

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Transportation and Telecommunications Committee
February 23, 2009

[LB320 LB323 LB401]

The Committee on Transportation and Telecommunications met at 1:30 p.m. on Monday, February 23, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB320, LB401, and LB323. Senators present: Deb Fischer, Chairperson; Kathy Campbell; Tim Gay; Galen Hadley; Charlie Janssen; Scott Lautenbaugh; and LeRoy Louden. Senators absent: Arnie Stuthman, Vice Chairperson. []

SENATOR FISCHER: Good afternoon and welcome to the Transportation and Telecommunications Committee. My name is Deb Fischer, I am Chair of the committee, and I am from District 43 from Valentine, Nebraska. At this time I would like to introduce the members of the committee. On my far left is Senator LeRoy Louden. Senator Louden is from Ellsworth, Nebraska. Next to Senator Louden is Senator Galen Hadley who is from Kearney. Next we have Senator Scott Lautenbaugh who is from Omaha. On my immediate left is our committee clerk, Laurie Vollertsen. On my right is our committee counsel, Mr. Dustin Vaughan. And next we have Senator Kathy Campbell who is from Lincoln. Our pages for today are Justin Escamilla from Scottsbluff and Jamie Myers from my legislative district, Stuart, Nebraska. If you have any needs or materials that you need to have distributed, the pages will assist you with that. We will be hearing the bills in the order that they are listed on the agenda. Those wishing to testify on a bill should come to the front of the room and be ready to testify as soon as someone finishes testifying in order to keep the hearing moving. I would ask that you complete the yellow sign-in sheet at the on-deck table so it is ready to hand in when you testify. We use a computerized transcription program so it's very important that you follow the directions on that sign-in sheet. You will need to hand in the sheet to our committee clerk before you testify, please. For the record, at the beginning of your testimony, please spell your last name and also your first name if it can be spelled in several different ways. I would ask that you keep your testimony concise and try not to repeat what someone else has covered. If you don't want to testify but you want to voice your support or opposition to a bill, you can indicate so at the on-deck table on the sheet provided. This will be a part of the official record of the hearing. If you want to be listed on the committee statement, however, you need to complete the yellow sign-in sheet and actually testify, even if you just state your name and your position on the bill. If you do not choose to testify, you may submit written comments and those will be read into the official record. At this time I would ask that you turn off your cell phones. We do not allow cell phones on in this committee, that means no text messaging, please. And we have been joined by Senator Charlie Janssen from Fremont, Nebraska. With that, I will open the hearing on LB320, and Senator Friend, welcome to the Transportation and Telecommunications Committee. [LB320]

SENATOR FRIEND: Thank you, Madam Chair, and members of the Transportation and Telecommunications Committee, it's always a pleasure. And my name is Mike Friend,

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F-r-i-e-n-d. I represent northwest Omaha, District 10 in the Legislature. I am here to introduce LB320 at the request of Governor Dave Heineman. The Governor could not be here, he's in Washington D.C. He did want to provide a letter, if I could have that letter distributed. He did want to provide a letter to the committee expressing his support and rationale for LB320. Let me first explain what we have got here. LB320 simply establishes a single fixed motor fuel tax. Currently the motor fuel tax is 26.4 cents which includes the 10.5-cent base tax at 2-cents city and county tax and the current 13.9-cent variable motor fuel tax. LB320 creates one single and fixed gas tax of 26 cents. By the way, LB320 also changes the distribution of the Highway Trust Fund to the state, cities, and counties to a percentage distribution intended to be effectively the same distribution that exists in current law. LB320 also eliminates the provisions in the law enacted in LB846 from last session. That is set to be effective on July 1, 2009, which established a new motor fuel tax based upon wholesale price of fuel. That is what this bill does. Let me spend a few minutes explaining, or just maybe a minute, explaining what issue we are trying to solve or what problem we are trying to solve and why I believe LB320 is the proper solution to this problem. The current system for taxing motor fuels is somewhat flawed because it lacks transparency. Beyond the fixed taxes that are listed in law, a mechanism has been established that changes the motor fuel tax without a vote of the Legislature. At the end of the session...at the end of each session, we set an appropriation to the Department of Roads. The variable tax then adjusts itself automatically twice a year, once on July 1 and again on January 1 to meet the appropriation before the Legislature reconvenes. We generally have a good estimate on what the gas tax will have to be to meet the appropriation when we set the appropriation, especially for the July rate change. But it remains just an estimate or a guess. A number of factors ranging from the price of gasoline to the number of vehicles purchased effect that tax. As a result, you could have hurricanes, war, accessibility to credit, Wall Street issues, you name it, those things can effect the tax. We as a legislative body in a lot of ways have lost control of that tax, lost our control over the ability to deal with it, a lot of times appropriately. In the last five years, the change in the variable in January has ranged anywhere from an .8-cent increase to a 4-cent decrease. We can't honestly look a lot of our constituents in the eye in June and say what the tax will be next January because we do not know with certainty. Governor Heineman and I share a common belief that the motor fuel tax should be fixed so taxpayers will know what it will be and that the Legislature, not the forces beyond our control, should set that motor fuel tax. LB320 will make our tax policy more transparent. Most citizens don't understand that a change to the Department of Roads appropriation can trigger a tax increase or a decrease. LB320 will force our body to amend the motor fuel tax up or down on a vote actually on the tax itself, not the appropriation to a state agency. So in a lot of ways LB320 will lead to the transparency I think that we, and probably the Governor, feel like we need right now. With that, I know that there are probably plenty of folks wishing to speak to this issue. I'd be happy to answer any questions that I could in regard to this legislation. Thank you, Madam Chair. [LB320]

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SENATOR FISCHER: Thank you, Senator Friend. Are there questions? Senator Louden. [LB320]

SENATOR LOUDEN: Yeah. Thank you, Senator Fischer. And thank you, Senator Friend. You say you brought this on behalf of the Governor, this bill? [LB320]

SENATOR FRIEND: Correct. [LB320]

SENATOR LOUDEN: And how, if you do that then, then in order to fund road construction and everything, it's going to just have to be a direct appropriation by the Legislature, that's how they intend to fund road construction in the future? [LB320]

SENATOR FRIEND: Well, yeah. I mean nothing...the Highway Trust does not go away. I mean, there is going to be direct appropriation into the Highway Trust based on the gas tax. [LB320]

SENATOR LOUDEN: But I mean we won't have any...if there's going to be an increase in taxes and the Legislature has to vote for an increase in taxes? [LB320]

SENATOR FRIEND: That would be correct. [LB320]

SENATOR LOUDEN: How often is that going to happen? [LB320]

SENATOR FRIEND: Probably not very often. [LB320]

SENATOR LOUDEN: Then where will we be with our roads, I guess? [LB320]

SENATOR FRIEND: Well, where are we now? [LB320]

SENATOR LOUDEN: Well, you mentioned that there... [LB320]

SENATOR FRIEND: I know you're the one who is supposed to ask the questions. Sorry about that. (Laughter) [LB320]

SENATOR FISCHER: That's right, Senator. Remember what side of the table you're on here, today. [LB320]

SENATOR FRIEND: Okay. Sorry, sorry. [LB320]

SENATOR LOUDEN: Where are you now is the fact now that they...someone will tinker with the appropriations and so that the gas tax doesn't have to raise. I mean if you don't tinker with the system, it will work, and gas tax will probably go up. And there will be funding for roads because that's the way it was set up, that you would decide what your

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needs were, and then you would point out what the revenue needed to be. And somewhere along the line that philosophy got played with and now we are, like you say, where are we now? We're short on funding. We don't need to be short on funding. We had hearings last summer that people testified they were wondering why we weren't putting in, contributing more to the road fund, because it is a user fee. If that's what has to be done, they didn't have a problem raising the gas tax. When you mentioned that one of the largest drop in gas tax was that 4 cents, is that right? [LB320]

SENATOR FRIEND: Correct. [LB320]

SENATOR LOUDEN: Yeah, and that happened when, about a year ago last January? [LB320]

SENATOR FRIEND: Approximately. [LB320]

SENATOR LOUDEN: And I don't think anybody even noticed because gas went up 5 cents the next day, and they were complaining about gas tax. So I have a real problem with the way...with people complaining about taxes on gasoline because I don't think they realize that probably there is more fluctuation in the cost of gasoline than there ever is in the taxes. [LB320]

SENATOR FRIEND: I'm not sure I would disagree with that. I...but I also know that we are citizens, too, and we complain about...we all, as Nebraskans, and maybe it's our God-given right as United States citizens to complain about taxes in general. I mean, I get more property tax complaints than I do about gas tax. There's kind of a reason for that, I think. Part of that reason is because of this what some would argue is a lack of transparency in regard to our gas tax. I know, I know what my, especially when the assessor comes around, I know what I am going to pay in property taxes. I don't like it, but I know and I may complain about it. But there is quite a bit more transparency, I think, from that aspect than there is in the gas tax. I understand exactly what you are saying. I think that the thought process here is debatable and I think we will go there. But I do think that there...and I don't think you are arguing with the idea of transparency here. I think we run the risk, eventually, of losing our way and trying to figure out exactly how a system is going to work, and the Legislature is trying to figure it out. We have an education funding system that is really tough to follow at times, the TEEOSA system. So we are trying to grab a hold of this, Senator, and maybe I don't have the answer here, but I... [LB320]

SENATOR LOUDEN: Now when you compare it to property tax, is that too different... [LB320]

SENATOR FRIEND: I'm not comparing it to it. I'm saying that there is a... [LB320]

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SENATOR LOUDEN: Well, you mean what is transparent or you know what your property tax is going to be? Your property tax is always figured after the fact, isn't it? This gasoline tax is you're trying to figure the tax ahead of time. Is that true? [LB320]

SENATOR FRIEND: In as it currently stands? [LB320]

SENATOR LOUDEN: Yeah. [LB320]

SENATOR FRIEND: Well, yeah. And it's a...and sometimes it is a wild guess. [LB320]

SENATOR LOUDEN: I mean you're trying to estimate your revenue for your appropriations in the gas tax and your property tax. [LB320]

SENATOR FRIEND: More or less. [LB320]

SENATOR LOUDEN: When you pay your property tax, that was for your last year's. [LB320]

SENATOR FRIEND: Yeah. [LB320]

SENATOR LOUDEN: That was the year...that already... [LB320]

SENATOR FRIEND: Yeah. I mean there are differences and this is probably not a tremendous analogy, but... [LB320]

SENATOR LOUDEN: Okay, thank you. [LB320]

SENATOR FRIEND: Sure. [LB320]

SENATOR FISCHER: Thank you, Senator Louden. Senator Lautenbaugh. [LB320]

SENATOR LAUTENBAUGH: Thank you, Madam Chair. Thank you for bringing this, Senator Friend. Is this designed in some way to take some sort of a...take politics out of it, if you will, or bring politics into it? What is the goal here? [LB320]

SENATOR FRIEND: Well, I think the goal is transparency. And I...and when I got a chance to talk to the Governor and then also to the policy research office, that was predominantly the discussion. That's what the discussion revolved around. Now, are there politics involved in these, you know, type of situations? Every time that we get involved? I think Senator Fischer, I've been with her awhile, yeah. I...maybe that is part of this. I...but that really isn't where the discussions went, Senator. I mean it was a...these were discussions that said look, this simplifies things, this simplifies the appropriations process, that is what we are looking for. Now, you know, yeah, also I

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think to Senator Louden's question, maybe we should look the people in the eye and say we don't have enough money for roads. We are going to raise your tax, and we are going to raise it up to 28 cents instead of 26 cents. Then, we as a body, are going to have to deal with it and the Governor will too. But right now, there almost seems like there is a lack of control, and I think that that's what I got from the policy research office. And that's what I got, you know, from the overall discussion in the last, you know, three months. [LB320]

SENATOR LAUTENBAUGH: Well, but doesn't the Legislature by setting the appropriation control the rate? [LB320]

SENATOR FRIEND: Well, you mean kind of like we did last session when we go into the Appropriations and we're looking for \$15 million more or \$20 million more. I mean I...yes and no. [LB320]

SENATOR LAUTENBAUGH: And do you really think this is more confusing than TEEOSA or property taxes? [LB320]

SENATOR FRIEND: No, no, no, no, no. I think that if we continue to tinker and tweak, you know, it becomes more confusing. I wouldn't say it is as confusing as TEEOSA. No, I would not. [LB320]

SENATOR LAUTENBAUGH: Thank you. [LB320]

SENATOR FRIEND: Sure. [LB320]

SENATOR FISCHER: Senator Hadley. [LB320]

SENATOR HADLEY: Senator Fischer, thank you. Senator Friend, thank you. I just did a little research on the background and maybe I'm incorrect, but a number of years ago we had the Board of Equalization set the gas tax. And it was the Governor, many, many years ago, Secretary of State, basically constitutional officers, and it was a complete political football arena then. And when Senator Kristensen, Doug Kristensen and Jerry Warner, when Doug was sitting in the chair over there, they developed this formula type approach to try and get it out of the political machinations that we have been going through for years in doing it. I am worried that we are going to get it right back and instead of the Board of Equalization being...throwing the political football up in the air every year, it's going to be the Legislature every other year throwing the political football up in the air. And the Department of Roads is the one that ends up paying the price. [LB320]

SENATOR FRIEND: Well, I don't want the Department of Roads to pay the price for this. But you are talking about politics. We have already...we've been here, what, 35

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days? I have seen nine political footballs out on the floor. That's what we deal with. That's what we do. I mean, I understand exactly what you are saying. Their intent...I understand their intent. I don't think it worked. I think it confused things, I think it could be argued that at least everybody would know, you know, where we stood. We're a rare state in regard to variable taxation of our motor fuel. Now, there are others that do it but the bottom line, I was looking last night...I was looking last night at a spreadsheet and our taxes in particular...I mean, we're not on the high end. You know, we are not a California or we're not New Jersey or Pennsylvania. But we're a little over the national average. So I would say, yeah, they may have taken a political football out of people's hands but that's our job. We have to deal with these political footballs, and we take them off the agenda when we are in, you know, the Legislature and, you know, that's why everybody sent us down here. So, yeah, I understand the point but I don't...we can't hide from these things. [LB320]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Friend. [LB320]

SENATOR FRIEND: Thank you. [LB320]

SENATOR FISCHER: We are going to be using the light system, and we limit your testimony to three minutes. With that I would ask how many are here to speak on the bill today, either for it or in opposition? If you would raise your hands. Quite a few. Okay. If I could have the first supporter of the bill come forward please? Good afternoon, Director. [LB320]

JOHN CRAIG: (Exhibit 2) Good afternoon, Senator Fischer. Good afternoon, Senator Fischer, and members of the Transportation and Telecommunications Committee. My name is John Craig, and I am the director of the Nebraska Department of Roads. I am here today to testify on behalf of the Governor in support of LB320, and I would like to thank Senator Friend for introducing this legislation on behalf of Governor Heineman. LB320 does several things regarding Nebraska's fuel taxes. (1) It establishes a flat base tax on all types of motor fuels at 26-cents per gallon, which was the same tax that was in effect on July 1, 2008. (2) Revenue generated from the 26-cent fuel tax would be proportionally distributed, as it is today, 73 percent to the Department of Roads and 27 percent to cities and counties. Revenues would grow or decrease depending on the numbers of gallons of fuel sold. (3) LB846 from last year's legislative session would be replaced by the 26-cent fixed fuel tax. The result is the existing fixed fuel taxes, the variable fuel tax, and the 5 percent wholesale tax on fuel would be eliminated. With the volatility in the price of motor fuel at the pump, the existing fuel tax structure, inclusive of the wholesale tax created by LB846, could create a significant increase or decrease in the overall tax. LB320's intent is to return transparency and accountability in the taxation of motor fuels by providing a fixed fuel tax and requiring an affirmative vote of the Legislature to change the tax. LB320 would eliminate the specific need for a Highway

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Cash Fund appropriation and the necessity of a variable fuel tax that was adjusted up or down to generate revenues to meet the appropriation. As a result, state funds for our budget and highway construction program would be determined by the numbers of gallons sold, a flat tax of 26 cents per gallon, and a portion of the sales tax revenue on the sale of motor vehicles. Thank you and I would be happy to answer any questions that I can. [LB320]

SENATOR FISCHER: Thank you, Director. Are there questions? Senator Janssen. [LB320]

SENATOR JANSSEN: Thank you, Senator Fischer, Director Craig. Does it concern you...Senator Lautenbaugh asked a question and I agree with him that this...and I believe even Senator Hadley touched on it, that this basically throws funding into a political arena on an annual basis. And I watched from the sidelines last year and saw a gas tax raise and veto and override, and that was a campaign issue. And one that in some cases many people didn't understand. It was just higher taxes, higher taxes, we don't want them. Could you see a scenario where you fall in a case where this isn't raised for quite some time and you see a funding crunch? [LB320]

JOHN CRAIG: Oh, I'd say two things. One, is I will be very careful not to offer my personal opinions to keep things to a matter of fact. And both the current system and under LB320 two things can occur. It can...more funds can be generated or less. And that is of course contingent basically on the numbers of gallons of fuels sold. So it could go either way. And the question is how do you project into the future, and that is a question of some conjecture I'll say. [LB320]

SENATOR JANSSEN: Thank you. [LB320]

SENATOR FISCHER: Senator Campbell. [LB320]

SENATOR CAMPBELL: Thank you, Senator Fischer. Director Craig, in light of your last statement you might not answer my question, then. But in your remarks you say that...you allude to the fact that the present system isn't accountable. How do you think the present system isn't accountable? [LB320]

JOHN CRAIG: I think I would...this is going to sound like a cop-out. But I think that is a matter of policy. I am...was that the pipes or was that someone? [LB320]

SENATOR FISCHER: No, that's...it was a chain saw but it's not coming after you yet. (Laughter) So it's okay. [LB320]

JOHN CRAIG: I think that is a question for some debate. As Senator Friend answered the questions that were asked of him, that's a question of some debate. And that is a

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matter of policy and that's...as a department head, policy is not my forum. [LB320]

SENATOR FISCHER: Other questions? Senator Hadley. [LB320]

SENATOR HADLEY: Senator Fischer, Director Craig. A couple of questions. One, is this a Band-Aid? I ask that from the standpoint isn't it time we take a long, hard look at how we are funding our roads and construction given the fact that we have more fuel efficient cars coming out, cost changing. Is the whole paradigm changing so that we need to take a long, hard look at how we really fund road construction? [LB320]

JOHN CRAIG: I think the absolute question...or answer to that question is, is yes. It's a...I will sometimes speak in public and make it...draw an analogy to prior to the interstate, which was not...the debate was less so prior to 1956 what would the interstate look like? The debate went on for some decades, how are you going to pay for it? And that is precisely where Nebraska and the other 50 states and for that matter cities and counties are right now. Things are sincerely in a state of flux for a whole variety of reasons. And so that is an enormously, enormously important question. [LB320]

SENATOR HADLEY: One other question if I could. I looked at the historical...ran off last night--nothing better to do--the historical fuels tax rates. And it's interesting on 1-1-97 where I think this kind of started, it was .53 and from 1-1-2009 to 6-30 it's .64, which is just a difference of .011 cents (sic). So over 12 years, we effectively have the same cost per gallon tax as we had 11 years ago. [LB320]

JOHN CRAIG: The fuel tax has, in fact, as you point out, in the 11 years I've been here, varied very little. And in fact that has been part of the premise as Department of Roads budgets have been submitted is to make that a reality. So that the fuel tax did not vary up or down. But it has varied up or down according to current state law. [LB320]

SENATOR HADLEY: Yeah, it's varied little a little during that time but overall it's effectively the same now as it was 11 years ago. [LB320]

JOHN CRAIG: Very little difference, that's correct. [LB320]

SENATOR FISCHER: Other questions? Senator Louden. [LB320]

SENATOR LOUDEN: Yeah, thank you, Senator Fischer. Do you, Director Craig, do you think that, I mean, see I've been on this committee awhile and I have listened to you talk about how we got what, \$12 billion, \$20 billion worth of roads that we have to...in the next 20 years, whatever your numbers are. But in other words, it looks like funding is going to be tight. How will this improve that? Otherwise we just have to make a direct appropriations to improve our lot. Is that correct? [LB320]

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JOHN CRAIG: Well, I think Senator Hadley asked the right question. It's a enormously big issue. What are the needs and how are you going to fund it? That is the question. That is the context, I'll say, that LB26, and the question is how...what is the best mechanism for achieving that end? And that is, in fact, a policy debate. That is not a...policy is not what the Department of Roads or the director of the Department of Roads does. [LB320]

SENATOR LOUDEN: Well, as a...now I have heard the discussion that they are going to be burning less gasses because of...fuel, motor fuel because of more efficient engines and all that sort of thing. So consequently our gas tax will go down. If that's the case then, we will be getting less and less revenue into the future because we've got this locked in at this 26 cents unless somebody's got nerve enough to raise it to 35 cents or something. [LB320]

JOHN CRAIG: You generally have that correct. Not the gas tax has gone down, but the numbers of gallons sold nationally, it goes up and it goes down depending on all of our driving habits. And over the last year or two, in fact the numbers of gallons that have been sold has gone down. Well it will go up over a period of time, but over the last year or two in general it has declined for all of the reasons that Senator Hadley asserted, more fuel efficient vehicles, people's driving habits, so on and so forth. So the question is, what do we project into the future and how best to deal with that in a policy manner? [LB320]

SENATOR LOUDEN: Now when you mentioned in your presentation here about the, I think, transparency and accountability, well there is transparency and accountability in there now and it is a political problem because the way...and you just stated that you have always tried to keep your appropriations somewhere in the same area so that the gas tax didn't raise that much. Now that wasn't the way the thing was designed. The thing was designed that you appropriated your needs and then the gas tax raised up accordingly. But somewhere along the line with the politics involved, we've gotten away from that so that you have tried to balance that thing. Is that a correct statement? [LB320]

JOHN CRAIG: Well, I'm not sure what the question is, but we're...I would say again we are not in the business of creating policy. [LB320]

SENATOR LOUDEN: Okay, I'll put it a little bit more. You guys tinker around with that thing so that you don't have to raise the gas tax. You keep your appropriations out so you don't have to raise the gas tax. Is that... [LB320]

JOHN CRAIG: That has been the target and carefully crafted without knowing what the future is going to hold to generate the...actually according to current state law, to

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generate the rate which the director of the Department of Roads certifies to the revenue commissioner. Certify the rate to generate the tax to generate the revenues to meet the appropriations. That is in fact the current law. [LB320]

SENATOR LOUDEN: Right. And you can do that by deciding on the amount you need, the amount of appropriation or the amount of money you need to operate that road. [LB320]

JOHN CRAIG: We project very carefully and it is rare that we hit it right on the dime. The usage and typically we will primarily use, what is the usage been over the last several months and project that out over the next six months and ergos (sic) the variable fuel tax adjustment on 1 July and 1 January, yes. [LB320]

SENATOR LOUDEN: But here a year and a half ago or so when it dropped 4 cents, you guys missed the bull's-eye by quite a little bit, didn't you? Or else the price wouldn't have went down. [LB320]

JOHN CRAIG: It happens, it happens. If anybody could crystal ball how much, how many gallons of fuel will be used or not used into the future, they could make a lot of money probably. [LB320]

SENATOR LOUDEN: Now, does the Governor have any input in that on how high you should regulate that so that the gas tax doesn't go up? Is he a party to your budget? [LB320]

JOHN CRAIG: Actually, the Governor does. He is deeply involved, as you probably know, in terms of setting our appropriation. Not the tax directly but certainly on the appropriations. [LB320]

SENATOR LOUDEN: But on the appropriations, in other words, then, it is politics are mixed up in the thing right now, then, in order to keep that from taxes going up. I mean, it can be adjusted on the top end. In other words... [LB320]

JOHN CRAIG: It could be changed, yes. [LB320]

SENATOR LOUDEN: Yeah, and then the one last thing I see you have testified on behalf of the Governor. Well, right, he's your boss, right? [LB320]

JOHN CRAIG: That's correct. [LB320]

SENATOR LOUDEN: I mean, if you walk out the door and he says, John, somebody's got to leave, and I've been here the longest, or something like that, or I'm here the highest. I guess it would be John, is that correct? [LB320]

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JOHN CRAIG: I work for him, he does not work for me. That is correct. [LB320]

SENATOR LOUDEN: Thank you. Thank you for your testimony. [LB320]

SENATOR FISCHER: Other questions? I have just a couple, Director. Senator Louden mentioned the 4-cent drop that we saw last year, 1 January last year on the gas tax, that 4-cent drop. Help me with my recollection on that. I seem to recall that we saw that drop because there was an increase in new car sales. Is that right? [LB320]

JOHN CRAIG: Yes. Predominantly, yes. [LB320]

SENATOR FISCHER: Okay. And so there's forces beyond our control on this. It's not an exact science when the budget is set, is that correct? [LB320]

JOHN CRAIG: That is correct. [LB320]

SENATOR FISCHER: Senator Louden also said that the Department of Roads tinkers with the budget. I guess I would say the Legislature tinkers with the budget. We are responsible, in my opinion, just as the Governor is in bringing forth the budget for the Department of Roads or any state agency. But in this case, with the Department of Roads, the Legislature has also become very aware of how to tinker with the Department of Roads's budget so we can maintain a certain gas tax. You don't have to answer that. It really wasn't a question. You always come to us with a needs assessment when the committee meets with the Appropriations Committee in the fall of every year. And at that time you present the needs of the department. Do those needs correspond to the budget that is presented later then when the Legislature is in session? [LB320]

JOHN CRAIG: We absolutely use the needs assessment to...as you all know, we do an annual needs assessment, and by state law, report to the Legislature by 1 December. And in fact, we do use that to weigh what appropriations should we submit. [LB320]

SENATOR FISCHER: But we are looking at at least a \$330 million a year shortfall over the next 20 years for the department's budget in order to meet some of those, well all of the needs, I guess, that are listed in your needs assessment. Is that correct? [LB320]

JOHN CRAIG: Depending on the assumptions for the future, that is, what are the needs? And this last legislative session it was close to \$8 billion worth of needs over the next 20 years. Which, based on some reasonable assumptions of inflation over the next 20 years, that will accrue closer to \$12 billion worth. So, depending on what assumptions you can make, it is absolutely arguable that the needs are outpacing the revenues available to address them. [LB320]

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SENATOR FISCHER: What did...what was the percentage inflation increased last year in construction material costs? [LB320]

JOHN CRAIG: Two thousand eight, it was about 10 percent. [LB320]

SENATOR FISCHER: And the year before that? [LB320]

JOHN CRAIG: Almost 24 percent. [LB320]

SENATOR FISCHER: What is the budget that is being recommended for the Department of Roads this year? [LB320]

JOHN CRAIG: The next biennial budget, I can't remember the numbers but I can tell you the programs that would result. And it is in the narrative for our budget... [LB320]

SENATOR FISCHER: The program budget, please. [LB320]

JOHN CRAIG: The program size for fiscal year 2010, that is state fiscal year, it's \$375 million and the year after that is \$370 million. And of course that is based on certain assumptions as well. [LB320]

SENATOR FISCHER: At \$375 million for the first year budget, what will 26 cents bring in? What do we get for a penny of gas tax, about \$12 million? [LB320]

JOHN CRAIG: It's about \$12 million for a penny. [LB320]

SENATOR FISCHER: So what will 26 cents bring in? Calculators. Come on, where's all the engineers in here? A hundred and...what--\$312 million; \$312 million and we have a proposed budget recommendation from the Governor for \$375 million, correct? In order to make up the difference, I would assume the Legislature would look at General Fund money if we were going to fund that full \$375 million. [LB320]

JOHN CRAIG: That would be an option. But, of course, those program sizes of \$375 million and \$370 million do not include the federal funds. We're only talking...your question only contemplated state funds. [LB320]

SENATOR FISCHER: On the federal funds, how short are we on federal fund money this year? [LB320]

JOHN CRAIG: Great question. And over the last 6 months or a year, typical, I will characterize federal funds as being much more unstable as compared to state funds. And I will attempt to do the arithmetic like this and then we will all watch and see how

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federal funds flow. The \$375 million program, and I'll just stick with it, but it's similar for the \$370 million, contemplates what we have loosely called full federal funding. That is, that funding authorized in this last transportation act, the acronym SAFETEA-LU, that would have accrued us an estimated--and it depends on who is doing the estimate--but it's in the ballpark of an additional \$63 million. So one of the questions is, will we receive that \$63 million? We are currently working on the tail end of our first of likely--I don't know what the future is going to hold--likely continuing resolutions. And as a...the current continuing resolution expires March 6. And to accomplish our current program of \$317 million, we need \$50 million of additional federal spending authority to accomplish our current program. March 6 is getting here pretty quick. And as you might imagine, in order to partly to keep me out of jail, we are...we accept less and less risk. If the money is not there, we can't spend it. Now, I should say if the money is not there for reimbursement, because we don't get any up-front money, we only get reimbursed by the federal government after we have spent state money. So I haven't flushed it all out but there is some uncertainty in terms of federal funding and being able to hit those budgets. We could sit here and debate a long time at what is going to happen at the federal level, and the truth is, I don't know. None of us know. [LB320]

SENATOR FISCHER: Are we \$50 million short this year in federal funds that haven't come in yet for this current year? [LB320]

JOHN CRAIG: To accomplish the current \$317 million? Yes. [LB320]

SENATOR FISCHER: So we are short that \$50 million in federal funds for this current year program, and we are looking at, I would say, most probably, a \$63 million shortfall in the SAFETEA-LU funds coming in in the future. [LB320]

JOHN CRAIG: There would be many that would agree with you, yes. [LB320]

SENATOR FISCHER: And we have a program this year of \$317 million and our numbers guy told us that 26 cents will bring in \$312 million. So if we don't get the federal money and if the Legislature chooses not to go after General Fund money, by my calculations, we are \$5 million less next year than we are this year, which is \$317 million is a drop from the \$390 million program budget 4 years ago, correct? [LB320]

JOHN CRAIG: It is a possibility. [LB320]

SENATOR FISCHER: I see...I just don't know where to stop. I see on the fiscal note, the revenue for the department for the state is over \$6 million less. Have you had a chance to look at the fiscal note on the bill? [LB320]

JOHN CRAIG: I've seen it but have not looked at it recently enough to remember exactly what it says. [LB320]

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SENATOR FISCHER: So we are looking at \$6 million less for the department on this fiscal note. The comment was made earlier that... [LB320]

JOHN CRAIG: I think that's obviously based on usage, and that's a point in time but... [LB320]

SENATOR FISCHER: On the 1.2 billion gallons? [LB320]

JOHN CRAIG: Yes. [LB320]

SENATOR FISCHER: Which I would assume is going to be less than 1.2 billion if we continue in the trend we are seeing in less consumption. [LB320]

JOHN CRAIG: It's a high probability. [LB320]

SENATOR FISCHER: So with that decrease of \$6 million to the department, that has to be made up somehow, too, then, by the Legislature through General Funds. Would you assume that? If we... [LB320]

JOHN CRAIG: It wouldn't have to be. [LB320]

SENATOR FISCHER: I'm trying to figure out how we are going to get to your budget if this bill would pass. [LB320]

JOHN CRAIG: It's a matter of policy. [LB320]

SENATOR FISCHER: I understand that. I understand that. [LB320]

JOHN CRAIG: I don't have the answer unfortunately. [LB320]

SENATOR FISCHER: I understand that. In your opening statement, though, you said that...you talk about the volatility in the price of gas and the existing fuel tax structure, and you included in that the wholesale tax, which was created last year by this body under LB846 and which would be repealed under this bill. The wholesale tax...part of LB846 put a floor and a ceiling in to lessen that volatility. Every 6 months the gas tax could only increase by a penny or decrease by a penny. And that was to offer some stability to the consumers and to the program on the amount of revenue that came in. So I would challenge your statement that there is volatility with the bill that we passed last year. Is that a reasonable challenge? [LB320]

JOHN CRAIG: I don't know. That's a terrible answer. [LB320]

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SENATOR FISCHER: That's all right. [LB320]

JOHN CRAIG: It could be. [LB320]

SENATOR FISCHER: That's all right. [LB320]

JOHN CRAIG: It could be. [LB320]

SENATOR FISCHER: That's all right. And under LB846 last year, we did see a, I would say a major shift in our policy on how we fund roads. Did you feel that way? Did... [LB320]

JOHN CRAIG: Well, I think the policy... [LB320]

SENATOR FISCHER: You can't answer personally, and I understand your position on this but would you like to comment? [LB320]

JOHN CRAIG: I think the policy discussion, and I am conjecturing and violating my own premise not to offer a personal opinion, my conjecture for LB846 was that the price of fuel was high. It was on the high end, close to \$4 a gallon of diesel hung up there and we all witnessed that over this last year, and it has since come down. And so it was part of the broader debate that we talked about where do we go from here into the future? What's the best system to use? And I think that at the base that is what is in everybody's, for lack of better words, hearts and minds, is trying to do the right thing for the general public. And so I think that was the genesis for LB846. And things are volatile and dynamic and they continue to change, and, in all likelihood, well into the future. [LB320]

SENATOR FISCHER: And why we are all concerned about funding roads, a statement was made earlier that the Department of Roads will pay if we don't provide proper funding for the department. And I think all of us here on this committee and in your department as well would say that no, the department is not going to pay, it is the citizens of the state that will pay because their roads will not be maintained let alone built. Would you agree with that? [LB320]

JOHN CRAIG: I would say that the general public, and all of us, either as elected officials or appointed officials, are working on the public's behalf. So whatever occurs in terms of benefits or costs to the public will in fact occur based on the will of the people. And that's the...it's the type of government that we have got. So in fact it will. It could go...cut both ways. [LB320]

SENATOR FISCHER: Thank you. Other questions? Senator Hadley. [LB320]

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SENATOR HADLEY: Yes, just one quick question, Senator Campbell. She kids me about a quick question. Being new to this whole process...and I did try to read LB846 and wade through it last night to see what it was about. July 1, 2009, we're going to come up with, if we follow LB846, we're going to use the wholesale price April 1 and figure new gas taxes. Has there been any modeling to see what that number might be? [LB320]

JOHN CRAIG: In terms of how much revenues it will generate? [LB320]

SENATOR HADLEY: Or what it will be? The...it's .264 now, the tax. [LB320]

JOHN CRAIG: Off the top of my head, I don't know. [LB320]

SENATOR HADLEY: Okay. Okay. [LB320]

JOHN CRAIG: And it would depend on what assumptions and at what point in time you did that analysis. It's a fair question, I just don't have the answer to it right now. [LB320]

SENATOR FISCHER: We can get you that, Senator Hadley. [LB320]

JOHN CRAIG: Yes. [LB320]

SENATOR FISCHER: Other questions? I see none. Thank you very much, Director. [LB320]

JOHN CRAIG: Thank you. [LB320]

SENATOR FISCHER: Are there other proponents for the bill? Any other proponents? I see none. Would the first opponent please step forward. Good afternoon. [LB320]

JOHN BONAIUTO: Good afternoon, Senator Fischer, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director, Nebraska Association of School Boards. Our position in opposition of this bill this afternoon is that a change in the process of how you fund roads it surely will impact the way the state, I think, funds schools, and that is it has the potential to put roads in competition with state aid. And we hear this discussion annually, that Medicaid, K-12 public education, and higher education are the largest consumers of state dollars in the state budget, and we are concerned that this may add roads to that list. And so with that I will conclude my testimony. [LB320]

SENATOR FISCHER: Thank you, Dr. Bonaiuto. Are there questions? I see none. Thank you very much. Next opponent, please? Good afternoon. [LB320]

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LOY TODD: Senator Fischer and members of the committee, my name is Loy Todd, L-o-y T-o-d-d. And today I am testifying on behalf of the State Chamber as well as the New Car and Truck Dealers Association. I serve as chair of the Taxation Council of the State Chamber, and so my remarks will be very brief on behalf of both entities. Simply put, Nebraska's unique method of funding roads has served us well. It certainly does not provide a feast when other people seem to feast, and it doesn't create a total famine either. As Mr. Boniauto testified, there are a lot of competing interests for General Fund dollars. We are very concerned about that because there are things that we do very well in this state for the amount of money that is appropriated to it. And education, higher education, excellent in this state for what we pay. Roads also. And we would hate to think that something as easily put off as a new road or as some kind of improvement might be there competing on an annual basis with education, with HHS, with the university. And we have carved out this niche, it's a user fee, we think it has served Nebraska well. Look at other states and the kind of shape they are in, you know it's another thing that I think we do very well in this state. And so we would urge you to keep thinking of ideas to find highway funding, and if you ever really want to hit the home run, you can certainly appropriate lots of money for roads in some year when it is easy to do. But historically, we have not come and sought General Fund dollars, and this is a time when we think that maybe this wouldn't serve us so well. [LB320]

SENATOR FISCHER: Thank you, Mr. Todd. Are we the only state that has a variable? [LB320]

LOY TODD: You're going to have to ask some of the smarter people than me, Senator. I don't know of any other. I don't know of any other funding...state that has a funding source like ours. And it is uniquely good. I know lots of people I talk to are jealous of our methodology. [LB320]

SENATOR FISCHER: In speaking with my counterparts from other states they are very jealous of our funding mechanisms that we have here in Nebraska. I would ask your opinion on something. You have been around a long time, and you have been involved in this issue and had interest in funding roads for a long time. How would you address the transparency issue that Senator Friend brought up, that the system we currently have is not transparent? [LB320]

LOY TODD: Well, I believe it is very transparent to anyone who is watching. I would tend to agree that there isn't some forced view of the funding any more than there is any other kind of funding. But as far as transparency, the appropriations are made, the Legislature sets the rates, there's certainly no shortage of predictions out there and as happened recently, when something is going to be triggered automatically, when the budget forecast shows that there will be a triggering of the variable, that is well reported. You can't miss it. It's in the papers, it's everywhere. And, as you saw in the most recent campaigns, it can become a campaign issue whether it happens automatically or it

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happens with a specific vote up or down on a penny or two pennies or whatever. It is certainly no shortage of reporting. So I believe there is transparency. I think a different type of transparency, but it is transparent to those who are watching. [LB320]

SENATOR FISCHER: Okay. This bill would repeal LB846 that was passed last year. What are your feelings on it, that bill that we passed last year, LB846? In your opinion, is that the way we need to go for funding for the state at this time or is it a good idea to get rid of it? [LB320]

LOY TODD: Okay, I am taking off my State Chamber hat at this point. [LB320]

SENATOR FISCHER: Oh, okay. [LB320]

LOY TODD: Because I don't have any authority to answer that question. But I will as far as... [LB320]

SENATOR FISCHER: I am just asking you personally because you have been around here a long time. [LB320]

LOY TODD: You keep saying how old I am, Senator. (Laughter) The...actually the thing that made us support LB846 and the reason it was compelling to us is because of the diminishing funds in other areas, it added an inflationary portion to the formula so that we could address the kinds of changes that are being made. So, I think it is very positive. I think it is something we need to continue to maintain as we explore other methods of funding roads. Because diminished motor vehicle taxes, diminished fuel consumption, federal mandates that create those kinds of things, so...we still think we need LB846. [LB320]

SENATOR FISCHER: Thank you. Other questions? I see none. Thank you very much. [LB320]

LOY TODD: Thank you. [LB320]

SENATOR FISCHER: Next opponent, please? Good afternoon. [LB320]

LARRY DIX: Senator Fischer and members of the Transportation and Telecommunications Committee, for the record, my name is Larry Dix, D-i-x, I am executive director of Nebraska Association of County Officials appearing today in opposition to LB320. When our board took a look at LB320, examined it, predominantly one of the top reasons why we did not think LB320 was a good idea at this point in time, and the reason it wasn't is because of LB846. And last year we spent a tremendous amount of time analyzing LB846, and we were involved in that process every step of the way. And to take a bill and to change this before we have even had an opportunity to

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see what LB846 would do, in our board's mind was sort of a travesty to go down that path. Only because last year we had this debate. We had the policy discussions. We went through the pros and the cons. We looked at it from a number of different directions. So for that reason and that reason alone, our board voted to oppose LB320. And I think that is really at the top of our list of reasons why we would oppose LB320. I'll leave it at that. [LB320]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? I see none. Thank you very much. Next opponent, please? Good afternoon. [LB320]

JAY REMPE: Good afternoon, Senator Fischer, members of the Transportation Committee. My name is Jay Rempe, J-a-y R-e-m-p-e, I am vice president of Governmental Relations for Nebraska Farm Bureau here today on behalf of Nebraska Farm Bureau in opposition to LB320. Agriculture today, as we all know, is changing, and in that change we are relying more and more on our state's roads infrastructure system. And just looking at the growth in ethanol that has occurred over the last few years, there are more and more trucks, traffic, going across our roads to haul grain into the ethanol plants, and we have more and more trucks coming out of those ethanol plants hauling distillers grains to our livestock industry. And I mention that only in that we are becoming more and more reliant on this roads infrastructure, and we already have concerns within Nebraska Farm Bureau of whether we are going to have the adequate resources to keep and construct and maintain the infrastructure that we need to remain competitive. And that is the crux of our concerns with LB320, is that by fixing the gas tax in the way it does, will the resources be available to meet the needs that we have and if not, then we set off a competition for scarce resources. And our fear is that when you look at the total scheme of things, funding for roads in rural areas might go unfunded as we try to meet the needs of the growing sectors...the more growing, the more populated areas of our state. And not only does that look at when you...I guess there are two ways to increase the funding. One is to increase the gas tax and our fear is that that might be tied to popular programs in more populated areas or more General Fund dollars, and you're setting off the competition against other uses as already was pointed out. So those are a couple of concerns and then the other is the undoing of LB846 that was already mentioned. We were very supportive of that last year and thought that was very much needed and would hate to see that be undone as well. So for those reasons we oppose the bill, and I would be happy to answer any questions you might have. [LB320]

SENATOR FISCHER: Thank you, Mr. Rempe. Are there questions? Senator Louden. [LB320]

SENATOR LOUDEN: Yeah. Thank you for your testimony, Jay. Has Farm Bureau...I mean they're a statewide organization and nearly nationwide, have they come up with any other way of funding these roads? I mean, if we do away with this, we are locked in at a certain figure. All that's left is appropriations. Is that correct? I mean... [LB320]

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JAY REMPE: Yeah. You know, that's an interesting question. We have thrown this issue out to our members the last three or four years because obviously it has been on the Legislature's mind as well. And we have thrown out all the various ideas that have been discussed, and every time we come back, or we get back the message that they like the way the present system is structured with the variable gas tax. And they are willing to look at it if the Legislature determines that more funding is needed and a higher budget figure, they are willing to pay the higher gas tax to make that work, is the answer that we get. [LB320]

SENATOR LOUDEN: Okay, now, one last question. We've got Interstate 80 out of there, and I have always maintained that there's two commodities that Nebraska has that raises money. One of them is agriculture and the other is transportation. And with our gas tax, usually a lot of people from out-of-state are helping to fund our roads because you can't hardly drive across Nebraska without gassing up once. If we go with this flat rate then, will that...how will that effect that? I mean, that will set our whole amount of revenue pretty well be at one number, and there won't be anything that can ever be done about that. Will that...where we going to go with this thing if we don't have a gas tax and increase it on people that are driving across our state? [LB320]

JAY REMPE: That's an interesting question that we haven't thought of within our discussions on this. I do agree if this bill were to pass I think it sets up a question of where we are going to get the additional resources because I think there would be some funding needs that are unmet out there. And to the extent that that is paid by folks driving across the state that...on Interstate 80, I'm not sure. [LB320]

SENATOR LOUDEN: Okay. Thank you. [LB320]

SENATOR FISCHER: Other questions? I see none, thank you very much. [LB320]

JAY REMPE: Thank you. [LB320]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB320]

BRUCE BOHRER: (Exhibit 3) Good afternoon, Madam Chair, members of the committee. Bruce Bohrer appearing on behalf of the Lincoln Chamber of Commerce. And for the record, my last name is spelled B-o-h-r-e-r. The Lincoln Chamber of Commerce wishes to go on record in opposition to LB320 which, as you know, proposes to remove the fixed...proposes to fix the state motor fuel tax at 26 cents and remove the variable gas tax as well as the wholesale component enacted last session. We are opposed to LB320 because we read this legislation as being potentially counter to some of our key policy objectives, namely our objectives of protecting the Highway Trust Fund and working to support state funding allocations, increase state funding

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allocations for road infrastructure needs. Though we can't support LB320 as a stand-alone proposal, we do welcome the discussion and some of the debate that it sparked today as well as other ideas that have been put out there, such as LB85 and LB323, LB264 later on this week, and LB401 later on today. The state is faced with a growing road infrastructure...needs, and in many cases these road infrastructure needs are connected directly to economic development. And that's exactly why we support a comprehensive discussion and debate that serves the overall objectives of stable, adequate, and prioritized funding for statewide road needs. With that, I would answer any questions you might have. [LB320]

SENATOR FISCHER: Thank you, Mr. Bohrer. Are there questions? I see none. Thank you very much. [LB320]

BRUCE BOHRER: Thank you. [LB320]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB320]

NORM NELSON: Good afternoon. Good afternoon Madam Chair and members of the Transportation and Telecommunications Committee. My name is Norm Nelson, N-e-l-s-o-n, and I am testifying in opposition to LB320 on behalf of the Greater Omaha Chamber of Commerce. As you may know, finding a way to increase the state's capacity to fund its transportation needs is one of our top priorities in the Omaha Chamber. And in the next hearing, you will hear more about an idea that we have been working on for several months. We believe this idea should be a priority for the state, too, but the Governor's idea to implement a flat gas tax would not help achieve that goal. In fact, it would likely set us back not only in terms of our state's transportation needs, but in other priorities as well. As others have said, in years when the funds flowing into the Highway Trust Fund do not meet the program amount the Legislature has set for the Department of Roads, LB320 would force them to do one of two things, or perhaps a combination of both. (1) They would have to compete with education, Medicaid, university, state patrol, Department of Economic Development, as well as several other agencies and departments for General Fund dollars to make up the difference. And there are no winners in that scenario. Adding another slice to the General Fund pie that already isn't big enough to fund all its demands, does not appear to be good public policy in the time of declining revenues. (2) And the second option they would have would be for the Legislature to raise the gas tax. Taxes are political and in most cases they should be. The Legislature and Governor should be held accountable for the amount of money it takes to fund state government. However, allowing for a variable gas tax does not take the politics or accountability out of the gas tax. In fact, just the opposite. As part of the budgeting process, when you approve the program amount for the Department of Roads, you are very much responsible and accountable for what you appropriate to them. A vote against a gas tax increase is no guarantee it won't be a part of your next campaign, as Senator Lautenbaugh could

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attest to. It was during his campaign that his opponent indicated he had voted for a gas tax when in fact he did not. And we did talk to him about using that story. That was unfair and we are pleased that he was able to counter and get those charges and get elected. Setting the gas tax in a flat amount does not take the politics out of how we fund roads, it increases it. In closing, LB320 does not help us increase our capacity to fund our transportation needs for a growing Nebraska. It does not get a south beltway in Lincoln built any faster. It does not alleviate the safety concerns of Highway 133 to Blair or Highway 370 east of Gretna. It does not address the needs of Highway 30 in Fremont and it doesn't keep the numerous transportation needs that we have in the Omaha all-metro area. I urge you to not advance LB320 to the Legislature. I will be glad to ask if there are any questions, but I got a red light, so. [LB320]

SENATOR FISCHER: Time to stop. Thank you, Mr. Nelson. Are there questions? I see none. (Laughter) [LB320]

NORM NELSON: Well, you turned the red light on, I tell you (inaudible). [LB320]

SENATOR FISCHER: No, that just means you have to stop. We get to question then. [LB320]

NORM NELSON: I'm sorry. [LB320]

SENATOR FISCHER: Any other opponents? Good afternoon. [LB320]

CURT SMITH: Good afternoon. Good afternoon Chairman Fischer and members of the Transportation and Telecommunications Committee. My name is Curt Smith, C-u-r-t S-m-i-t-h, I'm the executive director of the Association of General Contractors in Nebraska. And I am here in opposition of LB320. You might well guess that the highway contractors might be opposed to this policy. We think that it is a step backwards from a system that has worked for many years for Nebraska. To think back far enough, in the early '60s there was a push to get Nebraskans out of the mud. I can remember that push, and this system has been in effect now for close to 30 years I believe, something like that, when it was put in place. It has served the people of the state very well to have a way to fund the appropriations that are committed by the Unicameral. We think that a continuation of the current system is much better than the fixed rate would propose, and we think that a step to rescind the variable rate program that we have now would be a step back towards those '60s and the days of the mud. So I will be...entertain...offering...answer any questions. [LB320]

SENATOR FISCHER: Thank you very much. Any questions? I see none. Thank you, Mr. Smith. [LB320]

CURT SMITH: Thank you. [LB320]

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SENATOR FISCHER: Any other opponents? Good afternoon. [LB320]

LYNN REX: Senator Fisher, good afternoon. Members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we are here today to respectfully oppose this measure, and we are opposing it for several reasons. One, LB846 has not yet had an opportunity to really work at all, obviously. And we do think there may need some minor modifications, but certainly not a repeal of LB846. I think that was an incredible effort, not just by Senator Fischer, but by many others, too, in this committee, to put that together. And we think that is very important. We supported it not because it was going to give lots of money to cities and counties, but we supported it because it would stabilize revenues for the Department of Roads, and we think that's very important. Secondly, we strongly oppose this bill because the variable tax repeal, we think that has been instrumental in keeping Nebraska as well as we have been able to do in the last number of years. But let's face it, we are facing a crisis in the amount of money that we need for road funding in this state. And we have a tremendous infrastructure deficit that needs to be funded. Our funding is directly related to two major issues, as our members see it. One, the issue of safety, first and foremost. And secondly, economic development. These roads and highways are our lifeline. I-80 is the lifeline for a number of communities like Kearney and others. And there are yet state highways and other highways all across the state that make a huge difference in whether or not those areas of the state grow. And as we are talking about what can we do to grow Nebraska's economy, one has to be able to have good roads in order to attract and retain businesses. I would be happy to respond to any questions that you might have. [LB320]

SENATOR FISCHER: Thank you, Ms. Rex. Are there questions? I see none. Thank you very much. [LB320]

LYNN REX: Thank you. [LB320]

SENATOR FISCHER: Next opponent, please? Good afternoon. [LB320]

LARRY JOHNSON: Good afternoon. My name is Larry Johnson, L-a-r-r-y J-o-h-n-s-o-n, and I am the president of the Nebraska Trucking Association. I am here to...in opposition of LB320 and quite simply for two reasons. Currently the variable tax has worked for a number of years and that we are proponents of what we think LB846 will do in the future. With that, I will answer any questions. [LB320]

SENATOR FISCHER: Thank you, Mr. Johnson. Are there questions? I see none. Thank you very much. [LB320]

LARRY JOHNSON: Thank you. [LB320]

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SENATOR FISCHER: Any other opponents? Are there any other opponents? Anyone wishing to testify in the neutral capacity? I see none, with that, Senator Friend, would you like to close? [LB320]

SENATOR FRIEND: Thank you, Madam Chair. Just briefly, I wanted to thank everyone for weighing in on this. I mean I respect...I think most of the people that even came in in opposition can vouch for the idea that I respect their opinions, I understand where they are coming from. I think the next bill that I have will indicate hopefully to all of you that I do understand where they are coming from. And I think that we have issues. I've talked to Senator Fischer about this in the past. I do find it a little ironic...the LB846 argument, fair enough. I mean that's a pretty decent argument. It's probably the best argument because I will tell you this, competing interests that were precluded from having to actually deal with all that stuff. The argument can be made that you wouldn't waive the things the way they are or even with LB846. The argument can be made, and I think it is a decent one. But there is no guarantee, absolutely none that the Department of Roads's budget needs and requirements will ever be met. Ever. Last...exhibit A. Last year during the appropriations process we ended up scrounging for millions of dollars. We had a variable system in place. A system that, most of the opponents who I respect came in here and talked about how this was so efficient and things were great and they were worried about, you know, change, right? We ended up scrounging millions out of the appropriations process in order to deal with the budgetary needs and the problems that NDOR had. Now, do I have the answer here, I am not sure. Does the Governor and his policy research office have it? I'm not sure, I'm not going to go that far. I will tell you I don't think this is the ultimate problem. I think it is as simple as that. I think the ultimate problem is that we aren't...in 20 or 30 years from now, we're stuck to a gas tax, it's going to be irrelevant. Because I don't think we are going to be driving cars the same way, and I don't think we will be fueling them the same way. So now I need a hug. (Laughter) [LB320]

SENATOR FISCHER: Maybe later. [LB320]

SENATOR LOUDEN: Don't look to this side of the room. [LB320]

SENATOR HADLEY: I was going to say, we aren't big on that over here. [LB320]

SENATOR FISCHER: With that I will close the hearing on LB320, and Senator Friend I will open the hearing on LB401. So if we all smile at you now, will you be ready to go? [LB320 LB401]

SENATOR FRIEND: I just won't look at you. [LB401]

SENATOR FISCHER: Okay. [LB401]

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SENATOR FRIEND: (Exhibit 5) Thank you. Thank you, Madam Chair and members of the Transportation and Telecommunications Committee. Once again, my name is Mike Friend. Last name is spelled F-r-i-e-n-d, and I represent northwest Omaha still in the Nebraska Legislature, District 10, here to introduce LB401 at the request of the Greater Omaha Chamber of Commerce. I believe it's a measured combination of thinking big, but hopefully...thinking sort of big, I think, but hopefully also being fairly careful as we think big. Year after year and the last, you know, 20 minutes have...not withstanding those, we debate transportation policy and funding. Year after year, especially those of you who have served on this committee and Senator Fischer can vouch for this, listen to the frustration of constituents who sight the great needs we have for more streets and highways and expressways. And by the way, don't raise our taxes. We all know that. LB401 adopts the High Priority Service Transportation Development Act and the Service Transportation Revolving Fund Act. Under LB401, a large-scale surface transportation project would be prioritized and designated for funding by a High Priority Projects Council. These projects would be funded with the combination of proceeds of highway revenue bonds issued by the state and matching funds from one or more local governments. At least 25 percent of the project's costs would come from local matches. Part 2 of the bill is of the Service Transportation Revolving Fund Act would enable the Department of Roads to make low-interest loans to local governments for surface transportation projects, much like the Safe Drinking Water Revolving Fund. Let's start with the fiscal note if we can briefly. From day one, this has been intended to be a way, a certain way to address pressing roads needs without a tax increase per se. I say per se because we all know what bonding is. A simple, I think, crossing of t's and dotting of i's would lead us to an amendment that...excuse me, I haven't passed it out yet, I apologize, an amendment to this bill that strikes a section that would hopefully make it a little...do two things, make it a little clearer and also deal with a potential what I would consider a revenue or a fiscal issue. We don't want it to have as much fiscal impact as we think that the green copy would have right now. This essentially strikes Section 33 from the bill. Simply with the amendment striking that section, the intent of LB401, the intent of LB401 is to make the best use of the revenues that we currently have. And you'll hear testimony today I believe that will express why that would be financially pragmatic and prudent. A couple of quick lightning rods we can predict I think. The first one would be about the council that we're creating. There's an apprehension about bonding for the sake of bonding. Now, just providing more funding for current Department of Roads programs. On the other hand, I don't believe I want to go in the direction of those states where specific highway projects are listed in appropriations bills. Obviously there's an apprehension about creating any new boards, commissions, offices, etcetera. So the council is something I think designed to be kind of in the middle. It would have a good measure of independence, yet it would act in cooperation with the Department of Roads and the Highway Commission. It would have no staff, but rather would lean on the department for support. It would be small, seven members, and there are no professional, geographical or other requirements for appointment.

Maybe there should be, there aren't right now. Maybe we need those experts, too, or maybe a man-on-the-street type of commonsense approach would be more apt. That could be discussed and I'm sure you guys have a lot more experience dealing with that stuff than I do. The council would have some real powers on the council such as: rule making; determining minimum project requirements like congestion; economic development issues; bond issuance decisions would come to a degree from that council. Let's move to the revenue stream real quick. There are couple of ways that this can be done. I think those that follow can actually discuss that a little more. They understand bonding a little bit better than I do. I have been studying it, but I am an amateur. We could set aside two cents of the fuel tax. We could direct a flat \$20 million annually. We could go right to the Highway Trust, I think, as the green copy instructs. I've even had ideas for toll roads. That was shot down pretty rapidly. But those are discussion points. Each of those has merits, I think drawbacks as well. Part of it depends on how we decide to proceed with this part of the proposal, I think. For example, the dedicated revenue stream would send construction fund monies not used for bond service into the revolving fund, capitalizing that fund and getting the local loan process up and running in a relatively short order. We take \$20 million from the state roads budgets, then what's not going to get built? I think that that's one of the questions that would come from this. The point of LB401 is that we can make better use of the funds that we have now. We can beat inflation, potential inflation that has reduced buying power of our highway dollars so badly in the last few years. We can address at least some of the needs that we have now rather than watching them get delayed and, again, to the point that we can't afford to proceed. LB401 is meant to be part of what I hope could be a broad and much needed discussion, particularly out on the floor. I think Senator Fischer understands, and committee members you do too, understand this issue like I said better than I. But I don't just think this is a pure discussion piece. I think that there is merit to it. Let's be clear, though, I don't think it's a panacea. I don't think it solves all the roads, you know, problems. It's designed to complement...notwithstanding the previous bill, is designed to complement our existing state and local efforts to address some of the roads needs. We're not going to solve everything here, but this would provide a running start, I believe. LB401 is written flexibly. I think that will help the committee. I think it will help the Legislature. And I think some testifiers will be able to address, you know, the flexibility of this piece of legislation as well. Let me just finish up. I think that this is a pretty decent idea based on my study. I really do. And I think it is a major change. It's changing the way we think about this process. But we're going to continue over the years to hear that we should do something. We have to do something. We've heard it in the past, we're going to hear it in the future. Is this something? Yes it is. Is it the right, you know, piece? Quite possibly, at least for a small piece of the problem that we're dealing with. I believe that this could provide some major progress for us. And I think right now I probably should quit while I'm ahead, if I am. Thank you, Madam Chair. [LB401]

SENATOR FISCHER: Thank you, Senator Friend. Are there questions? Senator

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Louden. [LB401]

SENATOR LOUDEN: Yeah. Well, thank you, Senator Friend, for bringing this discussion. I guess I need a little help here. When you put out these bonds like that, you go borrow the money from somebody and you have to pay them interest, is that right? And what would the interest be on these bonds or how does that work? [LB401]

SENATOR FRIEND: Low, probably pretty low. [LB401]

SENATOR LOUDEN: Four or 5 percent? [LB401]

SENATOR FRIEND: But because these are not general obligation bonds they would probably be a little...you know, you're talking about a riskier type of bond. [LB401]

SENATOR LOUDEN: Be 5 percent or something like that? [LB401]

SENATOR FRIEND: Probably around there. [LB401]

SENATOR LOUDEN: Well, what I was wondering, what did you talk about, \$240 million, \$250 million plus, what, 5 percent of that is what, \$12.5 million? I mean, where are you going to get that money? That would be that much less money we would have on roads if we did this instead of pay as you go because this is an added expense and where are we going to get the money to start with to service these bonds? [LB401]

SENATOR FRIEND: Well, the way the bill is written, I don't know if I'm answering your question, the way the bill is written it would be tied to the Highway Trust. So I don't...maybe I'm not answering your question. [LB401]

SENATOR LOUDEN: Well, yeah. Okay, but... [LB401]

SENATOR FRIEND: I mean, you have to service those bonds. [LB401]

SENATOR LOUDEN: Right. [LB401]

SENATOR FRIEND: And the way you're going to do it if it's not general obligation bonding is you've got to tie it to a source of revenue. Their source of revenue under the circumstances because of what I was talking about in the opening, you know, of the various ideas that you could tie revenue bonds to, the only one that we have associated with this one in the green copy would be the Highway Trust. [LB401]

SENATOR LOUDEN: And then if you take out 33 here, then you won't be able to use the variable portion of the gas tax to cover it. You would have to have a flat tax or something like that to service a bonds or... [LB401]

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SENATOR FRIEND: Yeah. Well, I fully expect LB320 to pass. So then when it does...(laughter) [LB401]

SENATOR LOUDEN: I see. Then it will be general... [LB401]

SENATOR FRIEND: Then it's moot. [LB401]

SENATOR LOUDEN: General...okay then. But I'm just wondering when you do this where we're going to get the money to service the bonds, and if were we would be just as far ahead to use that money just to go ahead and do like we have been rather than put on an added expense. [LB401]

SENATOR FRIEND: Well, that's the argument. I think that states like Pennsylvania...now, they've done it a little different, I mean, some of it's general obligation bonding. Idaho actually bonded against federal money that comes in. We actually can't do that. But, I mean, that's the argument. And I think that there are some quite honestly behind me that could make a better argument in regard to how fiscally responsible that bonding would be compared to the type of situation that we're in right now. [LB401]

SENATOR LOUDEN: Now, when you put a \$30 million floor under the thing... [LB401]

SENATOR FRIEND: Well, and that was...okay. I'm sorry. I didn't mean to interrupt your... [LB401]

SENATOR LOUDEN: No, because I was just going to ask you is that an Omaha-Lincoln deal (laugh) that you got to spend at least \$30 million... [LB401]

SENATOR FRIEND: I don't want it to be. [LB401]

SENATOR LOUDEN: ...because you get out in your rural areas, you know... [LB401]

SENATOR FRIEND: Right, right. [LB401]

SENATOR LOUDEN: ...we could build a lot of roads for \$30 million clear across the state of Nebraska north to south, you know, for \$30 million. [LB401]

SENATOR FRIEND: And you just need that match. I know. That is an issue that... [LB401]

SENATOR LOUDEN: But yet you built...you know, it's \$140 million to build two miles in Omaha. So I mean, you know, how is this going to help rural areas, I guess? [LB401]

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SENATOR FRIEND: Well, and I got to be honest with you. I would rather defer that to some folks who have delved into these issues a little bit deeper. That was a concern of mine. It still is. [LB401]

SENATOR LOUDEN: Okay. Thank you. [LB401]

SENATOR FRIEND: Sure. [LB401]

SENATOR FISCHER: Other questions? Senator Campbell. [LB401]

SENATOR CAMPBELL: Thank you, Senator Fischer. Senator Friend, I know there are other states that have done this. Is the council patterned after any other state or is it kind of a conglomeration? [LB401]

SENATOR FRIEND: Well, roughly after South Carolina's, but not...I mean, there were some minor modifications and I can't remember exactly what those modifications were. [LB401]

SENATOR CAMPBELL: Thank you. [LB401]

SENATOR FRIEND: Yeah. Sure. [LB401]

SENATOR FISCHER: Other questions? Senator Friend, back to a question that Senator Louden was discussing on how these bonds would be paid for, on page 41 Section 33 which your amendment will strike. But currently in the green copy the bonds are paid for with an increase in the gas tax. [LB401]

SENATOR FRIEND: And that's one of the reasons we wanted to strip that. [LB401]

SENATOR FISCHER: Okay. [LB401]

SENATOR FRIEND: Quite honestly. [LB401]

SENATOR FISCHER: Because it would require the gas tax to almost be automatically increased by 125 percent. [LB401]

SENATOR FRIEND: Because you'd have to...and it's been explained to me a couple of times, because you'd have to refund the Highway Trust. [LB401]

SENATOR FISCHER: So if this section is stricken, how do we pay for them? How does the bill address paying for them? [LB401]

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SENATOR FRIEND: We came in with a thought process, quite honestly, of not even tying a revenue stream to this bill. We did, but that's why 33 would have to be sliced. I think there are a variety of ways that it can be done. None of them might sound that palatable. You're talking about trying to create statutory authority to do, you know, a certain type of...create a star bonding type of, you know, mechanism in certain portions of these areas. Like I said, the toll roads went over like a lead balloon. But one of the things that was...one of the reasons that the Highway Trust was tied to this is because constitutionally it was the best way to put together a piece of legislation to say, here are...you know, here is a way to pay directly this obligation. I mean, you can't just float bonds and not have the...either that or you just go ask for... [LB401]

SENATOR FISCHER: Well, I think even under green copy the state is responsible for the bonds. Whether the variable gas tax increase would pay for it or not, it still would fall back on the trust fund the way I read the original copy. [LB401]

SENATOR FRIEND: Yeah. But the difference is your general obligation bonding...I mean, this money is in the trust fund. I mean, you're not having to go to...a general obligation bonding, as you well know, usually you're going to the vote of the people and asking for, you know, x, y, z. I would consider this special obligation bonding, but I could be corrected. [LB401]

SENATOR FISCHER: Okay. Thank you. Other questions? Senator Hadley. [LB401]

SENATOR HADLEY: Thank you, Deb. Thank you, Senator Friend. Just a quick question. I keep saying that. If my numbers are right and my memory sometimes is faulty, but a couple of years ago road construction cost were inflating at 25 percent a year. And last year 10 percent and this year they were talking about a minus 2 percent for construction costs. Does this lose a little emphasis or urgency...I can...you know, if inflation was roaring along instead of 25 percent for road construction costs I can see how if you could pay 5 percent on your money and you're going to save 25 percent in construction costs down the line. But if we're at zero or minus 2 percent for construction cost increases, does bonding make sense? [LB401]

SENATOR FRIEND: Well, probably not, but then they wouldn't be used, would they I don't think? I mean, would you're talking about a situation where people...if there was runaway inflation, yeah you could...I mean, bonding would help you fight that. And there are some that would argue that we've got runaway inflation coming, it's just a matter of months. We keep printing more money and we will have it. I mean, that's my view. I'm sorry. [LB401]

SENATOR FISCHER: The state can currently bond... [LB401]

SENATOR FRIEND: Correct. [LB401]

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SENATOR FISCHER: ...up to \$50 million. [LB401]

SENATOR FRIEND: Correct. [LB401]

SENATOR FISCHER: And the state has bonded in the past. In 1969, they bonded for \$20 million specifically to finish the interstate. [LB401]

SENATOR FRIEND: That is correct. [LB401]

SENATOR FISCHER: Fifty million that is currently in statute you don't believe is enough then. [LB401]

SENATOR FRIEND: Well, I think...no, I don't think it's enough. I think that it's proven I believe those bonds were paid in a pretty normal fashion. And, no, I think that if anything it proves that it's a fairly reliable and normal and natural way to try to deal with infrastructure costs. [LB401]

SENATOR FISCHER: I think the interest on those bonds, it was \$12.8 million over the 20 years when it had been paid off in 1989. Does it concern you that we would get money up front on bonding and then we'd bonding to pay off bonds? [LB401]

SENATOR FRIEND: Concern me? Not necessarily. I think that you're talking about the difference between...I think that these are highly collateralized and highly safe, you know, methods of, you know, financial production. I mean, yeah, this is a creative different approach. [LB401]

SENATOR FISCHER: Which we need. Which we need creative different approaches. [LB401]

SENATOR FRIEND: But I wouldn't say... [LB401]

SENATOR FISCHER: Roads cost money. [LB401]

SENATOR FRIEND: But I wouldn't say the term is concern for me. I would say the term is more, you know, careful and try to be responsible about it. The oversight here I think is integral, and I think that that's going to be important. I don't think we can lose sight of that whole idea. By the way, I don't know what the Governor thinks about this. I'm not really sure, just in case anybody was curious. He may come and tell me when he gets back. Anyway. [LB401]

SENATOR FISCHER: (Laugh) Any other questions? I see none. Thank you very much. [LB401]

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SENATOR FRIEND: Thanks. [LB401]

SENATOR FISCHER: And you may or may not be here for closing. You have another bill. [LB401]

SENATOR FRIEND: Well, I have a...I'm in Education, too, so I may or may not. Thank you. [LB401]

SENATOR FISCHER: Okay. Thank you, Senator. If I could ask how many people are here to speak on this bill, either for or against? Eight maybe. Okay. Could I have the first supporter come forward, please? Good afternoon. [LB401]

DAVID BROWN: (Exhibit 6) Afternoon. Chairman Fischer and members of the committee, I am David Brown, B-r-o-w-n. I'm president and CEO of the Greater Omaha Chamber of Commerce, and I'm here before you today to offer our support for LB401. About a year ago, I met with some colleagues across the state to talk about how we might be able to get our annual transportation needs discussions onto another level, something beyond the tax increase debate that consumed so much of last year's deliberations, and onto the policy, the discussion of what can and what we should be able to accomplish. This progressed into a myriad discussions and meetings and visits and finally into LB401. Senator Fischer, you hear again and again that we need to do something and I've heard you ask for ideas, so here's an idea. In its essence, LB401 is a proposal to prioritize service transportation projects to make the best use of our funding resources to get those projects built and to ask local communities to take an extra step in accomplishing this. The task beginnings, as Senator Campbell asked, in South Carolina, but also 30 other states that are currently doing bonding to fund highway road projects. I happened to have been in South Carolina in the year that they passed their South Carolina Transportation Infrastructure Bank bill. It was based on several different things: (1) no new taxes; (2) build high-priority construction projects that there was never seemed to be enough money for, particularly those higher cost projects; (3) do it in partnership with Department of Highways so there was not a necessity to create a new bureaucracy; and finally see how much funding could be done, in particular try and fund about 27 years worth of projects in 7 years. The benefits of a program like this, a bonding program, is that it beats inflation. And you heard already about what inflation has been the last couple of years. Senator, we've seen deflation maybe this year, but probably won't see much of it much more the next in the 10 or 15 years. And typically about a 5 percent rate, which would expect on these bonds, would be far cheaper over the 20-year time frame than what is arguable going to be an average of double-digit inflation. LB401 would use existing revenue as a revenue stream. These would be revenue bonds as opposed to general obligation bonds. The council, which is established in LB401, would help direct those dollars with advice in counsel and participation from the Department of Roads. The Department of Roads is a

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key partner here because these are projects that they ultimately have to be responsible for. There's no new bureaucracy. A potential for new revenue in the future, which has happened in South Carolina, in the past couple years, Senator, you've been able to glean the vehicle sales tax above 5 percent back into the Highway Trust Fund, as well as the sales tax on leased vehicles. In other states that is an example of the types of revenue streams that they brought back into the Highway Trust Fund to fund additional bonds in the future. And this is about a \$250 million cap in this project, which is pretty modest. If you look at the \$3 billion plus that was done in South Carolina and the multiple billions in other states, this is really just getting started. It's not supposed to be a panacea, but rather an opportunity to get started with fronting some high-priority projects that could probably never get funded otherwise because of the size of those projects. It's not meant to be a usurpation of the powers the Legislature, Department of Roads or a monkey wrench in a Legislature's appropriations process. This would require planning and some vision. It's about making best use of available funding. And by being a loss of buying power that has zapped our construction efforts we can take some things off DOR's plate, get some projects completed, and in short, the long run accomplish more than we are now. I'll be happy to answer questions that you might have. [LB401]

SENATOR FISCHER: Did you have more you wanted to say in your testimony? [LB401]

DAVID BROWN: Just a thank you. I'd be happy to answer anymore questions, so. [LB401]

SENATOR FISCHER: Oh, okay. (Laughter) [LB401]

DAVID BROWN: I snuck it in there. [LB401]

SENATOR FISCHER: You had that timed pretty good then. I was going to let you continue. [LB401]

DAVID BROWN: (Laughter) Those lights have a way of making you speak faster, I'm afraid. [LB401]

SENATOR FISCHER: (Laugh) That's the idea. Senator Hadley. [LB401]

SENATOR HADLEY: Senator Fischer. Mr. Brown, thank you coming here. I appreciate it very much. You mentioned South Carolina's success there. [LB401]

DAVID BROWN: Yes, sir. [LB401]

SENATOR HADLEY: I had heard that Kansas has had problems. Do you have any idea what problems they've run into? [LB401]

DAVID BROWN: Yeah. Kansas has had some challenges. They've structured very, very differently than how South Carolina and many other states are structured. Our bill was careful to make sure that we were structured differently than how Kansas structure theirs. They were doing some of the things that Senator Fischer talked about, bonding to pay bond issues off. And that frankly is an inappropriate way, we think, to fund highway projects in the future. Now, they've had some successes there, too, and we've had consultants from both sides of that coin come and talk to us. But the long and short of it is that we think that you can dedicate a small piece of Department of Highway gas tax money or other money that's currently going in the highway department, dedicate that revenue stream to make the debt payments on these bonds. You'll essentially be able to get the projects built in four or five years so you get the ability to use those projects while you're paying for them and able to be the inflation rate. If you take just a small percentage, \$20 million, of the \$300-and-some odd million of local gas...of state gas tax money, you're able to really make almost no dent in Department of Highway's projects fund, but at the same time build more with it than you would have with the \$20 million. [LB401]

SENATOR FISCHER: Other questions? Senator Campbell. [LB401]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Brown, in the states that have used this, how has the rating...who's rating are they using? The rating of the state of Nebraska on bonds or... [LB401]

DAVID BROWN: Well, the bonds actually get rated independently of the state rating. They get rated...and we have actually someone who will come and talk to you a little bit about rating here who is going to testify in a little while who will know much better than I. But they get rated based on the solid nature of the revenue streams supporting those bonds. And he'll be able to talk about that much better than I can. Yes, Senator. [LB401]

SENATOR FISCHER: Other questions? Senator Louden. [LB401]

SENATOR LOUDEN: Yes. When you mentioned some of the projects here on this one top of your page here, Beltway and 75 and some of those, how much will all of that cost? Will that take most of your bonding authority away to do those projects right there? [LB401]

DAVID BROWN: You know, it very well could. I don't have the...I don't know the specific project costs, Senator. Our challenge in this is that there are so many projects, that and we ask people around the state what would you like to fund? The list goes well beyond \$250 million. In other states there is not a requirement constitutionally that you put a cap on the amount of bonds that you're going to issue. It is typically driven by the revenue stream instead. Our constitution I think requires you put some kind of a cap on it. And

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so it was capped for this purpose. But clearly there are more than \$250 million worth of projects out there. The council was designed to kind of take a look at all the parameters that would be necessary to make a decision about what the high-priority projects are. They would have to look statewide to make sure that this is spread throughout the state. I would anticipate that this would be a statewide funding scenario. But, again, each community would be asked to submit applications for this process. And hopefully counsel will be able to spread that money around the state in a way that everybody is happy. [LB401]

SENATOR LOUDEN: In other words, our chances of, for instance, that port to plains transportation corridor in western...across western Nebraska would probably be way down low on the list of getting anything done here because you're all doing stuff where it's a lot of population here. [LB401]

DAVID BROWN: I don't believe that that's true, Senator. I think that if the South Carolina example is any indicator here...and I apologize for deferring to South Carolina as often, but it worked so "daggone" well when were there it's just easy for me to fall back on, it's just easy for me to fall back on. There were projects that we in the urban part of the state felt probably had more merit than those in the rural part of the state. But the council and the Legislature said, no, this is a statewide set of projects. We're going to fund those things that are important everywhere. And so in the end in the first round there were projects in seven different parts of the state. Round two got seven different projects in seven different parts of the state. And so, you know, after the first couple of rounds of this everybody realized that this was really about funding projects across the state. And our proposal is that that would be the same case here. [LB401]

SENATOR LOUDEN: How much priority then would be given for economic development over service and population or traffic count? [LB401]

DAVID BROWN: In large measure, Senator, that is really more up to you than it is to me. This bill is crafted in such a way that you can dictate what you want to be the highest priorities. In South Carolina, as an example, the committee...the Legislature informed the committee that economic development was going to account for I think 40 percent of the score that an individual project might get because at the time we are trying to create jobs across the state. [LB401]

SENATOR LOUDEN: Is that written in that bill there anything about economic development? [LB401]

DAVID BROWN: It is not that level of specificity, Senator. It's intended to come in later. [LB401]

SENATOR LOUDEN: Okay. And then you mention down there that it could be funded

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without raising taxes. And, again, how would you service these bonds? [LB401]

DAVID BROWN: We currently collect according to Director Craig \$300-plus million, let's say, in gas taxes. This bill proposes taking about 2 cents of that or about \$20 million, \$24 million and dedicating it to the revenue stream for paying these bonds. [LB401]

SENATOR LOUDEN: But that would be less that could go into highway construction the way the system is set up now. [LB401]

DAVID BROWN: You would take let's say \$24 million and replace it with \$250 million. [LB401]

SENATOR LOUDEN: Over a period of 20 years. I mean, you'd still have to...you still got to come up with the \$250 million plus interest over the life of the bonds. [LB401]

DAVID BROWN: You know, that's accurate. Although I think if you look at your package, again, you'll see that after five years the inflation rate alone, assuming I think a 10 percent inflation rate, already eats up \$30 million. The project would increase that much in five years, though if you start doing this pay as you go, you pretty quickly start realizing that inflation is eating up much more of our cash dollars than what you could accomplish by using a bonding program. And we've actually got someone who will speak to the inflation issue here in a second. [LB401]

SENATOR LOUDEN: I see. Okay. Thank you. [LB401]

DAVID BROWN: Thank you, Senator. [LB401]

SENATOR FISCHER: Senator Hadley. [LB401]

SENATOR HADLEY: Thank you. A concern I had, and it's one of your top ten questions here, is the concern of who's going to benefit from this. [LB401]

DAVID BROWN: Yes, sir. [LB401]

SENATOR HADLEY: And I think it's the concern of Mr. Rempe. You'd probably have to see his letter, but it's a concern that the Farm Bureau had that the \$30 billion threshold, we don't want a Roads Department that builds a mile to nowhere which people have accused of them doing. [LB401]

DAVID BROWN: Yes, sir. [LB401]

SENATOR HADLEY: But we need money for a 30-mile-to-somewhere type of thing. So I guess I just want assurances that this would be available on a statewide basis, that

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somehow that this isn't going to be skewed that five years from now we've looked at east of 27 Street in Lincoln has all the projects that we've bonded. [LB401]

DAVID BROWN: I understand your concerns, Senator. The \$30 million minimum there was compared against the \$100 million minimum that was in South Carolina. We plugged a number because this wasn't intended to be just another funding source that would fund every project that might come down the pipe, but rather trying to take larger projects off the docket that there never seems to be enough money for. And maybe the appropriate number is \$20 million, you know, maybe it's \$25 million. But I think in your wisdom whatever you can put in there that gives you the comfort that this can be a statewide project would be appropriate for us. So we've built the statewide coalition to discuss this issue. We intend to keep doing this in the statewide basis. And so you have our full support to do whatever you think is necessary to this bill to make sure that statewide get the benefit from it. [LB401]

SENATOR HADLEY: Coming from a city that has spent 15 years trying to get \$20 million exit, we need to do something to get projects going now. [LB401]

DAVID BROWN: Maybe \$20 million is the number, Senator. You know, and it's really up to this committee to kind of set the...and Senator Friend to try to sort of set the priorities in what you're looking for here. [LB401]

SENATOR FISCHER: Senator Gay. [LB401]

SENATOR GAY: Thank you, Senator Fischer. Apologize for being late. I was in Education Committee for longer than I thought. But so the local entities would contribute as well. How much priority is given to their cost, I mean, their participation? I mean, there's probably economic development. [LB401]

DAVID BROWN: Well, the idea in the bill at least is 25 percent of the cost of a project would be provided by a local communities. And that can be as flexible, again, as the system would allow. An example is that I can angle back to they counted fill dirt. They counted already acquired right away. They counted just about anything they could as local match in order to make these projects happen. If the Legislature feels that 25 percent is too much as you get to larger projects, again, that's your requirement, but it did cause in our experience at least multiple cities, counties, towns, and villages to work together for some of these larger projects that could be regional in scope in order to meet the numbers here. And if you have partnerships...and ultimately you're going to have some common planning done, too, and some common priorities set, so. The local match while, again, could be challenging, it also fosters some participation and cooperation among units of government that have similar needs. [LB401]

SENATOR GAY: But that would help prioritize fairly quickly if you all put your money

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into it. [LB401]

DAVID BROWN: It could, yes. [LB401]

SENATOR GAY: Priority project for you. [LB401]

DAVID BROWN: It could. [LB401]

SENATOR GAY: And then...Senator Fischer could I ask...and then on the...the idea of bonding and I know you looked into it up into a couple of these information sessions that...the idea on bonding, so you're saying a dedicated stream is going to prevent from...I heard that Kansas is an example or other, but that dedicated stream is the important part. [LB401]

DAVID BROWN: Yes, sir. [LB401]

SENATOR GAY: That's there that I don't think other states were doing that, were they? [LB401]

DAVID BROWN: Well, I know I can choose, again, speak specifically of South Carolina and North Carolina and Colorado where they do have a dedicated piece of...they may say, to use an example I used earlier, the vehicle sales tax. All the revenue that comes into that would be used for bonding. And then the bond houses would have to decide what credit they give that as a AA, how much bond coverage do they want, etcetera, based on the quality of that revenue stream. In this case since we received more than \$300 million in gas tax revenue, the likelihood of that \$20 million would be covered is very, very high. And I would imagine then they would get bonds rated very well [LB401]

SENATOR GAY: Thank you. [LB401]

SENATOR FISCHER: Other questions? Senator Louden. [LB401]

SENATOR LOUDEN: Yes, as Senator Hadley says, one quick question. (Laughter) [LB401]

SENATOR HADLEY: He's going to get on me now just like Senator Campbell does. [LB401]

SENATOR LOUDEN: Should some of these roads then be toll road type stuff because you mentioned Colorado? And Colorado has built those roads over there and several of them are toll roads. And then they have their HOV lanes and stuff. You get on them, you got to pay to get off. Is this part of your mix here that you would like to have...oh, you mentioned Highway 75 that goes, where, south to... [LB401]

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DAVID BROWN: Nebraska City. [LB401]

SENATOR LOUDEN: Or something like that. While you're building that, just set that up strictly as that piece of section there would be a toll road. [LB401]

DAVID BROWN: You know, I don't happen to be a personal fan of toll roads, particularly primarily in rural states where there just really isn't enough traffic to pay for it until you really start getting to be pretty onerous on how much that toll might be. As it turned out in South Carolina, there were a couple of toll roads that were able to be used as match, but they weren't actually able to be used as part of the infrastructure bank. So because you actually had some money coming in from that you could use it to help support another project. We did not anticipate in our discussion of this that tolls or tolling would be one of the revenue streams to be used in LB401. [LB401]

SENATOR LOUDEN: Well, I just wondered at 26,000 vehicles a day that would probably be worth the trouble for a toll road. Whereas some of these others probably wouldn't, but. [LB401]

DAVID BROWN: You know, you would know that better than I, Senator. I don't...we do not have anything in LB401 that says tolling is a good thing or a bad thing. If you in your infinite wisdom as a committee decide that toll roads are something that Nebraska ought to consider, that's probably going to be grounds for a whole nother discussion and another meeting or two I would imagine. [LB401]

SENATOR LOUDEN: In other words, you wouldn't necessarily be in favor that if you used bonding to build a road that it would have to be a toll road? [LB401]

DAVID BROWN: I don't think...I look at toll roads as being yet another tax increase. And we're trying to figure out a way to do this without raising taxes. [LB401]

SENATOR LOUDEN: Well, you haven't yet. Okay. Thank you. [LB401]

DAVID BROWN: Thank you. [LB401]

SENATOR FISCHER: Other questions? First of all, I'd like to thank you for coming forward with a proposal, something different for us to think about because we need to look outside the box here and try and find new sources of funding. That being said, South Carolina...it's my understanding that they dedicate 2 cents of their gas tax to their bonding infrastructure bank in addition to other funds. Is that right? [LB401]

DAVID BROWN: Yeah. That was the beginning of it, Senator. Yes. [LB401]

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SENATOR FISCHER: And I remember asking one of the gentlemen from South Carolina how much a penny of gas tax in South Carolina brought in in revenue, and it was \$60 million. So \$60 million for a penny in South Carolina is a lot different than \$12 million for a penny here in Nebraska. How do you define a high-priority project? Looking through the bill I didn't see it right off hand how you'd define a high-priority project. [LB401]

DAVID BROWN: Um-hum. In the bill it establishes a council, and in that council there is described at least an application process. It is expected that either this committee when you modify the bill to your liking or when you appoint the council that you give them the direction as to what you believe a priority project definition should be. That's how it was crafted. Again, in South Carolina there was...it could have been just about anything and the debate could have gone on interminably, so they said let's appoint people we trust and give them some direction and then be able to approve those criteria when they get them done. [LB401]

SENATOR FISCHER: Why do you have a council set up in the first place? Why can't the Highway Commission do this? [LB401]

DAVID BROWN: Well, the council really serves two purposes: (1) getting the Highway Department bonding authority doesn't really insure we're ever going to use it. We consider it as the \$250 million bonding authority there, but if there's not a mechanism to receive projects and send projects to the Highway Department with some level of authority to say... [LB401]

SENATOR FISCHER: But why couldn't the Highway Commission be this council? Why do we have other people selected and appointed to be on this council? [LB401]

DAVID BROWN: You know, well, it could well be, Senator. Again, in our model that we looked at there was an attempt to create a group that would take this out of the political process that there at least was problematic, and so they created this group in the middle that said, here's an unbiased group, objective that can send us projects that they'll look at based on their merits rather than where they might be in the state or whose district they might be in. And it's intended that the council could provide those same kind of direction. [LB401]

SENATOR FISCHER: Since you're suggesting that we delete the section in the bill that increases the gas tax and using the dedicated revenue that would be taken from the Highway Trust Fund, that in effect would, even though it's only 2 cents, that would in effect take money from what are determined to be high-priority projects by the Department of Roads and approved by the Highway Commission. Would you agree with that? [LB401]

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DAVID BROWN: I would with the added caveat that if this bill were to pass, the Highway Commission would now have another decision to make. And that is which of those high-priority projects would you fund with these bond proceeds. So therefore instead of being able to only fund \$20 million this year, you'll be able to fund \$250 million and take a lot of projects off docket that you would have to fund over the next 20 years. [LB401]

SENATOR FISCHER: The way...you can correct me if I'm wrong on this, the way I read the bill though, the council isn't necessarily looking...this council that would be formed isn't necessarily looking at the projects that are on the five-year plan. So they wouldn't necessarily be determined as priority projects by the Department of Roads. That's why I ask how you define high-priority projects. Is it a project that Valentine wants that we're going to build a big expressway all the way up to the Rosebud Casino in South Dakota and have a huge project like that? And we are able to come up with 25 percent of the funding locally. And because we have this great idea for a project and we can come up with the 25 percent locally, does that make it a high-priority project then even though it hasn't even been on the radar for the Department of Roads in their five-year plan? [LB401]

DAVID BROWN: I don't believe so, Senator. I think the intent here is that the Highway Department really have the ability to set the parameters for what are high-priority projects. In our example, again...I hate to always say South Carolina here because it sometimes doesn't matter what they did... [LB401]

SENATOR FISCHER: That's okay. We want to know what your frame of reference is. [LB401]

DAVID BROWN: Okay. But in South Carolina there is already a requirement that any project could only be submitted if it was already listed by the State Department of Highways as a priority project and had been included on the regional planning association's 20-year project list. Now, we had those things in place and so it was real easy to say you can't just create a project for this money. The anticipation is that the partnership here at the Highway Department would be so close that you wouldn't be able to very easily look at John in the eye and say, John, is this one of the projects that you think ought to get funded. And the Highway Commissioner would be able to say, yes. [LB401]

SENATOR FISCHER: On the requirements for the local that you have, and I'm sorry I can't find that to quote it to you exactly, but where it has a 25 percent match. Is that \$1 match or can it be an all in kind or half and half or what? [LB401]

DAVID BROWN: You know, our goal is that we be as flexible as you possibly can with that because we find that some communities just didn't have a check to write. And so we found a lot of different ways to be able to count local match, and I would suggest the

same thing could happen here. [LB401]

SENATOR FISCHER: Can you give me examples of what qualifies as a local match? [LB401]

DAVID BROWN: Well, the best one I can give you, which I still kind of shake my head at, is...and I'll give you two of them, one very, very large and one very, very small. One community was a couple of million dollars shy of being able to come up with a match they needed. We couldn't find any other sources for them. And so we found a huge pile of filler that they had from another project, and counted that as their final \$2 million match. And it saved us from having to buy fill dirt for a major project in the state. The other project, which I mentioned to the senator before, was that we were already building a \$200 million toll road outside of Greenville and were able to count that as the match for a \$700 million regional project that combined about six or seven projects that were already in the 20-year plan for the Highway Department as well as three other counties. And those three counties and seven cities came together and with one application used this one large match opportunity to fund the rest of these projects. So, again, I think you need to be as flexible as you possibly can, as creative as you possibly can to make as many projects fit, particularly if they're high-priority projects that need to get funded. [LB401]

SENATOR FISCHER: The \$250 million, is that the total amount that can be out there bonded at any one time? [LB401]

DAVID BROWN: Well, given this bill and the limits that are in this bill, there is a cap of \$250 million that would be, yes. That would be the maximum that could be funded. [LB401]

SENATOR FISCHER: You can't...not to be negative, but there's no way you're going to get these projects done with \$250 million. [LB401]

DAVID BROWN: Senator, it could easily have been a billion. It could have been \$5 billion. [LB401]

SENATOR FISCHER: Oh, I know. I know. And we have to start somewhere and I do realize that. But the Lincoln South Beltway... [LB401]

DAVID BROWN: Right. If I had my druthers it would be more. [LB401]

SENATOR FISCHER: ...the Lincoln South Beltway, there's no reason...and I can't tell you the exact figure on it, but I can tell you that the state is not getting enough money from the stimulus to complete that. [LB401]

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DAVID BROWN: Right. I think the real issue comes down to how much of your existing revenue stream are you ready to dedicate to paying bonds to get these projects done quickly. And so if the state has the appetite to say, you know, 3 cents is better than 2 cents and we think we can do that and be comfortable with it, then that bumps you up to about \$360 million in bonds. It's about 12 to 1, at least from our experience. So, again, it comes down to how much revenue stream the state is willing to take of existing revenue stream and dedicate to bonds. [LB401]

SENATOR FISCHER: Would you agree that you could look at that and say that when you're taking that 2 or 3 cents from the trust fund you're taking that from other projects that could possibly be higher on the list by the department's standards. But since they can't get a local match or it might just be a resurfacing project, a widening project, a shoulder fixing project instead of something glamorous like the elevated expressway in Omaha, you know, and so those maintenance projects might not get done. [LB401]

DAVID BROWN: You know, I guess I'm not the most educated about the state highway budget. But the way I've been able to think about it in my mind, Senator, is that every year there's about \$200 million allocated for maintenance projects, about \$100 million and some change dedicated for new projects. And in my mind it says maintenance needs to happen no matter what. Now, it could be more than the \$200 million or a little bit less, but ultimately maintenance needs to be done. And so maybe you only as you're trying to figure out your appetite for revenue stream, you only look at the new project pot of money, if you will, and say how much of that are we willing to dedicate to these high-priority projects? The second response is we really should be funding high-priority projects with these bonds since there is not enough bonds to go around. So we would depend, I think, on the Highway Department and the staff to say these are really important ones that just haven't been getting the funding in the past and let's figure out a way to get them funded. And that may require some modification on some of the standards that are set in the bill. Why there's the 25 percent match or the minimum number of projects. I think we've got to be flexible to realize if there are a lot of really important projects that need to get done and we need to depend upon the judgment really of the Highway Department to help us with that. [LB401]

SENATOR FISCHER: Would you be willing to look at...I think you would when you said be flexible on that 25 percent, would you be willing to work on that percentage and maybe have more required of a local political subdivision that wants to jump-start a project? [LB401]

DAVID BROWN: You know, I think flexibility there makes sense, too. In some cases in my experience, matches actually required to be 30 or 40 or 50 percent depending upon the size of the project. When the Charleston Bridge was built, it was an \$800 million bridge and that ended up becoming a 37 or 38 percent local match, if I recall, just because the sheer magnitude of it and how much the bonding capacity it would eat up.

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So I think you've got to be really flexible and maybe you put a basement on it and allow it to creep up as the projects get larger or as the projects lose priority. I mean, you can really be flexible in how you structure those. [LB401]

SENATOR FISCHER: Could you support having a political subdivision require them to have an increase in property taxes and have a vote of the people if the people in that subdivision would support doing such a project? [LB401]

DAVID BROWN: You know, I think requiring any local unit of government to increase taxes to meet this bill kind of defeats the purpose of trying to do a bill without raising taxes. I think it's much more simply said, you know what, you got to come up with a match somehow. If it's important enough to you to reallocate something you're getting, you move some things around. [LB401]

SENATOR FISCHER: But to get that local match, wouldn't you have to raise taxes some way or I guess people...I guess the city council or the county could reallocate funds. But they're still using tax dollars to do this. [LB401]

DAVID BROWN: You know in some cases... [LB401]

SENATOR FISCHER: So why not have a vote of the people if they think that their tax dollars need to be put out there to do my expressway to the Rosebud Casino. [LB401]

DAVID BROWN: Um-hum. You know, in South Carolina, again, where they said that they didn't want to raise taxes, they didn't raise any state taxes, but some communities came and said, look, we want to be able to...there was in that state, there was a sales tax that could be used for roads. We want to be able to pass a five-year penny sales tax in order to pay for our share of this road. And they had to go to the vote of the people to make it happen. In exchange for 75 percent of the project getting done, the population may have voted yes. In some cases they did; in some cases they didn't. So while this could require local units of government to do something like that, it doesn't...while it may end up in them having to do it, it doesn't require them doing it. [LB401]

SENATOR FISCHER: Which is a good thing. [LB401]

DAVID BROWN: I believe so. [LB401]

SENATOR FISCHER: Yes. Senator Gay. [LB401]

SENATOR GAY: So to follow up on Senator Fischer's, so I think if two local entities could get together. If it's three counties wanted to get something going, why should they not be able to increase the tax and pay off their bond. [LB401]

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DAVID BROWN: Absolutely. [LB401]

SENATOR GAY: They should. I think so. At some point would you kind of... [LB401]

DAVID BROWN: I would think that regional cooperation here is going to ensure that projects get done more quickly than otherwise. [LB401]

SENATOR GAY: And then I guess, did you...so do I understand this, \$250 million is the state's portion and then counties or cities or whoever the local entity has put in 25 percent match. [LB401]

DAVID BROWN: Yes. [LB401]

SENATOR GAY: That's another \$62 million then... [LB401]

DAVID BROWN: Yes. [LB401]

SENATOR GAY: ...their participation rates. [LB401]

DAVID BROWN: Yes. [LB401]

SENATOR GAY: So we're talking \$312 million. [LB401]

DAVID BROWN: Three hundred and ten million dollars or so. [LB401]

SENATOR GAY: So the other thing then, if...and I guess the hard thing and this probably, you know, the first guy who gets all the questions, but I mean some of these it's kind of open-ended where we're going there and that's the hard thing for us to take out that's good discussion. But if there were safety funds or emergency disaster funds...did you guys look at lowering that match though? So let's say a bridge gets washed out though. Was that covered that you could lower the map? [LB401]

DAVID BROWN: There is reference in the green copy, I believe, to an emergency fund that the...as it's highly unlikely that all the revenue coming into this gets used in day one, there will be funds in the pot sitting there that need to be used for the future. To the extent that those emergency funds are there, it gives the council or the Department of Highways the right to come in and say, help. And I gave you a good example. In South Carolina they were having a lot of problems with crossover accidents on rural Interstate I-85 and Interstate 95 going down to the beach where people would cut across the freeway, fall asleep at night, and they had six terrible accidents within about two weeks. The governor came into the infrastructure bank and said, I need \$40 million to put cable rails throughout the medians. Within two weeks they had that passed. They were funded right away. And they've had something like 12,000 hits on those cable barriers

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without a single death since then. So the answer is this should be set up so that there's some ability to do some emergency funding and I believe it can be. [LB401]

SENATOR FISCHER: Further questions? Senator Hadley. [LB401]

SENATOR HADLEY: Senator Fischer. Mr. Brown, again, you are the first person so I guess we're asking the questions. [LB401]

DAVID BROWN: Fire away, Senator. [LB401]

SENATOR HADLEY: You made a comment numerous times of not having to raise taxes. [LB401]

DAVID BROWN: Yes, sir. [LB401]

SENATOR HADLEY: Are there any situations that you could see that this Transportation Committee could be sitting five or ten years from now sitting in a situation because we've bonded \$250 million, \$250,000 in roads, that we would have to raise taxes to service those bonds? [LB401]

DAVID BROWN: Honestly, Senator, I don't see any given the large amount of revenue that we collect now from the gas tax that goes in the Highway Trust Fund and the small percentage that we're talking about dedicating to pay off that debt. [LB401]

SENATOR HADLEY: What it could do is change some of the ability to do projects later on because we would be using the funds to pay the bonds versus projects eight or ten years down the line. Is that a fair statement? [LB401]

DAVID BROWN: I suppose. You're paying for those projects now rather than paying for them over the next 20 years, so the project you might want to fund eight years from now, you've already funded. And so we've taken care of that list of projects already is the theory behind this whole bill. [LB401]

SENATOR FISCHER: Other questions? Could you get me a list of states that do bonding? [LB401]

DAVID BROWN: Certainly. [LB401]

SENATOR FISCHER: That would be good. [LB401]

DAVID BROWN: Be happy to, Senator. [LB401]

SENATOR FISCHER: Thank you. Thank you, Mr. Brown, appreciate it. [LB401]

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DAVID BROWN: Thank you for your kindness to the first guy off the block. I appreciate it. [LB401]

SENATOR FISCHER: We're easier on the next ones then maybe. (Laugh) Maybe not. Good afternoon. [LB401]

JOHN SANDOZ: Good afternoon, Chairman Fischer, members of the committee. My name is John Sandoz, J-o-h-n S-a-n-d-o-z. I am pleased to be here to testify in support of LB401. I am here in two capacities. First, I live in Cass County near Plattsmouth. For five years, I was a member of the board of trustees of Cass County Sanitary Improvement District 5. So I have some experience with the difficulty of maintaining roads and other infrastructure within the budgetary constraints and the need to avoid tax increases. I am here to express my support because I am an analyst, a number-cruncher. I'm a financial analyst. I have a degree in finance, a master's degree in finance. In the past I have worked for banks and insurance companies as a financial analyst. Currently, I'm in independent consultant providing financial consulting services. As a private citizen, I think this is a good thing to do for the state. I think it's financially responsible. I think that because right now especially with the inflation, that we are going to be facing in the future, not just because of the federal stimulus package, but because of some demographic issues that we're going to be facing soon, in particular by 2011. That's the year that the baby boomers start turning 65. This is going to have a serious impact on the ability of the federal government to fund social security and Medicare. A recent study indicated that unless the federal government does something to change the way it funds social security and Medicare, that by the year 2017 all of the federal revenues will be required to fund Medicare and social security. No money left for defense or any of the other responsibilities that the federal government has. Mr. Brown mentioned double-digit inflation. Based on what I have read and seen, I think I agree with that. I think that going forward that's going to be the way of life for a long time to come. I am here in the light of that prospective inflationary force. I'm here to urge the committee to adopt a bonding program because I think in the long run it will protect us from the ravages of inflation and we will be able to get done things now at 5 percent interest that 10 or 15 years from now are going to cost us 15 percent interest. Thank you. Are there any questions? [LB401]

SENATOR FISCHER: Thank you, Mr. Sandoz. Are there questions? Senator Hadley. [LB401]

SENATOR HADLEY: Thank you, Senator. A thought just occurred to me. With \$250 million, \$250,000 of projects out there, from another standpoint wouldn't the price of the projects increase because we have so many projects out there that we would be scrambling to find contractors and such as that to do these projects? [LB401]

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JOHN SANDOZ: Certainly. And especially given the emphasis in the current stimulus package on infrastructure funding. That is going to be highly inflationary. That's why I think it's important for this committee to adopt this legislation so that we can now start to fund these projects. You know, we don't have to use all \$250 million. There are different maturity structures that one can use in bonding. You know, if you had a program in western Nebraska that you wanted to fund, we could use \$10 million or whatever the program cost. But the important point is that we would be doing it now at 5 percent instead of 15 percent in ten years. [LB401]

SENATOR FISCHER: Other questions? Senator Gay. [LB401]

SENATOR GAY: Thank you, Senator Fischer. Do you know the return on the investment then? As you're going to invest, you know, \$250 million, \$300-and-some million, obviously it's going to projects that are going to promote economic activity. Do you know what the return is on that investment on infrastructure? [LB401]

JOHN SANDOZ: I can't answer that, Senator. I have... [LB401]

SENATOR GAY: But do you think...I assume if we did this we'd get a lot of economic stimulus of companies that want to move here, other opportunities that are generated from infrastructure. [LB401]

JOHN SANDOZ: Yes, yes, yes. [LB401]

SENATOR GAY: But you've never seen anything of what the return might be? [LB401]

JOHN SANDOZ: I have not seen anything personally. [LB401]

SENATOR GAY: Okay. Maybe someone else might know that. All right. Thank you. [LB401]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB401]

JOHN SANDOZ: Thanks, Senator. [LB401]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB401]

MATT TONDL: Good afternoon. My name is Matt Tondl, T-o-n-d-l. I am president of the American Council of Engineering Companies of Nebraska, and I'm here to testify in support of the critical need for additional infrastructure funding, especially that of our transportation system. The backbone of trade and economic prosperity in our transportation infrastructure...excuse me, the backbone of trade and economic prosperity is our transportation infrastructure. If that was not made abundantly clear

over the last half of the twentieth century, then people have truly taken for granted the foundation for which our country and state have prospered. However, our system is not keeping up with ordinary demands. We know that in our nation and we know that here in Nebraska. Let me quote the vice chairman of the National Transportation Policy Commission: If we continue to go as we are going, we will have a second- or third-tier transportation network. And you can't have a first-rate economy without a first-rate transportation system. Right now we are squandering our inheritance. We are enjoying the benefits without a willingness to ensure our children and grandchildren have the same advantages. The condition of our infrastructure today represents an enormous investment made at a time when we were far poorer as a society. Over the last 50 years, we have become more mobile and prosperous than ever imagined by previous generations. That generation understood the connection between the condition of infrastructure and a vibrant economy. The buying power of our current funding system is losing ground rapidly. Eroded by inflation, eroded by the very fact that our national energy policy and environmental policy are in direct conflict with our transportation funding policy. Courageous leaders in the past like Lincoln with the Western Railroads and Eisenhower with the Interstate system understood it. At the state level, people like Senator Warner understood it. If we don't act soon our children will ask us, how did we mismanage this important part of our society? Very simply we need more investment in transportation. That much should be very clear. Bonding makes sense in certain conditions, and we believe those conditions exist today. And that primarily being major projects are going unbuilt that deprive our citizens of the user benefits and our state of the economic growth. The other condition is simple economics. Borrowing costs that are below construction inflation such that it is cheaper to borrow and build it now than it is to save up and build for it later. However, ACEC would like to caution against using existing transportation revenues for bonding payback. We feel that this does not address the problem to the extent necessary. At the heart of this effort must be new revenue streams. Forty-two states use debt financing on roads. It is a tool that must be in our toolbox. There are other tools and it is vital that this state study them and avail themselves of those financing tools that fit here in our state. Thank you for your time, and I truly hope this state chooses to leave future generations the transportation system that will ensure them at least the same quality of life that we enjoy here today. Thank you. [LB401]

SENATOR FISCHER: Thank you, Mr. Tondl. Are there questions? Senator Hadley. [LB401]

SENATOR HADLEY: Yes. Mr. Tondl, I was struck by 42 states use bonding. And we consistently are told there are seven states that do not have financial deficit problems right now, Nebraska being one of them. Is there any correlation between that? [LB401]

MATT TONDL: I'm not sure. [LB401]

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SENATOR FISCHER: Mr. Brown is going to get us the list so we can check that out. Other questions? I have one. You said that...at the end of your comments you said other states have different financing tools. What are some? [LB401]

MATT TONDL: Well, of course bonding is a tool. There's a whole list of options out there. Outside of bonding, you have people that use grant anticipation funds for future federal funds paying those back. You have the transportation improvement districts. I've seen those used. You have tolling. You have...there's quite a few. Some don't fit here and some are unconstitutional here, but some do have a mechanism here. And then a lot of them are looking at changing that gas...the revenue collection system and going away from a twentieth century collection system to a twenty-first century system. [LB401]

SENATOR FISCHER: What does that mean? [LB401]

MATT TONDL: That means that... [LB401]

SENATOR FISCHER: I love sound bites, but I always have to ask what they mean. [LB401]

MATT TONDL: Well, like I said, our transportation...our energy policy needs to become energy independent. It is right that we get vehicles that get more miles per unit of energy. We have to do that. We have to save our environment. Those are in direct conflict with a system that funds its roads by how many gallons of gas we sell. So they're going to the mileage tax, then going to other systems that are maintaining and making us sustainable. Sustainable is a big word these days. It's a sustainable system and we have to head towards that. [LB401]

SENATOR FISCHER: On the mileage tax, the new secretary of transportation was talking about it, and President Obama is not in favor of the vehicle miles traveled. That just came out this week. And it was also stated that would take at least ten years to get anything going on that even if we started now. So that's...I thought that was possibly something we could use here in the state of Nebraska, but I doubt it now. [LB401]

MATT TONDL: We're going to have to bridge that time period. [LB401]

SENATOR FISCHER: We're kind of at a disadvantage on a lot of the different funding mechanisms that work in other states, how they would work here I think. [LB401]

MATT TONDL: Being a generally rural state, the toolbox is smaller. Yes it is. [LB401]

SENATOR FISCHER: Your comments were interesting. You said we needed to look for a new revenue streams. You do not support taking money from the Trust Fund to put in

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this infrastructure bank to start this bonding process? [LB401]

MATT TONDL: We feel the needs are...we are so far behind and the needs are so great that, yes, that would have some advantage, but we would strongly encourage new funding streams be brought in to get the biggest bang for the buck. So if we can find \$20 million new money, that's \$250 million on top and we don't have subtract off what would be taken from the Department of Roads. [LB401]

SENATOR FISCHER: Do you have any ideas? [LB401]

MATT TONDL: I wish I did. [LB401]

SENATOR FISCHER: Every year I try to find about \$10 million to \$12 million, so if I keep working on this maybe I can get that in a couple of years. [LB401]

MATT TONDL: Well, and that represents roughly \$100 million to \$120 million. [LB401]

SENATOR FISCHER: I think our license plate bill, see, that has possibilities in the future. So we'll see what we can do. Senator Hadley. [LB401]

SENATOR HADLEY: Is there such a thing as a road misery index that states are measured on? How well or how good their road infrastructure is vis-a-vis the other 50 other states? You just made a comment that we were falling behind and such as that. Does anybody ever rank the 50 states on how their road infrastructure is? [LB401]

MATT TONDL: Yes there is. I don't know what it is. There is a road service ability index that is used as a measure of pavements conditions and that exists. Yes it does. [LB401]

SENATOR FISCHER: Senator Louden. [LB401]

SENATOR LOUDEN: Yes, as we looked at all of this, and I mean, it all goes back to your priorities, servicing your priorities, those that you've listed here that I think Mr. Brown listed in his deal here, none of those were first priorities for the state of Nebraska. Your priorities are to have six-lane interstate between Lincoln and Omaha. And perhaps at one time there was from Lincoln to Minden Exchange. Now, what would happen if they went out there and they decided to suck up all your \$250 million and built a six-lane interstate, you know, a third of the way across Nebraska? What would we gain by that? We would still be sitting there with our 75 and our Blair road 133 and our Heartland Expressway would be just right where we are. I mean, how are we going to get around that? [LB401]

MATT TONDL: Yes I agree with that. What you would see in some of those, the six-lane is a priority of the state, and they do have some of that programmed between here and

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Lincoln, and that if you were to use some of this \$250 million to put towards that, that would free that money up for some of these other projects. So we just feel bringing more money into the system is where we have to head. The priorities need to be sorted out amongst through the political process. But it is very abundant to us and it has been for many, many years that we need to put more into it. [LB401]

SENATOR LOUDEN: Because I noticed in the bill that we're going to have a highway commission and we got one now. And this is some of our concern is...I guess it's a concern with you people from Blair to Highway 75 or all over because that highway commission hasn't decided to put that on a priority list. So where would we gain anything by...you know, we can put the money out there. Would this be a case of where we have a problem so we're going to throw money at it and hope some of it sticks? [LB401]

MATT TONDL: I certainly hope that's not the case. [LB401]

SENATOR LOUDEN: Okay. Thank you. [LB401]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB401]

MATT TONDL: Okay. Thank you. [LB401]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB401]

JERRY MUGG: (Exhibit 7) Good afternoon. I'd like to thank you for this opportunity to express our support in LB401. My name is Jerry Mugg, spelled M-u-g-g. I am vice president with HNTB Corporation. HNTB is an industry leader in the planning, design, construction management of major transportation infrastructure around the country. We have an office in Omaha. And I am from the headquarters in Kansas City, Missouri. You are to be applauded for this ongoing debate where you're recognizing the importance and the connection between infrastructure and economic benefits. It's really good timing, appropriate timing for this debate given the current state of the economy, given the fact of the infusion of federal dollars with the federal economic recovery act, and as noted earlier, given the fact that there's a \$200 million to \$300 million shortfall within the state. It has been our experience that bonding programs like this can be very successful, particularly when they contain some key elements which LB401 does, that includes that it's focused on large-scale projects, that there are clear eligibility criteria in terms of the projects that are selected. And those projects are focused on economic benefits, safety improvements, and overall mobility improvements. But it's most important that these types of programs provide new dollars, new money. It enables the department to implement construct projects that they wouldn't otherwise be able to construct with current revenue sources, that the department be held harmless in terms of their ability to deliver their existing program, and that there be existing or additional

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funds to cover debt service and administrative costs. Let me cite a quick example to help you understand and realize the kinds of benefits before I conclude. That example comes from the state of Missouri, a state other than South Carolina. In 2004, the residents of Missouri passed Amendment 3 which enabled them to capitalize in a \$3.2 billion transportation bond program, and they were able to move forward with 367 new projects that they wouldn't otherwise be able to move forward with. The results in a recent study by MoDOT, new net general revenues of over \$240 million a year, new personal income of \$5.9 billion to Missouri residents, new economic activity over \$17 billion, and estimate over 7,500 new jobs annually to the state. In conclusion, I'd like to close by stating that there's significant benefits that can be realized by this state with this bill. First being the ability to accelerate the delivery of economically important projects. Secondly, which was alluded to earlier, the ability to combat the inflationary impacts of construction cost increases exceeding the growth of revenue, and finally the ability to accelerate the economic benefits which then feed money back into the revenue system. So I'd like to thank you for your time and your attention to this very important issue. Open for any questions you might have. [LB401]

SENATOR FISCHER: Thank you, Mr. Mugg. Are there questions? Senator Gay. [LB401]

SENATOR GAY: I've got a question on this thing you handed out. Says for five years and Missouri put in \$3.2 billion. We're talking \$250 million here, I mean, in a way. And they went directly to the public and asked for this. [LB401]

JERRY MUGG: They did. It was a referendum, public referendum. [LB401]

SENATOR GAY: Did they have something like this before they went to the public or was that their first crack at it (inaudible)? [LB401]

JERRY MUGG: It was an existing revenue source, their fuel tax, that was being diverted for other uses. They recapped...the legislature recaptured that, put it aside in a special fund specifically for the bond program. [LB401]

SENATOR GAY: All right. Thank you. [LB401]

SENATOR FISCHER: On that Missouri project, wasn't that because, as you said, their highway trust fund money was not being used for roads and their...I know you're from Missouri, so I apologize. [LB401]

JERRY MUGG: That's all right. [LB401]

SENATOR FISCHER: But weren't your roads in really horrible condition and because the money had been redirected. [LB401]

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JERRY MUGG: Yes. You are correct, and the roads were in very poor condition. There was a question earlier from Senator Hadley regarding the indexing. Missouri ranked like 45th of the 50 states. Now, the reason was they just did not have the funds necessary, partly because of their highway trust fund, the fuel tax was being diverted to highway patrol. So they did recapture that and implemented this bond program, and it's nearing completion. And they are now ranked...I don't have the exact number, but they're ranked in the top five or so in the country in terms of this service ability of their payments. [LB401]

SENATOR FISCHER: Was most of that work resurfacing? [LB401]

JERRY MUGG: Their program was conceived very creatively. A big part of it was what they called the smoother, safer, sooner program which focused on pavement resurfacing and overall softening and safety improvements of the road for those roads that are the most highly traveled within the state. But that was only a part of the program. Part of that was at the same time to create interest and see the benefits immediately of the bonding program. They also had significant large projects, specifically a statewide bridge program, 550 bridges; a significant interstate reconstruction in St. Louis and a reconstruction in Kansas City. [LB401]

SENATOR FISCHER: Was the bridges new construction though or just improvements on the bridges? Was there new construction with this program is my question? [LB401]

JERRY MUGG: Absolutely. Yes. The bridge program a single contract design-build across the whole state, 550 bridges. Some bridges are rehabbed, some bridges are reconstructed entirely. [LB401]

SENATOR FISCHER: Okay. Thank you. Senator Campbell. [LB401]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Mugg, how was it set up that the projects were determined? I mean, we talked here about a council. Could you give us some idea how those were prioritized? [LB401]

JERRY MUGG: You know, the state, every department, every state, has a formula, has a system in place in varying degrees. MoDOT utilized that system and they have planning partners, and they evoked or utilized that system that was already in place specific to how the bond funds would be utilized. So they integrated an open process with their planning partners, and have included that as part of their tracking and monitoring of their progress. [LB401]

SENATOR CAMPBELL: Thank you. [LB401]

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SENATOR FISCHER: Senator Hadley. [LB401]

SENATOR HADLEY: Senator Fischer. Thank you, Mr. Mugg. If you're a consultant out of MoDOT, what would you tell them that they should have done differently and can we learn anything from that if we were to set a program here in Nebraska through LB401? [LB401]

JERRY MUGG: It's a good question. That's under the premise that the bonding program was a necessity because they had done something wrong previously or that there was something lacking in their enabling legislation. I think overall recognition that what was enacted years ago in the fuel tax system is insufficient, that it's a decaying form of revenue flow given that the dynamics we've talking about--construction costs, the decaying rate of inflow into the revenue with more economic fleet. My recommendation would have been to index their fuel tax such that it increases annually so that it keeps pace with the impacts of inflation. And there are a number of states who have done that around the country. [LB401]

SENATOR FISCHER: Are you familiar with a bill we passed last year, LB846? [LB401]

JERRY MUGG: With the variable rate? [LB401]

SENATOR FISCHER: No, with the tax based on the wholesale price. So basically it is an index. [LB401]

JERRY MUGG: Good. [LB401]

SENATOR FISCHER: We're getting there. Other questions? I see none, thank you very much. [LB401]

JERRY MUGG: Okay. Thank you. [LB401]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB401]

LINDA BEACHAM: Good afternoon, Madam Chair, committee members. Thank you. My name is Linda Beacham, B-e-a-c-h-a-m. I serve as the transportation committee chair for the Lincoln Chamber of Commerce, and I'm here to testify in favor of LB401 on behalf of the chamber. Several years ago state Highway 2 was completed from Nebraska City connecting into Lincoln, and brought with it a tremendous amount of truck traffic. That stretch of Highway 2 is now the second highest truck route in the state, next to the interstate. Those trucks are mixed with 40,000 local vehicles trying to get to and from school and around their neighborhood shopping and that sort of thing, and it created a very dangerous situation. The solution to this problem is called the Lincoln South Beltway. It's \$170 million project. And while it's a very worthy project, it's

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like many other worthy projects in the state, has not reached the level where it can be programed by the state and can be moved forward with construction. We are facing a crisis in our infrastructure funding in this state. LB401 is not a perfect bill, but it is the sort of thing that the chamber endorses in terms of intelligent discussion and thought-provoking solutions to this problem. And so we encourage you to consider it as well as others in your dealings with this problem. So thank you. [LB401]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Hadley. [LB401]

SENATOR HADLEY: Thank you, Senator Fischer, Ms. Beacham, Lincoln has had some problems of getting bond issues through for infrastructure such as that. I think that's a fair statement, isn't it? [LB401]

LINDA BEACHAM: It is a fair statement. [LB401]

SENATOR HADLEY: And over the years, Nebraska has had a natural tendency by the people to have an aversion of bond issues and issuing bonds. Our constitution was set up that way and such is that. How do you think the average citizen would look at something like this? Would they look upon it as a favorable way of solving the highway problem or do they look at it and say, what is that Legislature doing issuing bonds when the other states are all having problems with bond issues and... [LB401]

LINDA BEACHAM: I'm not sure the average person really grasps the full significance of the problem, and we did have a rejection of the last street bond issue that we put out about \$77 million about three years ago. And I think in part because it's difficult to inform and educate the public in terms of why they should fund these projects. There's I think a gross misconception sometimes and where does this money come from. This joke, you know, talking about there is no road fairy and there is sort of this idea out there that roads just happen. I mean, somebody built them, they just come. So in order to get to the public and get support for that, I think we first have to educate them. Our system of funding is so antiquated and we haven't raised the federal gas tax since 1993. Director Craig testified earlier that they've held the line for 11 years. We've lost our buying power. We've lost our buying power at a time when we've had construction inflation and double digits. And so we're getting so far behind that it's really hard to convey the urgency to people, but I think we have to try. [LB401]

SENATOR FISCHER: Other questions? I see none. Thank you very much. Next proponent, please. Could I have a show of hands of how many people still plan to testify? One, two, three, four, five. Now, some of you folks didn't raise your hands at the beginning. (Laughter) Good afternoon, and I'm sure you raised your hand at the beginning, so. [LB401]

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K.C. BELITZ: (Exhibit 8) Good afternoon. I did raise my hand, yes. Good afternoon. I'm K.C., K.-.-C-. Belitz, B-e-l-i-t-z. I'm the president of the Columbus Area Chamber of Commerce. And I'm here on behalf of our board of directors today to testify in favor of LB401, a proposal that as you know is designed to foster some more timely completion of essential transportation projects. An ideal example of those types of projects from our perspective...and certainly you've seen me here before testifying on this and no doubt will again later this session, the example would be the proposed expressway system. It is certainly of real interest all over northeast Nebraska, the people that I am most familiar with, but certainly also others across the state of Nebraska. The plan laid out in this legislation we believe at least is a starting point for the discussion of how to move those kinds of projects forward, move forward the construction time lines that in our recent experience have continued to move back. And hopefully do so in a financially and fiscally responsible way. We have had as part of the creation of the bill that you see in front of you today, we have had statewide conversations with folks from Scottsbluff and Kearney and points in between as well as those of us in Columbus, Norfolk, and other places. And so I think to the concerns that have been raised, and rightfully so, by Senator Loudon and others, we certainly feel strongly that this would have to be a statewide sort of solution in order to be successful. Obviously, that's our skin in the game is to have projects done outside of metro areas. We certainly understand that they have needs in those areas just as we do in greater Nebraska. But the bottom line is it's certainly become increasingly clear to all of us that the current funding system simply is not going to be sufficient. We've heard those reasons already today. And certainly you don't have to look very far across the country to see some pretty creative solutions being undertaken, some of which are working and some aren't. And this is perhaps just another of those efforts to be creative and outside of that box. But the reality means that new solutions are going to have to be found. And so in that environment, the Columbus Area Chamber is supportive of looking at these kinds of solutions as possibilities. I will say even in that environment as we've had internal discussions about this issue, we have not come to the point where we are supportive of the blank check sort of bonding that has been done in other states and has not worked very well. But in this case where it is for specific high-priority projects done in a limited fashion, it is something that we can support and we do support as a vehicle to have some open-minded and thoughtful discussions about the future of funding transportation projects. And in every one of those cases certainly the issue of bonding going into debt always comes up as do other concerns, and we always seem to come back to if not this, then what else because something has to be done. While there are concerns about those solutions, there are greater concerns about being able to build roads in greater Nebraska ever again if something doesn't change with the funding situation as it currently sets. Certainly be happy to answer any questions you might have. [LB401]

SENATOR FISCHER: Thank you very much. Are there questions? Senator Campbell. [LB401]

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SENATOR CAMPBELL: Thank you, Senator Fischer. Sir, is the planning still going on under regionalized basis in northeast Nebraska? And do you think that's possible that a region can come together and set some priorities? [LB401]

K.C. BELITZ: I think in this case, from our perspective anyway in rural Nebraska, it's the only way it could happen. You know, there are no roads out there that don't go somewhere else. And so each end of that road has to be involved. In fact, if you look at the expressways as an example, specifically touching Columbus they're all done. But you go seven miles south and they're not. You go 15 miles east and it's not. And so our interest is not in Platte County even. But we would I think still be very interested in being part of a regional coalition to make some of those things happen, and we have been trying to continue to be involved in those discussions. So it has to be done regionally and that would be I think a side benefit of something like this that counties, communities, regions would have a vested interest in working together. [LB401]

SENATOR CAMPBELL: I worked on a project several years ago. I was so impressed with the regional planning that was going on in northeast Nebraska. So it's good to hear you're still doing that. [LB401]

K.C. BELITZ: Yeah. It's the only way it's going to work for rural America in whatever aspect of the future you want to look at, certainly transportation is one of them. [LB401]

SENATOR FISCHER: Other questions? Senator Gay. [LB401]

SENATOR GAY: K. C., I just drove to Columbus yesterday actually from there, but anyway it took me an hour and half probably, I didn't stop once from when I hit the interstate at Papillion Dodge Expressway. I did stop at North Bend because I had my son with me and he wanted a pop, but I didn't have to because I could have went right through. But I guess I look on this list they gave here and I know this has been discussed before is that Highway 30 between Columbus and...there's a piece there, it's not four-lane. You have a couple of bike passes around Fremont, Schuyler, but then there's a safety piece there. I guess from chamber of commerce hat what is the benefit of just that last little piece as a four-lane safety as well, so? [LB401]

K.C. BELITZ: Yeah. No question. [LB401]

SENATOR GAY: Economic benefit, what is it for Columbus, Nebraska, to finish that up? [LB401]

K.C. BELITZ: Of that piece specifically we believe it's significant. We've been, as you well know, active in recruiting industries to Columbus for 60 years now. And increasingly when you get those proposal from companies from who knows where in the United States, one of the questions near the top of that page is how far...or do you have direct

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four-lane access for products in and out? It's just critical. Katana Summit for instance, is a new industry on the east side of Columbus making towers for wind generators, and those are not very easily moved on two-lane roads. It's a significant issue and they...as just one example, they expect to see that solved. And, you know, it's in the plan for the Department of Roads, but the fact of the matter is until there's funding available they can't magically make it happen. And they've gone probably further than anyone has a right to have expected them to with the funds that are available. That's why we need to look for other potential solutions. So it's a significant issue economically for us, for points north and west of us, and certainly the same is true in other places around the state. [LB401]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB401]

K. C. BELITZ: Thank you, Senator. [LB401]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB401]

CURT SMITH: Good afternoon, again. Senator, members of the committee, my name is Curtis Smith. I am...C-u-r-t-i-s S-m-i-t-h. I'm executive director of the Associated General Contractors. First of all, I want to congratulate or thank the Omaha Chamber and the task force that came forward with this proposal or this concept. This...and the committee and I have appreciated, especially sitting here listening to the comments that you've all made, whether it be Senator Hadley or Senator Fischer, and everyone's concerned about what we're going to do about funding our roads system in the future. I think Director Craig made it obvious that--what was the number, I don't remember--\$12 billion or something that we've got of needs if we project into the future. And the contractors are as a group historically have been very opposed to bonding, but we are convinced that this is just one of the tools that the state needs in the so-called toolbox to address our long-term needs. I think the inflation rate we've talked about this afternoon has been anywhere from up to in conversation with the state it's a little over 65 percent in the last five years difference, 11,111,124 and some other number last year. And that, of course, diminished the buying powers that we've talked about all afternoon. So the contracting, the associating contractors are in favor of the bonding concept of this. We'd be hard-pressed to come out in support of taking the money from the existing 2 cents that we've talked about. But we would certainly recognized the need to find some other source of revenues to address the states needs because we all realize the importance of the transportation system (inaudible). And here we are. But thank you for your time. [LB401]

SENATOR FISCHER: Thank you, Mr. Smith. Are there questions? I have one. Why were the contractors traditionally opposed to bonding? [LB401]

CURT SMITH: I think that the pay as you go mentality has been with us for so long in

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the industry that we like that. I don't think inflation was as bad as it has been in the last five years either. That was a big factor. We liked the...I think what part of the whole thing is that the constant flow of construction dollars that have been usable for the industry, again, for the variable or whatever source it was, it gave a consistent flow of work through the state. And that that was okay. The business was there, it didn't see a boom and a bust, which one of the concerns with bonds has been in the past. You get a whole big influx of monies and it goes up. People come in, you build big and then you got to keep that...sustain that business as time goes on, so. Okay. [LB401]

SENATOR FISCHER: Do we have Nebraska contractors, enough of them? Could they handle the jobs that would come about with the bonding and with the stimulus money and with the regular budget? [LB401]

CURT SMITH: Well, I think I would obviously have to say yes, sure, bring it on. (Laughter) [LB401]

SENATOR FISCHER: Good answer, good answer. Okay. Enough said, enough said. Can't trip you up. [LB401]

CURT SMITH: But I think that the, you know, the stimulus money...it's there and it's coming and it's over a two-year time span. Right now, we're looking at 315 or something like that, the program was 390 a few years ago. You're not talking about a lot of money more, especially when you talk about the inflation that's built into that. I think the contractors set at capacity within the state to meet those needs. They really do. [LB401]

SENATOR FISCHER: Okay. Thank you very much, appreciate it. Next proponent, please. You have to come up fast if you're going to testify. Any other proponents? One more. Well, I must have scared them off. Maybe they're opponents. I don't know. [LB401]

WALTER RADCLIFFE: Senator Fischer, members of the committee, my name is Walter Radcliffe. I'm appearing before you today as a registered lobbyist on behalf of NEED, which is an acronym for Nebraskans for Expressways for Economic Development, and I'm in support... [LB401]

SENATOR FISCHER: Could you spell your last name, please? [LB401]

WALTER RADCLIFFE: I will...In support of LB401. My last name is spelled R-a-d-c-l-i-f-f-e, first name W-a-l-t. Simply put, I'll make four quick points on LB401. First of all, two of them relate to the nature of the bill itself and two of them just relate to bonding. As far as the bill is concerned the funding stream is something that quite frankly I think is going to need to be examined or perhaps reexamined by the committee. Secondly, I also believe that...I'm going to do two things at once here, I also

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believe that the issuing authority should quite frankly probably be the Highway Commission or NIFA. I don't see the need to create a new issuing authority. The issuing authority or the issuer really is a functionary that ultimately makes the decision whether you issue the bonds or not, but. And frankly that's probably an argument why it should rest with the Housing Authority. Now, with regards to bonds as they relate to highways, it's really a matter of balancing some needs. I mean, if you can really look and say, hey, these are things that we know we're going to have to do in the next ten years, and we have X amount of dollars that we can dedicate to that, do it sooner, get it done sooner than in the 10 years or 15, however long the bond is. We'll pay for it over that period of time, but we're going to get them done now. They're going to be operational sooner and we're going to be able to do them cheaper in the long run. That's good. But what you can't do...and you've got to balance that on the other side, but you can't commit so much of dollars based on your needs that you perceived today so that it in any way encumbers unseen needs in the future. And simply put, I think you're going to have to...you cannot use just the revenue that's in the existing Highway Trust Fund today. There's going to have to be an infusion of revenue, additional revenue to do anything with bonds. But bonding is a tool that I think the Legislature really should provide for and I think they should provide an issuing authority so that when and if you want to do it you can...the commission, the Highway Commission can proceed. And you don't have to come back and start at ground zero getting the authorizing legislation. So that's the basis for our support of LB401. And I thank the committee and I'd be happy to try to answer any questions. [LB401]

SENATOR FISCHER: Thank you, Mr. Radcliffe. Are there questions? Senator Gay. [LB401]

SENATOR GAY: I got one. Mr. Radcliffe, you had mentioned...and there's probably no agency that's going to make a decision that everyone is going to be happy and say, hey, you did a great job. But I guess NIFA kind of interests me, and I'm no expert on that. If it goes to the roads already, I mean, I think there's still people who would say they do a great job, maybe not so much, but it would be more of a regional thing. I'm looking more as a little more independent for the economic payback of it. If you're going to go invest \$300-and-some million, I want to get something out of that. I'm sure we all do, but why do you mention NIFA? How would that work? [LB401]

WALTER RADCLIFFE: Because right now NIFA is a state-sanctioned bonding authority. And they can issue...the bonds that they issue today are those that they are specifically allowed to do statutorily. The state says to them, okay, NIFA, you got this laundry list of bonds you can issue and you add to it. I mean, I've come before the Legislature in the past and asked to expand NIFA's bonding authority for certain types of bonds. They have the mechanism set up to do it. They're known in the capital markets in the United States. And I don't see any reason to reinvent the wheel if in fact you view the issuer as a functionary and not as a policymaker. Now, you could have the

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Highway Commission request of NIFA that they issue bonds. Okay. I tend to look at the issuer...and I'm no bond attorney and I could never be one, but I tend to look at the issuer really as an entity that performs a service. [LB401]

SENATOR GAY: Do you know what kind of volume they're doing now? [LB401]

WALTER RADCLIFFE: Today? In this market, Senator, I have no idea. [LB401]

SENATOR GAY: Well, right, in this market, but traditionally. [LB401]

SENATOR FISCHER: Well, they've done hundreds of millions of dollars. Oh, absolutely. I could give you some examples and you don't want to hear them. [LB401]

SENATOR GAY: I'll check it. [LB401]

WALT RADCLIFFE: I'll talk to you later. [LB401]

SENATOR GAY: A lot basically. [LB401]

SENATOR FISCHER: Senator Campbell. [LB401]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Radcliffe, the Highway Commission now has the authority, do they not? [LB401]

WALTER RADCLIFFE: Up to I believe \$50 million. [LB401]

SENATOR CAMPBELL: Up to the...I understand that. But in statute they are the ones with authority on where... [LB401]

WALT RADCLIFFE: Exactly. And I have no...Senator Campbell, I'm not saying they shouldn't do it or that you should take that away from them, they just haven't done it. And all I'm saying it don't go out...I don't think you have to go reinvent the wheel. The Highway Commission is fine. [LB401]

SENATOR FISCHER: Other questions? [LB401]

WALTER RADCLIFFE: Took your breath away, I know. [LB401]

SENATOR FISCHER: You did. Seeing none, thank you, Mr. Radcliffe. [LB401]

WALT RADCLIFFE: Thank you. [LB401]

SENATOR FISCHER: (See also Exhibit 13) Any other proponents for the bill? Anybody

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else in support? Anyone in opposition? Good afternoon. [LB401]

TIM KEIGHER: Good afternoon. Is it still afternoon? Yeah, it is. Okay. Good afternoon, Senator Fischer and members of the committee. My name is Tim Keigher, that is K-e-i-g-h-e-r. I appear before you today on behalf of the Nebraska Petroleum Marketers and Convenience Store Association in opposition to LB401. I mean, I guess our opposition is not to the concept of bonding, it's how will the bonds be backed. You know, reading the bill and even after the amendment, I guess we look at it and say that it's still going to fall to the Highway Trust Fund which then falls to the variable gas tax in our opinion. Our biggest thing is we need to remain competitive with the surrounding states on their motor fuels tax, and currently we're the highest of the surrounding states. You can talk about what the tax is in California, you can talk about what it is in New York or Illinois, but it only matters to us as to what it is with the surrounding states. So unless I'm, you know, missing something in how this will be funded, I see only one of two ways: Either raising the motor fuel tax to cover whatever bonding they do, to cover the bonds or to take projects that are currently on the priority list of the Department of Roads and take those off the list. So with that, I guess that's our opposition. We just don't want to see any increase in the motor fuel tax. If they're going to use 2 cents of the current motor fuel tax and not increase the tax, I think we probably wouldn't have a position on that. Be happy to answer any questions. I even beat the light. [LB401]

SENATOR FISCHER: Thank you, Mr. Keigher. Are there questions? I see none, thank you very much. [LB401]

TIM KEIGHER: Thank you. [LB401]

SENATOR FISCHER: Are there other opponents? Any other opponents to the bill? Anyone wishing to testify in the neutral capacity? [LB401]

LARRY DIX: Senator Fischer, and members of the committee, for the record, my name is Larry Dix, spelled D-i-x. I'm executive director of the Nebraska Association of County Officials appearing today in a neutral position on LB401. And that being said, hearing some of the previous testimony I thought should I be on the opposition or should I be on the neutral side? Certainly one of the points that we really have some severe heartburn with is on once we struck Section 33, and then we're talking about 2 cents coming out of the Highway Trust Fund, and then there was some testimony about 2 or 3 cents. Well, that money is shared by the counties, and if anyone would want to say that that doesn't create a tax increase, that immediately shifts it to property tax. So I would tell you if LB401 were to go forward with a reduction in the Highway Trust Fund, our position would move to oppose. That being said, we've looked at it from a neutral position as far as the remainder of the bill. And the reason that we did is certainly though we don't...we feel if we need bonding as a tool, so be it, have bonding as a tool. One of the things I would call your attention to on page 3, we always talk about a \$30

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million project. And from a county perspective there are no \$30 million projects. Now, from a regional there may be, but even one of the other testifiers that testified in support of the bill was talking about a \$10 million western Nebraska project, so by their own testimony, that would not meet the criteria in this bill. So \$30 million probably is a little bit problematic. Also, when we looked at this on page 20 I believe it is, we talk about: The need for transportation projects undertaken by government units with a population of 10,000 or fewer inhabitants which demonstrate serious financial hardship. Now, we would say if we had a county that was at the levy limit, that would be a serious financial hardship. But I don't know, again, if that would kick in the provision in the bill to say we can waive the \$30 million project cost. So we would ask that we would, you know, take a serious, serious look at that. And then the section on page 10 where we start to talk about emergencies: The council shall modify the minimum project eligibility cost. There is talk in there about reducing it if it finds, "to mitigate an emergency." Now, if a bridge drops on a county road, I don't know if that is an emergency or not an emergency. We would like to have it be an emergency so we could lower the \$30 million so we could figure out a way to participate in LB401. But short of that, we don't feel that counties outside of a huge regional expressway would ever be able to participate in LB401 as it's written. And I'll conclude my testimony. [LB401]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? Senator Gay. [LB401]

SENATOR GAY: Larry, I suppose the county would decide because they've got to match it, so your other point is taken, but. So a bridge collapses, I guess if they come up with the match it would be an emergency kind of...you know what I mean? [LB401]

LARRY DIX: I would assume we would have to. It's just that... [LB401]

SENATOR GAY: So that match would probably prioritize things for them? [LB401]

LARRY DIX: It's just that when we read it, there's so much language in here that talks about you have to meet the \$30 million threshold, and a bridge collapsing just doesn't meet that. And so if we have a school bus that has to drive five or ten miles out of its road, does that constitute an emergency? I don't know. You know, probably not. So then we say, well, can we really participate the way the bill is written today? But we agree that if it needs to be a tool, it's a tool. Probably more designed for state highways than it is for county roads and county projects. [LB401]

SENATOR FISCHER: Senator Campbell. [LB401]

SENATOR CAMPBELL: Thank you, Senator Fischer. Mr. Dix, though on the other hand if there were language inserted in which a bundle of projects could be put together to breach that threshold on the part of a number of counties or counties and cities, then it might be worth the county's effort to look at it if they could bundle together. . [LB401]

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LARRY DIX: Yeah. If they can bundle together, and then it becomes the issue being what is a project? And let me give you an example. When earlier today we were talking about the stimulus programs, and counties have identified \$111 million of stimulus programs, and that's in 67 different counties. So in order to bundle those together...I don't know if a project would constitute if you could say, I'm going to create a project and the project is to replace every deficient county bridge in the state of Nebraska because just on county bridges you might reach the \$30 million. And so if that would be a project, then we could get 93 counties agreed to call it a project possibly. But otherwise it would be like an expressway. And to keep in mind there are some counties that would say, we feel so strongly about the expressway that we would look to help out in that process. I don't want that point missed, but otherwise it would be hard for us to participate. [LB401]

SENATOR CAMPBELL: Thank you. [LB401]

SENATOR FISCHER: Other questions? I see none. Thank you very much. Anyone else in the neutral capacity? Good afternoon. [LB401]

LYNN REX: Good afternoon. Senator Fischer, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And quite frankly it was very difficult to decide how to testify on this bill, and these are the reasons why: We absolutely oppose taking any money out of the Highway Trust Fund to fund and be the revenue stream for this because that impacts folks all across the state of Nebraska. We're very concerned about that and, in fact, would oppose that. Several of your proponents for this bill said the same thing. Secondly, we strongly support bonding. We think the concepts in this bill in terms of using bonding to expedite programs, take advantage of the fact that the interest rates are low, and fight off inflation is a great idea. We support that. As Larry Dix said from NACO, we are concerned that of our 530 cities and villages in the state with a \$30 million threshold for projects if we understand how project is defined in this bill, very few of them would be able to participate. So for that reason alone we would respectfully suggest that perhaps the committee look at a new revenue stream to fund this. Secondly, perhaps looking at some way in which either part of the money that can be bonded could be used for smaller projects, and whatever group you assign to prioritize them could at least take that into consideration. I would submit to you that the economic viability of a village or a second-class city is just as important as it is for the larger cities, including the first-class cities. So it just seems to us that this is something to consider. And I do think that Walt Radcliffe's idea of using NIFA as the mechanism is the way to go. It is a turnkey operation, not that they make the decision on which projects are funded, but rather that they would be the one that would be involved in this because you do need somebody that has got some credibility on the capital markets or things just don't happen. So with that, I would just tell you that, again, we really like parts of this bill regarding bonding, we really will not support those

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efforts to take it out of the Highway Trust Fund, but we'll be happy to work with the committee and certainly commend the Omaha Chamber of Commerce and others for their hard work on this issue. [LB401]

SENATOR FISCHER: Thank you, Ms. Rex. Are there questions? Senator Gay. [LB401]

SENATOR GAY: Lynn, were you involved at all in any discussion on this? [LB401]

LYNN REX: You know, frankly we were invited to come to a lot of these discussion. I know a couple of my staff sat in on the conference calls. I know that Daisha through the Nebraska On the Move made a presentation to that group. And at that time I know Larry Dix and I both said that we would oppose this bill. I mean, frankly the strengths of this bill, the bonding itself and what you can do in terms of the present economic climate is phenomenal. But that being said, when it's cutting out virtually most of the cities in the state, and as Larry said, most of the counties, you end up then with a project that may or may not be a value on a statewide basis. That isn't to say that we're not one Nebraska and when one city gets a better deal or when one county gets a better deal that we all benefit from that because of course we do. But I would just underscore the fact that by having the kinds of thresholds that are in this bill, unless you can do the type of bundling, as Senator Campbell noted, you really are in a position that most people are excluded from even doing it. [LB401]

SENATOR GAY: So but if let's say...and Larry made a good point, you did, too, but each community...I mean, you have a lot to try to keep happy and the same way with Larry. I mean, counties, they're all different sizes and different things going on. But I come from a fairly quickly growing area. So lower the threshold a little bit and create some options. So I do think cities would probably say at some point we keep saying we want to do this, but no one will spend any money. And I understand where we're going. But at some point could we create an opportunity for those who want to be creative and use...look at these financing mechanisms. Do you think there's an option out there somewhere where... [LB401]

LYNN REX: I (inaudible) get a new revenue stream, Senator. I think if you had a new revenue steam we would be here in strong support of this. We probably would suggest still that you take into consideration maybe a lower threshold or at least part of it be used for smaller projects because, again, it isn't going to help the state of Nebraska as a whole if only one part of Nebraska grows, but we let everybody else dry up. So it just strikes me that this is an innovative idea, innovative for Nebraska in many regards even though we've done it I guess once in 1969, as Senator Fischer noted. But at the end of the day I do think that there are some important things that this committee should consider before you advance this bill. [LB401]

SENATOR GAY: But if there were enough flexibility they're still participating. You still

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got to make a commitment to participate in this. What you're saying, lower the threshold and some options you'd be more supportive of it is what I'm kind of hearing. [LB401]

LYNN REX: We support bonding. Our neutrality here is not because we don't support bonding. We support bonding. We think it makes a great deal of sense to support bonding and expedite some of these very important projects when you're looking at the inflationary rates because we, too, on the cities and counties and villages have faced these extraordinary inflationary costs on the local level. So it makes a great deal of sense to do that. But, again, at the end of the day is it going to be a statewide effort or is this just an isolated effort? And our recommendation to you is that it should be more of a statewide effort. [LB401]

SENATOR FISCHER: Ms. Rex, are you aware that there's a bill up in General Affairs Committee that would provide another revenue stream for highways that could possibly bring in \$80 million to \$90 million a year? [LB401]

LYNN REX: Yes I am. [LB401]

SENATOR FISCHER: What was the League's position on that bill? [LB401]

LYNN REX: Basically on that bill we do not have a position. [LB401]

SENATOR FISCHER: Okay. [LB401]

LYNN REX: But I will tell you that we did testify...well, let me clarify that, we were neutral in that hearing. I was not testifying, but Gary Krumland did on behalf of the League, and focused on the fact that there is a need for money in the state of Nebraska because of our tremendous lack of funds for roads and other infrastructure across the state. And so commended those folks that introduced that, and of course that would be you, for thinking of the importance of roads in the state of Nebraska. [LB401]

SENATOR FISCHER: Not put you on the spot, but a number of different groups testified here today. Do you know what their position was on that bill? [LB401]

LYNN REX: I do not. [LB401]

SENATOR FISCHER: Okay. Thank you very much. [LB401]

LYNN REX: If I did I'd tell you, but I don't. I'm sorry. [LB401]

SENATOR FISCHER: I can look it up. Senator Gay. [LB401]

SENATOR GAY: I got one more. I guess you made a comment, not to put you on the

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spot again because it's hard...you got to get consensus, so I understand that. But you had mentioned if it's statewide we'd approve it, but I think we can have something that's statewide that is optional. So if Albion, Nebraska, wants to do something, Papillion, they have that choice. If it applies to everybody to take advantage of the opportunity, I think that's a statewide policy. So you would be in favor of that. [LB401]

LYNN REX: And, Senator, I agree... [LB401]

SENATOR GAY: You think your members would...I know you can't... [LB401]

LYNN REX: I agree, but not if you have a \$30 million threshold. [LB401]

SENATOR GAY: No, no. Earlier I said if we work this out a little bit lower, create opportunities, the attractiveness of this to me is somebody is...they're self-policing themselves because if they want to put 25 percent in... [LB401]

LYNN REX: Absolutely. [LB401]

SENATOR GAY: To me that's prioritization. [LB401]

LYNN REX: Absolutely. [LB401]

SENATOR GAY: Take it away from...I mean, instead of just waiting, waiting, waiting. It sure would be nice to have some money to build this road. [LB401]

LYNN REX: Absolutely. [LB401]

SENATOR GAY: Do you think your members would be much more open to something like that? [LB401]

LYNN REX: Oh, absolutely. [LB401]

SENATOR GAY: Okay. That's...I just wanted... [LB401]

LYNN REX: In fact, we have municipalities that have put the local option in sales tax issue on the ballot and designated that a significant percentage of that is going for roads and streets in their city because they're not getting enough funds from the current gas tax distribution that they get. And that's why we strongly oppose taking any funds from the Highway Trust Fund. Having a new revenue source is the way to go. [LB401]

SENATOR GAY: So you could almost do a sliding scale. As the project goes down, you'd need more participation or for a larger project you'd need less. So anyway, you could work this thing out I think. [LB401]

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LYNN REX: I guess just to clarify: All I'm suggesting, Senator, is that the economic viability, whether it's a small county or a small municipality, it matters just as much to them as it does to the others, the larger ones. [LB401]

SENATOR GAY: Yeah. And I wouldn't argue that at all. [LB401]

LYNN REX: Yeah. But your point is well-taken. [LB401]

SENATOR FISCHER: Thank you, Ms. Rex, appreciate it. Did you have a...thank you. [LB401]

LYNN REX: Thank you very much. [LB401]

SENATOR FISCHER: Anyone else in the neutral? Good afternoon. [LB401]

SCOTT KEENE: Good afternoon, Senator Fischer, members of the committee. My name is Scott Keene. I am with Ameritas Investment Corp. and I am speaking today in a neutral capacity. Ameritas Investment Corp. acts as... [LB401]

SENATOR FISCHER: Could you spell your last name, please? [LB401]

SCOTT KEENE: Yeah, I'm sorry. K-e-e-n-e. [LB401]

SENATOR FISCHER: Thank you. [LB401]

SCOTT KEENE: Ameritas Investment Corp. acts as bond financial advisor or underwriter for a number of political subdivisions across the state of Nebraska, including the state of Nebraska and a number of its agencies. So I am here today just to talk a little bit about the current bond market and the bond rating process and hopefully answer any questions that you might have. The state's current ratings, bond ratings from Moody's, Standard Poor's are AA and Aa3. They are considered very, very strong ratings. The state is unusual in that it does not have any general obligation debt. The debt that is financed is through the state's master lease program or other indentures that have been financed through leases, lease agreements which are not considered technically debt. My expectation is that if the state were to take this type of financing to the rating agencies based on the way it has been described and proposed today that it would obtain very strong ratings as well. The rating agencies go through a process of evaluating hundreds of pieces of information when trying to determine the credit rating of an institution or a political subdivision. And one of those pieces they look at is the level of outstanding indebtedness. In the state of Nebraska even if it were to issue \$250 million of debt would be considered a very modestly indebted state. Probably we are at the bottom of the category right now. We would be just barely above the bottom of the

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category, I think, with \$250 million. But the ratings agencies, especially when they're looking at a stream of revenue like this that is securing a bond issue, they also look very carefully at the debt service coverage or in other words, the ratio of the revenues that are available each year to pay the debt service divided by the amount of debt service. And as it's been discussed today with \$300-some million coming to the program against \$20 million of debt service, that equates to approximately 15 times debt service coverage which is very, very strong. Even if the state were to look at just the 53 percent that's going to the Department of Roads and only pledging those revenues, we would still be about seven-and-a-half times coverage. So in my estimation this financing would have a very, very strong credit rating likely still in the AA category and would result in interest rates in today's market of about 4.5 to 5 percent. Seeing the red light, I will stop and ask if there are any questions. [LB401]

SENATOR FISCHER: Okay. Thank you very much. Are there questions? I see none. Thank you very much. [LB401]

SCOTT KEENE: Thank you. [LB401]

SENATOR FISCHER: (Exhibit 4) Anyone else wishing to come forward in the neutral capacity? I do have a letter in opposition from the Nebraska Farm Bureau Federation signed by Jay Rempe, vice president governmental relations. I see Senator Friend is back. Would you like to close? [LB401]

SENATOR FRIEND: I'm going to waive because (inaudible). [LB401]

SENATOR FISCHER: Okay. Senator Friend waives closing. With that, I will close the hearing on LB401. We will take a break and be back here at ten minutes until five. [LB401]

BREAK []

SENATOR FISCHER: Senator Fulton, are you ready? Good afternoon again. I will open the hearing on LB323. Senator Fulton is here. Welcome, Senator Fulton. [LB323]

SENATOR FULTON: Thank you, Madam Chair, members of the committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I represent District 29. I bring to you today LB323. Although recent federal legislation promises to provide some short-term funding to Nebraska, it remains that our counties and municipalities will still face significant road budget shortfalls. LB323 presents a step toward a renewed roads revenue policy. Revenue from the motor vehicle tax is not presently allocated for road maintenance or construction. In my experience, to the surprise of the vast majority of citizens, before new avenues are created to generate revenue for the projected roads shortfall in future years I believe current mechanisms must be made to operate as

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efficiently and effectively towards that end. Since it was amended in 1999, Nebraska revised statute 60-3,186 directs each county treasurer to distribute revenues generated by the motor vehicle tax to the county, the city of vehicle registration, and the school districts of that county at the rate of 22 percent, 18 percent, and 60 percent respectively. Previous to 1999, the allocation had been 25, 25, and 50 percent respectively. As you will note in the handout I've distributed, (Exhibit 9) the 93 counties in Nebraska recorded nearly \$197 million of total revenue during fiscal year 2005-2006 from the motor vehicle tax. Of this amount, at least \$118 million is funding something other than roads. LB323 amends Section 60-3,186 by increasing the distribution to counties from 22 to 25 percent, to cities from 18 to 20 percent, and decreasing the distribution from 60 to 55 percent for school districts. LB323 mandates that all revenue greater than the original 22 percent and 18 percent for counties and cities respectively be now and hereafter dedicated to roads, building, and maintenance. By this minor reallocation of existing resources, citizens in my district, for example, will be assured that an additional \$816,000 will be dedicated by Lancaster County for road improvement projects and another significant figure will be set aside by the city of Lincoln for road improvements. Because this proposal does impact school districts I want to be clear that my intent with LB323 is to hold the districts harmless by utilizing TEEOSA funding for equalized districts and other mechanisms, which we may have to work collaboratively together in the future in order to find, other mechanisms for nonequalized districts. Concluding, LB323 proposes the utilization of an existing funding mechanism to improve our roads at both the county and city levels. I see this legislation as a chapter in the book that is the future of our roads policy. I believe it appropriate that taxes derived from the use of motor vehicles be used to finance roads. The fact that thousands of constituents, legislators, and officials already believe this to be the case produces a skepticism on the part of the public with regard to our tax policy, which I believe should be rectified. I respectfully ask for your consideration of LB323 and would try to answer any questions if you have any. [LB323]

SENATOR FISCHER: Thank you, Senator Fulton. Are there questions? Senator Loudon. [LB323]

SENATOR LOUDEN: Yes, thank you, Senator Fischer. Senator Fulton, this is quite interesting. What is it they always say? Don't tax me...anyway, tax that guy behind the tree and is that what's happening here? We're actually taking 5 percent from the school system and dividing it more or less between counties and cities one way or the other. Is that what's it's all about? [LB323]

SENATOR FULTON: It is. Senator, this is actually...the policy behind this bill or my philosophy behind this bill is actually a little bit deeper than that. We have for years contemplated using General Funds to pay for roads at the state level. And the reason why we haven't done that in the past is because there has been a hesitancy by groups that would recognize a benefit by using General Funds for roads because in down

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years, such as now, there may be a temptation to go back into our roads policy to fund other parts of government. In other words, the General Fund would put roads in competition with other agencies of government. This, I believe, would be a mechanism by which we could move General Funds over to roads through the TEEOSA formula. [LB323]

SENATOR LOUDEN: But where are you going to pick the school system 5 percent back up then? I mean, you said something about you're going to put it on state aid to education. [LB323]

SENATOR FULTON: Yeah. That would be...that's my intention. You might remember this bill. I brought it last year. And I think last year mathematically this is something that we could have moved forward with. This year it's more difficult, but if there is...if there is will of course of this committee primarily, but also of the Legislature, we can utilize TEEOSA funding. And for those nonequalized districts we're going to have to do some work there. [LB323]

SENATOR LOUDEN: Well, that's the one I have the concern with because when you do that, when you take it away from the school systems, why then that's got to be picked up with property tax. I've got...there's three districts in my district that don't receive any state aid to education. So consequently whatever you take out of this funding, which they do get from the state, would have to come out of property tax, have to be picked up some place. It won't be popular back there. [LB323]

SENATOR FULTON: Well, that's...I'm trying to make this as clear as possible. My intention is to hold school districts, equalized and nonequalized, harmless because this would be...and this would enable us to utilize General Funds, to let the General Funds find their way into our roads policy through our statutory authority of funding schools. [LB323]

SENATOR LOUDEN: Then you would automatically just take...appropriate money to pick up that 5 percent, give it to school districts irregardless of whether they have their TEEOSA equalized or not. Is that what you're saying? [LB323]

SENATOR FULTON: Well, I think first we should...I would like to see us utilize TEEOSA first and there are...we've researched the former. There are provisions within TEEOSA. If there is funding that goes away...if this funding would go away, TEEOSA would automatically hold schools harmless. Now, there could be some concern about the period of time at which they'd be held harmless, but I believe we can get at that through the existing TEEOSA formula. So I would propose we use that first. For those nonequalized districts, if there is some volition on the part of this committee and other legislators to move forward with this as a means of policy, than we'd have to come up with some other mechanism for nonequalized. [LB323]

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SENATOR LOUDEN: Why don't we just appropriate more money to the cities and counties to cover that rather than go through this whole rigmarole of making a recipe? [LB323]

SENATOR FULTON: Because as I was saying earlier, Senator, there's a concern...if it was that easy to move General File dollars over to build roads, then let's do it. But what... [LB323]

SENATOR LOUDEN: Well, all we'd have to do is increase the jail fees and they would have (laughter) more money available. I mean, there's a lot of ways it can be tinkered with that's for sure. [LB323]

SENATOR FULTON: I would hope that whatever we do could be a transparent to the public such that they understand that these are building roads. What I experienced was a surprise on the part of constituents that I visited and even public officials that I visited that the motor vehicle tax doesn't go to roads. We've been brought up in this culture of a user fee philosophy, and wisely so, and when we see something which ostensibly uses our roads, taxes from which aren't going to roads, it's confusing. So I wouldn't want to utilize another mechanism to get money down to counties to build roads and then call it something else. That's kind of the reason for the bill. [LB323]

SENATOR LOUDEN: Okay. Thank you. [LB323]

SENATOR FISCHER: Other questions? I see none. Thank you. You're going to waive closing? Okay. Thank you, Senator Fulton. Could I have a show of hands of how many people are going to testify on the bill? Two, three, four, five, six. Okay. Can I have the first proponent step forward, please? Good afternoon. [LB323]

KARL FREDRICKSON: Good afternoon, Senator Fischer, members of the committee. I'm thinking I might be sorry being the first one up here, but we'll see. My name is Karl Fredrickson, K-a-r-l F-r-e-d-r-i-c-k-s-o-n, and I'm here today representing the American Council of Engineering Companies of Nebraska and the Lincoln Chamber of Commerce. I passed a letter out or a letter is being passed out. (Exhibit 10) It was written on behalf of the Lincoln Chamber board. As I've addressed the committee earlier on other bills, our intent of course is to draw attention to the issue of infrastructure and particularly road infrastructure in the state of Nebraska and that there is tremendous needs. And as Senator Fischer pointed out in an earlier bill, there are tremendous needs out there in the appropriations or the ability to finance those appropriations has fallen short. And we are here today to support measures that can bring additional revenues in, essentially that can grow the transportation pie. I would also like to note that perhaps Senator Fulton's bill can be used as a new revenue stream perhaps for the debt service on the previous LB401 that was...as well as other bills that may be in

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session during this legislative session. And with that, I'll ask for...I'm done. Do you have any questions? [LB323]

SENATOR FISCHER: Thank you, Mr. Fredrickson. Are there questions? Senator Hadley. [LB323]

SENATOR HADLEY: Senator Fischer. Mr. Fredrickson, in my reading of the bill, there's nothing that says that we are required to replace the funds through TEEOSA to the school districts. I would guess that that would something that would be up to the Legislature to do. So would the chamber take the position that they're willing to do this even if the Unicameral would not replace the funding to the school districts, just leaving a shortage in school funding of \$4.5 million in a couple years? [LB323]

KARL FREDRICKSON: I don't know if I'm authorized to speak to the chamber to that effect. I think the way the chamber understands it is that, as Senator Fulton described it, they'd be held harmless. The way the TEEOSA is at this point. But I don't think I can... [LB323]

SENATOR HADLEY: Well, I think that's what Senator Fulton would like. But if I read the bill, there's nothing in there that says that school districts will be held harmless. All this does is says it won't be redistribute the funding. [LB323]

KARL FREDRICKSON: Yeah. The bill simply redistributes the cents just as specifically as it's states. My impression is that it's the school finance bill that already has that mechanism in it. And that's...I can't speak as an expert to anything more than that. [LB323]

SENATOR FISCHER: You're not an expert in the school finance formula. Correct? You just said that. [LB323]

KARL FREDRICKSON: I am not. (Laugh) [LB323]

SENATOR FISCHER: But just to say TEEOSA is going to pick up the money, that isn't the full story. The Legislature would have to appropriate General Fund money and add it to the school aid in order for that to happen. So we're taking money from school districts to put to roads, and then we have to take money from the General Fund to give the school districts is my take on the bill. [LB323]

KARL FREDRICKSON: Well, I think that was our discussion in our ACEC. I mean, you just don't create money out of nothing. [LB323]

SENATOR FISCHER: Right. And the TEEOSA fund doesn't just pick it up. [LB323]

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KARL FREDRICKSON: Correct. [LB323]

SENATOR FISCHER: Okay. [LB323]

KARL FREDRICKSON: The Legislature would have to appropriate that. [LB323]

SENATOR FISCHER: Right. Okay. Thank you. Other questions? I see none. Thank you very much. [LB323]

KARL FREDRICKSON: Thank you. [LB323]

SENATOR FISCHER: Any other proponents to the bill? Any proponents? I see none. Opponents to the bill? Dr. Bonaiuto, you're going to have to become a regular at this committee, aren't you? [LB323]

JOHN BONAIUTO: Much cooler in here than it is in the Education Committee hearing room, so I have to say I appreciate Senator Fulton giving me a chance to come and visit with you some more. John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, the executive director of Nebraska Association of School Boards. My opposition testimony in no way should take away from the fact that the infrastructure in Nebraska and the needs that we have with our roads system aren't real. And I am here simply to voice my opposition that although Senator Fulton is looking at ways to help fund our infrastructure needs and trying to look outside the box, this is a very important revenue stream for school districts. And although he's tried in looking at this issue to talk about a hold harmless mechanism, it really doesn't work quite the way he envisions it. Number one, getting the revenue replaced for the nonequalized districts is not as easy as it sounds. Although that list is shrinking, there still are a number of nonequalized districts, and some of them are fairly good sized districts and would lose a considerable amount of money in their budget. The other piece, the TEEOSA piece, and that's where the trigger is, is based on revenue and resources. And if a district's resources are reduced, in theory TEEOSA would be able to pick up that loss. But it's not a dollar-for-dollar replacement. So if I'm a district that loses \$170,000 in this revenue area with motor vehicle tax, and depending to what extent I am equalized I may only get \$50,000 back. So it really is more difficult than it sounds when you talk about hold harmless, so. And then the last piece I would say is that we have not had the state aid formula or TEEOSA fully funded for a few years. And in difficult economic times education needs to be a player. And last year I think in LB988 there was a reduction of about \$60 million. And in this biennium the mechanism that the Education Committee is using to work through TEEOSA will reduce our increase in state aid by \$120 million. So I think this is a difficult area to try to replace it in a formula that is already being worked with and reduced. With that, I will conclude my testimony. [LB323]

SENATOR FISCHER: Thank you, Dr. Bonaiuto. Are there questions? Senator

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Campbell. [LB323]

SENATOR CAMPBELL: Thank you, Senator Fischer. Dr. Bonaiuto, this is not the only area that fines or fees that people pay in and then go to the schools that people might not think go the schools. Would that be accurate? [LB323]

JOHN BONAIUTO: That is accurate, Senator. And so we receive other than property tax...and this comes through the county, like property tax does, it would be fines from weigh stations and other areas, so yes. And then motor vehicle fines from law enforcement. [LB323]

SENATOR FISCHER: Other questions? I see none. Thank you very much. [LB323]

JOHN BONAIUTO: Thank you. [LB323]

SENATOR FISCHER: Next opponent, please. Good afternoon. [LB323]

ALAN KATZBERG: Good afternoon, Senator Fischer, members of the committee. I'm Alan Katzberg, A-l-a-n K-a-t-z-b-e-r-g. I am executive director of the Nebraska Rural Community Schools Association. I will not...many of the points that I was prepared to make have been made by Dr. Bonaiuto, but I would like to just make...add a little emphasis maybe there if I could. If LB323 were adopted, it would move approximately \$15 million from the state aid...or out of our receipts. And, yes, in theory TEEOSA may pick up a portion of that because of reduced revenue on the revenue side of the equation in the state aid formula. And as was mentioned, we're not sure that that would be picked up dollar-for-dollar. And as you know the state aid amount has been reduced or the increase has been reduced the last couple of years. So we're not real optimistic that there be a lot of support if for giving us that...for the Legislature to put that money back into the state aid formula. Well, our 50...if I counted correctly this morning, there are 50 school districts that fall in that nonequalized category. They would have to either increase the property taxes, as mentioned by Senator Loudon, or have to rely on some provision of a stabilization factor by the Legislature over a period of time. So I don't think...our association doesn't think that moving funds from school districts to the Highway Trust Fund or to finance roads is the proper method to do that. Although we do understand the need you have for increasing your revenue. With that, I would try to answer any questions you might have. [LB323]

SENATOR FISCHER: Thank you very much. Are there questions? I see none. Thank you very much. [LB323]

ALAN KATZBERG: Um-hum. Thank you. [LB323]

SENATOR FISCHER: Next opponent, please. Good afternoon. Good evening. [LB323]

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DOUG NABB: Good evening, Senator Fischer and the Transportation Committee. My name is Doug Nabb, D-o-u-g N-a-b-b, and I'm a lobbyist for Fremont Public Schools. Just a couple of points that I'd like to make here is, Senator Louden, you were right. It is a shift in the tax burden as far as what we're doing with the TEEOSA funding and so on. It goes to the needs side of the formula, but on the needs side of the formula there's a one-year lapse in there. So in effect we lose that money for the one year before it picks it up as far as showing the needs. And in Fremont I did some rough calculations and I figured that that would be about \$145,000 that we would lose in aid that we need as far as...that's the equivalent of two to three teachers depending on how you want to look at it. And you can multiply that factor out times ten for Lincoln or whoever you want to, you know, as far as what you deal with there. The motor vehicle tax then is not being fully funded as I've stated before. And so the question is, well, what will we make it up with? What will the amount be? And we don't know. I think that we have to look at it from the standpoint that the motor vehicle tax is a bird in the hand as opposed to TEEOSA funding which this year is being "re-recertified" as a bird in the bush. So with that, I'll close my testimony and try to answer any questions that you have. [LB323]

SENATOR FISCHER: Thank you, Mr. Nabb. Are there questions? I see none. Thank you. [LB323]

DOUG NABB: Thank you. [LB323]

SENATOR FISCHER: Next opponent, please. Good evening. [LB323]

LYNN REX: Good evening. Senator Fischer, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We are neutral on this bill because frankly we, too, do not see... [LB323]

SENATOR FISCHER: No, I still have opponent coming up. (Laugh) [LB323]

LYNN REX: Oh, are you really? [LB323]

SENATOR FISCHER: Yes. [LB323]

LYNN REX: Do you really? [LB323]

SENATOR FISCHER: Any other opponents? I see none. [LB323]

LYNN REX: Oh, I'm so sorry. (Laughter) [LB323]

SENATOR FISCHER: Anyone in the neutral capacity? [LB323]

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LYNN REX: Always being early. So sorry. [LB323]

SENATOR FISCHER: We appreciate you moving quickly. [LB323]

SENATOR HADLEY: Yes, we appreciate that then. (Laugh) [LB323]

LYNN REX: I am so sorry. [LB323]

SENATOR LAUTENBAUGH: Thank you, opponents, by the way. [LB323]

SENATOR FISCHER: And now we've wasted all that time by laughing about it. But anyone in the neutral capacity? Welcome, Ms. Rex. [LB323]

LYNN REX: I'm so sorry. I apologize. Yes, yes. Sorry. The League is neutral on this bill. We, too, do not see that there is a quid pro quo in terms of TEEOSA on this. And I would be the first to say I do not understand school finance, but relying on those that do understand it, that's our understanding as well. I would also like to thank Senator Fulton for recognizing the need for finding for funding for roads. We think that's very important. We just don't think that this is the way to do it, but we appreciate his understanding. [LB323]

SENATOR FISCHER: Okay. Thank you. [LB323]

LYNN REX: Thank you. [LB323]

SENATOR FISCHER: Questions? Seeing none. Anyone else in the neutral capacity? [LB323]

SENATOR LAUTENBAUGH: I was just going ask her if the counties felt the same way. I thought that might be the surest route (Laughter) from A to B, but. [LB323]

SENATOR FISCHER: I think we'll hear that the counties feel the same way and that will be it. Good evening. [LB323]

LARRY DIX: I think so. Senator Fischer, my name is Larry Dix, spelled D-i-x. I'm executive director of Nebraska Association of County Officials. I'm here today in the neutral capacity. And I did offer to testify for Lynn if she had to get out the door sooner, but she said I don't want to take that chance, Larry, I'll never know what you say about cities, so she testified. (Laughter) No, just joking. Certainly the counties are here in a neutral capacity. We're not here, you know, really, really saying we need to look to take some of that money from the school side. I think two things I want to leave you with though. If we truly go down this road and we have a tax policy discussion, we probably shouldn't have the tax policy discussion about the 5 percent, it's probably the whole

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amount. I mean, let's be honest. You know, if that's really the case then, you know, let's have the debate on the whole amount and say should it or should it not. And I also think the debate may change a little bit if we did not have any of the nonequalized schools that always have to deal with. And I fully understand even the ones that are equalized are not going to receive 100 percent. I understand that. But at the end of the day if it really is the tax policy debate, then probably the bill should move 100 percent and then we'd have that debate. But certainly we're not asking for that, we're not advocating that. And so that's why we're here in a neutral capacity. Be happy to answer any questions you may have. [LB323]

SENATOR FISCHER: Thank you, Mr. Dix. Are there questions? I see none. Thank you. Anyone else in the neutral capacity? I see Senator Fulton is back. Would you like to close? Senator Fulton waives closing. And with that, I will close the hearing on LB323 and close the hearings for the day. Thank you very much. [LB323]

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Disposition of Bills:

LB320 - Indefinitely postponed.

LB323 - Indefinitely postponed.

LB401 - Held in committee.

Chairperson

Committee Clerk