

SENATOR WHITE: And we got special appropriations to complete the freeway system out in western Nebraska. Remember that? [LB796]

SENATOR STUTHMAN: Yes. [LB796]

SENATOR WHITE: Because Senator Nelson had got us \$20 million and the Roads Department let it sit there and we're losing 10 percent a year to inflation on it. So we "cowboyed" up the money and said, here you go, get it done. It's still not been built, has it? [LB796]

SENATOR STUTHMAN: No. [LB796]

SENATOR WHITE: So what on earth is going to make us confident, if we actually got this 5 cents, Roads Department is going to do anything with it? We gave them...I forget how big that appropriation was to finish that freeway out west there. [LB796]

SENATOR LOUDEN: Well, it didn't finish it. It'd just do that one segment. [LB796]

SENATOR WHITE: Yeah. [LB796]

SENATOR CORNETT: It just did the one section. [LB796]

SENATOR WHITE: Yeah, and then... [LB796]

SENATOR LOUDEN: But there's another reason. They screwed around long enough until the federal government changed the rules. That's the reason it isn't being done now. [LB796]

SENATOR WHITE: Oh. So they took the money back, the feds took the money? [LB796]

SENATOR LOUDEN: No, we still got the money. [LB796]

SENATOR WHITE: We do? [LB796]

SENATOR LOUDEN: Yeah, but you just got to add more to it because they made the project bigger. The federal government decided they had to have a logical termini. [LB796]

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SENATOR WHITE: Okay. Okay, well then, Senator, my concern is the Roads Department doesn't seem to be using the money we give it very effectively, even when we tell them outside of needs, build it. [LB796]

SENATOR STUTHMAN: I will agree with you, and I will not make a further comment on that (laugh). [LB796]

SENATOR WHITE: Okay, Senator, (laugh). [LB796]

SENATOR CORNETT: Further questions from the committee? Senator Louden. [LB796]

SENATOR LOUDEN: Yes. Thank you, Senator Cornett. Senator Stuthman, yes, I'm in agreement with something like this because this morning my wife told me I had to get the pickup gassed up before I left, so I got up then on South 13th I think it was \$2.58 or something like that and I think over there in front of the City-County Building I think it was \$2.67 what I paid for gas. You didn't have to go far but a few blocks in Lincoln for a difference in price. And that's always bothered me for a long time because fuel is a lot cheaper here in Lincoln than it is in western Nebraska. Part of that we've had a deal in the Transportation Committee the other day where they were wanting to vote in a bonding issue for...to put in roads. And \$60 million a year, if this could be used and get any federal match, you're talking about maybe \$120 million, \$130 million a year would build a substantial amount of roads. Is that...I mean... [LB796]

SENATOR STUTHMAN: Yes. [LB796]

SENATOR LOUDEN: ...rather than doing a bonding issue, this would probably take care of doing any bonding to complete roads system, a pay-as-you-go basis more or less. [LB796]

SENATOR STUTHMAN: Yes. [LB796]

SENATOR LOUDEN: Now having talked about that with...where we can't get the Department of Roads to do anything other than the Governor can tell them to do anything because we know that happens because that's how the bypass around Kimball got built. That sat there for several years. The first two years I came down here was when Johanns was here. He put it on the five-year list. He went to be Secretary of Agriculture. The Department of Roads took it off the five-year list. Some of our other politicians that were ex-governors and so forth threw such a hissy fit that the word came down to build it and it was built. Didn't have a thing to do about where the money came from or anything. I mean as we speak, it's being finished up now. So we know the Department of Roads can do it if they're told to. Now what changed a few years back



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was that they always didn't want to build anything unless the traffic count was there. And every time the traffic count got to a certain level, they raised the traffic count so they didn't have to finish the expressway system. Would you agree with that? [LB796]

SENATOR STUTHMAN: Yes, I will agree with that. [LB796]

SENATOR LOUDEN: Because I have the numbers and I've been down here eight years and I have the numbers from eight years ago on up. Now in the last, I think, Senator Joel Johnson or somebody put some legislation in that they also had to take into account economic benefits. And that has just been into the highway system the last few years. Am I correct on my thinking on that? [LB796]

SENATOR STUTHMAN: Yes, that is correct. That's always a factor. [LB796]

SENATOR LOUDEN: So something like this, that factor has to be used at the present time. Now when you put economic benefits in there, then there's a difference between a road that I say lets people go back and forth to their bedroom in ten minutes or a road that's used to improve the economic stability or economy of an area. So do you think by having some of that in the road that this has a better chance of doing some good nowadays than what it did probably seven, eight years ago? [LB796]

SENATOR STUTHMAN: Yes, Senator Louden, I will agree with that. I think with this project I think it would have a lot more benefit. Also the factor of taking that economic development part...portion of a road section, I think, would also improve the chances of getting something done. [LB796]

SENATOR LOUDEN: And that's what this is all about in the western part of the state is that they've never completed or just now getting in the process of completing some roadways that would improve the economic development... [LB796]

SENATOR STUTHMAN: Yes. [LB796]

SENATOR LOUDEN: ...which is the bypass around Kimball because you have 46 miles of four-lane highway that you couldn't get off the interstate with a truck because there wasn't any viable way to do that. So I agree with what we're doing here. And as far as the fuels, they mention dyed fuels in the bill here, and that's the big deal nowadays. If you have a farm truck, you'd better be using your clear fuel in there. Because if you use dyed fuel, why, you're going to buy that truck all over again if you get stopped someplace, whether it's a diesel pickup or whatever it is. So the only thing that you use dyed fuel in, it better be your tractor or your combine and that's usually never off the road. [LB796]

SENATOR STUTHMAN: Yes. [LB796]

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SENATOR LOUDEN: The only vehicles that possibly can be used as tax-exempt fuel on a road is probably a pickup that drives gasoline. And nowadays they've changed that down so that you can only get 65 percent of your fuel exempt that you buy for farm use. Whatever I buy in my gas tractors I only get tax exempt on 65 percent of it. They keep the rest, whatever it is. At one time you got 100 percent, but you don't anymore. And part of that came about for the ethanol people because they were buying this tax-exempt fuel and putting it in their gas so the guys wouldn't drink their alcohol. (Laughter) That's what it's in there for. So I think you have a good plan here, Senator Stuthman, and I would certainly support it because this is somewhere along the line we have to start something like this. And I would like to see something like this brought out in the open because people pay more than 5 cents a gallon from one day to the next and don't even think about or know it. One thing if they don't want to pay that extra 5 cents a gallon when they go in and gas up, just don't go in and buy a bottle of pop at the same time. Then as far as your person driving from one town to the other, ask Senator Hadley here about driving down the street with a chuckhole in it. It cost him...he could have paid the extra 5 cents on several thousand gallon of gasoline for what it cost him for one tire. So I think it's a good plan and I'm glad you brought it forward. Thank you. [LB796]

SENATOR STUTHMAN: Thank you. [LB796]

SENATOR ADAMS: Senator Utter. Are there any other questions? Senator Hadley. [LB796]

SENATOR HADLEY: Senator Adams. Just a quick question, Senator Stuthman, then you can go. I was not here the year that the gas tax went up 1.5 cents. I believe it was 1.5 cents wasn't it, two years ago, somewhere in that? And I've heard a lot of senators talk about how difficult that vote was and how, you know, it was really tough and everything else. And here we're talking about a 5-cent a gallon, you know, about almost four times what that was. Is this feasible? [LB796]

SENATOR STUTHMAN: Well, first of all I would like to make a comment on gas going up that 1.5 cents. It really, when it was calculated out, it was a half cent less than what you was paying before. [LB796]

SENATOR HADLEY: Yeah, I understand that, yeah. [LB796]

SENATOR STUTHMAN: But the people didn't realize it. It's a perception of an increase, and that's what people are always concerned about. I know that I've gotten many e-mails if you're going to raise this 5 cents I can't even drive to work anymore. [LB796]

SENATOR HADLEY: Yeah. Thank you, Senator Stuthman. [LB796]

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SENATOR STUTHMAN: You betcha. [LB796]

SENATOR CORNETT: Further questions? [LB796]

SENATOR STUTHMAN: I will waive closing. [LB796]

SENATOR CORNETT: Thank you, Senator Stuthman. First proponent. [LB796]

CURTIS SMITH: (Exhibit 5) Good afternoon, Senator Cornett, members of the Revenue Committee. My name is Curtis Smith, S-m-i-t-h, and I'm executive director of the Nebraska Chapter, Associated General Contractors. And I feel like I've been through these conversations numerous times here with either the Transportation Committee or again today the Revenue Committee, but I appreciate the opportunity to be here. There's been much conversation. Obviously, you've all had this same conversation with the...since the expressway was introduced I think in 1988 or so. It's been...people were excited about it back then, and I think they feel some frustrations today that it has never been completed, and at the current funding status will probably never be completed the way we are funding roads and the problems we're having. Actually, it's been put on hold, as we've mentioned here today again. We think that this bill addresses both the issues of the user tax, 5 cents a gallon, develop approximately \$60,000 a year, \$60 million a year. And it also addresses the completion of the expressway system within the state of Nebraska, which are both important issues, both from a taxpayer standpoint. But one of the things that I'm sure you all realize and we realize in talking amongst our members and people that the approximate \$37.50 a year that it would cost the individual taxpayer, the individual car owner for this seems to be a relatively modest amount of money to complete something that would be beneficial to the citizens of Nebraska. So we are here to testify in favor of this committee, and we appreciate the conversations that are being evoked because of the introduction of this bill anyway. Thank you. I have one...I also have a letter, by the way, that I'd like to introduce as testimony from the Associated...American Council of Engineering Companies have asked me to introduce the bill or introduce their testimony. Thank you. If you have questions, I would be glad to try to answer them. [LB796]

SENATOR CORNETT: Senator Adams. [LB796]

SENATOR ADAMS: You may not be the right person to ask so if you don't want to comment, you don't have to. But I know that the standards, the expressway standards have been changed by the Department of Roads and that, along with money--I suspect that money is the primary reason to stop construction on some of these expressways--but do you have any...being in the construction business or your organization, what...have they taken a position on some of these engineering changes on the expressway? [LB796]

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CURTIS SMITH: Well, I can comment and I'll try to make it brief and not go outside my area of expertise. I am an engineer, registered professional engineer, and I worked in (inaudible) industry for a long, long time. Most of the standards, of course, are set by AASHTO by some government standard having to do with the layout of lane dimensions, widths, shoulder widths, and that's all back to the traffic count on the highways. So NDOR can adjust some of those things, Nebraska Department of Roads, and they have their own standards for whether it be local roads or four-lane or expressways and so on. And, of course, higher traffic, higher standards, four-lanes, divided medians, wider shoulders, 10-foot shoulders and side slopes and one thing and another are all a part...all drive the costs up. And we know that whatever the cost is per mile now on highways it's much higher than it was 35 years ago or whenever the interstate was started. I don't think that really answered your question, but they don't have a lot to say with the standards themselves. [LB796]

SENATOR ADAMS: Okay. [LB796]

CURTIS SMITH: There's guidelines they need to follow. [LB796]

SENATOR ADAMS: Thank you. [LB796]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB796]

CURTIS SMITH: Thank you. [LB796]

GARY KRUMLAND: Senator Cornett, members of the committee, my name is Gary Krumland, it's K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities in support of LB796. First of all, I'd like to mention we have cities who are involved with expressways who strongly support the bill and think that the expressways should be a high priority. But I think overall cities across the state, whether they're on expressways or not, do support the idea of looking at an increase in gas tax to...as one of the concepts, tools we need to look at in increasing funding for transportation infrastructure. And I think it's important to do that. There have been decreases because of both volume of gasoline sold and because of the formula change a few years ago that...I guess because of just what I call a perfect storm when gasoline tax on wholesale was put in, prices dropped. When it was set, it just...nobody could see that happen but it did. And so we are in a dire situation in terms of highway, roads, and street funding. And so we do support the idea of looking at an increase in gas tax as one of the tools to take care of that. I'd be happy to answer any questions. [LB796]

SENATOR CORNETT: Seeing none, thank you. Next proponent. We move to opposition testimony. Are there any opponents? [LB796]

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TIM KEIGHER: Good afternoon, Senator Cornett and members of the committee. My name is Tim Keigher, that's K-e-i-g-h-e-r. I am the executive director of the Nebraska Petroleum Marketers and Convenience Store Association, and I appear before you today in opposition to LB796. NPCA has over 200 members who market...NPCA has over 200 petroleum marketers and convenience store operators throughout the state of Nebraska operating over 1,200 retail facilities. I guess, you know, our concern is that we are already uncompetitive on our fuel tax today. Nebraska ranks ninth highest, and if you just look at the state motor fuel tax, that's not adding any underground storage tank taxes or other taxes that other states may add to their motor fuel tax, but we rank ninth highest if you look at just the state motor fuel tax. We rank nineteenth highest if you look at all the taxes on motor fuels. But I guess it doesn't matter what the tax is in New York or Florida or California. All we care about is what the tax is with Nebraska and the surrounding states. Currently, the Nebraska gasoline tax is 26.8 cents a gallon compared to Kansas who is at 24 cents a gallon or a 2.8 cent a gallon difference. Wyoming and Colorado are at 22 cents, which is 4.8 cents a gallon less than Nebraska. And the most important to us because of the population on the eastern part of the state is that with Iowa, which is at 21 cents, or a 5.8 cent a gallon differential. And lastly, Wyoming is at 13 cents a gallon so we're at 13.8 cents a gallon less than Nebraska. By increasing the state's motor fuel tax by 5 cents a gallon, we become more uncompetitive with Iowa. We would be at 10.8 cents a gallon disadvantage with Iowa if we were to...if this bill were to pass. Border bleeding, I guess the best example I have of that is when we were higher than Iowa on our cigarette tax. We raised our cigarette tax, I believe it was about six or seven years ago, and the sale of just one popular brand of cigarettes in the Omaha market went down 25 percent and went up 27 percent in the Council Bluffs market. When Iowa raised their cigarette tax a dollar, so now that we have the advantage, those sales all came back to Omaha plus some. I guess to try and address some of the other issues that came up, you know, why are retail prices \$2.69 at one station and \$2.99 at another? They're independent businesses. They probably don't pay the same price for the fuel. It's just like if you were to go buy this tie. I mean I could buy it at one store for, you know, \$25 and I could probably buy it at another store for \$75. You know, gasoline is the most price-sensitive product we have out there. Everybody seems to know what the price of it is, knows where to find it the cheapest. And I have a friend who is an optometrist who makes about \$90,000 a year, he lives in the Omaha area, and he drives three miles across the river to Iowa to buy his gas. So I mean it does take place. The other thing is, you know, if everybody had \$2.99 or \$2.69 on their price signs, we'd all be accused of price fixing then. So I guess, you know, it's independent businesses operating their own business and charging whatever price they feel is appropriate to the customer. And with that, oh, I guess one last example I had. Former Senator Erdman told me this story, that he had some friends who would drive 60 miles to Wyoming, they put 55-gallon drums of...55-gallon drums in the back of their pickup truck and take six or eight of them at a time and they'd drive over to Wyoming, which was 60 miles, to save that 13 cents a gallon. Now, number one, that's a hazard

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on the road because that is not an approved DOT shipping container. It just goes to show you that when there's a differential people will do things to get a better price. With that, I'll be happy to answer any questions. [LB796]

SENATOR CORNETT: Senator Louden. [LB796]

SENATOR LOUDEN: Yes. Well, yeah, that's an Erdman story anyway (laughter). Thank you for your testimony here today. And you would be the one, I mean, when you talk about some of the suppliers that, you know, have different gas. I've bought a lot of gas off of Casey's all the way across Nebraska. I mean we have Casey's all over the place. And I've seen 25 cents a gallon difference in one station to the next, you know, depending on how far. And a lot of times a few cents a gallon difference right in the same town. And that's usually in Lincoln they'll all be similar, but...and I know Casey's must get their fuel somewhere or another. I was under the impression the reason some of that difference in price of gas depended on how much junk food they sold over the counter inside there made the difference on what they could charge for their gas. Does that have anything to do with it? [LB796]

TIM KEIGHER: Well, I mean, it's like any the business. You have a myriad of products that you're selling: gasoline, Twinkies, diet Cokes, etcetera. You know, Casey's buys their gas, they're an independent, they're not branded in most locations, they buy it from whoever is the cheapest price on any given day. And, you know, that can vary a lot from day to day. My father was in the petroleum business, and I remember when the first fax machines came out and that's how he got his pricing. And it would go up or down every one or two weeks a quarter or a half a cent a gallon. Now it goes up or down anywhere from 6 to 15 cents a gallon in a 24-hour period. You know, a lot of that is due to speculators. You know, there's some national legislation that is looking at that, that people are doing that because it's the best investment they have today is betting on what the price of oil is going to do and they're driving the price up. But, you know, not every retailer pays the same price for the gasoline. You know, there are different transportation costs depending on how far they're hauling it. But they just take the whole myriad of trying to generate enough revenue in a day to pay their expenses, their labor, their lights, for the cost of the product, etcetera. So they combine all that together. Some of them may put out on the price sign the most competitive price of gas they can have and try to make it up on selling a Twinkie or diet Coke. Others price gas so that they can make some money to cover their overhead of the cost of the tanks and the pumps and the lines and all of that and then, you know, charge a different rate on a diet Coke inside. [LB796]

SENATOR LOUDEN: Now if...say this expressway system was completed, don't you think that it would be a lot more of people in your organization are on some of these expressways? Because I mean if you have four-lane expressways, you're going to have more traffic traveling through there from out of state. And I mean, Nebraska, that's what

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Nebraska is, is a transportation state, every since you might say in the early days because they had to come across here in order to get to California or points west. And they still, if they're going to haul marijuana out of California to Chicago they about got to come through Nebraska. So, I mean, we've always transported stuff across Nebraska so the better roads we have probably the more people you have in your organization, wouldn't you? [LB796]

TIM KEIGHER: So the better roads we have the more drug traffic we're going to have? (Laugh) [LB796]

SENATOR LOUDEN: Yeah. [LB796]

TIM KEIGHER: You know, I'm sure if, you know, if they were to complete the expressways, I'm sure that my members would build locations along there. [LB796]

SENATOR LOUDEN: And if we had better east-west expressways, you would probably be able to increase your membership or have people put in more of those facilities like that because they are quite popular now. [LB796]

TIM KEIGHER: You know, the biggest problem is it's not my member in Grand Island and North Platte who is just in the retail gasoline business for automobiles. I mean, 5 cents isn't going to bother him that much. It's the guys that are on the border in Omaha where the consumer has an alternative, alternate to go over to Council Bluffs. Now you're looking at the difference in gas price in Lincoln, and they're pricing that based upon what their competition in that area does. But they're all paying the same motor fuel tax. The retailer in Council Bluffs is paying 5.8 cents a gallon less. So if he sold at the same price that the member in Omaha does, he makes 5.8 cents a gallon more. [LB796]

SENATOR LOUDEN: Well, I was over in Iowa not that long back and I could never see that much difference, 4 or 5 cents a gallon difference is all I ever saw buying it in Iowa or Nebraska. And when you say 13 cents a gallon difference, have you been to Wyoming lately? [LB796]

TIM KEIGHER: No, not for a while. [LB796]

SENATOR LOUDEN: Them dudes over there found out they can charge more for gas than what they are because you don't get that big of a savings now when you go to Wyoming and buy it. Now maybe they only got 13 cents a gallon tax on their fuel. But for some reason, they're having problems over there. And I thought I saw where their legislature has raised that fuel tax. Am I wrong on that? [LB796]

TIM KEIGHER: Well, the statistics I have came from the American Petroleum Institute

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and they were supposed to be correct as of January 1 so. [LB796]

SENATOR LOUDEN: Okay. [LB796]

TIM KEIGHER: If they've raised it and they missed it, that's possible. [LB796]

SENATOR LOUDEN: But I go to Colorado and Wyoming and drive through that and there's not that much...I can fill up over in Colorado and probably just as well drive right on through Wyoming because it won't be that much of a savings in stopping to gas up. [LB796]

TIM KEIGHER: So I guess that goes back to my point is the retailer in Wyoming is making the difference in the gas tax if he's charging the same as the retailer in Colorado. And I don't know, you know, I didn't do that math. I just compared to (inaudible) in Nebraska. [LB796]

SENATOR LOUDEN: Evidently. But I mean when it gets all done, why, I don't know if we would notice, if we would notice that 5 or 6 cents difference in fuel. [LB796]

TIM KEIGHER: I guarantee you that my members in Omaha would notice it. They notice it already. I mean... [LB796]

SENATOR LOUDEN: Do any of them point out that if you use the regular gasoline in it that they get better gas mileage than they do with the ethanol? [LB796]

TIM KEIGHER: There's all kinds of opinions on that one. [LB796]

SENATOR LOUDEN: There has to be a 5-cent gallon difference in price in order to make it... [LB796]

TIM KEIGHER: Sure, to make up for the difference in gas mileage. [LB796]

SENATOR LOUDEN: ...make up the difference by using ethanol? [LB796]

TIM KEIGHER: Um-hum. [LB796]

SENATOR LOUDEN: And then when we get out in...as you get farther away from Lincoln, you get less price change in the ethanol. In fact, out in western Nebraska there's no difference in the price, whether it's ethanol or whether it's regular. [LB796]

SENATOR CORNETT: Senator Hadley. [LB796]

SENATOR HADLEY: I just have a couple real, real quick questions. One, I hope you



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bought it on sale and didn't pay over eight bucks for your tie, but other than that (Laughter). You know, Mr. Keigher, and I understand exactly what you're saying, but it seems like when we look...and I know it's a difficult problem with border bleed, but when I look around the states around us, everyone is so unique. You know, Wyoming has a lot of natural resources that they fund their operation with; Colorado--natural resources, tourism. I drove E370 you got in near the airport down to the south side of Denver a couple of weeks ago and it was \$13 in tolls to drive around Denver. Missouri spent \$800 million out of their general fund, I believe, on bridges and roads and they're nearly bankrupt now. Kansas has...they have the toll-way from basically Kansas City or very close all the way to Wichita. Iowa has probably, what, half our land size and twice our population so, you know, it's so difficult. But I do, you know, I wrestle all the time with the question of how do they do it? You know, people say our taxes are always high and yet we sit in Transportation Committee and we hear that our roads...that we're not keeping up with preservation. We're not keeping up with...so it's just a problem. It's just getting so big it's so hard to get our hands around. I appreciate what you're saying and maybe there are other things that we got to look at to try and figure this problem out. [LB796]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB796]

TIM KEIGHER: Thank you. [LB796]

SENATOR CORNETT: Further opponents? Is there anyone here in a neutral capacity? That closes the hearing on LB796. (See also Exhibit 4) Senator Christensen, you are recognized to open on LB1052. [LB796]

SENATOR CHRISTENSEN: Thank you, Madam Chair and members of the Revenue Committee. I'm Senator Mark Christensen, C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District and I'm here today to introduce LB1052. LB1052 is modeled after the Convention Center Facility Financing Assistance Act which is used by the city of Omaha to pay off the Qwest Center and which LB779, heard in this committee a couple of weeks ago, seeks to expand. LB1052 is the Agricultural Production and Economic Stability and Assistance Act. It would redirect current sales tax revenue generated within 2.5 miles of any river, stream, or tributary of eligible natural resources districts. These funds would provide assistance for NRD projects to manage water resources and augment water supplies for the economic stabilization of agricultural production in the river basin. You may be asking why I would introduce such a bill. The reason is there are river basins in this state, and my district is one of them, which are bound by compacts, agreements, that the state has negotiated and agreed to and have a potential to threaten the economy of agriculture production in those basins. The link between water and agriculture is inseparable. If the access to water and the funds to manage it wisely are not there, our rural economies will suffer greatly. Noting that the courts have said that compliance with the compact is a state responsibility, it is not a far

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leap to ask for the redirection of sales tax generated in the river basin to help manage the water in this area. This is especially true when this concept is already being done in Omaha and potentially Lincoln on convention centers. I would argue that maintaining the healthy agriculture economy needs river basins bound by compacts and agreements entered into by the state is more of a state interest than the convention centers of eastern Nebraska. Now I have nothing against Omaha and Lincoln looking for innovative ways to improve their cities and create economic activity or opportunities. However, when the state's responsibility in the Republican River Basin or the Platte becomes a lower priority than providing convention centers for eastern Nebraska that are city owned, I have a problem with it. I believe our priorities may be a little mixed up. If the economic health and growth is important in Omaha and Lincoln and the state wants to fund it, then it had better be important to the Republican River Basin where, I believe, that there is a real state interest or agriculture production, which is the lifeblood of the area, could take a big hit. I'd encourage you to advance LB1052 and a mechanism to fund a state interest to General File. Thank you for your consideration, and I'd be glad to try to answer any questions you may have. [LB1052]

SENATOR CORNETT: Senator Adams. [LB1052]

SENATOR ADAMS: Thank you, Senator Cornett. Senator Christensen, I applaud conceptually what you're thinking about doing, I mean, what's good at one end may be good at the other end of the state or one sector in the economy to another. What I'm wondering about and my thinking is not real clear on this yet, but if we look at the Qwest Center and we reach out to collect that sales tax, we're going to collect...we're going to turn back tax on the tickets that are sold at the Qwest Center, the T-shirts that are sold at the Qwest Center, the hotel across the street that may not be clearly related to the event going on at the Qwest Center but most of the time it is and the restaurants associated. I guess what I'm wondering in the Qwest Center concept, do we have a closer relationship between the businesses and the sales that are generating that tax and the Qwest Center compared to here? I mean we're going to collect the sales tax off of...I'm guessing, I'm picturing this river basin and its two-mile radius, we're going to collect the sales tax off of the convenience store, maybe there's a grocery store or whatever, the bait shop along here, I don't know. Am I thinking right? [LB1052]

SENATOR CHRISTENSEN: Well, I guess I would turn this a little bit and maybe using the school example would be a good example. Right now on dryland I pay about \$8 an acre for property tax... [LB1052]

SENATOR ADAMS: Um-hum. [LB1052]

SENATOR CHRISTENSEN: ...that funds the schools, counties, and NRDs. On irrigated land, I pay 22, 23 bucks an acre, three times. And because of the state-signed compact, we're now going to convert everything within a mile and a half is the latest proposal to

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two and a half miles, was the original proposal that I based this off of, we're going to convert them to dryland. And if we don't do something as a state to protect that area and help it, you're going to shift school aid dollars west. When you look at the value drop, there's going to be two ways we hit the schools. First, everybody is going to convert their irrigated land to dryland and we're going to reduce the property tax paid and that's going to shift state dollars. And if these lands start selling for less money, which they will, when they've got a history of being shut off, now the valuation, the comparisons that are used on property tax will be lowered once again and will reduce the value to southwest Nebraska and to fund the schools we're going to shove money again west. I think we're going to pay it one way or the other. [LB1052]

SENATOR ADAMS: Okay. I guess, you know, I agree with you. I mean if theoretically, (inaudible) theoretically but legally if land values drop, needs grow in TEEOSA, then you're right. There's going to be a shift of sales and income tax in that direction. I guess more specifically, and this is my problem for not knowing the right question to ask you, who are going to be the payers of this sales tax that will be captured in this basin compared...or the collectors for that matter, compared to the Hilton outside the Qwest Center or the ticket sales and the T-shirt sales inside the Qwest Center on concert night? [LB1052]

SENATOR CHRISTENSEN: Okay. Well, anytime that you're making purchases, and again, it's going to be the same soda pops, it's going to be the food, it's going to be clothing, it's going to be any activity in them rural communities. If you go look at my district, I've got one town of 8,000, my next largest is 2,000. They are 90 percent agricultural business driven. And if you move the ag out, them other businesses leave. So and if you look at the way farmers operate, a dryland farmer will farm three acres for every irrigated acre an irrigator farms. There are a lot of 3,000-acre irrigated land farmers, but them same guys, the same crew can probably turn around and farm 10,000 acres dryland. I see that all the time. So we're going to see less people out there. So I don't know if I'm hitting your question the way you would like it... [LB1052]

SENATOR ADAMS: No, this time you are. May I continue, Senator Cornett? Then I may be really jousting at windmills with this next question, but I know it would be of a concern to the ag producers in my district. Are your wells metered? [LB1052]

SENATOR CHRISTENSEN: Yes. [LB1052]

SENATOR ADAMS: Okay. Would your ag producers have a fear that if we did this then the state next would say we're going to put a sales tax on that metered water and your ag producers might say we're okay with that because we want to continue to irrigate? And what my ag producers are going to ask me, are we going to be next? And then all heck breaks loose. And maybe it's already broke loose, but would you respond to that. [LB1052]

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SENATOR CHRISTENSEN: I think with the direction we're going at the state of Nebraska right now all heck is breaking loose. Because if you're on the Platte River, there's much worse problems in the Platte than there is in the Republican. When you look at this cooperative agreement, phase one is not a big deal. There's a lot of offsets, but there's 144,000 acres affected. Phase two when it kicks in, 472,000 acres will be affected that have to be shut off, converted to dryland. Or we got to come up with a way to reduce the water consumption one way or another. Phase one goes back to the levels in 1997. Phase two affects 472,000 acres. And again, if we don't provide a way, and that's I think clearly when we passed LB701 the first time we had sales or sorry, the checkoff funds in there that we have a bill before us this year to remove that. If that's removed, now there's no funding source. This would provide a funding source or I have another bill that's been advanced to the floor, occupation tax, another funding source. I'm looking for ways that we can handle it locally, and I feel should be jointly with a state match or somehow to work on all river basins because it's going to continue expanding to different river basins. And not to delay this, but you can look. I introduced a bill I believe it was yesterday for a statewide water planning commission. And the reason I did that is we've got to quit just regulating everything off and killing our economy. We've got to start making plans to go forward. And one of the testifiers in there said, you know, Nebraska is still stuck in the 1960s with our water management. And there's states around us, which they talked about Colorado, Wyoming, Nevada, California, was four of them mentioned that maximize the use of their water for the most economic activity we can do. That's why if you look at what I'm doing, I've introduced a variety of bills attacking the issue from multiple directions. And is this the right one? I'm going to have to defer to this committee. [LB1052]

SENATOR CORNETT: Senator Hadley. [LB1052]

SENATOR HADLEY: Senator Cornett. Senator Christensen, just a couple fairly quick comments. You know, when you compare it to the Qwest Center and such as that, that's basically a turnback tax on new taxes. In essence, you build the Qwest Center, you generate...because if it's not there, you're not going to generate any taxes. You turn back...the state turns back some to help them get it going because it's new taxes. As I read your bill, this would be on existing services, existing everything. We're just basically taking...we're reducing the General Fund by that amount of money to give to the NRDs. Is that correct? [LB1052]

SENATOR CHRISTENSEN: Well, it is correct in your statement, but I would disagree with you because the Qwest Center was in place already, the city obligation, and they were having troubles, and I voted for it in 2007 to give them the assistance. And...but they had another arena before they built the Qwest Center. Basically we moved the revenue from one building to another building. This one generates more so there was new involved with it. [LB1052]

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SENATOR HADLEY: Okay. Senator Christensen, one other question. I'm thinking about how I go home to Kearney if this were to get on the floor and I'd ask people to vote and they say...and I'm not sure exactly about my distances, but they would say, Galen, does that mean all the motels that are down at I-80 and 2nd Avenue in Kearney and the new convention center that's being put up there and the restaurants, all of that...basically all of that sales tax money from the state would go then into the water? [LB1052]

SENATOR CHRISTENSEN: No. Right now if you read the fiscal note, the Platte has no effect. Right now it would only affect the Republican River. They would have to do some additional measures to qualify under this. So right now it's only affecting the Republican River Basin. That same way that I've tried to do my occupation tax, I've tried to make it fit just the Republican River Basin, but at the same time qualify. Because if you look, I believe there's John Winkler is the back one, which is the Papio, and no effect on...then if you look at the Lower Platte South, no effect on; Coordinating Commission had no effect on. And so basic come over to Department of Natural Resources and the Republican River that had any impact at the present time. But I would probably say looking across this committee you're the most affected senator and Senator Utter may be number two, and might even bump you, I don't know, but I reckon you'd be the most affected by this bill from the standpoint there's going to be less people going to Kearney to spend money. Less people in the Republican going up to Senator Utter's to spend money because they're not going to be there. [LB1052]

SENATOR HADLEY: Thank you, Senator Christensen. Thank you, Senator Cornett. [LB1052]

SENATOR CORNETT: Senator Louden. [LB1052]

SENATOR LOUDEN: Yes. Interesting concept, Mark. What towns are in there? I mean, there would be McCook and what are the towns as you go down the river? [LB1052]

SENATOR CHRISTENSEN: Well, if you're...you only got one town of the city, size of a city. McCook is the only one over 5,000. Holdrege is in the Tri-Basin, but I believe it counts because I believe, which is 5,000, it's in the Republican River Shed. [LB1052]

SENATOR LOUDEN: Is it within that 2.5 miles of the river? [LB1052]

SENATOR CHRISTENSEN: I don't think so. [LB1052]

SENATOR LOUDEN: I mean, the way I read the bill it's everything within 2.5 miles of the river. [LB1052]

SENATOR CHRISTENSEN: Right, correct. I think there's only one class of city that

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would be involved and that would be McCook. The rest of them are going to be your 1,000-people communities because it don't affect my northern tier ones. [LB1052]

SENATOR LOUDEN: Well, they still pay sales tax if they're within 2.5 miles of the river, wouldn't they? [LB1052]

SENATOR CHRISTENSEN: Yes, but they're not...like Holdrege isn't within 2.5 miles of a river or stream. [LB1052]

SENATOR LOUDEN: Yeah. [LB1052]

SENATOR CHRISTENSEN: But Alma is, Cambridge, Arapahoe, Oxford, Trenton, Stratton, Benkelman. [LB1052]

SENATOR LOUDEN: What about down below Harlan County Dam? [LB1052]

SENATOR CHRISTENSEN: Then you go below Harlan County you're going to hit Rep City, very small; Naponee, extremely small. You're going down, Blue Hill... [LB1052]

SENATOR LOUDEN: Franklin. [LB1052]

SENATOR CHRISTENSEN: Franklin, yeah, there's another one. And you're going to get clear down to Guide Rock. There's a bunch, bunch of little cities, little towns. [LB1052]

SENATOR LOUDEN: Then you have where up to \$75 million, but is there that much sales tax comes out of there in a year? [LB1052]

SENATOR CHRISTENSEN: No, there isn't. [LB1052]

SENATOR LOUDEN: And that's what I was wondering what... [LB1052]

SENATOR CHRISTENSEN: If they didn't... [LB1052]

SENATOR LOUDEN: They give a fiscal note of \$89,000, but it isn't the fiscal note. It would be how much sales tax is generated in that area. And is there enough sales tax generated in that area to make a difference on what you're trying to do? [LB1052]

SENATOR CHRISTENSEN: Oh, definitely on what we're trying to do. I had Legislative Research run some numbers for me. And they just sent back what each town generates in District 38 and District 44, Senator Carlson's and my districts. And if you took everything out of there, I believe there's about \$25 million. But you got to separate Holdrege, you got to separate...what's your second largest town. [LB1052]

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SENATOR LOUDEN: Well, if Holdrege isn't 2.5 miles, then what they get out of Holdrege don't count. [LB1052]

SENATOR CHRISTENSEN: Right. And so I don't remember if I added Holdrege in or not. I haven't looked at them numbers since the middle of the summer when I was looking at this because I've been working on this one probably since July. And if I remember right, I come up with \$8 million potentially in Senator Carlson's district and \$16 million in mine. One way or the other, we're going to lose that activity. [LB1052]

SENATOR LOUDEN: Okay. And does that take in the Lower Republican then? [LB1052]

SENATOR CHRISTENSEN: Yes, takes all the Lower. [LB1052]

SENATOR LOUDEN: Okay, takes in all the Lower. Okay. [LB1052]

SENATOR CHRISTENSEN: Here's a Catch-22 and you tell me...that's why I defer to this committee what's the best approach. Do we kill this industry and let it leave; we shift school aid dollars out; we let people either move out of state or elsewhere; or do we supplement it to help take care of it? [LB1052]

SENATOR LOUDEN: Now you're taking 70 percent for what you're trying to do and the other 30 percent goes into that water cash fund or whatever has been set up that we was using checkoff funds for from corn and everything else. [LB1052]

SENATOR CHRISTENSEN: Correct, which could be used statewide. [LB1052]

SENATOR LOUDEN: Okay, yes, that 30 percent. In other words, that's the way to fund that. Well, then if you only got \$24 million and 30 percent of that puts it down to what, \$7 million or \$8 million goes into the water policy fund? [LB1052]

SENATOR CHRISTENSEN: Correct. But if you look at what I was trying to do on the local side, \$10 an acre on 1.2 million is \$12 million a year. And so if you've got the tools, you could actually mend the two together and have them match one another. You could do a variety of things. That's why I'm anxious for this hearing because I don't think anybody in my district is going to argue with at least generating half of it themselves. [LB1052]

SENATOR LOUDEN: With the occupation tax? [LB1052]

SENATOR CHRISTENSEN: Yeah. [LB1052]

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SENATOR LOUDEN: I see. [LB1052]

SENATOR CHRISTENSEN: And if you limited this to like \$12 million that we could generate off the other \$12 million, I don't see that being an issue. We're not... [LB1052]

SENATOR LOUDEN: You think if they...of course, the sales tax would pay it anyway. The state is the one that's going to be on the bottom, on the short side on it because the consumer pays it anyway. It doesn't matter to them where it goes (inaudible). Okay. [LB1052]

SENATOR CHRISTENSEN: Correct. But here's the situation and you know when you were Chair and I introduced LB701 when the state signed the compact, they didn't ask any of the NRDs, they didn't ask anybody else what they thought of it. When they settled the compact in 2002, they didn't ask any of them about it. The state took care of it. A lot of people felt like it was a state issue. I introduced LB701, and we passed it out of this body and people from my district sued it. They proved that it was a state issue and that you couldn't use property tax for that. So that took one tool away. But it also emphasized the fact that this is a state issue. [LB1052]

SENATOR LOUDEN: Yeah. Now and also still in court is the occupation tax, isn't it? [LB1052]

SENATOR CHRISTENSEN: Correct. [LB1052]

SENATOR LOUDEN: So we have to wait and see where that goes. [LB1052]

SENATOR CHRISTENSEN: And see it lost in district court. Judge Merritt ruled on the closed class language. It never was ruled on by the Supreme Court. So that could have to go there yet. But my bill, LB862, offers to open up that closed class language so that that won't be a question. [LB1052]

SENATOR LOUDEN: Okay. Okay, thank you. [LB1052]

SENATOR CORNETT: Thank you, Mark. [LB1052]

SENATOR CHRISTENSEN: Thank you. [LB1052]

SENATOR CORNETT: Proponents? Opponents? Neutral? [LB1052]

SENATOR CHRISTENSEN: I thought it might be that fast. [LB1052]

SENATOR HADLEY: Do you want to close? [LB1052]



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SENATOR CORNETT: We have no questions, no closing. [LB1052]

SENATOR HADLEY: No. [LB1052]

SENATOR CHRISTENSEN: See, I know your history. The longer I talk, the longer it takes to do anything with it. [LB1052]