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Urban Affairs Committee  
February 17, 2009

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[LB174 LB360 LB470]

The Committee on Urban Affairs met at 1:30 p.m. on Tuesday, February 17, 2009, in Room 1510 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB174, LB360, and LB470. Senators present: Mike Friend, Chairperson; Amanda McGill, Vice Chairperson; Colby Coash; Tanya Cook; Steve Lathrop; and Kent Rogert. Senators absent: Tom White. []

SENATOR FRIEND: We do have a quorum, so we will get started. This is the Urban Affairs Committee and my name is Mike Friend. I chair the committee. I'm from northwest Omaha, District 10. And let me go through some quick introductions. And as other senators arrive, sometimes they'll leave, don't be offended by that. They're introducing bills in other committees is probably the situation. Let me start to my right, Senator Colby Coash, he's from Lincoln; and Senator Amanda McGill, she's the Vice Chair of the committee, she's also from Lincoln; Bill Stadtwald is the research analyst, I don't know where he is (laughter); to my left...we will (phone rings), yeah, I'll get to that in a second. (Laughter) To my left is Senator Cook. Senator Cook is from Omaha, Senator Tanya Cook, excuse me; and Beth Dinneen is the committee clerk, she is on my far left. Cell phones and pagers, let's silence those. I've made that mistake several times in the last six years. But everything is being transcribed so that would help the transcribers greatly. If you do...if you wish to testify on one of the bills today, we have three bills, if you want to testify on one of those there are green sheets to fill out. And I believe you can drop those in the box right over by the committee clerk. If you don't wish to testify, you can fill out a white sheet. If you'd like your name entered into the record anyway, you can fill out one of the white sheets. Enter it as a proponent, or an opponent, or even neutral testimony. Testifiers, we'll give you approximately five minutes. We do have lights up there. Don't be intimidated. I'm not going to use them. Like I said, we only have three bills. But do keep your comments to about five minutes. I think if we can get to that point we'll be in good shape. State and spell your name for the record. If you don't do so, for the transcribers too, and if you don't do so I will probably stop you and have you do so. If you do have materials to distribute to committee members, the page can help you with that and get those passed out. With that, I think we can get started. And Senator Lathrop, who's also a member of the committee, will open on LB174. Senator Lathrop. [LB174]

SENATOR LATHROP: Thank you very much, Chairman Friend and fellow members of Urban Affairs. My name is Steve Lathrop, L-a-t-h-r-o-p. I'm the state senator from District 12. And District 12 includes Ralston, parts of the city of Omaha, and some parts of Douglas County that haven't been annexed by the city of Omaha. And that really is a segue into LB174. LB174 restricts the ability of the city...of a city of the metropolitan class, which would include Omaha, to require those who live outside the city limits to pay a registration fee on motor vehicles that are used within the city. This bill came to me as an idea from one of those individuals who live in my district, you'll hear from him

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momentarily, who lives in an area of Douglas County not yet annexed by the city of Omaha, may never be annexed by the city of Omaha for all we know, but the city of Omaha and its elected officials whom these folks do not get to vote for, do not have a say in the individuals imposing this tax. They impose the tax outside their geographical territories on people that don't have a say, and it goes back to the principle as simple as the Boston Tea Party, you know, no taxation without representation. And these people who live in this area just outside the corporate city limits are required to pay a tax. The tax is imposed by the city of Omaha and they don't get to vote on the people that serve the city as city council persons or as mayor. And that seems to me to be an unfair situation. And after you hear from my constituent, Joe Nisi, I think you'll agree. And with that, I'd ask you to move LB174 from the committee and to the floor for General File. Thank you. [LB174]

SENATOR FRIEND: Thank you, Senator Lathrop. I take it no one had any questions for Senator Lathrop? [LB174]

SENATOR LATHROP: (Laugh) No, if you did, I'm not answering. (Laughter) [LB174]

SENATOR FRIEND: I...I... [LB174]

SENATOR LATHROP: I'm sorry, Chairman Friend. [LB174]

SENATOR FRIEND: That's okay. I don't think...any questions from committee members. I don't see any. So you anticipated the situation. Nice job. [LB174]

SENATOR LATHROP: Okay. [LB174]

SENATOR FRIEND: We will start with proponents of LB174. Those in favor of LB174. Welcome. [LB174]

JOE NISI: (Exhibit 1) Thank you. My name is Joe Nisi, spelled N-i-s-i, resident of Douglas County outside the city limits. When I went to license my car in May 2007, I found that the city of Omaha had passed a law, starting in January of '07, that any vehicle that's registered within three miles of the city limits now has to pay the city wheel tax. I'm not within the city limits and haven't been for the last 24 years, but I fall within the above radius. If I was an Omaha resident and got to vote on issues that would be one thing, but not being able to participate in city government leads me to believe that this is taxation without representation. When I asked the city why they felt they could tax outside their borders I was told it was to help pay for the roads I use within the city limits, but find this answer too simplistic. The people of Gretna, Plattsmouth, Ft. Calhoun, Bellevue, La Vista, and even Lincoln, to name a few, all use the streets of Omaha and do not live within the city limits. I pay enough taxes in which a portion is supposed to go to the street repair, and see no reason, other than more money for the

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city of Omaha, for this tax to be put in place. It's a little ironic that positions like the mayor and the city council, who I cannot vote for or against, now say I have to pay a tax to support something that tens of thousands of people use every day but live outside a three mile radius. Why not use 5 miles, 10 miles, or even 20? The logic of "and people outside of the city use the city of Omaha streets" bears consideration only if everyone paid the wheel tax. You and I both know they don't. So why penalize the people that fall within an arbitrary three mile radius when in fact there are thousands that commute daily to work and shop within the city limits of Omaha, use the streets and are not subject to this tax. If I follow the city's logic, I would like to know when I could participate in city government since I'm now subject to her taxes. I live in an SID and the city has chosen not to annex my subdivision because of our debt and some other issues. So for the last 24-plus years Omaha did not want the debt liability and we paid no wheel tax, nor were we given the opportunity to vote on city issues. But now the city is saying it has taxing authority, out of the blue, but gives us no voice. This is wrong and I bet our founding fathers are a little uneasy right now. When I asked a city councilman to propose, at their next council meeting, that everyone living within the three mile radius of Omaha be allowed to vote on city issues and city leaders when the elections came up I never heard back from him. When I pressed the City Attorney's Office about the legality of what they were doing, I was told it was perfectly legal and as far as my claim of not being represented the city felt, excuse me, the City Attorney felt we had representation through our state senators since they voted for and passed the current statute that the city is basing their argument on. I felt it was a stretch at best to blame the state legislators for what the city is doing. Since the state statute applies to every city in Nebraska, I'm wondering if others are collecting a wheel tax? And if they are, do the other cities limit their collection effort to their city limits or are they, like Omaha, trying to collect beyond them? I believe Omaha is reading more into the intent of the statute than was originally intended. With the above comment in mind, I did approach my state senator, which brings me here asking you to rule in favor of sending this bill onto the next step. I truly believe that if the cities of Nebraska want to levy taxes they need to give the people they are taxing a direct voice in local government. No voice, no taxes. [LB174]

SENATOR FRIEND: Thank you, Mr. Nisi. Are there questions from committee members for Mr. Nisi? Sir, I wanted to thank you for coming down. Did you say what...when, if you could run this by me again. Did you say when this kind of struck you? Because there's a long history here of dealing with this subject matter. Other senators have tried to deal with this in the past. Have you been an advocate or kind of dealing with this on your own for quite a while? [LB174]

JOE NISI: Really just until that May when I went in to license my car and found out that in January the city had passed an ordinance allowing taxation within the three mile radius. Up to that point, you know, I never participated in it. [LB174]

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SENATOR FRIEND: So your face turned red and you... [LB174]

JOE NISI: Well, it's not about \$26.50, I mean, you know, because...it's really about I don't get to...none of us get to vote on city issues. And I would like to, either they annex us or restrict their taxation to people that live within the city limits. [LB174]

SENATOR FRIEND: Okay. Can you tell me once again, sir, are you...where are you geographically located? [LB174]

JOE NISI: I'm off 110th and Harrison in Brookhaven. [LB174]

SENATOR FRIEND: Sure, okay. [LB174]

JOE NISI: So, there's...it's my understanding that along with the debt there's a creek that runs back through there called Hell Creek. And it needs to be redone and they haven't widened up Harrison to Q on 108th. There's some struggle, as I understand it, between who wants to pay for it. (Laugh) So that's why they're kind of not...they don't want to annex us until (laugh) until the debt comes down and some issues get resolved. [LB174]

SENATOR FRIEND: Surprise, surprise. Okay. Are there any other questions from the committee members? I don't see any. Thanks for coming down. [LB174]

JOE NISI: Thank you very much. [LB174]

SENATOR FRIEND: Do we have any other proponents of LB174? Anyone else in favor? We will start with any opposition. First opponent. [LB174]

CAROL EBDON: (Exhibit 2) Good afternoon. Carol Ebdon, E-b-d-o-n, finance director for the city of Omaha. And passing out a handout of my brief remarks. And I'd be happy to answer questions after that. The city of Omaha did implement a wheel tax, vehicle registration fee, but commonly known as the wheel tax, in our three mile zoning jurisdiction outside the city limits. It took effect on January 1, 2007. And for a regular passenger vehicle it's \$35 fee a year. There's a scale, so it depends on what type of vehicle you have. But most people, for a typical car it will be \$35 a year. This brings in \$3 million a year for the city of Omaha. There are quite a significant number of people that live in SIDs, sanitary improvement districts. In Omaha we use sanitary improvement districts as a way to develop. They are created outside the city limits. They're actually created by the city of Omaha. An SID cannot be created in that three mile jurisdiction without city approval. It goes through our Planning Board and our City Council. The city has quite a bit of control over the debt ratios, the debt limits, the general obligation bonding authority of the SIDs. And the ultimate goal is that eventually the SIDs will be annexed by city down the road. So there is quite a bit of relationship between the SIDs

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and the city. And I think it's fair to say that most people that live in SIDs use city streets quite regularly for either work or shopping or going to restaurants or going to the Qwest Center or going to church, or various purposes. Again, we get about \$3 million a year from this. This was very important to us, has been very important to us because we have two sources of funding for our street maintenance. And street maintenance includes everything from traffic lights and stop signs to filling potholes and resurfacing streets. It's quite a bit. We have quite a number of lane miles of road to maintain a year. Two main sources, the largest is the street and highway fund, which is the Highway Allocation Fund that we get from the state. And we appreciate that very much. That's our largest source of street funding. But I think as many of you know, in the last few years we have had downturns in that source of funding for several of those years. So before we passed this, in 2007, our state aid allocation had decreased three out of the prior four years. So while our costs are increasing at least at the rate of inflation and actually road costs have increased faster than that in this decade, we've got costs increasing while our revenues have been stagnant. The wheel tax for the people inside the city was relatively stagnant. So basically, we have been falling further and further behind in being able to maintain roads, which we think is an important activity for economic development, just for regular satisfaction of our citizens, etcetera. So we did expand this wheel tax. It's been a good source of revenue for us. There is an exemption because we do understand that there are people who live outside the city who don't use their vehicles in the city limits more than 30 days a year. And so there is an exemption form available that people can fill out, they don't have to pay the fee if they don't use their vehicles on the city streets, we get about 50 of those a month. So it is used by many people in those SIDs. And we believe that this is a fair and equitable way for people who are using city streets to help us pay for the maintenance. Thank you. We would appreciate your support in indefinitely postponing this bill. [LB174]

SENATOR FRIEND: Thank you, Ms. Ebdon. Are there questions from committee members? You said, Ms. Ebdon, you said that you'll get approximately how many applications, 50... [LB174]

CAROL EBDON: We get about 50 exemption... [LB174]

SENATOR FRIEND: ...a year? [LB174]

CAROL EBDON: ...exemption forms per month. People in... [LB174]

SENATOR FRIEND: Per month. [LB174]

CAROL EBDON: People outside the city limits who claim that they don't use their vehicle in the city more than 30 days a year. [LB174]

SENATOR FRIEND: Who in the city offices, I mean there's got to be an acceptance or

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rejection of that exemption. [LB174]

CAROL EBDON: Frankly, we accept them all. It's an honor system. If someone says that they don't use their... [LB174]

SENATOR FRIEND: I think we should maybe start with Mr. Nici's. (Laughter) No, I don't mean to be...what I...I guess, there is a point to this. I don't mean to make light of it. What is a good example of an exemption? I mean, how...30 times a year, I think, you mentioned. I know where Senator Lathrop lives. He probably drives through Omaha all the time. I'm not saying his bill is wrong or right. What I'm saying is, what's the criteria for the...you accept them all. So, I mean, what happens if there's a Boston Tea Party and everybody runs in and says, we want an exemption? I mean, I guess I'm a little curious about that. What...is there a point where you say, well, gosh we just can't accept that anymore. There's got to be some sort of criteria where you draw that line. [LB174]

CAROL EBDON: We spent a lot of time looking at how we implemented this. And we had discussions about how do we audit whether someone really uses their vehicle inside or doesn't. And we thought the fairest thing was to give people the benefit of the doubt. They have a form they have to fill out, you know, saying that they don't use it more than 30 days for work, going to school, etcetera, etcetera. If we felt that we were getting an inordinate number of the forms in a given year, then we would go back and rethink whether we have an audit mechanism or some way to verify that people really aren't using their vehicles. But at this point, we think it's manageable, we think it makes sense that there are people who just don't come into the city that many days a year for one reason or another. [LB174]

SENATOR FRIEND: Yes, Mr. Stadtwald wanted to ask you a question too. [LB174]

BILL STADTWARD: Just as a matter of clarification, there is more exemptions listed in your ordinance than simply people who reside outside the city. [LB174]

CAROL EBDON: Oh, that's correct. There have always been exemptions for military personnel, for full-time students, those are the two that come to my mind. Yes. [LB174]

SENATOR FRIEND: Okay, by city ordinance, correct? I mean, I don't know...and now I'm a little confused, thanks. (Laughter) Can you give...you just gave two examples. Some other ones, just for...just to humor us. [LB174]

BILL STADTWARD: Government vehicles. [LB174]

CAROL EBDON: Government vehicles, I believe, are exempt. I'm sorry, I should have gone back and looked at the ordinance more clearly. And I can certainly get back to you on the details. [LB174]

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SENATOR FRIEND: That's okay. We can take that offline. [LB174]

CAROL EBDON: For instance, students that...full-time students that go to Creighton or UNO, for example, the two largest universities in the city limits. If they're from out of state, they can come in and pay \$5 and get a tag that they put on their vehicle to show that they're exempt. [LB174]

SENATOR FRIEND: Okay. Are there any other questions for Ms. Ebdon? I don't see any. Thanks for coming down. [LB174]

CAROL EBDON: Thank you very much. [LB174]

SENATOR FRIEND: Is there any other opposition? Is there anyone wishing to testify in a neutral capacity? Senator Lathrop, to close. [LB174]

SENATOR LATHROP: Thank you. And just briefly, I think you can see the issue. It's not...and I listened carefully when the city finance person spoke. And the justification for continuing this all had to do with the city of Omaha likes the money. Who wouldn't? I mean, there's nobody better to tax than somebody who doesn't vote for you or get a chance to, which is why we have hotel taxes and taxes on rental cars. But the folks who the city doesn't want to annex because they'd be too expensive to take on, for the city to tax them and not...and they don't have a say in who the city councilman is, I mean, if I lived inside the city limits, which I happen to, and I don't like the wheel tax, I can make it an issue. And I can say to the people running in my district, you know, I want you to tell me where you're at on the wheel tax. The people outside the district don't have that opportunity. And I understand why we zone out there because ultimately we're going to take them over and we want to make sure that it's good housing and there's building standards that are met. But for people who are paying the SID and helping the SID get out of debt and the place isn't attractive to annex, and they cannot vote on who the city council and the mayor are, I don't think it's fair. And it's a fundamental issue of if you don't have a say in the government they shouldn't be taxing you. That would be my close. [LB174]

SENATOR FRIEND: Okay, thank you, Senator Lathrop. Are there questions for Senator Lathrop? Senator Lathrop, I just...by the way, the committee's been joined by Senator Kent Rogert from Tekamah. Senator Lathrop, what...just to play devil's advocate for a second because you know how we are, you and I and others. [LB174]

SENATOR LATHROP: Yes, I do. [LB174]

SENATOR FRIEND: You take your family down to...you take anybody, friends, family down to a Creighton game. You're getting hit, you know, with certain...I'm not saying it's

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fair, I'm trying to draw an analogy. You get hit with taxes and possibly even fees that you wouldn't get hit with if you went to, you know, an event outside of the city of Omaha. You can see sometimes where somebody might be able to draw a parallel. There's all kinds of things that the city council does if we don't live in the city that we don't really have any control over and you end up having to adhere to because there are guidelines... [LB174]

SENATOR LATHROP: Except most of those things are things we choose to do. So if I want to go down to the Qwest, I'm going to pay a ticket and there's going to be a certain amount of revenue the city takes off of that. [LB174]

SENATOR FRIEND: Different sales tax parameters. [LB174]

SENATOR LATHROP: Yeah. And I'll take a...I'll pay a \$6 parking fee. And whether I choose to go down there to watch a Creighton game or not, then I'm deliberately making a decision to subject myself to those fees and those charges and those user fees and the costs of going down there. But if he's done nothing more than drive on the streets and live within a three mile radius of the city limit, he isn't electing to do anything. I mean, in reality, Brookhaven's...there's no way out of Brookhaven, I don't believe, that isn't a city street. So he's stuck on an island, can't leave his neighborhood unless he uses the city streets. And I appreciate the argument that, well, you're helping to tear them up, and you ought to help pay for the cost of them. But he ought to be able to vote on who's going to represent him, and he doesn't get that opportunity because that could very well be...and we do that all the time as state senators, you know, people talk to us about their taxes. And he has no one to talk to. (Laugh) He called the city council and they said, go call your state senator, I don't represent you, which is the ultimate irony in all of this is that he can't even get a city councilman on the phone to talk to him about how much they're charging him because they don't represent him. So I think I've made my point. [LB174]

SENATOR FRIEND: Are there any other questions from committee members? I don't see any. That will... [LB174]

SENATOR LATHROP: Okay, thank you. [LB174]

SENATOR FRIEND: ...thank you. That will conclude the hearing on LB174. And Senator Tanya Cook is here and she is ready to open on LB360. [LB174 LB360]

SENATOR COOK: Good afternoon, Chairman Friend and members of the committee. My name is Tanya Cook, C-o-o-k. I am the state senator representing Legislative District 13. Today I appear before the committee as the introducer of LB360. I introduce LB360 on behalf of the city of Omaha. LB360 authorizes cities of the metropolitan class to establish a land reutilization authority. Land reutilization authority is the operation that



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allows tax delinquent property to be sold to encourage housing, redevelopment, work force development, and tax revenue growth. LB360 would replace Douglas County's existing authority to administer the sale of tax delinquent properties and allow the city of Omaha Planning Commission to take responsibility for this important governmental function. Currently, the city of Omaha, Omaha Public Schools, and Douglas County all cooperate to pay \$25,000 apiece for land reutilization. If LB360 were passed, the city of Omaha would accept the responsibility of administering LRC. The fiscal note indicates a \$95,000 impact for the city of Omaha next year to create and operate the LRC. Passage of LB360 would have no fiscal impact to the state's General Funds. Please bear in mind that this bill was introduced at the request of the city of Omaha and that they will testify later in support of its passage. I thank you very much for your thoughtful attention to the bill. I'll try to answer any questions you may have, but as I mentioned, there are several proponents of the bill who can offer more technical details. Thank you very much.  
[LB360]

SENATOR FRIEND: Thank you, Senator Cook. Are there questions from committee members? I don't see any. Thank you. We will start with proponent testimony. [LB360]

DAVE SCHREINER: (Exhibit 3) Good afternoon, senators. My name is Dave Schreiner, S-c-h-r-e-i-n-e-r, and I am the director of the Land Reutilization Commission. I'll refer to that as LRC from now on. I'm testifying on behalf of myself and not the LRC Board of Commissioners. I would like to just highlight some of the points in the report that you're being provided right now. The LRC was established in 1973 by the Nebraska Legislature to return tax delinquent real estate back to the tax rolls. By statute, the LRC acquires property that is not bid on at the sheriff's sale. The LRC sells property for an appraised value determined by the LRC's certified appraiser. All back taxes and assessments and fees are cancelled by the LRC sale. As you will read in the report that I have provided, the LRC's inventory is considerably smaller than it has been in past years. This is a great example of government doing its job well. In 2006, the LRC, which had been self-funded since 1988, was running out of money. An interlocal agreement between the LRC and the city of Omaha, Omaha Public Schools, and Douglas County was instituted in August of 2006. These three entities that have benefited the most from the LRC's existence agreed to give the LRC financial assistance and in-kind services to assist the agency. Through the years, the agency has retained a portion of its revenue from the property sales to fund the agency's budget. The percentages vary. Since 1989, the LRC has returned \$3.5 million to the county general fund for disbursement to the various entities. In the city of Omaha where most of the properties are sold, Omaha Public Schools have received approximately 58 percent of that revenue. The city of Omaha would receive about 21 percent, and Douglas County would receive about 12 percent of this revenue generated from sales. The LRC has taken many steps to be fiscally responsible, including but not limited to staffing. At one time, the LRC had a staff of three and now it's a one-person office. I'm the director, secretary, administrative assistant, receptionist, etcetera. The LRC has a very modest office space in the

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city-county building. The LRC still utilizes most of the same office furniture that was purchased in 1988. I am frugal in my personal life, and I practice that same lifestyle at the LRC. The LRC should continue to exist for the very reason it was started--so that the citizens will realize that there are consequences for not paying real estate taxes. Any questions? [LB360]

SENATOR FRIEND: Thank you, Mr. Schreiner. Are there questions from committee members? So you recall that we've been through this, we more or less ran...for all intents and purposes, ran out of time in dealing with the subject matter the last time. Refresh my memory. When...if this were to come to fruition, the Land Reutilization Commission would simply shift authority. There would be no more county Land Reutilization Commission. It would be run by the Planning Department. [LB360]

DAVE SCHREINER: City Planning Department, right, of Omaha. [LB360]

SENATOR FRIEND: Simple as that. [LB360]

DAVE SCHREINER: Right. [LB360]

SENATOR FRIEND: The...I think the thing is, I don't even remember if there were any concerns last year, more or less a functionality thing, you know, what the city was willing to do and then, like I said, running out of time tends to exacerbate those things. But do you see efficiencies that you can't achieve now because of funding? I mean is it as simple as that? [LB360]

DAVE SCHREINER: That's the bottom line, yes, is funding. [LB360]

SENATOR FRIEND: I mean the county doesn't have the ability...I can ask for other questions. I can take this off-line with you too. But are there any other questions from committee members? I don't see any. Thanks for coming down again. [LB360]

DAVE SCHREINER: Okay, thank you. [LB360]

SENATOR FRIEND: Next proponent. [LB360]

JACK CHELOHA: Good afternoon, Chairman Friend, members of the Urban Affairs Committee. My name is Jack Cheloha. The last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I'm testifying in support of LB360. First of all, I'd like to thank Senator Cook for introducing this bill on behalf of the city of Omaha and her staff for diligently working on it and preparing for the hearing today. Thank you very much. Essentially, this bill is almost identical to LB899 from 2008. Senator Lowen Kruse introduced that bill on behalf of the city of Omaha last year, and it was heard in front of this same committee. And ultimately, as Senator Friend said, I think we just ran out of

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time. We didn't have enough time to look at, work through the issues, think about it. Where this bill was originated from, it came from one of our city council members. Frank Brown is the city of Omaha's representative on the LRC right now, and this was, if you will, his idea to move the LRC from its separate and distinct creation into the city of Omaha Planning Department. I think as we heard or as we through the course of last fall studied it, there's only one LRC in operation in the whole state of Nebraska, despite the fact that the statute was enacted in 1973. This LRC in Douglas County has done a very good job of getting lands that are behind in the payment of taxes back on the tax rolls. And that's their ultimate charge, that's the ultimate duty for the LRC is to try and get these delinquent lands back on favorable tax roll so those property taxing entities can get their fair share of the revenues to pay for their services. In Omaha, the previous witness and before that, his staff, have done such a good job, you know, selling these properties or moving them along that essentially we've been left with property that are either very irregular in terms of shape or they're very small or miniscule in terms of the land that's left. And so a lot of revenue is not brought forward to the LRC in order to pay the functions of the operations of it. We see this, at least council member Brown sees this as a piecemeal move towards merger, if you will, merger of services. We've heard...in Omaha-Douglas County we've heard over the last decade or longer, you know, what about merging city and county services. And we've done a number of those in terms of moving operations together and trying to do them in a more efficient manner. We've merged our 911 emergency rescue call center. We've currently merged our parks department, you know, some other operations, if you will, consolidated health services under the counties umbrella. We just thought that where we had to do a separate interlocal agreement and actually provide in-kind services and a flat out tax supplement for the operation of this we could easily move it within the largest city in the counties domain, our Planning Department, and just make it an assigned duty to them to continue to get these lands back on the tax rolls and to try and be more efficient for our, you know, citizens in our eastern county. And I'll try and answer any questions you might have. [LB360]

SENATOR FRIEND: Thank you, Mr. Cheloha. Are there questions from committee members? Senator Rogert. [LB360]

SENATOR ROBERT: Jack, do you think it's necessary to limit it just to a city of a metropolitan class? [LB360]

JACK CHELOHA: I don't believe so. We drafted the bill in such a manner just because we're the only one in operation right now. But if we wanted to open it up and let some other city handle it for a county or other domain, that would be fine. [LB360]

SENATOR ROBERT: How do you...in your travels, have you noticed that there would be any...would Lincoln have a use for this in your opinion? [LB360]

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JACK CHELOHA: Well, I'm not certain about that. We did have a joint study hearing last fall before the Revenue and Urban Affairs Committees, and there was some talk. We had some witnesses from Lancaster County that expressed some interest in it, but even Lancaster County doesn't have a full LRC operating now, and so I'm just not certain. Most of the other counties it's my understanding, Senator, either can move them forward through the sheriff's sale or along those manners where they would still come out okay. But we'd be happy to open it up if there are people that step forward and think they could use it in their area. [LB360]

SENATOR ROBERT: Okay, thank you. [LB360]

SENATOR FRIEND: Thank you. Any other questions? Jack, there is going to be a fiscal impact on Omaha. I mean it's not going to be significant, but if you say that and then you realize it's right around, you know, \$100,000, it depends on your perspective. I mean there's going to be more efficiency, maybe more effectiveness, but you're going to have to spend some money to do it right. And I'm guessing that's really the bottom line. [LB360]

JACK CHELOHA: Right. And frankly, Senator, I apologize, I haven't seen the fiscal note. But ironically, it was probably prepared, you know, through my own city of Omaha's Finance Office. [LB360]

SENATOR FRIEND: Yeah, no, just that the... [LB360]

JACK CHELOHA: ...through planning, right, yeah. [LB360]

SENATOR FRIEND: Jack, just that there's going to be an expenditure to hire an individual. I just...I guess I just want a commentary on that. I was going to bring it up. [LB360]

JACK CHELOHA: Right. I think the natural fit would be for the previous witness to move his operation within the City Planning Department. And if it does become a city function, then obviously his salary in whole would be paid by the city of Omaha. And, you know, we'd be providing a service for the other taxing entities, which once again the goal is to get these back out in the private ownership so we can collect the property tax. [LB360]

SENATOR FRIEND: It might be trivial, but sometimes we do things and they're deemed to be unfunded mandates. [LB360]

JACK CHELOHA: Right, right. [LB360]

SENATOR FRIEND: So in other words, we get done with the bill here, we kick it out to the floor, Senator Cook does a masterful job of moving it through the system, and the

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next thing you know, we got a label on our heads that says, by the way, you just told us we have to spend \$100,000... [LB360]

JACK CHELOHA: Right, right. [LB360]

SENATOR FRIEND: ...and there's, you know, no money for it, by the way. [LB360]

JACK CHELOHA: I understand and I appreciate that. But hopefully you won't hear that coming from my mouth. And if any citizens, you know, are...I'm sorry, any Omaha official expresses that dismay, I'll be sure to remind them that they were the one who brought this bill down and asked me to bring it here. Okay, so I'll take the heat off of you for that, okay, or I'll try my best to. [LB360]

SENATOR FRIEND: Yeah, well, I don't think any of us are too worried about the... [LB360]

JACK CHELOHA: Okay. Isn't that ironic? I mean, here I am and... [LB360]

SENATOR FRIEND: Quite. [LB360]

JACK CHELOHA: ...it's going to cost me money. [LB360]

SENATOR FRIEND: Quite. Any other questions from committee members? [LB360]

JACK CHELOHA: If I could share one last thing. Douglas County did not have a board meeting in advance of this hearing. It's my understanding they'll meet a week from today and publicly, you know, take a look at this bill. We haven't heard one way or the other in terms of what their position might be on it. But last year I know that they did not offer any testimony at the hearing on it. [LB360]

SENATOR FRIEND: Okay. Senator Lathrop had a question. [LB360]

SENATOR LATHROP: I do. I have to tell you this is the second time I've heard this bill, and I'm still not certain about what we're doing. But it sounds like we're taking a function that's done countywide and sticking it into a city office that will then be responsible for doing this function countywide. [LB360]

JACK CHELOHA: In a nutshell, that's correct. [LB360]

SENATOR LATHROP: Okay. Most of the properties do exist within the city of Omaha's jurisdiction, right. I appreciate that. And what you're saying is, well, because we're going to do the lion's share of them inside the city, why not make it a city function? [LB360]

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JACK CHELOHA: Right. And if you read the bill, Senator, we appoint a commission, if you will, of city employees. We're not even tied hard and fast to that either. If the county comes back and said we'll only support this if we can have some representation on that commission, I think we'd be open to that. [LB360]

SENATOR LATHROP: Well, and that's a concern I have is... [LB360]

JACK CHELOHA: Right. [LB360]

SENATOR LATHROP: ...what's Bennington going to say when they have to run down to Omaha city hall to try to talk to some Omaha guy... [LB360]

JACK CHELOHA: Right. [LB360]

SENATOR LATHROP: ...who's understandably mostly concerned about Omaha... [LB360]

JACK CHELOHA: Right. [LB360]

SENATOR LATHROP: ...and they're trying to get something knocked down or taken back in the city of Bennington, for example? [LB360]

JACK CHELOHA: Right. I understand. I know the statute now provides for the largest city, largest school district, and then the county to have a representative on the commission. And so we'd be happy to, you know, work through any concerns on that. [LB360]

SENATOR LATHROP: So tell me again what the reason is. What's the problem with just leaving it the way it is? Why are we going to take a county function and turn it into a city function and then have the city of Omaha trying to flex its muscle in Waterloo and Valley and... [LB360]

JACK CHELOHA: Well, I don't think it's a power grab per se. I think what we were looking for is just more of an efficient operation because we do have a three-member commission now. We pulled a rep from the city of Omaha, which is Frank Brown; a rep from the county, which is County Commissioner Chris Rodgers; and then there's a representative from the largest school district, which is Omaha Public and I apologize, I can't remember the name of that representative right now. But those three meet, I'm not sure how often, if it's quarterly or monthly. [LB360]

SENATOR LATHROP: Well, are we going to change the format? [LB360]

JACK CHELOHA: We do. The bill does change the format because if it becomes a city

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operation, we let the city planning director appoint a commission of three to handle these sales. [LB360]

SENATOR LATHROP: Do you think that people in Bennington that want something to go through this process aren't going to be upset if it doesn't move fast enough and it's all done by big brother city of Omaha? [LB360]

JACK CHELOHA: Oh, I imagine there could be some concern. But frankly, right now the reps on this commission rarely, if ever, hear from, you know, constituents about property. I mean it's very unusual. I mean, we're... [LB360]

SENATOR LATHROP: What about this one? If I own property in Douglas County in Bennington or out in rural Douglas County for that matter, and you want to go through this process, and I get some mail from the city of Omaha and I look at it and go, I don't know what they want with me, but it can't have anything to do with anything because I don't live in the city and they pitch it. [LB360]

JACK CHELOHA: Right. I mean all I can tell you is we'll follow whatever the statutory guidelines are for giving notice. [LB360]

SENATOR LATHROP: And, Jack, I may be on my soapbox about not having representation. [LB360]

JACK CHELOHA: I was here for the previous bill so I know where you're coming from. [LB360]

SENATOR LATHROP: You were here for that Boston Tea Party lecture. [LB360]

JACK CHELOHA: I know where you're coming from. [LB360]

SENATOR LATHROP: All right, thanks. [LB360]

SENATOR FRIEND: Any other questions from committee members? I don't see any. Thank you. [LB360]

JACK CHELOHA: All right, thank you. [LB360]

SENATOR FRIEND: Next proponent. [LB360]

GARY KRUMLAND: Senator Friend, members of the committee, my name is Gary Krumland, it's K-r-u-m-l-a-n-d, representing the League of Nebraska Municipalities, appearing in support of LB360. We do support the city of Omaha's effort, but I just wanted to basically come up and tell the committee in response to some questions that

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we have not had any other city express an interest in doing this. But if the committee is interested in looking at expanding this to other cities, we can make some calls and find out if there are other class cities. As Jack said, the city of Lincoln and Lancaster County may be the prime candidate, but we can check that out and let you know. [LB360]

SENATOR FRIEND: (Exhibit 4) Thank you, Mr. Krumland. Questions from committee members? I don't see any. Thanks for the testimony. Any other proponents? Are there any opponents? Any opposition? Anyone wishing to testify neutral? And Senator Cook recognized to close. Oh, I do want to read a letter in support from the Greater Omaha Chamber of Commerce, a letter in support of LB360. I want to read that into the record. Senator Cook, to close. [LB360]

SENATOR COOK: Thank you very much. Chairman Friend and members of the committee, I want to thank you for your consideration. Thank you very much for bringing up the prospect of including smaller cities within Douglas County in this conversation. Our office is certainly open to that dialogue along with the residents and representatives in Lincoln, Nebraska. What I would like to do is for us to, when we take it up into committee, to talk about those options. And respectfully, after that's all worked out perfectly, advance it to the floor for consideration on General File. So thanks again. [LB360]

SENATOR FRIEND: Thank you, Senator Cook. Are there questions? I don't see any. And that will close the hearing on LB360. Senator Pirsch I believe is here to open on LB470. Welcome. [LB360 LB470]

SENATOR PIRSCH: (Exhibit 5) Thank you, Chairman Friend and members of the Urban Affairs Committee. I am State Senator Pete Pirsch, representing Legislative District 4 and the sponsor of LB470. Just a few quick remarks. The words, you know, of this bill, I was contacted by a constituent over the interim, said, are you aware that our taxes with respect to cell phones and landlines are the highest in the nation. And that kind of caught me by surprise as I wasn't aware of that. High taxes in any category nationwide are always a cause of alarm for me. And so I've introduced LB470 as a conversation starter, to bring out the issue and address the concern. Anytime we lead the nation in a particular category I think that's something that we should be looking at because, of course, high taxes do have an effect on development, keeping people in the state, businesses, and job creation in the state. And so my understanding is that currently over 22 percent total tax on cell phones and at least in my area of the state and over...it has been said, I have been told that over 25 percent perhaps tax on landlines as well. This particular...well, the overall taxes on phones in Nebraska have many component parts. And this bill only deals with one component part, an occupation tax. Let me tell you what's not intended, what I don't intend with this bill. And that's...I'm not intending to put cities in a bad spot or to nick them at a point in time where the economy has taken a turn for the worse and where there's infrastructure needs and this



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traditional source of revenue then is imperilled. That's not something that I...the reasons that's compelling me to bring this forward. And so, you know, what I'd like this bill to do, this bill to serve as is a conversation starter. Toward that, in discussing it with many of the actors here they've asked, and I think it's a good idea that we, for the committee to, at this point in time, given certain factors not the least of which is the economy, to hold the bill over at this point in time. And would invite an interim study...this committee to engage in an interim study on this matter, sort of a more comprehensive type of look at the situation can be afforded. I know there are a lot of bills on the committee's plate this session. And so I would invite a collaborative approach where all sides can hopefully sit down and maybe we can find some common ground to make sure that my overall concern, which is we're leading the nation in the category of taxes can be addressed. And so, you know, I'm sure there will be some individuals that come forward to testify. In just a few words, right now the way that it is drafted it would limit the maximum occupation tax to a 6 percent level. Which as it is currently structured, would only effect one municipality, and that's the city of Omaha who has currently, I think, 6.22 percent. So this would limit them to 6 percent. And so that would have the effect of, I guess, affecting their revenues in a negative manner to the extent of some probably ballpark, give or take \$100,000, maybe \$600,000 or so. And I'll let them testify as to the exact calculations. But, you know, certainly they have legitimate questions regarding the effect of that. And so I would like to pass around, to the extent that we have introduced LB470, an amendment which would, because of the term "telecommunications company has been in service" has been utilized in the bill. I'd like to pass around an amendment that just gives definitional guidance as to what those terms mean as they are used in the bill. And again, I do hope that this is the beginning of some dialogue. Would ask the committee to hold the bill over and then invite the committee to do an interim study on the issue. So thank you for your time. [LB470]

SENATOR FRIEND: Thank you, Senator Pirsch. Are there questions from committee members? [LB470]

SENATOR PIRSCH: And, Senator, I am going to waive closing insofar as I am in committee hearing right now, so thank you. [LB470]

SENATOR FRIEND: Okay, very good. Thank you, Senator Pirsch. Could I see a show of hands of people wishing to testify in support. Okay. Thank you. I see two. Could I see a show of hands of those wishing to testify in opposition. I see two. Okay. We will start with proponent testimony. Welcome. [LB470]

JOHN McCOLLISTER: Mr. Chairman, good afternoon, senators. My name is John S. McCollister, M-c-C-o-l-l-i-s-t-e-r. Although I am the new executive director of the Platte Institute, and the Platte Institute is a nonprofit economic research foundation that promotes limited government, personal responsibility, and free enterprise, but I represent myself, 8010 Hickory Street, Omaha, Nebraska. The telephone tax issue hit

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center stage when Nebraska's phone users led the charge story by Jake Thompson, in the Omaha World-Herald on March 30, 2008. A survey by the CTIA Wireless Association identified the Cornhusker state as the nation's leader when it comes to taxes and fees. Why so? As we look at the dazzling array of telephone taxes we pay, there are two major reasons why Omaha and Lincoln telephone users pay the highest taxes in the country. First, is the occupation tax of 6.25 and 5.5 respectively. Second, is the Universal Service Fund, USF of 6.95, a surcharge levied by the PSC which is used to subsidize service and spur broadband development in our rural areas. The two taxes alone account for 50 percent of the telephone taxes that we pay in Omaha and Lincoln. Add the usual mix of city and state sales taxes and the federal tax, the result is 40 percent of Nebraskans pay nearly 25 percent on landline telephones, slightly less for cell phones, a confiscatory tax level in anybody's book. It's small comfort to Omaha and Lincoln consumers that some rural Nebraskans pay considerably less where occupation and city taxes are not applied. So what's to be done? First, limit the occupation tax that any city can charge on telephone service to 5 percent. A 5 percent rate is still excessive, particularly since city sales taxes also apply. But a 1.25 percent reduction would help hard-pressed urban telephone customers. There's absolutely no reason that a basic necessity, like telephone service, should be a tax bonanza to cities. The rate should be reduced periodically as cities adjust to lower revenues. All efforts to reduce city occupation taxes on telephone taxes, which we describe as a regressive stealth tax, would be a very welcome reduction indeed. A 20 percent reduction in that tax would reduce the Omaha...city of Omaha take by about \$3 million. And given the level of fiscal stimulus money that I know the cities receive, there would be an offset for sure. Secondly, reduce the Universal Service Fund surcharge from 6.95 to 4.65. With broadband development now reaching nearly all Nebraska consumers, it should be possible to reduce the amount collected for this purpose. The state of Kansas, with population and demographics similar to Nebraska, applies a rate of 4.65, so a reduction of 2.3 is a measured but significant one-third reduction. Additionally, the recent passage of the stimulus bill provides \$7.2 billion for broadband development, so Nebraska will share in that...in a significant amount of money coming in from the federal government. In summary, a reduction of 2.3 percent in the USF and a 1.25 percent in the occupation tax provides an overall reduction of 3.55 percent and would reduce the excessive tax burden Nebraskans pay for telephone service compared to the rest of the country. Any questions? [LB470]

SENATOR FRIEND: Thank you, Mr. McCollister. Are there questions from committee members? Thanks for coming down. Thanks for testifying. I wanted to run something by you. This seems more confusing than, you know, I think we're going to be able to get to in a hearing like this. Can you explain to me, and I'm asking you this because of your background in this area. Can you explain to me how the wireless carriers in this state react to the way they're treated, particularly in Omaha, for example, and the occupation tax that's applied there compared to the way they're treated in Lincoln. And then maybe compared to the way they're treated outside of the state. I mean, when we go after

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things like this or we try to put bills together like this, is the unintended consequence that we're going to hurt the consumer no matter what because these wireless companies are going to walk away, you know, without dealing with the, I guess, punishment that we're thinking of. [LB470]

JOHN McCOLLISTER: Well, the wireless companies really don't have a position on the taxes. In fact, the surcharges or the occupation tax, they would like for that tax to be much lower, you know, because of the marginal aspect and pricing for cell phones. Every time you raise the price of cell phones the amount of usage drops. And so they'd very much favor a reduction in the occupation taxes. Now the surcharge, universal service charge goes to rural phone companies, primarily in Nebraska. And that amounts to over \$50 million in our state. And this money goes directly to rural phone companies to offset subsidized service and also spur broadband development. But it's my point that with over 90 percent of our consumers in Nebraska now receiving broadband, and with the extra money they're getting from the federal government on the stimulus bill, we should be able to reduce that amount. [LB470]

SENATOR FRIEND: Yeah. And I guess, John, the...I don't know if this is a very good question. But, I mean, with all of the things that are happening, I mean, first of all, wireless has taken off. So it's politically...it's a political tool right now for politicians to go in and say, let's take care of this problem. Forget about the green copy just for a second. Are we taking care of the problem with this discussion? That would be my question. [LB470]

JOHN McCOLLISTER: Well, it's a multifaceted discussion. [LB470]

SENATOR FRIEND: Right. [LB470]

JOHN McCOLLISTER: I mean, it just depends to what extent you want to deal with it. You know, you could very well argue that the surcharge or the Universal Service Charge, you know, that's a PSC issue. They're the ones that establish that rate. The city of Omaha establishes the occupation tax. But, you know, we're saying that the city of Omaha exceeded its authority when they levy a 6.25 percent rate on top of sales tax, that's pretty healthy. I mean, that's confiscatory. And we think the city puts too much money on that. You know if you're talking about, Senator, quality of service in rural areas, you know, that's not likely to change. They...broadband is here to stay. Those rural phone companies are here to stay. There's been consolidation to be sure, but you know they're happy with serving in Nebraska. [LB470]

SENATOR FRIEND: Okay. Are there other questions from committee members? I don't see any at this point. Thanks for the testimony. [LB470]

JOHN McCOLLISTER: Thank you, senators. [LB470]

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SENATOR FRIEND: Next proponent. Welcome. [LB470]

CURT BROMM: Thank you, Mr. Chairman and members of the committee. For the record, my name is Curt Bromm, B-r-o-m-m. And I'm here representing Verizon Communications. Let me say first of all that I commend Senator Pirsch and the committee for taking a look at this subject. I think my client has felt for quite some time that it is a subject that needs to be examined, and examined very carefully. Verizon has come into the state with quite a bit of infrastructure in the last two or three years. And, of course, with the Alltel event, they're planning on putting a considerable amount of additional infrastructure in this state. And that's really not here nor there, except that I think it's relevant because I think the wireless companies are becoming a huge industry throughout the world and certainly in this state. Our state is the kind of state that needs this kind of communication and needs it to be good. It helps our state because we're such a wide state with a rather sparse population. Having said that, I heard Senator Pirsch's opening. We're also sensitive to the fact that our...some of our communities are experiencing some...going to experience probably, and some already are some pretty serious financial difficulties with the shrinking tax base perhaps, with some layoffs and what have you. So timing is everything. When it comes to trying to reduce taxes there is never an easy time. But there are some times that are harder than others. We certainly would support and we would be glad to be a part of, to the extent that anyone wanted us to, to provide information with any kind of a research project or a study to look at this whole structure and see whether it's appropriate for the state of Nebraska. We believe it is a good thing to be discussing. I am simply referring to the bill itself, I'm not talking about the Universal Service Fund or any other sales tax or anything like that. I'm talking about this tax. And so we would support that. And with that, we'd be glad to try to answer any questions. [LB470]

SENATOR FRIEND: Thank you. Are there any questions from committee members for Mr. Bromm? Senator Cook. [LB470]

SENATOR COOK: Thank you very much. Thank you for coming today, Senator Bromm. I have a question that's kind of more drilling down to a consumer question that I'm anticipating, whether it's taken up during an interim discussion or beyond. Has anybody done the arithmetic on what the precise impact would be on, let's say if I were a Verizon customer, my cell phone bill or my wireless bill? Like what would it go down by if it...if we went from 6.25 to 6 or whatever the bill is proposing? Do they have that yet? [LB470]

CURT BROMM: If you were...the only ones that...if you did the bill as it is, the only ones it would really impact would be the residents within the city of Omaha. And it would be, on your basic phone bill it would be a quarter of a percent times whatever that bill is. And no, we have not...I have not asked my...I've not done the research or asked my

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client to do the research to find out how much money that would amount to for the consumers in Omaha. But collectively it would be somewhere in the figure that I think Senator Pirsch mentioned a figure of \$100,000 perhaps reduction in taxes collected from this source for the city of Omaha. But I haven't verified that, Senator Cook. [LB470]

SENATOR COOK: All right. Well, thank you very much. [LB470]

CURT BROMM: Sure. [LB470]

SENATOR FRIEND: Any other questions from committee members? I don't see any. Thanks. [LB470]

CURT BROMM: Thank you, Mr. Chairman. [LB470]

SENATOR FRIEND: Thanks, Curt. Any other proponents? We'll start with opposition. [LB470]

CAROL EBDON: (Exhibit 6) Good afternoon again. I'm back. Carol Ebdon, E-b-d-o-n, finance director for the city of Omaha. This time I'm here not to talk about highway funding and street maintenance but rather our city General Fund. And I appreciate Senator Pirsch's statement that he's not trying to harm local governments particularly in this financial crisis time. That means a lot to us. As you heard from prior testimony, the city of Omaha's current rate is 6.25 percent. And, Senator Cook, I apologize. When we increased our rate a couple of years ago we looked at what the impact would be on the typical bill. And I failed to look at that before I came but I can certainly get that to you. It was pennies a month was my recollection when we increased it. It was not a significant amount on a regular basis to a customer, although I do understand that any tax is certainly an issue. We get about \$600,000 a year for the amount between 6 percent and 6.25 percent. So that's the amount we're talking about with this bill as it was drafted that it would hurt the city. Just to point out what that means to the city of Omaha. It does not sound like a lot of money for a budget our size but it really is. We've been struggling since the last recession, in 2001. We haven't really recovered from that yet. As you all know, I think, at least those of you who have been around for a few years, we've been hurt with state aid cuts. Our state aid is 52 percent or \$4 million a year less than it was ten years ago. Sales tax, we've had some reductions to the sales tax base over the last few years that have hurt us substantially. And sales tax is our largest revenue source. And we are at the maximum rate that we can charge according to the state statutes. So that's been a concern for us. We have not just raised taxes as a result of our financial issues the last few years. Instead we've looked very, very hard at the spending side. We've cut costs substantially. Our civilian work force is 13 percent lower than it was in 2001. Every year we have done what we can on the expenditure side. But in addition to dealing with the impacts of the last few years, we're now faced with this current crisis. We're just beginning to feel the effects of that. We've already cut our 2009 budget by \$6

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million. And we're very...our General Fund budget, we're very worried that we're going to have to go back and do it again. Very worried about property tax, about sales tax, about a number of other things. And we have no slack resources to deal with these problems coming up. So it's a very big concern to us. Just to give you a sense of what \$600,000 means to us in times like this, it's the equivalent of 12 police officers, closing half of our swimming pools, or closing two libraries. So...and this, of course, is a time when those activities are needed more than ever. We understand the issues here. We support the idea of laying this over until next year, looking at this on an interim basis. And we would encourage that you look not just at this tax but also the whole funding of state and local governments in addition because this is part of a diverse set of revenue sources for local governments. And we think diversity is important so that we can keep volatility down as much as possible during times like this. And also so that we can spread costs over so that it's not just one group of taxpayers who pays the entire services of local government. With that, I'd be happy to answer any questions. [LB470]

SENATOR FRIEND: Thank you, Ms. Ebdon. Questions from committee members? I don't see any. [LB470]

CAROL EBDON: Thank you. [LB470]

SENATOR FRIEND: Thank you. Next opponent. [LB470]

LYNN REX: Senator Friend, members of the committee, my name is Lynn Rex, representing the League of Nebraska Municipalities. And we, too, are here in opposition to this measure. And I believe the city of Lincoln has also sent you a letter in opposition to this measure even though they are not currently impacted by the 6 percent cap that will be placed here. [LB470]

SENATOR FRIEND: Lynn, I know how to spell your name, but the transcribers... [LB470]

LYNN REX: I'm sorry, Lynn L-y-n-n, Rex R-e-x, appearing on behalf of the League of Nebraska Municipalities. I'm sorry. [LB470]

SENATOR FRIEND: Thanks. That's all right. [LB470]

LYNN REX: Apologize. So in any event, one of the things that we're looking at, of course, is basically how to fund local government operations. And as Carol Ebdon said, from the city of Omaha, it has been years and years since the state Legislature fully funded state aid to municipalities, which is at this point a statutory \$17.9 million. And I believe it's since the early eighties that that has been fully funded. One of the things that we're looking at is just our diversity of revenues in this package. And encourage you to think about the fact that municipalities across the state, not just in Omaha and Lincoln,

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but across the state are cutting back. There are layoffs. We have cities right now looking at salary reductions and some things that are not too pleasant to look at when you're facing these kinds of economic times. And one of the things that always occurs is that there's a point where you can only cut so much. As Oshkosh, Nebraska would tell you if they were here this afternoon, they don't have anybody else to cut. They have the one person that's responsible for streets, taking care of the swimming pool, taking care of the parks. That's one person that does all of that in that little city. So there's a point and a threshold where you can cut no more without providing and really without impairing services. So with that, we look forward to working with you on an interim study. I would also like to underscore the fact that we do not agree with some of the numbers and figures that were presented here in the proponent testimony. We look forward to working with you and perhaps the PSC and other groups have some information that might be beneficial as well. I'd be happy to respond to any questions that you might have. [LB470]

SENATOR FRIEND: Thank you, Ms. Rex. Questions? Senator Rogert has a question, I believe. [LB470]

SENATOR ROBERT: Lynn, is there any sort of cap you guys would not be opposed to? Or would you just rather have it be free floating, the way it is? [LB470]

LYNN REX: Well, frankly, Senator, the reason why we're opposed to a cap fundamentally is because there are other things that impact local governments. So, for example, if the state Legislature would change some other tax system that would impact telecommunication companies, then perhaps the Legislature itself would be looking at doing some different things in terms of taxation for these companies. And it just cannot be seen in a bubble so that they are uniquely set aside as the only business that has a cap on occupation tax. And one of the concerns that we have, of course, is when you go back to the early eighties and the Legislature dealt with the 4-R Act, which was when the railroads and others lobbied Congress to say that there are certain things that are not going to apply to them in terms of tax policy. That resulted in probably five to six years of the Nebraska Legislature dealing with how are we going to deal with any kind of tax policy when it comes to railroads and other kinds of corporations like that. So at the end of the day, the reason why we're fundamentally opposed to caps is simply because you just never know what's going to happen in Congress with certain tax policies, or how the Legislature itself wants to deal with other tax policies. But is there a cap to which we would never have any argument? I'm sure there's always a number out there. But fundamentally that's why we're opposed to caps. [LB470]

SENATOR ROBERT: Okay, thank you. [LB470]

SENATOR FRIEND: Any other questions from committee members? I don't see any. Thank you, Lynn. [LB470]

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LYNN REX: Thank you. We look forward to working with you on your interim study.  
[LB470]

SENATOR FRIEND: (Exhibit 7) Is there any other opposition? I do have a letter from the city of Lincoln in opposition to LB470. We will read that into the record. Is there any neutral testimony? I don't see any neutral testimony. And, I believe, Senator Pirsch waived closing. That will close the hearing on LB470 and the hearings for the day. Thank you for coming. [LB470]



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Disposition of Bills:

LB174 - Held in committee.

LB360 - Placed on General File with amendments.

LB470 - Held in committee.

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Chairperson

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Committee Clerk