

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

Revenue Committee
February 16, 2011

[LB50 LB209 LB323]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 16, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB50, LB323, and LB209. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Greg Adams; Deb Fischer; Galen Hadley; LeRoy Loudon; Dave Pankonin; and Pete Pirsch. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to Revenue. I am Senator Abbie Cornett from Bellevue. To my left is Vice Chair Dennis Utter from Hastings. To his left is Senator Deb Fischer from Valentine; Senator Greg Adams from York. On my far right is Senator Dave Pankonin from Louisville. Senator Pete Pirsch will be joining us, as will Senator Loudon. Senator Galen Hadley from Kearney. The research analysts today are Steve Moore to my right and Bill Lock will be joining us shortly. Committee clerk is Matt Rathje. The pages today are Marilyn Buresh and Amara Meyer. Before we begin the hearing, I'd ask everyone to please turn your cell phones to either the off or vibrate position. There are sign-in sheets by the back doors for all testifiers wishing to testify. These forms need to be completed before coming up. Please print and complete the form prior. When you come up to testify, hand the form to the committee clerk. There are also clipboards by both back doors if you wish to indicate your support or opposition to a bill. That will be included in the official record. We will follow the agenda posted on the door today: the introducer, followed by proponents, opponents, neutral testimony, and then only the introducer will be allowed opportunity for closing remarks. As you begin your testimony, I need you to please state and spell your name for the record. If you have handouts, you need to bring ten copies of the handouts and give them to the pages or they can make copies for you. We're going to run the hearing a little bit differently today because of the...I spoke with the group that is going to be testifying first. Senator Krist, you are recognized to open on our bill. After that, testimony is going to be limited to three minutes apiece, except for the first testifier on LB50, which will have ten minutes.

SENATOR KRIST: Good afternoon, Chairman Cornett and members of the Revenue Committee. For the record, my name is Bob Krist, K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha. I appear before you today in introduction and support of LB50, a bill I introduced at the request of the Nebraska Catholic Conference. As you will hear from them in subsequent testimony, following the committee hearing on LB67 held in 2009, Senator Friend's bill with similar subject matter, the Nebraska Catholic Conference had invested a significant amount of time and resources to thoroughly examine the positive fiscal impact a bill such as LB50 would provide to our state. I believe LB50 as introduced is good public policy and responsive to the community's input previously offered. LB50 adopts the Elementary and Secondary Education Opportunity Act, which establishes and makes available to individuals and business entities a limited tax credit for contributions to state-certified, nonprofit,

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

Revenue Committee
February 16, 2011

scholarship granting organizations which would be required to use no less than 95 percent of their revenue for scholarships to help children be able to attend private elementary and secondary schools in Nebraska. A tax credit could be claimed for 65 percent of qualifying contributions made during the tax year. The credit would be unrefundable, but any amount credit exceeding the taxpayer's liability could be carried forward up to five years. The bill proposes an aggregate statewide cap of \$10 million in tax credits for 2011, increasing incrementally. In addition to being required to distribute almost all of the revenue as scholarship, scholarship granting organizations also would be required to award scholarships in conjunction with at least two different schools. A qualifying school is defined as any nonprofit, private school, K through 12, that satisfies the state's requirements for legal operation and does not discriminate on the basis of race, color, or national origin. Scholarship eligibility would be means tested. First-time scholarship eligibility would be limited to children entering either kindergarten or 9th grade and to any grade transfers K through 12 from public schools to qualifying private schools. Tax-incented support of private school scholarship assistance would mean a great deal for families who struggle to afford, who cannot afford what they deem to be the best education opportunity for their children. Tax credit and support scholarships not only would enable more families to choose private schools, they would sustain competition for educational improvement in excellence while also helping to increase and perpetuate the tremendous tax relief and affordable education in other than public schools provided. I want to thank the committee for hearing my and considering LB50 and hearing the bill today, and I'd be happy to answer any questions for you. [LB50]

SENATOR CORNETT: Questions from the committee? [LB50]

SENATOR KRIST: I can't see anybody, but I'd be happy to answer questions.
(Laughter) [LB50]

SENATOR CORNETT: Didn't you know this was the inquisition? (Laughter) [LB50]

SENATOR KRIST: This is a spotlight. [LB50]

SENATOR CORNETT: Okay, seeing none, we will have the first proponent. And I believe, having spoke with the proponents, this will be the person that receives ten minutes to speak. [LB50]

SENATOR KRIST: And, Senator, I will be leaving momentarily. I would like to get the option to close. [LB50]

SENATOR CORNETT: That will be fine. [LB50]

SENATOR KRIST: Thank you very much. Thanks. [LB50]

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

Revenue Committee
February 16, 2011

DALE BUWALDA: (Exhibits 1 and 2) I've got a couple of copies here. Well, good afternoon, Madam Chair, members of the committee. Thank you for allowing me to come and testify. My name is Dale Buwalda. I'm with the Foundation for Educational Choice. It's a nonprofit, nonpartisan organization started by Milton Friedman and his wife Rose Friedman. Our senior fellow, Brian Gottlob, conducted a fiscal analysis of legislation similar to the bill that's before you and was trying really hard to get out here and logistically it was just very difficult. He is in New Hampshire and he just couldn't get the times to work out. So he has presented written testimony that we're providing you with, as well as a quick one page that talks about some scholarship tax credit programs that are currently operating in other states. So I will just go through and highlight a few of the things that he put in his testimony. I would encourage you to take time later on and read through it more completely. So Dr. Gottlob has conducted this type of educational fiscal analysis over the last 20 years and has done fiscal and economic analyses in 25 different states, and there are a number of factors that would show how LB50 could produce fiscal benefits for the state. And since we know, along with Medicaid, state education is one of the largest expenses in state government, it's certainly important to identify ways to craft policy that can be fiscally neutral or even save the state dollars, and scholarship tax credit programs are an interesting way to target help to students and to education dollars. The process of restraining educational expenses makes folks unhappy in a lot of different ways in current public schools systems. In contrast, a tuition tax credit program increases the satisfaction of parents with children in schools, and at the same time can satisfy those without children in public schools by reducing the expenditures required for educating Nebraska's children. Any fiscal analysis of a scholarship tax credit program depends on a lot of the different elements and the levers that each program has, and so there are a couple of different things that I'll highlight that will indicate how some of those savings can be realized. Tax credit scholarships...tax credit funded scholarships can save the state money to the extent that they induce students to transfer from public to private schools at a low enough cost in foregone tax revenue to generate savings to the state in per student education aid. A very similar analysis of LB50 would show that the average per student state education aid in public schools was around \$3,150; and thus, for every tax credit funded scholarship with a value less than \$3,155, the state would receive a net fiscal benefit equal to the difference of that aid and the cost of the actual tax credit. In each tax credit scholarship program that I'm aware of in other states the average value of the scholarships is lower than \$3,155. Several key factors indicate how one can score a tax credit proposal. The value itself of the tax credit: By allowing just 65 percent of the tax credit as opposed to a dollar for dollar, 100 percent credit, this allows the state to provide a dollar's worth of scholarships to children at a cost of just 65 cents to the state. For example, for \$10 million in tax credits, the state would induce \$15.4 million in contributions to scholarship granting organizations. Another way to consider this important feature is to consider the scholarship value at \$3,155--the amount of state aid per student. Because contributions receive 65 percent tax credit, the cost to the state in foregone revenue for a scholarship of \$3,155 is just \$2,051. If the scholarship goes to a

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

Revenue Committee
February 16, 2011

student transferring from public to private school then, the savings to the state would be \$1,104. So the 65 percent value for credits to the program absorb the costs associated with the administration, as well as the percentage of scholarships being awarded to students planning on or attending private schools and still produces fiscal benefit to the state. So another lever is the percentage of scholarships awarded--that the current public school students versus public folks that transfer to private schools. So when a student is awarded to a school who would otherwise be attending a private school, it appears that there's a cost to the state. However, in general, the fiscal savings occur as long as two-thirds of the scholarships are awarded to public school students who are transferring to private schools. The total savings depends on scholarship values and the number of scholarships provided. So the value of the scholarships themselves, Dr. Gottlob's analysis suggests that in the first year the key number here is this break-even rate or the number of scholarships that must go to students transferring from public to private schools in order to achieve this break-even fiscal savings. So if 3,170 scholarships are awarded, assuming that two-thirds of these scholarships go to students transferring from public to private, the break-even number of scholarships will be achieved at all scholarship values up to \$3,200, and the fiscal benefit to the state would be maximized at an average scholarship value of about \$2,000 in the short term. Additionally, interaction between scholarship values and the percentage of scholarships awarded to public schools are critical in determining fiscal impact. The estimate of \$3,170 scholarships to go to public school students in order for the state to break even on the program in the first year, if the average scholarship value is \$2,250 then 6,496 students can be awarded with a \$10 million tax credit program that makes \$14.6 million in scholarships available. So there are a number of different things there that can increase the cost savings to the state in different levers. One of the...probably the best indicators of how this type of program practically works is not the experience of this specific proposal but the experience that we have from other current existing programs. The state of Florida passed a scholarship tax credit program several years ago and an analysis was done of that study by the state's official kind of watchdog accountability group--the Office of Program Policy Analysis and Government Accountability. The report released in 2009 reviewed 2008 expenditures in the scholarship tax credit program there. What they found was for every \$1 in foregone tax revenue the state received \$1.49 in economic benefit. Consequently, they determined that in 2008 alone \$38.9 million was generated by their scholarship tax credit program. Additionally, Dr. Susan Aud, who was formerly a professor at Johns Hopkins University, now is with the U.S. Department of Education, completed an analysis about scholarship tax credit programs and other school choice programs around the country. From her analysis, she reviewed scholarship tax credit programs that were operating in 1990 through 2006, and from three programs--Arizona, Pennsylvania, and Florida--just these three programs in that time period generated \$203.8 million in savings to their states respectively. But these numbers, in and of themselves, probably are not sufficient just to communicate the savings of tax credit programs, so another challenge would be to show what states' reactions to the legislation would be in their own respective places. So of all the current

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

Revenue Committee
February 16, 2011

existing scholarship programs, all except for the two most recently passed, all the states have actually increased and expanded the total cap on those programs. So if lawmakers in those areas were not in belief that the programs were beneficial to the state and to students, they would have little incentive to increase the contribution to those programs in those states. So like I said, I would encourage you guys to review Dr. Gottlob's analysis in more depth and maybe look at it side by side with the state's fiscal and look at them together and you could, I think, come to a very reasonable assurance that as you save money you can offset a lot of the costs that appear to be in this legislation, to the point where if it's structured properly it could be revenue neutral and, in fact, generate savings to the state. So with that, I'll address any questions you have and... [LB50]

SENATOR CORNETT: Senator Hadley. [LB50]

SENATOR HADLEY: Senator Cornett. Thank you. Appreciate your coming out to visit us. [LB50]

DALE BUWALDA: Sure. [LB50]

SENATOR HADLEY: Years ago in another life, I read Freedom and Capitalism (sic) by Dr. Friedman, his seminal work. [LB50]

DALE BUWALDA: Right. [LB50]

SENATOR HADLEY: I'm wondering, is there an inconsistency? Because in that he talked a lot about the marketplace, basically government not being involved in people's lives, and yet now we have a proposal that says we will use tax credits, itemized deductions and such as that, literally in Nebraska pay 100 percent of an education. Is that consistent with the freedom and capitalism concept that I read many years ago? [LB50]

DALE BUWALDA: I believe it is. Dr. Friedman strongly believed that education was one of the few last remaining monopolies in the country. What you see is if someone...if a family receives Medicare or food stamps, let's say, if they receive food stamps, the government doesn't only require them to shop at one grocery store. They are provided options, and families and parents are entrusted to make good decisions for their children and for their own families. This type of an environment would allow the parent to be back in charge of their child's education, so the liberty generated from this program would put parents in charge of their child's education and allow them to select the best environment that motivates and challenges them. So Dr. Friedman believed that by allowing parents to choose, we'll force competitively...we will force public and private schools to do better. And there is a number...there are a number of sort of gold standard studies that have been done on this, which you can find on our Web sites,

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

Revenue Committee
February 16, 2011

EdChoice.org. There have been ten studies that are random assignment studies that analyze the impact of school choice programs around the country. Nine of those programs have been determined that scholarship...that school choice programs have a positive effect on student learning and on grades. The tenth had a statistical certainty that was below the 95 percent threshold but it was still in a positive view. So this is very consistent with what Dr. Friedman believed and this is why our foundation is the only one that he has been involved with and this has been the sole issue that he has dedicated himself to. [LB50]

SENATOR HADLEY: You know, I would agree with you that he would believe in choice, but does he believe in choice with the state funding 100 percent of it? [LB50]

DALE BUWALDA: Well, I don't know how he would be able to determine if the state funds 100 percent of this. [LB50]

SENATOR HADLEY: Because 65 percent credit, you also get an itemized deduction on your Nebraska state tax return as a charitable contribution, you also then get a tax...itemized tax deduction on your federal tax return. Sixty-five percent tax credit, average person in the 25 to 30 percent tax...marital tax rate federal, you add 25 percent to 30 percent to that. And the Nebraska tax return is 6 to 7 percent. You get an itemized credit on that. You add those three up, a person that gives \$5,000 to this and is in the range that people who can give \$5,000, gets \$5,000 from, quote, the state government back for their contribution. [LB50]

DALE BUWALDA: Well, I can tell you in other states that have a similar analysis of this program, they operate under the same IRS controls that would be necessary here in Nebraska with the exception of some of the, you know, additional specific state laws that you have. And what I can say there is what I just said in some of this other research, that it still...it saves the state. I mean in Florida, for example, almost \$39 million was returned back to taxpayers. [LB50]

SENATOR HADLEY: But they...Florida doesn't have a personal income tax, does it? [LB50]

DALE BUWALDA: Pardon? [LB50]

SENATOR HADLEY: Florida does not have personal income tax so their credit is always just on corporate, right? [LB50]

DALE BUWALDA: Correct, it is currently. [LB50]

SENATOR HADLEY: That's what it says here. It says corporate income tax is the only taxable...tax eligible for this. [LB50]

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

Revenue Committee
February 16, 2011

DALE BUWALDA: Sure, but Pennsylvania does, Georgia does, Indiana does, Iowa does. [LB50]

SENATOR HADLEY: Pennsylvania says it's the corporate net income tax is eligible. [LB50]

DALE BUWALDA: Right. But that's been...that has been modified. [LB50]

SENATOR HADLEY: Okay. [LB50]

DALE BUWALDA: It includes corporate, individual, there are a number of different things. But... [LB50]

SENATOR HADLEY: Okay, I was just reading from your handout. [LB50]

DALE BUWALDA: Sure. No, sure, sure. [LB50]

SENATOR HADLEY: Okay. [LB50]

DALE BUWALDA: And even within...even within Nebraska, if the total...from the analysis that we did, and the numbers are from, I believe, 2008, the total state, local, and federal dollars spent in Nebraska per child is approximately \$9,400. So if you take an average scholarship amount of around \$2,000, maybe \$3,000, I mean simply arithmetic, \$9,000 minus \$2,000 is \$7,000. You're saving the state, local, and federal government a substantial amount of tax revenue. [LB50]

SENATOR HADLEY: Can I ask one more question then? [LB50]

SENATOR CORNETT: Of course. [LB50]

SENATOR HADLEY: Do you assume then that all costs in public education are variable if it was...? [LB50]

DALE BUWALDA: No, not at all. No, in this analysis, it uses only the portable portion of the state...of the state funding which is approximately, out of that \$9,000, only \$3,100. So this analysis, based on only \$3,100 is portable, and on top of that, if you're talking about 100 percent credit you would genuinely have some concerns about the potential for fiscal costs to the state. But being that this is really only a 65 percent credit, which was...which is among the lowest in the country for this type of currently operating program and proposals, you're going to absorb a lot of the administrative costs and some of the other fixed costs in that 65 percent. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR HADLEY: Thank you. [LB50]

SENATOR CORNETT: Senator Adams. [LB50]

SENATOR ADAMS: Just out of curiosity, you didn't come to the state and do the analysis, did you? [LB50]

DALE BUWALDA: No, sir, my...our senior fellow looked at...was the principal investigator for this. [LB50]

SENATOR ADAMS: All right. So if I ask you how familiar you are with our school aid distribution formula, your answer would be? [LB50]

DALE BUWALDA: Dr. Gottlob is far more familiar with TEEOSA and some of those other types of things, but his analysis was based on data that was generated from the state Department of Revenue and the State Department of Education. [LB50]

SENATOR ADAMS: Does he understand that it is based on cost and array and basic funding? [LB50]

DALE BUWALDA: That would be a question best for Dr. Gottlob but... [LB50]

SENATOR ADAMS: It's pretty hard for me to start accepting the validity of this until I find out how much the person really knows about how we distribute state aid in Nebraska and how we determine our cost per student. [LB50]

DALE BUWALDA: We have copies of the full study for the committee. Have those been distributed? [LB50]

SENATOR ADAMS: And when we start talking about \$9,400, I'm assuming that includes IDEA, special ed. [LB50]

DALE BUWALDA: Probably. [LB50]

SENATOR ADAMS: And in a private school they're not obligated to provide special ed. [LB50]

DALE BUWALDA: No, but many of them do. [LB50]

SENATOR ADAMS: Well, okay. Thank you. [LB50]

SENATOR CORNETT: What schools provide special ed? [LB50]

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

Revenue Committee
February 16, 2011

DALE BUWALDA: Specifically in Nebraska, I don't know, but a lot of schools across the country... [LB50]

SENATOR CORNETT: I know, but we're just talking about specifically Nebraska. [LB50]

DALE BUWALDA: I would... [LB50]

SENATOR CORNETT: Okay. Further questions from the committee? Seeing none...oh, no, I'm sorry, I didn't see you, Senator Utter. [LB50]

SENATOR UTTER: In looking at this, let me say at the outset that I think parochial schools do a great job and we...I come from Hastings and we have Lutheran parochial schools and Catholic parochial schools and, admittedly, they work very efficiently and do a good job. When fund-raisers come up, why, I've been there and, even though I'm not a Catholic or a Lutheran, I've participated because I appreciate what they do. But looking at this, I got the implication that this was a program for needy students and needy parents to get kids into a parochial school, and then I take a look at the salary of...the gradients of the salary and I see that, for example, for a household of four, the limit on the salary would be \$163,000 a year. Now that, in Hastings, Nebraska, that may include 100 percent of the students. [LB50]

DALE BUWALDA: Right. The way...a lot of those current operating scholarship tax credit programs around the country, several of them actually don't have...they have universal eligibility, does not restrict availability of scholarships to folks financially. And so what this program does is it puts some safeguards in there at substantially higher levels, sure, than perhaps what some folks want to do. But what practically happens in states, and I'll use Georgia as an example, Georgia is a state that has a universal eligibility program. The state's largest scholarship organization is the GOAL scholarship group they give out...I think it's about 74 percent of the scholarships that they give out are to students at the free and reduced lunch program level. So scholarship granting organizations target specific constituencies of folks that are far lower than the threshold that's allowed in the legislation. Folks just felt it was important to put some cap of some sort in here in order to help, you know, folks at lower income and middle income as well to have access to scholarship (inaudible). But practically speaking, across the country these funds are actually distributed to folks with much, much lower means, closer to about, you know, up to, you know, 100, 150, 200 percent of free and reduced lunch price. [LB50]

SENATOR UTTER: And we're at 400 percent here, right? Is that... [LB50]

DALE BUWALDA: Yes, that's my understanding. [LB50]

SENATOR UTTER: Yes. So taking this a step further, and tell me if I'm wrong in

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

Revenue Committee
February 16, 2011

thinking this way, but if I were a parent that was making \$160,000 a year, which I've never done in my life but if I was, and would make a contribution to the scholarship fund and turn around and my kids would get one of those scholarships because I'm under the limit, does that in essence allow me to deduct 100 percent of the scholarship that the children are getting? [LB50]

DALE BUWALDA: Well, I believe there's a specific provision that doesn't allow donors to specify how the funds flow. [LB50]

SENATOR UTTER: Don't have to specify it, you know. [LB50]

DALE BUWALDA: Well, I mean, so let's say that you do make \$160,000 and would like to make a charitable contribution to one of these groups and you go through the process of writing things off on the tax. There is absolutely no guarantee that there would be anyone that would be willing to generate a scholarship for your family. I mean if you're applying to a scholarship granting organization... [LB50]

SENATOR UTTER: But it could, could it not? Could that happen? [LB50]

DALE BUWALDA: Well, anything could happen I guess, but the history of the current existing programs across the country has absolutely not been that. That would be totally contrary to what currently is happening. [LB50]

SENATOR UTTER: Thank you. [LB50]

DALE BUWALDA: Sure. [LB50]

SENATOR CORNETT: Further questions? What are the income guidelines for not free lunch but reduced? [LB50]

DALE BUWALDA: A family of four at free and reduced lunch price program would be, at 100 percent of free and reduced lunch, would be about \$44,000. [LB50]

SENATOR CORNETT: So at 400 percent? [LB50]

DALE BUWALDA: It would be about 160 I think. [LB50]

SENATOR UTTER: Be \$163,172. [LB50]

SENATOR CORNETT: Okay. Thank you. [LB50]

DALE BUWALDA: Thank you. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Next proponent? [LB50]

JEREMY MURPHY: (Exhibits 3, 4, 5 and 6) Good afternoon, Senator Cornett and members of the committee. My name is Jeremy Murphy, spelled J-e-r-e-m-y M-u-r-p-h-y. I serve as associate director for education issues for the Nebraska Catholic Conference, and I'm here to testify in support of LB50. Just to give you a little bit of an idea, we have about 120 Catholic schools in Nebraska. Those schools educate more than 28,000 young Nebraskans in the K-12 grades. I do have copies of my testimony for the committee, if a page could distribute those, please. From our perspective, LB50 is about enabling more Nebraska children to be educated in privately operated schools, in accord with the wishes and desires of their parents, at a cost typically less than that of educating children in public schools. LB50 would be a tool to encourage individuals and corporations to donate to new, nonprofit, scholarship granting organizations which would, in turn, award scholarships to eligible children to enable them to attend qualifying private schools. Many of these families are underprivileged, struggling financially, and really need more assistance than our schools can provide to them and still operate effectively and in a fiscally responsible manner. The donors would be eligible to claim a 65 percent state tax credit in exchange for their contributions. Our schools are stretched thin already financially to help pay an ever-growing cost of educating children in order to keep our tuition as low as possible, and the announced closing of St. Peter Claver/Cristo Rey School in Omaha is a good example of this. It's a high-quality school, serving many minority families who are materially poor and in need of financial assistance. Parents, parishes, and dioceses are all contributing to the cost of educating students enrolled in Catholic schools. Low and limited income families have very limited options to enroll their children in private schools and giving them an opportunity to learn despite the desire of many parents to do so. The scholarship assistance provided through this specially tailored LB50 program would be awarded to children from families who otherwise could not afford private-school tuition. Only three limited entry points are provided after the means testing occurs: entering kindergartners, any-grade transfers public to private schools, and entering 9th graders. Catholic schools, along with our colleagues in other segments of private elementary and secondary education, are vital components of and contributors to the overall provision of education in Nebraska. We think the state of Nebraska would not only be making a worthwhile investment in educational choice for its young citizens with LB50 but doing so in a manner that would result in a savings for taxpayers. In the event there is an issue raised on constitutionality of this bill, attached to my testimony is a copy of a memo brief on the constitutionality of LB50 for your information. Also, I created an on-line petition in support of LB50, which I attached a copy of with my testimony. To date, more than 2,400 Nebraskans have signed the petition in support of this bill and some have left comments for you to view. I see that my time is up. I do have some additional materials to provide for the committee. I have copies of the full fiscal report that Brian Gottlob performed and also a copy of a news release on the closing of St. Peter Claver/Cristo Rey School. I'd be happy to answer any questions. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Senator Adams, then Senator Fischer on this side, and we'll go to that side. [LB50]

SENATOR ADAMS: Thank you, Senator Cornett. Jeremy, thank you for being here today. [LB50]

JEREMY MURPHY: You're welcome. Thank you. [LB50]

SENATOR ADAMS: Jeremy let me draw out a scenario for me and you tell me where the savings is at. We have a school district in Nebraska and the Catholic grade school is a block or two away, doesn't matter, not that far away. And we have...let's call it a grade school, and we've got a 4th grade teacher. That 4th grade teacher is being paid, pick a number, \$35,000 a year and they're inside of a building that's heated, lighted, transportation was provided to get that class there. And we offer these credits and a class of 18 kids just became a class of 15 kids. Where's the savings to the state? [LB50]

JEREMY MURPHY: Well, I would concede that the savings would vary across the state and there might be cases like in your hypothetical where, you know, the savings would be marginal. I mean I would...you know, obviously, if the class size is shrinking by three students, as in your hypothetical, you know, you can't really...you know, that's not...you still need the teacher in the classroom, obviously. I guess the savings would be in whatever materials would have been provided to those three students. [LB50]

SENATOR ADAMS: Let me follow further. Let's assume that the three students that went down the street to the private school, one or...let's say one of them is identified on the autism spectrum and needs special ed help. Where will they get that? [LB50]

JEREMY MURPHY: I should explain, and I think this came up with Senator Cornett's question on special education, we do have two special purpose special ed schools that are Catholic schools in Nebraska. One is Madonna School in Omaha, and we also have Villa Marie in Waverly. So I mean if they're going to those schools they would get... [LB50]

SENATOR ADAMS: But if they're not. [LB50]

JEREMY MURPHY: Okay. [LB50]

SENATOR ADAMS: But if they're not... [LB50]

JEREMY MURPHY: Okay. [LB50]

SENATOR ADAMS: ...then can I assume that those parents will probably go back

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

Revenue Committee
February 16, 2011

across the street to the public school and ask for special ed assistance? [LB50]

JEREMY MURPHY: If you're talking about a student with the autism spectrum and the costs that are involved with that, I would say the answer to your question is yes. I mean these are not level one special ed... [LB50]

SENATOR ADAMS: So we still don't have any cost savings to the public school. [LB50]

JEREMY MURPHY: Well, not in your hypothetical. No. [LB50]

SENATOR ADAMS: Okay. Let me ask you one other question. The other day the conference was in and testified on a different hearing in the Education Committee, very concerned about some technical language from the Department of Ed about assessment and was very concerned that they not be, in the way that the language was written, not be included in the assessment process. And we did try to accommodate. Now let me reverse that then. If we were to grant tax credits, would the conference be more willing to fall under the state's Quality Accountability Act and assess students? [LB50]

JEREMY MURPHY: That would be something we'd be willing to discuss. I certainly would not be at liberty to answer that question without consulting with our diocesan superintendents of schools. [LB50]

SENATOR ADAMS: I understand that. I understand. [LB50]

JEREMY MURPHY: But we're certainly willing to have discussions about that if...you know, we understand when programs like this are set up that sometimes there has to be some kind of accountability measure to ensure the dollars are being spent wisely. So we would be willing to discuss that with the committee if that's something you're interested in. [LB50]

SENATOR ADAMS: Fair enough. Thank you. [LB50]

SENATOR CORNETT: Senator Fischer. [LB50]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Mr. Murphy, for being here. [LB50]

JEREMY MURPHY: Sure. [LB50]

SENATOR FISCHER: I had a similar question as Senator Adams did. It was a couple years ago, you came before the Transportation Committee and we were talking about requiring seat belts in school buses. If the state is going to be giving tax credits for

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

Revenue Committee
February 16, 2011

private education, I guess I would think you would need to meet all the standards that are required of public schools. How would you respond to that? [LB50]

JEREMY MURPHY: Well, we have...we have standards we are required to comply with under federal law, you know, I think no discrimination based on race, religion, national original, things of that nature. I don't know if there's anything federally that would require something like that but... [LB50]

SENATOR FISCHER: But what about...what about our state statutes, so for example the assessments, for example transportation requirements, accreditation standards need to be met? [LB50]

JEREMY MURPHY: Well, Senator Fischer, we do have many Catholic schools that are accredited. [LB50]

SENATOR FISCHER: Uh-huh. [LB50]

JEREMY MURPHY: We do have some that are approved under Rule 14. I guess they're two different structures. I guess I'm trying to understand your question and maybe I'm not fully grasping what you're getting at but... [LB50]

SENATOR FISCHER: I'm just...I'm just asking... [LB50]

JEREMY MURPHY: Are you getting at the assessment issue or...? [LB50]

SENATOR FISCHER: Well, the assessment issue as well as everything else that public schools are required to meet under rules and regs with the Department of Ed. Do you think private schools should have to meet all of those also if they are receiving now state money? [LB50]

JEREMY MURPHY: Well, I guess we feel that private schools do have some degree of independent autonomy and some of that is, you know, that's been the case for years and, you know, we are required to have our own accountability measures with testing. I mean we have to administer norm referenced tests, criterion referenced tests, and our schools are already doing that. I guess are you getting at the statewide assessment tests... [LB50]

SENATOR FISCHER: Correct. [LB50]

JEREMY MURPHY: ...in different subject matters? I guess that's something I would have to discuss with the diocesan superintendents and see how they would want to handle that. I can't give you a solid answer on that. I mean we're representing their interests in testifying today so... [LB50]

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

Revenue Committee
February 16, 2011

SENATOR FISCHER: I would say that my niece in Omaha, we don't have the benefit of a lot of private schools in my area of the state but my niece in Omaha attended Duchesne and Creighton and received a wonderful education. But I do have a question on your...the memorandum you gave us. [LB50]

JEREMY MURPHY: Yes. [LB50]

SENATOR FISCHER: That is from you, correct? [LB50]

JEREMY MURPHY: Yes. [LB50]

SENATOR FISCHER: Did you write that? [LB50]

JEREMY MURPHY: I did, yes. [LB50]

SENATOR FISCHER: Are you an attorney? [LB50]

JEREMY MURPHY: Yes, I am. [LB50]

SENATOR FISCHER: Okay. So this would be like a white paper of your interpretation of where we are on the constitutionality. [LB50]

JEREMY MURPHY: Sure. Yes. Senator Fischer, I should explain, I know you weren't on the committee two years ago when LB67 was heard, but we filed a legal brief after the hearing in that case and I guess this is somewhat similar, though the law hasn't changed a whole lot. But I guess we want all the committee members to have that in your hands in case you need it, if it's helpful. [LB50]

SENATOR FISCHER: Okay. Thank you very much. [LB50]

JEREMY MURPHY: You're welcome. Thank you. [LB50]

SENATOR CORNETT: Senator Hadley. [LB50]

SENATOR HADLEY: Senator Cornett. Mr. Murphy, thank you for being here. [LB50]

JEREMY MURPHY: Sure. [LB50]

SENATOR HADLEY: Just...I did a little research. There are 7,933 501(c)(3) corporations in Nebraska as of 2008. As far as I could tell, in my limited...there were none that were getting both a tax credit for donations and a income tax deduction as a charitable contribution also. So we try to deal with tax policy here so what would be the

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

Revenue Committee
February 16, 2011

policy to pick out your particular 501(c)(3) organizations and say you get both a tax credit and a charitable deduction vis-a-vis the other 7,933 charitable organizations? [LB50]

JEREMY MURPHY: Okay. It's a good question. I think the, you know, the difficulty with drafting bills like this is that you have all these interlocking components that can go different directions and things like that, and if the stacking of the tax credits with the deductions is an issue, I guess we're willing to discuss that with the committee. But we feel the importance of educating children is important enough that it merits this kind of treatment in the tax code, if that's possible. [LB50]

SENATOR HADLEY: Okay. I guess one of the things we do when we set policy, we have to...the next year when somebody else is sitting in the chair, for example, the independent Nebraska universities and colleges sit in the chair and they come in and say, we want a 65 percent tax credit plus deductions for every \$1 donated to our foundation because we're saving the University of Nebraska and the state colleges by not...so I'm trying to figure out what, if we say yes to this, what am I going to say to them. Or I have...we have a United Way agency again that is servicing the developmentally disabled and saying, we're using our funds to try and help and if we didn't do that the state would have to pay for these, so you should give us a tax credit plus a deduction. So I'm trying to...I'm concerned about this, and I really am, and I've given it a lot of thought and visited with you, but I also am concerned about the policy we're setting for the next person or the next organization that sits in the chair and comes in and says what we do saves the state money. And so, consequently, we want the same tax break, which is what it is, so that's more of a statement. I do have just a couple more quick questions. When Senator Krist introduced it, I caught this. It says, "Qualified school means any privately operated elementary or secondary school located in this state that is operated not for profit, does not discriminate on the basis of race, color, or national origin." Does that mean you could discriminate on the basis of religion? [LB50]

JEREMY MURPHY: Well,... [LB50]

SENATOR HADLEY: Since it's not specifically listed as one of the things that you cannot discriminate on, can you discriminate because the person is not the correct religion to go to the school? [LB50]

JEREMY MURPHY: Well, we have many non-Catholics that do attend our schools. I think those are the...those are just the list of the federal prohibitions. [LB50]

SENATOR HADLEY: Okay. So... [LB50]

JEREMY MURPHY: I think that's where that came from. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR HADLEY: Okay. I don't know so I'm glad if it is... [LB50]

JEREMY MURPHY: Okay. I think... [LB50]

SENATOR HADLEY: ...if religion is not one of the protected categories. [LB50]

JEREMY MURPHY: Right. I don't think...I think the federal statute that deals with this mentions race, color, and national origin as the, you know, the three major categories that private schools need to not discriminate based on. And you know, the...we educate Catholics, people who aren't Catholic, people who are Protestants. You know, others attend our schools. It's not...it's not a Catholics only system. That said, there are, you know, breaks with tuition for people who are Catholic or who might be, you know, parishioners of the parish school that, you know, attend, their children attend school in the same parish school or something like that. So I mean there are regional things too. You know, if you live outside parish boundaries, you might have higher tuition. So I mean there are other variables out there beyond just that. I think...I think we do have a little bit of discretion on, you know, if someone is Catholic or not, although we try to open our doors to people that aren't as well. [LB50]

SENATOR HADLEY: Well, and I guess my only concern is that this bill...I don't want anybody to think this is a Catholic bill because we have other religious schools at Kearney and so I don't know what they do as far as, you know, do they require a person to be of a certain faith. That's just a question. [LB50]

JEREMY MURPHY: Yeah, I don't...I can't really answer that question if I don't know, Senator. [LB50]

SENATOR HADLEY: Sure. [LB50]

JEREMY MURPHY: But we do have witnesses testifying after me who are non-Catholic that will be able to give you their perspective... [LB50]

SENATOR HADLEY: Okay. Sure. Okay. [LB50]

JEREMY MURPHY: ...on how their schools operate. [LB50]

SENATOR HADLEY: One other last question: Do you think that this will in any way work to the detriment of other charities? You know, I was just thinking, you know, a lot of charities work long and hard with people in planning for their...with their wills and such as that, and now we set up a system where, instead of getting just the charitable deduction, we're giving them 100 percent. So if I have a choice between giving it to charity A where I get it just as a charitable deduction, or to a not-for-profit school where I

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

Revenue Committee
February 16, 2011

basically get 100 percent deduction, it would seem to me I would be pretty dumb not to give it where I get the 100 percent deduction versus the charities that I can only get a 35 percent or a 40 percent charitable deduction. Is that...do you see that this would really...it could be a real boon to the private schools. [LB50]

JEREMY MURPHY: Well, it could be. I want to correct something with the way you phrased the question. I mean you said the money goes to the schools. Well, I mean the money goes to the scholarship granting organization... [LB50]

SENATOR HADLEY: Sure. Okay, I admit... [LB50]

JEREMY MURPHY: ...and then flows to eligible students. It goes to the student, the family, not the school. I guess that's the point I'm trying to make. But we've had the same, you know, the same concern that you've raised. You know, several of our school administrators are concerned about that. Well, how will it affect our contributions to our foundations? Will it negatively affect contributions to our foundations and, if so, is that really in our best interests? I mean we share your concern. I would hope that that would not be the case. I would hope that it would encourage people who either aren't giving money to charity, would give more or that they would have a stronger inspiration to, if they're not giving to charity at all, to do that and to pick what that charity is and to be generous and charitable. [LB50]

SENATOR HADLEY: I would hope so and, you know, in the back of my mind I think...I'm from Kearney and a person from the Kearney Public Schools Foundation goes out and says...taxes are a part of anybody's planning and they sit there and say, I can get you a charitable contribution at 40 percent. Kearney Catholic Foundation comes out or the (inaudible) says, I can get you 100 percent deduction. [LB50]

JEREMY MURPHY: Sure. Yeah, the other thing I would say, Senator, is some states have trouble. You know, they set up annual caps when they set up these programs. It's tough to raise money in this environment, to even hit those caps sometimes. And so some states are finding that, you know, in the first year of their program, I mean, they're nowhere near the cap because it's a lot of work to get the word out about, you know, this is what the program is, this is how it works, this is why we're encouraging you to be generous and charitable in giving to this scholarship granting organization. I mean it's tough work. You're competing with every other charity out there, so... [LB50]

SENATOR HADLEY: You know, I would not want to be in the charitable giving (laugh)... [LB50]

JEREMY MURPHY: Sure. [LB50]

SENATOR HADLEY: ...you know. I appreciate your coming in and being very forthright

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

Revenue Committee
February 16, 2011

with your questions. Thank you. [LB50]

JEREMY MURPHY: Sure. Thank you, Senator. [LB50]

SENATOR CORNETT: Senator Pirsch. [LB50]

SENATOR PIRSCH: Thank you for your testimony. I was presenting in another committee and so I hope this question hasn't been asked. But have you had the chance to look at the fiscal note as it's... [LB50]

JEREMY MURPHY: I have, yes. [LB50]

SENATOR PIRSCH: And I just...right now it looks like it would estimate a loss of substantial revenues, and yet you're saying that this would actually end up saving the state money. Is that correct? [LB50]

JEREMY MURPHY: Yes. Senator, we have, I guess, tried to figure out ways to keep costs down for the Department of Revenue. I have spoken with Doug Ewald about that, about, you know, how low could you make the cost if this were implemented. And, you know, he explained that you have to have...you have to change the line of the tax form to allow for the contributions to occur. [LB50]

SENATOR PIRSCH: That's on the expenditure side of things. [LB50]

JEREMY MURPHY: True. [LB50]

SENATOR PIRSCH: But the more substantial side of the fiscal note that reflects...deals with the revenue loss... [LB50]

JEREMY MURPHY: Right. [LB50]

SENATOR PIRSCH: ...and so...but the major premise, one of the major premises of this bill is that it would, in fact, result in savings. And so I take it your position is those savings are real, not illusory, but they're just they're just not reflected on the fiscal note, is that...? [LB50]

JEREMY MURPHY: That's correct, Senator Pirsch. I guess we were hoping for a more dynamic fiscal note that might allow for some offset for, you know, for the state's modest investment if it would pass this bill. But I think it's, you know, it's pretty clear if you read the fiscal analysis we provided a copy of that the savings do appear to be real. The, you know, private schools are educating children at a lesser cost, generally speaking, maybe not the case in every hypothetical but they're educating children at a lower cost than most public school districts are. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR PIRSCH: And of the...you mentioned I think there was four other states that have a similar type of incentive, is that right, a tax incentive? [LB50]

JEREMY MURPHY: I would...there are more than that. I think there are seven: Arizona, Florida, Georgia, Pennsylvania, Rhode Island, Indiana has a newer program, and Oklahoma just passed a program. So I think I've included them all so I think there are seven plus...six or seven plus Oklahoma. [LB50]

SENATOR PIRSCH: And some of these have been...when were the first ones really up and running? [LB50]

JEREMY MURPHY: Senator, the first one passed in Pennsylvania in about 1990. [LB50]

SENATOR PIRSCH: So there's experience there, some 20 years or so. [LB50]

JEREMY MURPHY: Sure, experience over several years and... [LB50]

SENATOR PIRSCH: What has been their experience in terms of savings (inaudible)? [LB50]

JEREMY MURPHY: I think their savings have been fairly dramatic. I don't have numbers on that with me, unfortunately. I'd be happy to try to look that up and get back to you on it if you'd like me to. [LB50]

SENATOR PIRSCH: Yeah. I mean I think if you could... [LB50]

JEREMY MURPHY: Okay. [LB50]

SENATOR PIRSCH: ...just with respect to that state and other states that have implemented these type of tax credits, what their experience has been in terms of savings. [LB50]

JEREMY MURPHY: Okay. Thanks. [LB50]

SENATOR CORNETT: Senator Utter. [LB50]

SENATOR UTTER: Thank you, Senator Cornett. Jeremy, looking at the lost revenue, the fiscal note is lost revenue, which is an immediate practical problem for the state in this, in the environment that we're in now, and because we don't have excess revenues that we're dealing with, the question has to become for either this committee or the Appropriations Committee is that we have to go find \$22 million somewhere, assuming

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

Revenue Committee
February 16, 2011

the fiscal note is correct, and that's our Fiscal Office's best guess. Where should we go find that? [LB50]

JEREMY MURPHY: Senator, that's an extremely difficult question to answer and I certainly don't have the experience or information at my fingertips as the Revenue Committee or maybe the Appropriations Committee would or the full Legislature, for that matter. But I guess one place I'd encourage you to look would be the Department of Corrections. We think it would be in the state's best interest to educate children instead of incarcerating them. We would encourage you to look at that. Beyond that, I don't have any other specific suggestions. [LB50]

SENATOR UTTER: You know we...a place would seem to me...well, Senator Adams' Education Department, TEEOSA maybe and we've...you've heard about the problems that Senator Adams has there and health and human services, where we're providing services to disadvantaged children, some of those, so it presents some really difficult choices for this Legislature to make. And even if this...admitting that this idea is a great idea, it could be that the timing is not good. Would you agree with that? [LB50]

JEREMY MURPHY: Well, Senator, the (laugh) we hear senators tell us every time we propose issues like this that the timing is not right. When will the timing be right? You know, I know the cuts that are coming to TEEOSA and other state agencies, I know they're going to be painful. They're not easy, you know, and it's very difficult for us to even keep track of where they are or where they're going. So I, you know, I can't give you a magic road map to show you which, you know, which agency or agencies should be cut instead of, you know, TEEOSA or something else to make this possible. I'm hoping that the Legislature, in its wisdom, and its members, you know, has the experience to figure out what the state's priorities are and to help public policy reflect that. [LB50]

SENATOR UTTER: Thank you. Thank you very much. [LB50]

JEREMY MURPHY: Thank you. [LB50]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB50]

JEREMY MURPHY: Thank you. [LB50]

SENATOR CORNETT: Next proponent. May I please have all the proponents come up to the front row. [LB50]

SCOTT ERNSTMEYER: My name is Scott Ernstmeyer, S-c-o-t-t E-r-n-s-t-m-e-y-e-r. I'm the executive director of the Lincoln Lutheran School Association here in Lincoln,

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

Revenue Committee
February 16, 2011

...serving the middle school and high school here in town. I'm speaking in support of LB50. I'm not Catholic so representation from a non-Catholic entity and a ministry that serves kids. For 128 years, Lutheran schools have served the state and its students in a variety of different ways, providing an education alternative to families within our state and all of our schools. We have over 40 schools that serve over 3,400 students in our Lutheran school system and it's the second largest nonpublic system in the state of Nebraska. Lincoln area alone, we have six schools that serve over 850 students, really resulting in a savings to the area, government, local and state, of over \$8 million when you take a look at cost per student in the state. School funding is a challenge in parochial schools just as it is in our public schools. Our history has been that our churches started schools to educate students and largely supported them to zero cost to families. In the last 30 years, we've seen a huge increase in the cost of education and our churches have not been able to keep up with that cost, which means it's put more burden back on parents that are trying to make that choice. And a lot of our middle- and lower-class families are put in a position where they would like to choose our schools but they're simply not able to because of the cost involved. They just can't make it work. And with limited scholarship opportunities currently within our schools, it's tough to keep those families plugged into our school systems. Nationally, the trends in Lutheran schools have shown that there have been schools closing nationally and we've seen that a little bit here in the state as well with a school or two closing each year the last several years, and that's a concern because we have an opportunity to serve kids to alleviate local schools in terms of their enrollment population. We feel like we've got a great alternative for those families that might choose to plug into them. And I guess, in a nutshell, we believe LB50 has an opportunity for us to have alternative revenue sources for families that will keep kids in our building, allow us to keep serving students and give that alternative to the families that they would like to do to plug into. I think it will help those people sitting on the fence that are those low- to middle-income families, and we believe in the long run that makes education in the state of Nebraska better as we're able to serve students. [LB50]

SENATOR CORNETT: Thank you very much. Questions from the committee? Senator Hadley. [LB50]

SENATOR HADLEY: Senator Cornett. Thank you. We appreciate your being here. [LB50]

SCOTT ERNSTMEYER: You bet. [LB50]

SENATOR HADLEY: You mentioned, I think, the middle class and lower class, and I look at the fiscal note and it says that for a household of six, the maximum income for grades 9 through 12 is \$218,524. In Kearney, Nebraska, that's not middle or lower class. [LB50]

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

Revenue Committee
February 16, 2011

SCOTT ERNSTMEYER: Uh-huh. [LB50]

SENATOR HADLEY: In fact, that probably puts you in the top 2 or 3 percent of all incomes in Kearney. So... [LB50]

SCOTT ERNSTMEYER: Right. [LB50]

SENATOR HADLEY: ...we're basically opening it up. It's 100...we're effectively opening it up for everybody. [LB50]

SCOTT ERNSTMEYER: Right. Yeah. [LB50]

SENATOR HADLEY: Right? [LB50]

SCOTT: And I think functionally, and I'm not an expert on all the numbers, I haven't spent the time that many others have with this bill, but I think functionally what we'll see is that there's going to be competitive application for these dollars and the dollars are going to go to the families that need it the most. That would be the case in our school system. And while it may allow for all families to be eligible, those that need it the most are going to be the ones that are going to get those dollars. [LB50]

SENATOR HADLEY: Okay. Thank you. [LB50]

SENATOR CORNETT: Further questions from the committee? Senator Adams. [LB50]

SENATOR ADAMS: Thank you for being here. You're representing the Lutheran schools. Let me ask you this question. Do the Lutheran schools provide special ed services? [LB50]

SCOTT ERNSTMEYER: We do not formally provide special ed services. We typically would try and partner with the local public school districts to serve kids how they might need to be served. [LB50]

SENATOR ADAMS: Okay. Thank you. [LB50]

SCOTT ERNSTMEYER: You bet. [LB50]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB50]

SCOTT ERNSTMEYER: Thank you. [LB50]

SENATOR CORNETT: Next proponent. And this is a reminder, when you come up, please hand your testifier sheet to the committee clerk before testifying and spell your

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

Revenue Committee
February 16, 2011

name for the record. [LB50]

WILLIAM MCGAHAN: (Exhibit 7) My name is William C. McGahan. That's M-c-G-a-h-a-n. I'm the superintendent of the North Platte Catholic Schools. I thank you, Senator Cornett and committee members, for allowing me to be here to speak. I speak to you in support of LB50. Most importantly, it would provide tuition assistance scholarships for parents to use for private and parochial school enrollment, and it would provide tax credit incentives for businesses, corporations, and individuals to help provide that assistance. This is an option that currently functions well in several states, as you've heard. I'll retire this August after 48 years in education, 45 of them at the North Platte Catholic Schools, 40 of them as superintendent. North Platte and any community with a strong parochial school is different because of the choice that exists for families. Both public and private schools are challenged to be better by virtue of the presence of the other. A number of years ago, Nebraska established a public school choice law that allows parents a choice of option enrollment in a district other than their own district of residence. That provision was a beginning for allowing parents to choose where their child is educated. However, it falls dramatically short of providing a true choice to low- and moderate-income families--those who are in need of better educational opportunities. The cost of private education is prohibitive for many families who would choose that option if they could afford it. They're effectively being denied that choice by current state policy. Our parochial schools provide for the common good of our community, state, and our nation, providing tax revenues to local and state government and, at the same time, providing a quality education for, in our case, 11 percent of the children in North Platte. I have witnessed firsthand many times over the 45 years that I have been involved in North Platte the impact that our school has on children from families who qualify for free lunches, on children from broken homes, on children from single-parent families. In many situations, we have been the difference for them. LB50 is not a tax credit to parents of private and parochial school students, nor to parochial schools. It's an incentive for businesses and individuals to support educational choice and educational opportunity for children who are now trapped in low-income, limited option lives. It's a way to draw more support for education from nongovernment sources, and at the same time it offers the potential of at least helping control the unsustainable growth of TEEOSA. It's a proposal that is a win for our poor and moderate-income families and at the same time holds the potential of being a win for the state budget. I thank you for your time. [LB50]

SENATOR CORNETT: Senator Adams. [LB50]

SENATOR ADAMS: Thank you, Senator Cornett. Do you believe then that if these tax credits were available that you would actually help reduce the cost of education at North Platte public schools on a per student basis? [LB50]

WILLIAM MCGAHAN: One would hope so but then that's not necessarily a given

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

Revenue Committee
February 16, 2011

though. [LB50]

SENATOR ADAMS: Exactly. Do you provide special ed services? [LB50]

WILLIAM McGAHAN: We provide them through the North Platte public schools. [LB50]

SENATOR ADAMS: Now when you say provide them through the North Platte public schools, explain how you do that. [LB50]

WILLIAM McGAHAN: Our children are tested by the public school special education people and the services that they need are provided. [LB50]

SENATOR ADAMS: By North...by the public school? [LB50]

WILLIAM McGAHAN: Right. [LB50]

SENATOR ADAMS: Do you compensate the public school for that? [LB50]

WILLIAM McGAHAN: No, we do not. [LB50]

SENATOR ADAMS: Okay. Thank you. [LB50]

SENATOR CORNETT: Senator Pirsch. [LB50]

SENATOR PIRSCH: Yeah, I'm trying to get a sense of in terms of your total population of students there, you have tested them at North Platte and they receive special ed services. What is that sub...or category of students who would be special education students, you know, as a percentage of the whole? [LB50]

WILLIAM McGAHAN: Well, percentagewise, it would probably be 8 to 10 percent of our students that receive some kind of assistance with special needs. [LB50]

SENATOR CORNETT: Senator Hadley. [LB50]

SENATOR HADLEY: Senator Cornett. Mr. McGahan, thank you for coming. You mentioned a quality education and I'm sure you do. What kind of assessment? You know we spent...I know the Legislature spent quite a bit of time three years ago, four years ago with the State Department of Education coming up with very stringent assessment standards... [LB50]

WILLIAM McGAHAN: Right. [LB50]

SENATOR HADLEY: ...where schools are...public schools are judged against peers and

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

Revenue Committee
February 16, 2011

such a that. What kind of assessment process do you use and who do you judge yourself against? [LB50]

WILLIAM McGAHAN: Basically, we judge ourselves against what we have done and what we feel like we should be doing. And our kids take the same type of standardized tests that any school takes in regard to 4th, 8th, 11th, 10th grade testing, and they're basically standardized assessments. [LB50]

SENATOR HADLEY: And so these would be the standardized tests then that public school children take? [LB50]

WILLIAM McGAHAN: I don't know that they're exactly the same one, no. [LB50]

SENATOR HADLEY: And you're speaking...I wonder what, if anybody else is coming up, what they might have in the way of assessment, because I know this has been a...we've worked...had to work real hard with the public education... [LB50]

WILLIAM McGAHAN: Right. [LB50]

SENATOR HADLEY: ...assessment and you know... [LB50]

WILLIAM McGAHAN: Basically, we're bound, Senator, in our situation, we are an accredited school, K-12, so we are bound basically by the same standards that any accredited school is, the only exception being that we're not reporting to the state level. [LB50]

SENATOR HADLEY: And then I guess one other question: Senator White, who is no longer with us, would remind us on the floor probably twice a day that by the constitution we must provide a public education. Now the state of Nebraska... [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

SENATOR HADLEY: ...Constitution provides that. So I guess when we talk about choice,... [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

SENATOR HADLEY: ...on one hand we have to provide an education to the students of Nebraska, and now we're saying, okay, but we want them...we have to do that but now we want...also want to give them a choice and basically fund that choice also. Is there kind of an inconsistency there? [LB50]

WILLIAM McGAHAN: Personally, no, Senator. As far as I'm concerned, no. Until the

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

Revenue Committee
February 16, 2011

poor family, the moderate-income family has the opportunity to choose whatever school they want to go to, then I think we are, in essence, discriminating against that portion of the population. We're not asking you to underwrite our education. Our current per pupil cost is somewhere in the vicinity of \$5,800. Our tuition currently is about \$3,800. How many low-income, moderate-income families can afford to put out that kind of money for a choice in education and the bottom line of it is, let's not discriminate against families because of their ability to pay. Let's allow them to have a real choice in education. [LB50]

SENATOR HADLEY: If I could ask one other question, I think every testifier has talked about the low-income family. [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

SENATOR HADLEY: But we write a bill that has a maximum of \$218,524 for family income who can qualify for this scholarship. [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

SENATOR HADLEY: So, to me, there's an inconsistency in talking about lower income students and we write a bill that says if you want to, you can give a family with \$218,000 of income one of these scholarships. And to me that's... [LB50]

WILLIAM McGAHAN: I don't have any quarrel with your concern about that, Senator. That certainly does not ring sensible to me. I, frankly, believe that any organization we would be involved in would give the preference to the moderate and low-income families. It's just going to happen that way. [LB50]

SENATOR HADLEY: Okay. Thank you, sir. [LB50]

SENATOR CORNETT: Further questions? Senator Fischer. [LB50]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Mr. McGahan, is that correct, for being here today. [LB50]

WILLIAM McGAHAN: You're good. [LB50]

SENATOR FISCHER: How many scholarship students do you have now? [LB50]

WILLIAM McGAHAN: Scholarship? [LB50]

SENATOR FISCHER: Do you have scholarship students? [LB50]

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

Revenue Committee
February 16, 2011

WILLIAM McGAHAN: We don't, as such, have scholarships, Senator. We have...our financial operation is based on about 38 percent of our income is tuition, 34 percent of our income is from our endowment development office, and 28 percent or thereabout it from our parishes. Now if you add those up and it doesn't add up to 100, that's because I'm thinking off the top of my head, okay? [LB50]

SENATOR FISCHER: I didn't add them, so you're safe. [LB50]

WILLIAM McGAHAN: So basically, what we are doing is, as a community, we are committed to a preference for the poor, okay? So as a community, as a Catholic community in North Platte, we are eating the cost of what we forgive or give away in the way of tuition. So we really do not have scholarships, as such. [LB50]

SENATOR FISCHER: Okay, and I appreciate you doing that and your parish doing that too. One thing that came into my mind though, as I'm looking at the bill and listening to testimony, if you accept scholarship students, if this bill would go through... [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

SENATOR FISCHER: ...and you're able then to have some scholarship students, you're stressing they would be low- or lower middle-income students. That would be your hope that those would be the students that would come. [LB50]

WILLIAM McGAHAN: And that, by the way, would...that would pretty much be about 50 or 60 percent of our students. [LB50]

SENATOR FISCHER: Right. But then we have another economic downturn,... [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

SENATOR FISCHER: ...and giving drops off, there aren't as many scholarships available. What happens to those kids? What happens to those kids if the scholarships dry up? [LB50]

WILLIAM McGAHAN: I think once those kids are in our school, they're going to stay one way or the other, but, you know, the essence of that is back to what I say, which is we eliminate the choice when we make them face the prospect of \$3,800 a year in tuition. We eliminate the option of a nonpublic school for them. And I just believe that our state is due to start recognizing the fact that a real choice comes when I, as a parent, whether I am an ADC mother or whether I am a doctor, I still have that equal opportunity to select whatever school I want my child to go to. [LB50]

SENATOR FISCHER: How many students do you have now enrolled? [LB50]

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

Revenue Committee
February 16, 2011

WILLIAM McGAHAN: We have pre-K-12, we have 450 students. [LB50]

SENATOR FISCHER: 450. And did I hear you correctly when you answered a question of Senator Pirsch's that 8 to 10 percent receive special education from the public schools? [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

SENATOR FISCHER: Okay. What's the average income of your students? You were saying about half of them are... [LB50]

WILLIAM McGAHAN: Most of our families are blue collar, service-involved people, most of our families are. And, you know, some of them make a fairly decent living but most of them are pretty borderline all the way along. [LB50]

SENATOR FISCHER: That takes...and I won't belabor this, and maybe the first gentleman that came up who had information from other states, I could visit with him later. But that takes me back to my first point though. Right now it looks like you have a pretty even split on how your school is funded. How much more can your parish pick up if you gain...if you gain some scholarship students and that money dries up? Can your parish pick that up to keep those kids in there? [LB50]

WILLIAM McGAHAN: Well, I think that wouldn't be... [LB50]

SENATOR FISCHER: I just don't think it's a good idea to move kids around. [LB50]

WILLIAM McGAHAN: I don't think it would be a matter of our parents. I think it would be a matter of our institution. I have a red line of \$60,000 this year on my budget and how am I going to solve that problem? [LB50]

SENATOR FISCHER: I don't know. [LB50]

WILLIAM McGAHAN: By not spending it someplace, right? And that's basically what's going to happen. So if we were in a situation where we have new students, that's not our money. That's the student and parents' money. If they're choosing to be there, they're giving it for tuition, then it becomes our money. If it disappears, it's just another additional line to the red line at the bottom. That's just the reality of it. [LB50]

SENATOR FISCHER: Okay. Thank you. [LB50]

WILLIAM McGAHAN: Uh-huh. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Senator Utter. [LB50]

SENATOR UTTER: Thank you, Senator Cornett. And thank you, Mr. McGahan, for your years and years of service to your schools out there. They must be very proud of you. [LB50]

WILLIAM McGAHAN: I'm quitting. (Laugh) It's been good. [LB50]

SENATOR UTTER: Can you get...and I know Senator Fischer asked about the school population of your school, but do you see this measure, something like this, as a stabilization measure of population in your school or do you see it as a process that will actually grow your school and the number of students? [LB50]

WILLIAM McGAHAN: I don't see it, in North Platte, I don't see our population changing substantially, but I do think that it would provide some stabilization in enrollment. We have not lost enrollment in the last four years or so but it's basically because we instituted a preschool program, otherwise we would be. [LB50]

SENATOR UTTER: Thank you. [LB50]

WILLIAM McGAHAN: Senator. [LB50]

SENATOR CORNETT: You said that you have no students receiving scholarships, correct? [LB50]

WILLIAM McGAHAN: That's a technicality. I think we don't give scholarships but we negotiate away tuition so it's not a substantial difference. It's just that we don't hand a student a scholarship. We negotiate with the parents on what they think they can afford to pay and then the community eats the rest of it, which is how we have \$60,000 red lines on the bottom. [LB50]

SENATOR CORNETT: Do you have non-Catholics attending your schools? [LB50]

WILLIAM McGAHAN: Somewhere in the vicinity of 45 of our 400, so 8 to 10 percent. [LB50]

SENATOR CORNETT: Are they...do they have the same opportunity for reduced tuition? [LB50]

WILLIAM McGAHAN: No, they do not. [LB50]

SENATOR CORNETT: So if we implemented this scholarship program, would they be eligible for any of the scholarships? [LB50]

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

Revenue Committee
February 16, 2011

WILLIAM McGAHAN: We've...it's interesting that you would ask that because that's one of the discussions that we've had as a school board, is, you know, perhaps we need to address... [LB50]

SENATOR CORNETT: Because it's state money. [LB50]

WILLIAM McGAHAN: ...the difference in tuition between the kids who are going to our Catholic parishes and the kids who are not, because it does impact our enrollment, among other things, I mean because their tuition is \$2,000 a year more probably than our kids' are. [LB50]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB50]

WILLIAM McGAHAN: Thank you, Senators. [LB50]

SENATOR CORNETT: Next proponent? May I see a show of hands, how many people are left in the proponent capacity? Okay, thank you. [LB50]

RHONDA STUBERG: Hello. My name is Rhonda Stuber, R-h-o-n-d-a S-t-u-b-e-r-g, and I'm from Apollos Prep School. Apollos is a private school in north Omaha whose students would benefit from LB50. I started my school ten years ago to help some of the many students in north Omaha who were struggling academically and behaviorally in the public schools. North and south Omaha public schools continue to struggle today, even after ten years, with 50 percent or less averages in their elementary school CAT scores, over 1,000 per year dropping out of school, and only 40 percent of black males graduating. So there is a serious, serious problem to address. The majority of parents that I serve could not attend this hearing because of jobs, because of children, or lack of transportation. Most felt inadequate to testify and just honestly didn't believe that they would have the voice that would be really making a difference. So I am actually here on behalf of those parents to let you know that there are many out there who would like to be able to choose the schools that they feel would be best for their children. My school only has 22 students at this point in time. We struggle to make ends meet and I have to turn students away because parents can't afford to pay the tuition, which only averages about \$160 per month. There are presently 6 students at Apollos on a scholarship from the Children's Scholarship Fund, but there were 1,151 applicants this year in the metro area that were unable to receive a scholarship because of not enough funding through the scholarship program, so there is a need for this. Omaha is not the only place that students in Nebraska could benefit from LB50. Sixty-six percent of Nebraska's students averaged basic or just partial mastery or below basic on the NAEP test in both math and reading in 2009. There are 238 private schools through Nebraska who could help serve the educational needs of these children. LB50 would allow more middle- and low-income parents across Nebraska to have a choice in where their kids attend school,

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

Revenue Committee
February 16, 2011

and scholarships would help make this choice more affordable. It wouldn't pay all of it. It would give a bit of that money to help them be able to make it through. It would allow schools to open up that maybe wouldn't. In the case of mine, you would have more private schools opening up if they had scholarships, which would help them stay afloat. And I have special ed kids that, you know, we don't...we cater to their needs. We work individually with them but we do not receive any state funding. So I feel like there would be more schools like mine opening up and filling the needs of those kids and doing it for similar cost, if that's what it took. [LB50]

SENATOR CORNETT: Senator Pirsch. [LB50]

SENATOR PIRSCH: What is your source of funding right now? Is it just relegated to one source? [LB50]

RHONDA STUBERG: I am a nonprofit and so I get donations and scholarship sometimes, scholarship funding. [LB50]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB50]

RHONDA STUBERG: Uh-huh. [LB50]

SENATOR CORNETT: Next proponent? [LB50]

JAMES STOLZE: (Exhibit 8) Good afternoon, Senator Cornett and the Revenue Committee members. My name is Jim Stolze, S-t-o-l-z-e. I am the president of the Nebraska Federation of Catholic School Parents, which is 16,000 parents who have their kids in private Catholic schools. I'm also on the advisory board at Gross Catholic High School in Bellevue. And I am here to present strong support of LB50. If we look at things, state spending on education has increased about \$300 million over the past decade, but despite this increase Nebraska has the dishonor right now of having one of the worst learning gaps between minority and white students in our entire nation, and that concerns me. There are clearly no easy fixes for our most underperforming schools at this time. This tax credit bill will place more students in private education where it is proven that the test scores and graduation rates are higher. Why would we not try to increase something that's working right now? Some will say, where is the money coming from for this bill? I've already heard the questions. The real question is, where is the money coming from to pay for the additional students each year that migrate from private to public schools? You heard the Cristo Rey/St. Peter Claver school mentioned earlier. There are 200 students in that school that are not going to have a school next year. There are 54 students who took their placement exam with Cristo Rey. Where are these kids going to go? Many of them are going to end up right back in the public school system, right back into the TEEOSA formula. So there is a difference here. When these schools close, there is more students going into the state aid formula. The percentage--

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

Revenue Committee
February 16, 2011

don't have the numbers exactly in front of me but I can get them for you if you want me to--the percentage of private school students in this state has decreased over the past 40 years, which means more students are going into the public schools. The fiscal note of this legislation, it's a little curious. We designed it specifically to save the state money. Three entry points: kindergarten, transfer students, and high school. In kindergarten certainly there will be students that would have gone to a private school, but there will be many that wouldn't have gone to a private school that now can afford to. Transfer students are obvious. They were already in the school aid formula in most cases. And in the case of high school, if you're wondering why that got thrown in, many of our high schools have substantially increased tuition. My daughters both go to Gross Catholic High School in Bellevue. Tuition is \$8,250 next year. That's very expensive. So our schools, we haven't done the research outside of the Catholic schools, but we think there's about a 40 percent drop off of students that graduate from 8th grade that then go into public schools in the Catholic system. So I would urge you to pass this legislation. As has been mentioned, there are seven other states that have passed tax credit legislation that experienced great success with similar programs. There has been no wailing or gnashing of teeth from the public schools in those states. Several states have increased their tax credit amounts in response to their program's success. We believe the benefits are significant and the risk is low. And I did want to just answer a couple of issues that had come up. Senator Fischer, you had asked a question earlier: How can parishes...could they afford more, for example? In most of these cases, there are openings in these schools, so if you take the tax credit scholarship amount along with whatever tuition they can negotiate, the marginal revenue exceeds the marginal cost of that situation. So, yes, they can afford that in most cases. And, Senator Cornett, your question with respect to would non-Catholics be available for tuition breaks if this were...if this came into law, the reason most of our Catholic students have tuition breaks is because they are financially giving to the parish, who then financially supports the school. So that's why. It's not a discrimination. It's just an issue of who's paying for this in that respect. And in my case, when my kids were at St. Matthew's school, I was contributing to the parish and I was contributing to the capital campaign, much greater amounts than the difference between my tuition and a non-Catholic tuition. So that's the reason that most schools do it that way, because those families are already contributing to the church, which then helps contribute to the school. [LB50]

SENATOR CORNETT: Just a point here. [LB50]

JAMES STOLZE: Uh-huh. [LB50]

SENATOR CORNETT: If you're talking low income, they're not going to be contributing as much of a benefit as they're receiving, though. [LB50]

JAMES STOLZE: Low income... [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: If you're talking about low...basing this on low-income families receiving this credit. [LB50]

JAMES STOLZE: Uh-huh. Well, for example, what I'm referring to is just the... [LB50]

SENATOR CORNETT: And I'll just tell you, I have a problem with state money going...not going for tuition...not so much for the tax credit issue but then it not being given to everyone equally... [LB50]

JAMES STOLZE: Uh-huh. [LB50]

SENATOR CORNETT: ...or the opportunity for that. That's where the rub is for me a little bit. [LB50]

JAMES STOLZE: Well, and what I can tell you is many...and I can't speak for all Catholic schools here, but many schools still negotiate that away anyway, especially if it's a needy family and they know that family really wants to send their child to a private school. [LB50]

SENATOR CORNETT: Senator Hadley. [LB50]

SENATOR HADLEY: Senator Cornett. Mr. Stolze, thank you for being here. You say that they negotiate it away. What percentage do you think receives some kind of negotiated tuition? [LB50]

JAMES STOLZE: Well, right off the top, most schools receive that. There's just the specified rate between parish and nonparish, and... [LB50]

SENATOR HADLEY: No, I'm talking about the number of students that attend... [LB50]

JAMES STOLZE: And then further negotiation, Senator, I really don't know the answer to that. I know it's quite significant. [LB50]

SENATOR HADLEY: Well, I... [LB50]

JAMES STOLZE: In some...in some cases, in some parishes they do it family by family what they can afford. In some parishes they do it globally. If they come in individually, they may also negotiate that. [LB50]

SENATOR HADLEY: I guess I'm trying to think this through, that if we get this, is this going to be more students are going to be going or does it mean the ones that you're now negotiating with the state picks up the negotiating part and you, the parish, or the foundation is off the hook for that amount that they've been negotiating in the past

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

Revenue Committee
February 16, 2011

because the state is now paying that lower, you know...? [LB50]

JAMES STOLZE: Uh-huh. [LB50]

SENATOR HADLEY: If 20 percent of the families now get a reduced tuition because they negotiate,... [LB50]

JAMES STOLZE: Uh-huh. [LB50]

SENATOR HADLEY: ...if we institute this, I would assume those 20 percent will get the benefit of this. Does that makes sense that... [LB50]

JAMES STOLZE: Yeah, I see where you're going with that. Right off the bat, for example, I have two daughters at Gross Catholic High School. One is going to graduate, one is going to be a sophomore next year. I'm not eligible. There's no entry point for me at this stage. If you're in 3rd grade, if you have a 3rd grader and a 5th grader, the next entry point for you to receive a potential scholarship here isn't until 9th grade. [LB50]

SENATOR HADLEY: But I'm just saying that the schools, every time there's an entry... [LB50]

JAMES STOLZE: Uh-huh. [LB50]

SENATOR HADLEY: ...every time there's a person that comes in, there's a potential of them receiving anywhere from zero to some reduced tuition rate. [LB50]

JAMES STOLZE: Uh-huh. [LB50]

SENATOR HADLEY: If we're just backfilling that with this program, that means either the foundation or the parish will have to contribute less because the state is going to pick up what you are giving in the way of, quote, a scholarship. Maybe I'm wrong but... [LB50]

JAMES STOLZE: Well, most of our schools, I can tell you firsthand because I've been involved, heavily involved, in Catholic education for 11 years. Most of our schools will increase their population, so it gets made up. So let's say the subsidy goes from 35 percent to 25 percent, but that 25 percent is with...there's more students so it's still like 35 percent anyway. [LB50]

SENATOR HADLEY: Okay. [LB50]

JAMES STOLZE: And our goal here is to get more students and that will take more

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

Revenue Committee
February 16, 2011

students off the state obligations as well. [LB50]

SENATOR HADLEY: Okay. Thank you. [LB50]

SENATOR CORNETT: Further questions from the committee? Senator Adams, did you have a question? [LB50]

SENATOR ADAMS: It's all right. [LB50]

JAMES STOLZE: Thank you. [LB50]

SENATOR CORNETT: Thank you very much. Next proponent? [LB50]

TOM WURTZ: Senator Cornett, members of the committee, my name is Tom Wurtz, 1508 South 152 Circle, Omaha, Nebraska. I'm in Senator Pirsch's district. I'm here to testify just as an individual in support of LB50. I am probably one of the greatest supporters of public schools in this room, and I'm sure that woke a lot of people up over here. I'm also a strong supporter of private education. I have benefited from Catholic schools in Omaha. I think Omaha is in the unique position of having great public schools and great Catholic schools. I've got three minutes. I am very concerned about the Catholic schools in the Omaha metropolitan area and I'm sure throughout the rest of the state. When my father graduated from Cathedral High School before he went to World War II, the tuition was free. When I started Catholic grade school, Senator Harr's district, St. Pius X grade school, '64, the tuition was free. When my kids went to Catholic high schools, graduated in '02 and '05, tuition was \$6,000 or \$7,000. Now Catholic high schools in Omaha are \$8,000 or \$9,000 apiece. I am afraid what is going to happen with the next generation, unless you come up with some sort of credit in this bill, that you're going to lose your private schools in Omaha, Nebraska. And I don't know if the Catholic Conference says that or supports that. A lot of us are doing everything we can to keep them open. Previous speaker talked about St. Peter closing. In the last 20 years, you have Holy Name High School, Cathedral High School, Dominican High School in Omaha, Sacred Heart High School, I believe St. Joseph's which was a previous ran high school in south Omaha, you have schools that are closing. Every Catholic school right now in Omaha is struggling. And again, I'm a fourth-generation Omahan. Most of the people in my family have gone to Catholic schools, yet all of us are strong supporters of public schools. I had a boy that went to Millard North High School. It was an excellent, excellent school. I have never complained about my property taxes. I'm probably one of the few citizens of Omaha that has not. I think it's an obligation of citizenship. And even though I want this bill to help Catholic schools in Omaha, I, you know, the property taxes, I have no problem with paying high property taxes to support good public schools. Senator Adams raised a question, if I could get to it, about, you know, there may be some situations where you would close a Catholic school and some of those kids might be able to just be assimilated into a school and there would be very

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

Revenue Committee
February 16, 2011

little cost. Where I live in Senator Pirsch's district, I live very close to St. Wenceslaus grade school, 750 students. If you go up to Dodge Street, to 156 and Dodge Street, you've got a Christian school, I think it's called Trinity School or Life Gate, I'm sure that they have 400 or 500 students. If you were to close in your district those two schools, I'm sure the Millard school district would probably have to build a new grade school. So again, my time is up. I just wanted to come down and just...this is the first time...I recently retired from MUD and I would say one thing. I did have an opportunity a few years ago to work with the Chamber of Commerce on bringing industry to Omaha and it was interesting. This was some time ago. Many of the CEOs that were actually talking about coming to Omaha, they always...one of the selling points when I worked with the chamber was that we had a strong private school system and public school system, and I think the two are both good in Omaha and I'm, as a private citizen, concerned about the private school system in Omaha. [LB50]

SENATOR CORNETT: Thank you, Mr. Wurtz. [LB50]

TOM WURTZ: Unless there are some questions... [LB50]

SENATOR CORNETT: Senator Adams. [LB50]

SENATOR ADAMS: Thank you for being here today. More of a statement than a question: You're concerned about the closing of Catholic schools and I can certainly appreciate that. My concern is multiple right now in this state for public schools, and granting this credit, how many Nebraska public schools in small communities might we close because people...and you don't have an answer to that, I know. If you want to respond, that's fine, but... [LB50]

TOM WURTZ: Senator Pirsch is smiling. He thinks I have an answer to everything. No, that's okay. Senator, I really haven't thought that through. In North Platte, for example, I don't know the percentage of the Catholic population in North Platte. My...just looking at that, I suspect that if there were some tax credits flowing to the grade school in North Platte that it wouldn't close. I don't think you would have that in Omaha either. You have to remember, a lot of people really feel like I do. They like both schools. My son graduated from Creighton Prep High School. Twenty, twenty-five percent of the kids that went there are non-Catholic. They do not proselytize what they teach and they used to teach me religion in the 1950s. It was more of a Christian education so...and some people just, even though the public schools are great, just really prefer to go to a private school, may be perhaps a little more disciplined. I'm not saying anything negative on the public schools because I'm a big supporter, but you know. Any other questions? [LB50]

SENATOR CORNETT: Questions from the committee? Seeing none,... [LB50]

TOM WURTZ: Thank you. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: ...next proponent. [LB50]

TOM WURTZ: My wife told me to tell you hi. She says you do a great job and you always respond to her e-mails. I hope she's not a bother. [LB50]

SENATOR PIRSCH: (Inaudible) Yeah, you bet, always glad to hear (inaudible). [LB50]

SENATOR CORNETT: Are there any further proponents? Can I see a show of hands of opponents? Okay. Go ahead. [LB50]

DEBORAH ANDREWS: (Exhibit 9) My name is Deb Andrews, A-n-d-r-e-w-s. I am a student learning outcomes advocate, Madam Chair, members of the committee. I've heard some really good questions about funding, what the state pays, the revenue issues that we have today, and assessment. Schools and districts are not held accountable for student learning outcomes. Decisions are not driven by academic results. Reliable, validated measures are necessary to determine progress. However, Nebraska's English language arts standards are characterized as unmeasurable verbs, general or biased language, and repetition, according to the Fordham Institute. Nebraska state tests are aligned with those same standards. That's a big red flag for assessment. Educators explain the large gap between state and federal scores as due to differences in curriculum. When it comes to basic skills, either a student can read or he can't. The National Assessment of Educational Progress is our only valid measure of student learning outcomes. According to the 2009 NAEP results, roughly one-third of Nebraska students are at grade level or above in reading. That means two-thirds of Nebraska students are below grade level in that most basic of skills. When it comes to students eligible for the school lunch program, just 22 percent are at proficient and above. According to that national metric, at the current rate of improvement, in 80 years Nebraska will achieve just 50 percent of 4th graders reading at or above grade level. The worst news is that Nebraska chose not to participate in the 2009 national science assessment. We're one of only a handful of states that didn't even take the test. Against that backdrop of failure, consider that research shows children are entering school smarter than ever before, all children, regardless of family economic status or skin color, yet student learning outcomes are flat lined in our public schools. State government should recognize the patterns in front of it and take action, pass charter and choice laws for Nebraskans, and LB50 is a start. I urge you to pass this legislation. Student learning outcomes and assessment is what it's all about and right now we're failing the majority. [LB50]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB50]

DEBORAH ANDREWS: Thank you. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Are there any further proponents? We'll move to opponent testimony. [LB50]

JOHN BONAIUTO: Senator Cornett, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, executive director of Nebraska Association of School Boards, and we want to be on record as opponents of this bill, obviously representing public schools. And, you know, I have heard the testimony and I agree with the fact that we have some very, very good parochial and private schools along with our public schools, and I wholeheartedly believe that students and parents that want to have that option should have that option, and it's a personal choice that parents make. And my parents made that choice when I went to a parochial grade school, unfortunately, one in Omaha that's closed, and then when I went to high school I made the choice between Archbishop Ryan, Creighton Prep, and Omaha Central, and I chose Omaha Central. And so...but it is, it's a matter of personal choice. I really believe that no matter how you package a bill like this, we're dangerously, dangerously blurring the line between public and private and that separation of church and state and private and state. And you know, I don't know if this is the issue of the nose under...the camel's nose under the tent or not, but is this a beginning? We could have a lot of discussions in the future about where this might head. I think your questions have been excellent about the services being provided in conjunction with the public schools for private and parochial schools in the communities. Whether it's special ed, Title I, Chapter 1, I know that the public schools are allowing students to do enrichment activities, to participate in other activities. It's a great partnership but, again, it is a partnership and it is an option. Makes me a little nervous when I hear language that talks about students being prisoners or captive in Nebraska public schools. I think that, you know, the public schools are always the backup plan and I can only assume that the private schools and parochial schools are a choice for some parents and students, but if that choice doesn't work out then the public schools have to be there. And I like the comment made about Senator White reminding this body of its constitutional responsibility that, although there are serious financial problems for private and parochial schools in the state, there are serious financial problems for public schools in the state. And I think those are the ones that we would hope that this body focuses on and worries about. You know, we think that the private and parochial schools are a choice because they offer something to parents that the parents specifically want that the public schools do not offer, and that uniqueness, if we're going to start to ask the private and parochial schools to follow Rule 10, to do state testing like the public schools, that is going to really erode and change those schools. Actually, as I was listening to that questioning, I was going to go back and double-check what the requirements are for private and parochial schools as far as collective bargaining and for the personnel, because I think that it would make a cost difference if private and parochial schools had to do public collective bargaining and were under the CIR just like the public schools are. I mean a 4th grade teacher is a 4th grade teacher. Why should a 4th grade teacher...maybe we could have community...if you're in a community like North Platte, maybe the private schools could be on the

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

Revenue Committee
February 16, 2011

same salary schedule as the North Platte public schools. I mean there are all kinds of opportunities here and I think my friends at NSEA would welcome these. So I really want to stress that I think that this is a bill that's going down the wrong path and we would appreciate you killing this bill in committee. Thank you. [LB50]

SENATOR CORNETT: Senator Hadley. [LB50]

SENATOR HADLEY: Senator Cornett. Mr. Bonaiuto, I was interested in the handout the first gentleman gave us listed the states that have done this. In your experience in education--they used Georgia, Arizona, Florida, South Carolina--would you say that they have had a tendency to have more private education than most other states, including Nebraska, more private schools? Do you have any... [LB50]

JOHN BONAIUTO: You know, I don't know about private education but I know that those states have much more diversity and a different population base than we do here. [LB50]

SENATOR HADLEY: I guess I have just read and, you know, have been doing some reading about this, that a number of these states have had a tradition over the years of having private schools because of minority issues in the public schools. [LB50]

JOHN BONAIUTO: Yes. [LB50]

SENATOR HADLEY: And private schools have been a way of life in Florida, South Carolina, Georgia, and such as that. So I can see why they would want to have...and this has nothing to do with church. [LB50]

JOHN BONAIUTO: No. [LB50]

SENATOR HADLEY: It's just that parents, let's be blunt, some of these do not have real good... [LB50]

JOHN BONAIUTO: Public... [LB50]

SENATOR HADLEY: ...K through 12 public education so they have a system of private education, and I can see why they end up with states, you know, it's a very strong lobby. [LB50]

JOHN BONAIUTO: Absolutely, Senator, and I believe that would be very accurate. [LB50]

SENATOR CORNETT: Senator Pirsch. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR PIRSCH: Yes. I think you--and I appreciate your testimony today, John--had start out by saying there was some constitutional implications, separation of church and state. I'm trying to figure out where we are as a body. In analyzing the issue, certainly, is this a matter of wise policy decision or are you suggesting that there have been with the states, and I think it was suggested that there were seven states that have implemented some sort of similar programs, that somehow there's been some court cases and some decisions resulting that would suggest that the idea here before us would be constitutionally unsound? [LB50]

JOHN BONAIUTO: Yep. And I was just making reference, Senator, to the fact that when you head down this path you start to blur that separation. And whether this would meet muster or not, or whether you would be asked to go a step farther at some point in the future and then another step farther I don't know, but... [LB50]

SENATOR PIRSCH: Yeah. [LB50]

JOHN BONAIUTO: ...it does open the door. [LB50]

SENATOR PIRSCH: Are you aware of any...have any of these programs been tried in the other states? Has there been any challenges to constitutionality as far as you know? [LB50]

JOHN BONAIUTO: I am not sure but I've made note of states that were referenced and will make sure that I do talk to my colleagues in those states and would be happy to share that information. I know that in Florida they've had some terrible voucher battles, the "V" word, I went ahead and said it. They've had some very, very difficult voucher battles and they have...matter of fact, had some serious litigation and back and forth in that area. So we have been fortunate with our public schools, our open enrollment policy, and trying to meet the needs of families in that way. And so I am not seeing that this is an option that's needed in communities. [LB50]

SENATOR PIRSCH: Well, I thank you and I'd appreciate, if you do have any, just with the issue of constitutionality for similar types of programs, that would be appreciated some... [LB50]

JOHN BONAIUTO: Sure. [LB50]

SENATOR PIRSCH: ...you know, if you ever come across that. [LB50]

JOHN BONAIUTO: Or just how these programs might be working in other states and what the real experience has been. [LB50]

SENATOR PIRSCH: Yeah. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Senator Louden. [LB50]

SENATOR LOUDEN: Yeah, thank you, Senator Cornett. Well, John, as, what, of my nine years down here, there's only once that we've ever agreed to anything (laugh) and so I'll ask you easy questions. You mentioned salary on parochial schools and, you know, that should have the same salary schedule as public schools. Now are you saying that parochial schools have a lower salary for their teachers than public school systems are? [LB50]

JOHN BONAIUTO: This is...Senator, this is my understanding and I haven't reviewed their salary schedules, but that is my understanding. And, you know, we in the public schools, we are...we have continuing contract, the due process laws. We deal with public collective bargaining, CIR, we work with the districts across the state. So I see all the public school salary schedules and I only hear anecdotal information on the private. [LB50]

SENATOR LOUDEN: Okay. Then on...now that's the teachers down in the trenches, as they call them. What about the costs of administration? Is the salary schedules higher in the public schools for cost of administration, for administrators, than it is in your parochial schools? [LB50]

JOHN BONAIUTO: I would have to believe it is. Again, I think that we look at the market a little bit differently and so I would think that the administrative salaries are that much more higher. You know, it's just... [LB50]

SENATOR LOUDEN: In other words, they're spending more for administrators in the public schools accordingly than what they are in the private schools, but yet you think they're perhaps spending a little less on instruction, for instructors in the parochial schools than they are in the public schools. That's your stand on that? [LB50]

JOHN BONAIUTO: I believe so, Senator. I'm worried that's going to come back to haunt me someday and (laugh)... [LB50]

SENATOR LOUDEN: Yeah, it will. I won't forget. Now as my experience with going to a parochial school, putting my kids through parochial school, being out there in western Nebraska where we had a parochial school the same size as several public schools around there... [LB50]

JOHN BONAIUTO: Uh-huh. [LB50]

SENATOR LOUDEN: ...and one of the public schools had exactly the same number of students, about 300 and some in it, as what the parochial school did in Alliance at that

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

Revenue Committee
February 16, 2011

time. At that time, their budget for the public schools was \$600,000. For the parochial school, it was \$300,000. And I, you know, would ask this. Well, they had all kinds of excuses and most of the ones said, well, in your private schools the parents do a lot of work and taking care of a lot of issues; then in public schools there's actually a social problem. You dump your social problems on your public schools. Now where do you come down on something like that? Because when you're talking about the costs of schools, your parochial schools don't probably have a lot of these social problems because they take care of it themselves, whereas in your public schools they charge somebody to take care of it. Now is that any reason not to give parochial schools some type of a tax advantage? [LB50]

JOHN BONAIUTO: Well, I think that...let me go to the cost issue first. I really believe the costs in public schools are going to be higher. You're providing special ed services, you're hiring teachers that are on a different salary schedule, that there are definitely going to be higher costs, the retirement system in public education and the benefits that are part of it. I think that the public schools are trying to do a very good job and meet the needs of the families that they're serving and they're going to serve every child that walks through the front door of that school, regardless of that youngster's needs. And I believe that the parochial schools have an opportunity, they have a little more flexibility than the public schools in that area. [LB50]

SENATOR LOUDEN: Okay. Well, thank you. [LB50]

SENATOR CORNETT: Further questions? Senator Utter. [LB50]

SENATOR UTTER: Thank you, Senator Cornett. John, I have not...our children have all gone through the public school system, but I have a substantial number of friends who send their children to parochial schools and I know something about the parochial schools. And let me just suggest to you that the teaching staff in the parochial schools, by and large, it seems to me from what my experience has been, are there because they want to be there. And I guess I question a little bit your suggestion that those salaries should be raised up to the public school salaries as kind of a competitive vehicle. Because, quite frankly, it appears to me that if it weren't for the dedicated teachers that serve in the parochial schools and if the parochial school teachers became unionized, you'd close an awful lot of parochial schools. I'm not sure that that's right or I'm not sure that that's something you should suggest. [LB50]

JOHN BONAIUTO: Senator, and I do not disagree with you at all. I guess that I was making that comment based on the fact that it was said on a number of occasions how much more...well, just how the parochial schools were able to provide this at a lower cost. And there's a reason for that, and you hit the nail on the head. And so I'm not criticizing that, I'm not saying it's wrong, but it's...there is a reason for that. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB50]

JOHN BONAIUTO: Thank you, Senator. [LB50]

SENATOR CORNETT: Is there anyone else in opposition? Is there anyone here in a neutral capacity? (Exhibits 10 and 11) Before I close the hearing, I'd like to read into the record that the Nebraska State Education Association has submitted a letter in opposition to LB50 and the ACLU of Nebraska has submitted a letter in opposition to LB50. Senator Krist, you are recognized to close. [LB50]

SENATOR KRIST: I was trying to save some time and get up here. [LB50]

SENATOR CORNETT: That's quite all right. [LB50]

SENATOR KRIST: Thank you all for enduring the lack of air conditioning and putting up with the testimony this afternoon, both pro and in opposition. Senator Adams, two school buildings are side by side and they're both on fire. We've got problems with TEEOSA funding. This fiscal note shows that the TEEOSA would take benefit in the long run, so I ask you to look at that. And I ask you also to look at the independent fiscal note. In this particular case, I believe that I need to say, once again, and it's no secret to any of you, Senator Pankonin, Senator Pirsch, Senator Louden, Senator Hadley, Senator Cornett, Senator Utter, Senator Fischer, Senator Adams, we have some issues with fiscal notes and this one will give you an estimate on an independent versus what we have downstairs. Maybe they're both right, maybe they're both wrong. The other thing I will say is that in the area of special needs, and I have about 16 years experience in that particular area, I came before Senator Raikes's committee with my testimony in my prior life and we asked that the money follow the student, because this is my attitude toward student education: Not every school can be everything for every student. And I think that the private education institutions, and I'll take Brownell-Talbot as a perfect example and leave the education...the religious education out of it, many people go to institutions because they cannot have their needs handled by an institution and they find a better place or a better choice. I think this is a starting point by which we...a plan from which we can deviate, but I think we need to put the fire out if we can on both sides of it. So respectfully, I'd ask you to continue to talk about this. Maybe we can come to some compromise on some of the issues. Senator Hadley, great points. You know, if it's there to help out the folks who really need it, then why are we talking about that high end. Although that model has worked someplace else, maybe that's not Nebraska. So with that, thank you very much, Senators. [LB50]

SENATOR CORNETT: Thank you. Questions from the committee? [LB50]

SENATOR KRIST: Oh, sorry. [LB50]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Senator Hadley. [LB50]

SENATOR HADLEY: I...just a...I happened to read a great story in the Omaha World-Herald the other day of a priest retiring from Creighton Prep and it was a great story in how he basically devoted his life to teaching at Creighton Prep. But one part of the story that struck me was that...and I know I'm not going to get the numbers right, but there was, what, 30 to 40 members of his order that had been teaching there when he started and it was down to 11 now. Is that a concern in the Catholic school system, that there are less members of the clergy and nuns and such as that teaching and consequently having to have lay...? [LB50]

SENATOR KRIST: In a generic sense, I will say that I think every religion is seeing a decline in those that have become part of their religious orders, whether it's Catholic or Lutheran or whatever. Does that add to the bottom line? Absolutely. I mean I remember at Our Lady of Lourdes every classroom was filled with a nun and today I'm sure that there are only two or three there. So that has added to it. [LB50]

SENATOR HADLEY: Well, I just wanted to make the point that that was a great article and, you know, very...a person who had dedicated their life to teaching. So I just wanted to put that. [LB50]

SENATOR KRIST: I'll pass it on to "Father O." Thank you. Thank you. Any other? [LB50]

SENATOR CORNETT: Seeing no further questions, thank you, Senator Krist. [LB50]

SENATOR KRIST: Thank you now. [LB50]

SENATOR CORNETT: That closes the hearing on LB50. [LB50]

SENATOR UTTER: Senator Cornett, you're ready to open on LB323. [LB323]

SENATOR CORNETT: Thank you, Vice Chair Utter and members of the Revenue Committee. My name is Abbie Cornett, C-o-r-n-e-t-t, and I represent the 45th Legislative District. I am bringing you two bills today that address concerns of Nebraska cities that we've heard over multiple years now in this committee. The issue this first bill addresses is the refunding of local option sales tax to tax incentive claimants. Cities have been surprised in some cases by a refund due a job-creating business long after the job and economic activity have occurred. In some cases, the complaint is about the size of the required refund of city sales in...proportional to the normal sales tax yield of the cities. As sales tax receipts grow, has been shown or nonexistent for cities and the state...and the state this problem in the state has intensified. LB323 allows a city to avoid occurrences of sales tax refunds to a job-creating business under our tax incentive

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

Revenue Committee
February 16, 2011

laws. It would require the city to be noticed by the state Department of Revenue when an application for a job creation tax credit or refund is filed. It will allow the city to opt out of the project if the current city council believes this would be in the city's best interest. Cities desiring to fund economic development projects with a current direct grant or current city fiscal resource or services could continue to do so. Cities could use this tool as a growth incentive. It would...basically, I'm going to explain where LB323 came about, and a lot of people on the committee have heard about the Sidney issue and Mr. Person will be here to discuss that further, but he was the first person that was crying for help and since then a number of municipalities have come to us with this issue. What we are doing is letting them have notice ahead of time before they're hit with a sales tax refund. With that, I'll be happy to answer any questions from the committee and there will be testifiers that can explain their individual municipality's concerns following me. Yes. [LB323]

SENATOR UTTER: Senator Fischer. [LB323]

SENATOR FISCHER: Thank you, Senator Utter. Thank you, Senator Cornett. I think I heard you say this. You speak quietly and I can't hear, so I...but I think you said that they can opt out by project. Is that right? There was a question on the fiscal note about that. [LB323]

SENATOR CORNETT: Yes, that they will be able to opt out, and part of that is this bill addresses the issue that a lot of the cities brought to us in that they...the current city councils or...will go we didn't agree to this, it was the past people that agreed to this, and it gives them the leeway to say, you know, we just don't want to be hit with these, you know, we do not want to participate, which currently they do not have that option. And there will be opposition to this because some of the cities feel that that's not fair then. They want it on a level playing field. [LB323]

SENATOR FISCHER: Okay. Thank you. [LB323]

SENATOR UTTER: Further questions for Senator Cornett? Seeing none, we will... [LB323]

SENATOR CORNETT: And just a quick clarifying point: The two bills go hand in hand in that they address the same issue. LB209, though, deals with the one-year notification and that will be what we hear next. [LB323]

SENATOR UTTER: Thank you, Senator Cornett. The first proponent. Mr. Person, welcome. [LB323]

GARY PERSON: Thank you, Gary Person, spelled like person, P-e-r-s-o-n, the city manager and development director for Sidney, Nebraska. Would like us to, on our

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

Revenue Committee
February 16, 2011

testimony, first to clarify we stick to LB323 and then when LB209 comes up... [LB323]

SENATOR UTTER: You'll be welcome to come back on the second bill, yes, sir.
[LB323]

GARY PERSON: Okay. All right. Senator Utter, Revenue Committee members, Senator Cornett, thank you for the opportunity to address this ongoing, growing concern for municipalities across Nebraska on the loss of local sales tax revenue to state and city programs. We've come a long ways on this issue over the past three years, thanks to this committee's leadership, sensitivity to the local impact, and willingness to grasp an understanding of the issues so better solutions can be considered. In particular, I want to thank Senator Cornett for her ongoing communication throughout the past year and through the introduction of LB323 and LB209. I'd also like to thank our senator, Ken Schilz, for working diligently on this issue since the first day he became a senator, along with the other cosponsors. The communities that have been your best economic development partners and the most aggressive at helping sell Nebraska and encouraging new investments and job creation in our state, as a result, have suffered a painful amount of local sales tax loss. There's been little communication historically on this issue between the state and local governments when these losses will occur. As you know, this local revenue loss is due to the Nebraska Employment Investment Growth Act and Nebraska Advantage. Our local sales tax revenue streams were mandated by local voters on local initiatives to go specifically for local issues. While these two proposed bills are very much appreciated, I will always hold true to my belief that the state of Nebraska should be 100 percent responsible for its state programs, just like the local jurisdiction has to be 100 percent responsible for its local programs. In Sidney's situation, our local sales tax was adopted prior to the time either of these two state incentive programs became state law, so the state truly did circumvent the will of the local people in their intentions for adopting the local sales tax initiatives. To date Sidney has lost over \$4 million of its local sales tax to the state incentive programs and it continues to grow each year, ballooning to nearly \$800,000 loss last year. That's the equivalent of Omaha losing \$60 million and Lincoln losing \$31 million in their budget. LB323 will at least give the local municipality a voice in the matter and will also send a message to the business applying that the local community is involved in Nebraska Advantage. If the local community turns away the opportunity then that's their choice and their risk. As a result of LB323, each community will have a better understanding of the types of jobs investment being made and the potential partnership in local investment that is involved in the project. Another aspect that often occurs with Nebraska Advantage or the earlier LB775 projects is the local community already sometimes is an LB840 partner on the same project, providing local economic development dollars to the project. To date the city of Sidney has invested over \$3 million in LB840 sales tax funding in many of these same projects. Had we known the potential loss of local sales tax refunds through Advantage of LB775, perhaps it would have been an either/or situation, but at least the local community would have had that

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

Revenue Committee
February 16, 2011

choice and maybe chose not to do both. We believe LB323 will help resolve many of these issues. And I'll provide more extensive written testimony to the situation. [LB323]

SENATOR UTTER: Thank you, Mr. Person. Senator Hadley. [LB323]

SENATOR HADLEY: Senator Utter. Mr. Person, thank you for being here. [LB323]

GARY PERSON: Thank you. [LB323]

SENATOR HADLEY: You know there's an old saying you should never ask a question unless you know the answer, but I really don't. When a community TIFs property... [LB323]

GARY PERSON: Uh-huh. [LB323]

SENATOR HADLEY: ...I remember from days as a mayor and we dealt with it from the city standpoint. Is the school district, do they get taxes on the new assessed value? Does the county get taxes on the new or are they part of the TIF also? [LB323]

GARY PERSON: They're part of the TIF also. They do get notified. They can testify at the hearing. We always involve them in the conversations. [LB323]

SENATOR HADLEY: But do they have the choice of saying, no,... [LB323]

GARY PERSON: Yes. [LB323]

SENATOR HADLEY: ...we do not... [LB323]

GARY PERSON: Well,... [LB323]

SENATOR HADLEY: I mean, do they have a veto power on a city "TIFing" property? [LB323]

GARY PERSON: I do not believe so, Senator. [LB323]

SENATOR HADLEY: Okay. [LB323]

SENATOR UTTER: Further questions for Mr. Person? Seeing none, thank you very much for your testimony. [LB323]

GARY PERSON: Thank you. [LB323]

SENATOR UTTER: Welcome to the Revenue Committee, to the hot Revenue

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

Revenue Committee
February 16, 2011

Committee. [LB323]

DOUG GORACKE: (Exhibit 12) Yeah, it's hot. My name is Doug Goracke, D-o-u-g G-o-r-a-c-k-e. I currently serve the city of Tecumseh as economic development director. I would like to thank you for this opportunity to address you today and also to thank Senator Cornett for her work on this. Since visiting with you last year concerning LB775, our liability has increased. To date we have been responsible for the reimbursement of just over \$82,000. For a municipality our size, this is a very substantial amount. As we watch the benefactor of this program dismantle his equipment, inventory and toss it into the boneyard and hear of employee layoffs, we naturally ask ourselves how can this be happening. And it's not just the sales tax that's at issue. Motor vehicle sales tax receipts must be spent on streets and roads, which in Tecumseh's case averages about \$2,500, \$2,600 per month. In addition, we are required to report to the Department of Roads annually where and how that money is spent. So if LB775 or even Nebraska Advantage is active in a community, the Department of Revenue takes all the sales tax if the threshold is met, including the money that is supposed to be spent on streets and roads, and just because we didn't actually receive it, that does not mean we don't have to account for it. That money must be taken out of General Funds and spent on our roads regardless. The Department of Roads has no way of knowing that it was held back. So then we are taking that double hit every time this happens. We at the city of Tecumseh no longer have the option of doing business as usual. Four years ago we cut my very position to part-time and combined it with public works. Last summer we contracted with the Johnson County Sheriff for law enforcement. We had two people retire that we did not replace. We have merged the public works with the street department and we currently are negotiating a merger between the city and rural fire departments. We have postponed improvement to our swimming pool. We are frantically working on a certification project that will enable us to qualify for a CDBG downtown project that is long overdue. We have done our due diligence in managing our finances, even though our hands continue to be tied. The Governor himself says that municipalities need to follow the state's example when it comes to curbing their spending. I would reply that by comparison Tecumseh has been very proactive. In fact, we think our cuts are even more significant because we had to absorb these incentive refunds at the same time we were upgrading our wastewater treatment plant to the tune of \$4.2 million. So just for a moment I would like you to consider how an economic development director from a small rural town in Nebraska feels when a company expresses interest in locating to their community. He or she will weigh the options of Nebraska Advantage incentive and carefully decide whether or not they should even bring it up, knowing that if they take the incentive at some point it is likely that the city will have that refund become reality, possibly facing an incredible financial burden on the city. In addition, they will have the responsibility to repay themselves for that lost motor vehicle tax. It's a terrible position to be in. So in closing, I would ask you to consider the overall impact this has had on Tecumseh and communities like us. This has been and continues to be a tidal wave engulfing us all. So I encourage you all to support Senator Cornett's bill, LB323. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR UTTER: Thank you, Doug,... [LB323]

DOUG GORACKE: Thank you. [LB323]

SENATOR UTTER: ...for your testimony. Are there questions? Senator Hadley. [LB323]

SENATOR HADLEY: Thank you. We heard the testimony last year. My years go too fast. Would a system be better if we could develop a system where you didn't get the sales tax in the first place, because what's your refund, some place you've got that. Am I correct on that? [LB323]

DOUG GORACKE: Yes. [LB323]

SENATOR HADLEY: So would a system be better where it was never given to you in the first place so then you don't have to worry about refunding it? [LB323]

DOUG GORACKE: I don't think I would agree with that, Senator, simply because when the voters voted in LB840, in our case, they voted that in for economic development tools. That LB840 was to be used for us to loan money. I mean we had to submit that plan to the state and have it approved by them. All that is kind of laid out in there. So let's just say, for instance, I was asked if I could loan \$20,000 to a particular business. I'm very reluctant to do that now because I don't know what my next month is going to be or the following month or the following month. In some of these other towns' instance, I wouldn't know what direction to go. LB840 was a local option that was...people, when they voted that in, they knew that that was going to be there to bring that business in for us to decide how that money was going to be spent. [LB323]

SENATOR HADLEY: I guess when the state withholds money, it's money that the business has paid. Is that correct? [LB323]

DOUG GORACKE: Uh-huh. [LB323]

SENATOR HADLEY: And so when they...when the company meets the criteria, they in essence take the money they've given to you, they take it back. [LB323]

DOUG GORACKE: Back. Sure. [LB323]

SENATOR HADLEY: So I guess my question again is if we could have a system where we never gave it to you in the first place, you wouldn't have spent it and you wouldn't have had it taken away from you. [LB323]

DOUG GORACKE: Well, I guess I understand where you're going with that and I guess

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

Revenue Committee
February 16, 2011

my response would be if we didn't have LB840 we wouldn't be getting...we wouldn't have to reimburse it. See, one has to come with the other. Does that makes sense? Yet without LB840, the state is going to be required to do the credit, to do the refund, not us, because we don't have a local option. [LB323]

SENATOR UTTER: Other questions? Doug, I do have one question. Do you see a problem at all where Tecumseh, for example, opted out and I assume that you were saying if you could go back and do it over again you'd sure opt out,... [LB323]

DOUG GORACKE: Well, we'd sure think about it, sure. [LB323]

SENATOR UTTER: ...and your next-door neighbor did not opt out and they got the new business? [LB323]

DOUG GORACKE: Uh-huh. [LB323]

SENATOR UTTER: Do you see that there...that there's...is it enough, as far as you're concerned, that make one community more competitive in attracting a new business than another? [LB323]

DOUG GORACKE: I would...I guess I would say that it's probably...isn't it really up to those communities to hash that out who wants to do that, who doesn't? As it stands now, you don't have that choice. I'll say this. Tecumseh, with one project, yeah, we're going to make it. It's hard. We've cut everything we can possibly cut. There's nowhere to go, period. I mean we are against the wall. If we had another one that showed up that we didn't know about, we'd be done. We'd be coming to the state on our hands and knees begging. We would be done. We have squeezed every dollar out of every place that we can. We've got a swimming pool that leaks 365,000 gallons of water a month. We going to close it? I mean we can't. I mean you got to summer rec programs, just things like that, you got to offer that for your community. So we have squeezed. We have squeezed and we have squeezed and we just have nowhere else to squeeze. I...last year I felt like I was the big fish because we were getting hit, other than Sidney, one of the hardest, but now I'm the small fish. Some of the...I just can't believe being one of these other communities. It would be devastating. [LB323]

SENATOR UTTER: Thank you. [LB323]

DOUG GORACKE: Thank you. [LB323]

SENATOR UTTER: Next proponent. Welcome. [LB323]

LANCE HEDQUIST: (Exhibit 13) Thank you, Senator Utter, members of the committee. My name is Lance, L-a-n-c-e, Hedquist, H-e-d-q-u-i-s-t. I'm the city administrator of the

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

Revenue Committee
February 16, 2011

city of South Sioux City and I appreciate the opportunity to be here today and I appreciate the bill that was introduced here by Senator Cornett. The city of South Sioux City is in strong support of the Nebraska Advantage Act and the old LB775 act. That's been extremely important. We've got lots of industries that have located in Nebraska because of that bill and because of those particular incentives. As you know, we're located in a tri-state area so we're always competing with South Dakota and Iowa to get industries to come into our community. On several occasions, our citizens have voted strongly in favor of doing street improvements in our community. We have the only joint county sales tax in the state of Nebraska. We have property tax relief and utility rate relief that will take place in 2013, 2014, and we also have capital construction funds for our community. We are very concerned about the losing of sales tax dollars that have been voter approved for these specific purposes. It's hard to explain to those citizens that these programs' funds have been captured by the state and not sent to the city, in our case. We had a county commissioner that a person was running for county commissioner position came to the city hall and said, where's our money, you haven't sent us any money for three months to the county in the sales tax. And our response was, we didn't get any. They came to the county board and said the city is holding back money from the county because we're not sending you the money. We said, we didn't get any money so we're not holding back any money. This is money that was captured by the state and held back by the state for our community, which was in deference to the bonds that were passed by the public voters, in this case for the jail. You'll notice on the charts that you have in front of you that the amount of refunds the city has incurred over the last five years have been \$2.2 million. You'll also note that those amounts are different in each given year. You'll also note on the chart that's on the very back page showing the pie chart, if you look at that you'll notice that there was not the big increase one year that you gave back in the future years. The paybacks on these funds can take place up to 22 years after that company announces that that's coming in to our community, so it does not necessarily represent the amount of additional money that was paid coming in to the city. You'll also notice on the other chart, part of that, the one with the jaggedly line showing how much the city would have received and how much the city did receive, and you'll note on several occasions it was months before the city was able to receive any money for the purposes that the public voted for. So we think that having the city as part of the agreement, we would know then what the potential refund coming to that community...or to that business would be and so we can better plan for that as we look...working with those industries and working to expand the tax base and the employment base within our areas. I'd also make one other note is that the sales tax refunds don't necessarily reflect the sales tax the company paid. And Senator Hadley's question about would you take the money and hold it back, sometimes a company is going to earn it, sometimes they won't earn it so...and sometimes it matches what they pay and sometimes it doesn't match what it paid. So it's a very difficult thing to do that proposal. Thank you, Mr. Chairman. [LB323]

SENATOR UTTER: Thank you, Mr. Hedquist. Is there questions? Seeing none, thank

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

Revenue Committee
February 16, 2011

you very much for your testimony. Welcome. [LB323]

KEVIN LOCKHORN: My name is Kevin Lockhorn, last name L-o-c-k-h-o-r-n. I want to thank you for this opportunity to speak. I'm a member of the Ravenna City Council. Ravenna is a small community of approximately 1,300 citizens. We, like all small rural communities in Nebraska, are struggling to maintain our population, create some stability, and strive towards economic growth. Last August we, like all cities of our size, went through the budget process. For the past several years the city has been adding money to the reserves to fund special or several projects. When we budgeted for these projects, we anticipated receiving \$160,000 from our city sales tax in this fiscal year. Beginning January 2011, our sales tax income was taken from us because of the Advantage program. In fact, we will go without sales tax income for 40 months before the \$533,000 is paid to fund the Nebraska Advantage Incentive. In August, after calculating our budget and taking into account the sales tax we would receive or assumed we would receive, we voted to lower our levy from 46 cents to 41 cents. Now not only will we not receive any sales tax for the next 40 months, we will receive less in property tax. It is essential for cities to know at budget time if they are not going to receive their sales tax the coming year. If we knew we were not going to be receiving any sales tax, we would have not lowered our levy or commenced the projects that we did. Cities cannot pass an effective budget without that critical information. It concerns me that the state can, without our city government even knowing, take our sales tax. Therefore, Ravenna supports LB323, which would allow local option in, option out of the program based on the local decision on what project the city would want to support with our sales tax dollars. The third potentially knockout punch for our community would be the taking by the state of the LB840 sales tax funds if an election were passed. So far, we do not have that in place. We are not sure if our economic development corporation spearheading this movement will still ask for this election. They believe if the public knows these funds won't be used for local purposes, the LB840 plan will not pass. In closing, I ask this committee to consider the impact of the state programs on our cities, the impact on economic development in our small towns, particularly if you couple with that legislation such as LB383, which will take away other funding for our cities. Please pass LB323 and next year consider legislation to have the state fund its own incentives and programs or at least partially fund these and leave the city sales tax available for the city. Please consider legislation to allow LB840 funds voted on at the local level to be used on the local level. The LB840 funds need to be available to the city and not have them available to pay for state incentives unless consent is given by the city. We have lost revenue from sales tax for a minimum of 40 months and we knew nothing about this until late December of last year when we actually heard from Gary. He had noted that Ravenna was going to do this or be hit with this \$533,000. If we decided to pay this out of our reserve, it would take over 25 percent of our cash reserve and that's not something we can do at this time. And again, I just want to thank you guys for your time. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR UTTER: Thank you, Mr. Lockhorn. Questions? Senator Pankonin. [LB323]

SENATOR PANKONIN: Thank you, sir, and we've got four former mayors, I think, on this committee--Senator Adams, Senator Utter, Senator Hadley, and myself--so, you know, feel your pain when you have this. What was the project that came to Ravenna that caused the problem...well, I don't want to say caused the problem but what was...what's the corresponding... [LB323]

KEVIN LOCKHORN: We don't know for sure. I mean we can make assumptions on which project came to Ravenna, but that's not information that we get. I mean we've asked to find out who filed the form to get this rebate, but that's not available to us. [LB323]

SENATOR PANKONIN: So the economic development part of it hasn't happened yet then. I mean... [LB323]

LINDA ZINNELL: (Inaudible) answer to your question (inaudible). [LB323]

SENATOR PANKONIN: Okay. All right. I'll save those questions then. [LB323]

KEVIN LOCKHORN: Okay. Okay. [LB323]

SENATOR PANKONIN: Yeah, I'm just curious about the process. I mean what's the corresponding benefit here, but okay. That...I'll save those questions. [LB323]

SENATOR UTTER: Next question, Senator Pirsch. [LB323]

SENATOR PIRSCH: And is it your understanding that's because there...as part of the Nebraska Advantage, LB775, there's kind of privacy? The idea is it might put companies or the underlying (inaudible) at a competitive disadvantage for that, so that's why your cities, municipalities are not informed, right, so you don't know, right? [LB323]

KEVIN LOCKHORN: Right. Right, that is correct. [LB323]

SENATOR PIRSCH: Okay. Okay. In terms of just raw dollars, what was the redemption? Well, you said this was... [LB323]

KEVIN LOCKHORN: \$533,212.89. That's the first one. Since then we can see that there's going to be others. So at this point, we've already lost all income from sales tax for 40 months. I mean that's just based on our average. We also had a local business close which actually is going to prolong that. So, yeah, over the next 22 years, I don't know if we'll ever catch up. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR PIRSCH: And you're not told of the name of the company or the specifics of the project... [LB323]

KEVIN LOCKHORN: That's correct. [LB323]

SENATOR PIRSCH: ...but are you told...what are you told about when...are you informed that there's a...at the outset when an investment comes into the community or at what point are you informed? What were you told? [LB323]

KEVIN LOCKHORN: Thirty days before they take...before they withhold the first, well, like we were notified in January and in January we did not receive any of our local sales tax. That's when we were informed. [LB323]

SENATOR PIRSCH: And you had no inkling that in your community either a Nebraska Advantage or LB775... [LB323]

KEVIN LOCKHORN: No. [LB323]

SENATOR PIRSCH: ...project was... [LB323]

KEVIN LOCKHORN: No. At budget time, in fact our auditors were the ones that recommended that we go ahead and lower our levy because we were doing well at that time. When I first heard rumor of this, you know, I went straight to our clerk and went to our auditors and they knew nothing of it. In fact, we even inquired of the state and we couldn't find anything until we talked to Gary Person and... [LB323]

SENATOR PIRSCH: Economic activity in your community, either by size or scope, didn't...there was nothing unusual in your estimation that would lead you to believe that these type of programs were in the works though. Is that what you're saying? [LB323]

KEVIN LOCKHORN: Well, we've had economic development, you know, over the last several years. We did have an ethanol plant, you know, that was built outside of town, but this program itself, I'm new to the council position, I'm only...I've only been here two years and that was built before my time. But like I said, at budget time, we had no idea that this was coming. [LB323]

SENATOR PIRSCH: Okay. So what your testimony is here today is there's no reasonable way to plan for this kind of a redemption. Is that what you're saying? [LB323]

KEVIN LOCKHORN: Right. I don't see how you can, you know, not when it's that magnitude, you know, especially to a small community. [LB323]

SENATOR PIRSCH: Okay. Thank you for your testimony. [LB323]

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

Revenue Committee
February 16, 2011

KEVIN LOCKHORN: Uh-huh. [LB323]

SENATOR UTTER: Senator Hadley. [LB323]

SENATOR HADLEY: Senator Utter, thank you. I guess I'm a little incredulous because after serving on a city county and being mayor, I certainly knew when we were trying to woo candidates and so this \$500...at some point in time your revenues had to spike in the city. Did anybody ever go back and say why did...why did our sales tax go up so much this month or this year or do we just say, well, that's really great, we're doing great? [LB323]

KEVIN LOCKHORN: There was a time when it did spike and, fortunately, we did...we were financially responsible and we didn't actually spend that all at that time. You know, we do have some of it in the cash reserves. But again, this is going to take out 25 percent. [LB323]

SENATOR HADLEY: But you got it, right? You initially got it. [LB323]

KEVIN LOCKHORN: Yeah, we did. We did get some of it. [LB323]

SENATOR HADLEY: And prudent management would...if I was a city manager, mayor, councilman, if they came to me and said we're going to build an ethanol plant in your city under like LB775, and suddenly two months later, after they're done building it, my sales tax is three times what it normally is in a month, I'm going to say I better figure out...I better figure out why it's going up. Wouldn't you want to do that? [LB323]

KEVIN LOCKHORN: Right. Well, and all of that occurred before I was a councilman. [LB323]

SENATOR HADLEY: Well, I understand that but... [LB323]

KEVIN LOCKHORN: And...but, yeah, even talking to the people that were there, you know, yes, they did see a spike but I don't know that they understood at that point that there would ever be a responsibility that that... [LB323]

SENATOR HADLEY: You mean they wouldn't go to the Economic Development Department and say we had a huge spike, you know, what's...? [LB323]

KEVIN LOCKHORN: Ravenna doesn't have a huge economic development department. [LB323]

SENATOR HADLEY: No, I mean the state because that...okay, well, I'm just trying to

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

Revenue Committee
February 16, 2011

think through... [LB323]

KEVIN LOCKHORN: Yeah. [LB323]

SENATOR HADLEY: ...how you get the money and then don't...then we got to pay it back because you have that business there, you know, it's been spent. [LB323]

KEVIN LOCKHORN: Yeah. [LB323]

SENATOR HADLEY: One last question: We do have four former mayors here. You know, I'm not sure I want to sit on the city council and the mayor when I'm sitting there and trying to decide whether I want this company, whether I want LB775 funds for a company coming in, and I say no, and I got the citizens saying why, you're curbing growth in our city. Is that what you want to...do you want to make that decision, when you explain to them we're going to get higher sales tax but we might have to pay it back later? [LB323]

KEVIN LOCKHORN: You know, you can go either way with that. [LB323]

SENATOR HADLEY: Yeah. [LB323]

KEVIN LOCKHORN: You know, that's... [LB323]

SENATOR UTTER: Senator Fischer. [LB323]

SENATOR FISCHER: Thank you, Senator Utter. I'm not a former mayor so I guess I'm just kind of amazed at the whole process or nonprocess that seems to be happening here. And maybe Lynn Rex would be the person to address this. But my basic questions are, from the people that have come up to testify on this, you're saying that you knew nothing about this and all of a sudden you're not receiving your sales tax receipts. [LB323]

KEVIN LOCKHORN: That's correct. [LB323]

SENATOR FISCHER: Does... [LB323]

KEVIN LOCKHORN: There was a notification the first part of January that it would go into effect in January. [LB323]

SENATOR FISCHER: Right. But the Department of Economic Development, the Department of Revenue, the League of Municipalities, do they offer workshops, information or was this just a surprise and it happened to Sidney and now it's happening to other communities? [LB323]

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

Revenue Committee
February 16, 2011

KEVIN LOCKHORN: It was a surprise to us. I mean, like I said, I'm fairly new. I've done city council for two years. In the two years that we've gone through the budget process, nothing was ever mentioned about this. When I was notified and when I brought it up to our city clerk that basically is in the know for most things, she does a great job, she knew nothing about it. [LB323]

SENATOR FISCHER: Okay. [LB323]

KEVIN LOCKHORN: Our auditors knew nothing about it. [LB323]

SENATOR FISCHER: Okay. Thank you. [LB323]

SENATOR UTTER: Mr. Lockhorn, just one more question. [LB323]

KEVIN LOCKHORN: Yes. [LB323]

SENATOR UTTER: The opt-in, opt-out provisions that would certainly preserve for the city their stream of sales taxes, even though there may be a tremendous spike up-front,... [LB323]

KEVIN LOCKHORN: Uh-huh. [LB323]

SENATOR UTTER: ...but from a fairness standpoint, under the LB775 measures, is that appropriate that you enjoyed the receipt of those sales taxes and you're enjoying the benefits of whatever industry it is that comes to your town, but yet it's kind of like I want to have my cake and eat it too? Do you see that at all? [LB323]

KEVIN LOCKHORN: I can see some of your point. But also with the option in, option out, and I don't understand this fully, like I said, this is new to me, but if the city maintained their portion of the sales tax, these companies would still benefit from the state portion of the sales tax that they paid. You know, as with any new infrastructure, the city still has to incur some cost to support those infrastructures or the economic development. [LB323]

SENATOR UTTER: But is it fair to say that...is it fair to say that if the city opts out and the state provides the LB775 benefits without the city's participation that now we are asking the entire state of Nebraska to participate in getting industry, in getting new businesses for Ravenna or for whatever town it is? Is that...or am I off-base there? [LB323]

KEVIN LOCKHORN: I'm going to say from my point that's fair, yes. (Laughter) [LB323]

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

Revenue Committee
February 16, 2011

SENATOR HADLEY: Senator Utter. [LB323]

SENATOR UTTER: Senator Hadley. [LB323]

SENATOR HADLEY: I just have one other quick question. If we say that we don't know who the LB775, because of confidentiality, problems such as that, if we make an opt-in or opt-out, we're making that completely open. Isn't that going to kill our economic development if you have to write...you have an agenda item on the Ravenna City Council, XYZ corporation wants to come here and we have to decide whether we're going to opt in or opt out, and that company says to heck with you, if you're going to put that on the...if you're going to let our competitors and everybody else know that we're looking here we'll go someplace else? Because you said earlier that you didn't...you know, the confidentiality, you didn't know that this was happening. So is that a problem if we have to make this public record for every company that comes to a city in Nebraska? [LB323]

KEVIN LOCKHORN: I would say there's a possibility that it could be a problem, but also, you know, it allows the people to understand what they're up against, you know, or what's coming that way too. So... [LB323]

SENATOR HADLEY: But it could mean, you know, you don't get it. [LB323]

KEVIN LOCKHORN: It's possible. It's possible, but there's no guarantee that people are going to not do it either. At least you have the option. You know, right now we don't have the option and from where I've sat on the council, we had no knowledge. And from... [LB323]

SENATOR HADLEY: And we're not blaming you at all, but sometime Ravenna had a spike in their sales tax. [LB323]

KEVIN LOCKHORN: And sometime they did and, like I said, we did...we did actually save that money. It wasn't the amount of money that we're paying back at this time, you know. It's less. There was a spike but, still, you're limited to the amount of reserve that you can have. And if we pay this all back right now, we're going to take 25...over 25 percent of what we have in our reserve. [LB323]

SENATOR HADLEY: You know, I just have to say one other thing. What I worry about is that we talk about rural Nebraska and our cities dying and such as that,... [LB323]

KEVIN LOCKHORN: Uh-huh. [LB323]

SENATOR HADLEY: ...and if we suddenly have cities say, boy, I'm going to publicize this and I, you know, I don't want...if I have to collect the sales tax, then give it back, I

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

Revenue Committee
February 16, 2011

don't want industries, we're going to have a few cities in this state that are going to do great because they're going to say we'll take those companies. I know one of our largest cities, I asked them when this bill was...last time, they put 10 percent of their sales tax into a reserve every year just for this type of thing. [LB323]

KEVIN LOCKHORN: Yeah, we don't have that option for the next 40 months. [LB323]

SENATOR UTTER: Senator Louden. [LB323]

SENATOR LOUDEN: Yes, thank you, Senator Utter. Well, I'm not a mayor, have never been. In fact, in the life I lived before I came down here I had to outwit Hereford cows and match wits with the bankers. Now meaning no offense, Senator Utter, (laughter) but that was how I made my living. Now this looks like to me this is a bookkeeping problem more than anything. Surely the Department of Revenue knew how much of a liability you had out there because in LB470...or, yeah, LB775 they could go 20 years or more. But somebody knew or should have been keeping track on your liability. How come you...how come that...I know the information isn't available to you because that's supposed to be personal information because it's on their taxes or something like that, but how come you couldn't get some kind of a liability or a bookkeeping or a reconciliation type deal on how much you were liable over the years from one year to the next, because they'll sure as heck tell you how much taxes you owe every year? Why weren't they telling you that liability? Would something like that work better than opting out or something like that? [LB323]

KEVIN LOCKHORN: It may. And I, like I said, this is fairly new. I don't fully understand it. One of the things, though, is when economic development helps put these companies in place and you do see that spike, I don't know that there's a guarantee that that company is going to actually apply for that rebate. [LB323]

SENATOR LOUDEN: Well, yeah, but they... [LB323]

KEVIN LOCKHORN: I can see what your point is, though, is actually saying that we... [LB323]

SENATOR LOUDEN: ...they can. I mean there's nothing to stop them from it. [LB323]

KEVIN LOCKHORN: ...yeah, you can and you should be prepared. [LB323]

SENATOR LOUDEN: And that's the reason they evidently didn't when times were good. When times got bad they happened to look back in their purse and down at the bottom of a purse was a chance to pull some money back out of there and that's the reason we're getting it all in the last two or three years. These towns out there are getting ate alive with that. And that's the reason I'm wondering why someone doesn't give you a

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

Revenue Committee
February 16, 2011

reconciliation of what your liabilities are out there. My banker always gave me a reconciliation of what my liabilities were and I had to show him what my assets were, because that's the way we made things work, and I'm wondering... [LB323]

KEVIN LOCKHORN: Right. [LB323]

SENATOR LOUDEN: ...if this is a bookkeeping problem more than anything. [LB323]

KEVIN LOCKHORN: That could be part of the solution. You know, I agree with you, that could have been an option, but where we're at right now, it wasn't something in place. So all I'm talking about is where we're at now. This is what we're faced with, you know. [LB323]

SENATOR LOUDEN: I understand, and thank you. [LB323]

SENATOR UTTER: Senator Pirsch. [LB323]

SENATOR PIRSCH: Tell me if my understanding is correct. So that this bill says that the Tax Commissioner on a project-by-project basis that may potentially affect then your local option sales would notify you, wouldn't disclose to you, I would imagine, the name of the corporation or the specifics but indicate that there was a project and that it would involve a certain magnitude of money, is that your understanding, ask you if you wanted to participate in that? [LB323]

KEVIN LOCKHORN: Yeah, that's my understanding. [LB323]

SENATOR PIRSCH: Okay. And so it's not a blanket type of election where there's no going back. It's project by project. [LB323]

KEVIN LOCKHORN: Right. [LB323]

SENATOR PIRSCH: Is...and I'm trying to put my arms around what your problem...is your problem not that...is your problem just that the sheer magnitude of those types of redemption, no matter how much planning time ahead you would have had, there just wasn't a way to deal with that sheer magnitude? Or is the problem, you know what, if you had notified us, which currently isn't envisioned in law,... [LB323]

KEVIN LOCKHORN: Uh-huh. [LB323]

SENATOR PIRSCH: ...you know a number of years beforehand, when the project was going in, then we would have known to set aside a certain percentage and could have adequately planned for that? So I guess I'd like to hear your comment on that. Is it just a... [LB323]

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

Revenue Committee
February 16, 2011

KEVIN LOCKHORN: Yeah. And this is just speaking for myself here I guess, well, for the city of Ravenna. The lack of notification was a big deal. Yes, we did see a spike in our revenues before. It would be nice to know that some of this stuff is coming up. Right now we really have no idea. I mean there's not just one corporation in Ravenna that could apply for this, you know, there's several. There's, you know, cell phone companies, there's the railroad, we have an ethanol plant, cheese plant. Several of these companies could apply for it and we have no idea really what's coming down to us, you know. [LB323]

SENATOR PIRSCH: Because you don't know which one of these projects have qualified for these... [LB323]

KEVIN LOCKHORN: Correct. [LB323]

SENATOR PIRSCH: ...for this type... [LB323]

KEVIN LOCKHORN: Correct. We don't know who's qualified. [LB323]

SENATOR PIRSCH: But what my question is specifically asking then, what if you knew well in advance which one of these, you know? You've got a liability. It's, you know, it's going down. They've just been approved days ago for...by the Tax Commissioner for this type of a project, you know, and I suppose it's up to the company to decide the time to redeem that. But I'm saying in your case, would it have even helped you? Is it the sheer size of that? [LB323]

KEVIN LOCKHORN: Yes, it would have helped because... [LB323]

SENATOR PIRSCH: You could have handled it if you had just been informed right from the git-go. Is that what it is? [LB323]

KEVIN LOCKHORN: And it's not that we can't handle it because we can. [LB323]

SENATOR PIRSCH: Yeah. [LB323]

KEVIN LOCKHORN: But we would have changed some of our decisions. We may not have proceeded with some of our projects had we known this was coming down. We definitely would not have lowered our levy. [LB323]

SENATOR PIRSCH: Okay. So for you it was just the planning time and you could have handled it. It wasn't you could have given us an infinite amount of years. It was just way above our ability to ever... [LB323]

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

Revenue Committee
February 16, 2011

KEVIN LOCKHORN: Right. It's just the lack of us knowing, you know. [LB323]

SENATOR PIRSCH: Okay. [LB323]

KEVIN LOCKHORN: It makes it hard to budget when you don't know something like this is coming. [LB323]

SENATOR PIRSCH: Well, I thank you. I appreciate your feedback. [LB323]

SENATOR UTTER: Any further questions? Mr. Lockhorn, let me just say this to you, that you didn't know you drew the short straw on this committee hearing either, did you? (Laughter) [LB323]

KEVIN LOCKHORN: I did not. [LB323]

SENATOR UTTER: And I hope that this roasting experience that you have had here doesn't tell you don't ever come back to the State Legislature and testify again. We apologize... [LB323]

KEVIN LOCKHORN: Yeah. [LB323]

SENATOR UTTER: ...for running you up and down the Capitol steps. [LB323]

KEVIN LOCKHORN: No, I want to thank you all for your time and I appreciate all the questions. [LB323]

SENATOR FISCHER: Thank you. [LB323]

SENATOR UTTER: Next proponent. [LB323]

LINDA ZINNELL: (Exhibit 14) Hi. My name is Linda Zinnell, L-i-n-d-a Z-i-n-n-e-l-l, and on behalf of the Ravenna Economic Development Corporation in Ravenna, I wish to thank you for the opportunity to share with you how the Nebraska Advantage Program has affected us. The board members have engaged in the LB840 project. Our first informational meeting of the community of Ravenna was held on February 25 of 2010, so we've been at this a year. Since that date, we have had numerous meetings of sharing and gathering information from the community as to what they would want the LB840 economic development plan to be. For almost a year, we have spent endless volunteer hours accumulating and compiling this information for a proposed plan for the Ravenna economic development program to present to the voters. Last month we were ready to begin step 4 of the 14 steps of the LB840 time line. The day our ad was to go into the local newspaper for public hearing, news about the state requesting \$534,000 from Ravenna spread like wildfire. The news also stated that the voters...if the voters

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

Revenue Committee
February 16, 2011

passed this one-half cent city sales tax, that our LB840 plan would be put on hold until that was paid in full to Nebraska. Ravenna is a town of 1,300 people that averages \$160,000 a year in city sales tax. The state would keep the LB840 one-half cent city sales tax until that \$534,000 is paid off, which calculates to more than...or approximately 40 months. The LB840 plan is set up to remain in effect for 15 years, and if it was to pass we would already lose 40 months of that time to be able to enact a program that was planned by the voters. We have been selling this project to the people of the city of Ravenna by informing them that the half-cent city sales tax is to be spent only according to our economic development plan, that it stays in Ravenna and we have that say of how it will be spent. Now the news is telling them that the half-cent tax will first go to pay off Nebraska. This brings a lot of questions to our board, which has put numerous volunteer hours on the project. We feel that if we were to put LB840 to vote, according to the time line that we have established, it would fail and we would need to spend more volunteer hours and dollars in two years to attempt the passage of LB840 with the knowledge that our plan is not totally safe for money to be spent in Ravenna. Our economic development plan would enable us to respond quickly to opportunities and raise sufficient cash for local sources, to provide incentives for provisions and new services in our town. With the untimely notifications of the Nebraska Advantage Tax Credit, we now are in a dilemma, trying to decide if we continue on our present time line knowing we have a huge obstacle of trying to sell it to the voters, knowing that a vote yes on LB840 means it would first go to pay the \$534,000 and put our dreams on hold for 40 months. We are certainly in favor of the Nebraska Advantage project of LB323 and LB209 but wish for you to consider that the city's sales tax dollars that are raised because of LB840 to be exempt from the payback on the Nebraska Advantage project. The LB840 development plan is quite specific as to what the half-cent city sales tax is used for. We have developed our plan according to the guidelines set by the state. When Nebraska retains that half cent, we have no other funds to operate with. Can you imagine what would happen if we were in the middle of a project using our budgeted funds from that half-cent tax provided by LB840, knowing that that half cent was available to use according to our plan and that now Nebraska is retaining it. [LB323]

SENATOR UTTER: Thank you for your testimony. [LB323]

LINDA ZINNELL: Thank you. [LB323]

SENATOR UTTER: Questions? See, you're not going to get off scot-free, I'll tell you that. [LB323]

LINDA ZINNELL: That's okay. [LB323]

SENATOR UTTER: Senator Hadley. [LB323]

SENATOR HADLEY: Well, thank you. I appreciate your being here and I certainly

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

Revenue Committee
February 16, 2011

understand, you know, the concerns, but two numbers strike me. I think you said \$150,000 a year in sales tax revenue. [LB323]

LINDA ZINNELL: Average \$160,000, correct. [LB323]

SENATOR HADLEY: And you owe \$540,000? [LB323]

LINDA ZINNELL: Correct. [LB323]

SENATOR HADLEY: Didn't anybody ever...then you had to have a lot of years that you had to have significantly more than \$150,000. [LB323]

LINDA ZINNELL: When we looked back at the sales tax that was generated for the prior years, I do have that information back there, there was a spike but it was not \$535,000. At that time, the Seneca Sunrise assisted-living facility, which I'm the administrator of, was being built along with an ethanol plant, and that's been ten years ago. So as building the assisted living, I knew nothing about the Nebraska Advantage Tax Credit and maybe I need to go back and look because I can do it for 22 years, but that's not the point. We were not aware that that money would have to be paid back. And you asked about if we want to have the option of whether we...the city gets to vote on it or not, at least that way maybe they would know that there's the opportunity or the problem that that sales tax might have to be paid back, that that Advantage Tax Credit is there, available for the city to have to know to be paid back. Because if they have 22 years to apply for that, is it from the day they start building? Is it from the day they reached a number of employees? You know, where does that 22-year frame start? I don't know. [LB323]

SENATOR HADLEY: Well, I would hope that the League of Municipalities would have all that information and would be helping cities like Ravenna understand exactly what LB775 is doing. [LB323]

LINDA ZINNELL: I'm not with the city. You know, I don't...I don't know. [LB323]

SENATOR HADLEY: I know. I'm just saying that this...how long has LB775 been around? For a number of years now. So I just was amazed at the two numbers that you've got almost four times your yearly tax revenues that you have to pay back. [LB323]

LINDA ZINNELL: I know. And if you think of that \$535,000 Nebraska...or Ravenna has a 1 percent city sales tax, if I'm right, I think it's 1 percent, so to figure the math backwards, that means they spent \$55 million in the city in order to collect that 1 percent? Am I understanding that right. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR HADLEY: Right. That's a great question. [LB323]

LINDA ZINNELL: Because we didn't see that being spent in our town. I don't know. Would that not figure that? And we didn't find that \$500, you know, being collected, so I don't know if it's more than just the city sales tax that we're having to withhold. And, Senator Louden, can I ask, you talked about, you know, having a balance sheet for the bankers and that. When you do a balance sheet, you also know what your liabilities are, short term and long term. And what I feel we're asking or saying is, as a city, as a community of Ravenna, we don't know what the liabilities are so that we can add it to our balance sheet. Does that makes sense, what I'm trying to say, because when you do a complete balance sheet you need to know your liabilities. [LB323]

SENATOR UTTER: Senator Adams. [LB323]

SENATOR ADAMS: May I ask, in your LB840 plan that you are developing, what's in your plan? [LB323]

LINDA ZINNELL: It's to increase or to provide economic development in our town. [LB323]

SENATOR ADAMS: Specifically though. [LB323]

LINDA ZINNELL: To first hire an economic director... [LB323]

SENATOR ADAMS: Okay. [LB323]

LINDA ZINNELL: ...because of all of the hours that we spend, the volunteer hours. We all have full-time jobs and we're failing short...falling short of being... [LB323]

SENATOR ADAMS: Any incentives in terms of street, water/sewer infrastructure, those kinds of things? [LB323]

LINDA ZINNELL: The sewer has been upgraded in the last few years and I know that they've paid money, bonded on that, and the street, I know they've got like a three-, five-year project, something like that. I'm saying and understanding that the economic development is wanting to get businesses in there to fill our empty buildings on main street. [LB323]

SENATOR ADAMS: Okay. [LB323]

LINDA ZINNELL: I see that as our main goal. [LB323]

SENATOR ADAMS: Because what I was wondering here, could you...let's say you had

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

Revenue Committee
February 16, 2011

an LB840 plan and one of the dimensions of that plan was that you were going to use some of your sales tax dollars to provide, I don't know what it might be, land. [LB323]

LINDA ZINNELL: Uh-huh. [LB323]

SENATOR ADAMS: And so that's your plan and you give up some of those sales tax dollars to company X in order to buy them the land. Then you find out later they're getting a double whammy because they're collecting your sales tax at the other end of the deal, too, from the state. [LB323]

LINDA ZINNELL: True. [LB323]

SENATOR ADAMS: Okay. Thank you. [LB323]

LINDA ZINNELL: Yeah. [LB323]

SENATOR UTTER: Thank you very much. [LB323]

LINDA ZINNELL: Thank you. [LB323]

SENATOR UTTER: Welcome. [LB323]

WILLIAM BOYER: Thank you. My name is Bill Boyer, B-i-l-l B-o-y-e-r. I'm the city administrator in Bridgeport. Senator Utter, committee members, thank you for giving me the opportunity to be here today. I'll try to keep my remarks brief so maybe I can answer a couple of questions that you guys addressed earlier. The city of Bridgeport wholly supports both LB209 and LB323. The local option sales tax refunds in Nebraska have left many municipalities, including Bridgeport, in a no-win situation. This, compounded with the tough economic times, has left the city of Bridgeport scrambling to find ways to fund already appropriated expenses from other limited sources of revenue. Several months have went by. In the past five years the city of Bridgeport has given away more or has returned more money to the state of Nebraska in sales tax than was collected. From 1991 to 2001, our sales tax collected every year has ranged from \$165,000 to \$200,000 with no significant spikes anywhere. That makes up approximately 40 percent of our general fund. To make matters worse, the city is unable to obtain who may claim these refunds. To our knowledge, there have been no substantial developments which would have claimed these large refunds. Calls to the Nebraska Department of Revenue have led to additional frustrations, being told that we are not able to find out what these are for, these refunds are confidential. When going on-line, the only thing we can see are statewide companies, such as Burlington Northern or Union Pacific, Verizon, Alltel, and Viaero and others that may have invested something in our community that we're unaware of and certainly haven't invested any jobs. It's very difficult to explain to our residents, let alone our elected officials, where our money is being spent when we have

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

Revenue Committee
February 16, 2011

no knowledge of when, how much, and where these refunds are being awarded. Our local voters adopted a local option sales tax for local projects and development within Bridgeport before the legislation allowing these refunds to be passed was ever passed. This sales tax was not implemented to fund economic development rebates to businesses that have expanded or spent money within our city. We urge and support legislation that leaves decisions with local option sales taxes to the municipalities who collect them. To answer a question earlier by Senator Hadley and an economic development staff, I am the economic development staff and city administrator and emergency manager. So it's very difficult to try to wear that many hats. To me it seems more appropriate, when you have a large staff in the Nebraska Department of Economic Development or Department of Revenue, to assist the local cities in at least notifying us when and where this money may be returned. [LB323]

SENATOR UTTER: Thank you very much for your testimony, Mr. Boyer. Questions? Senator Pirsch. [LB323]

SENATOR PIRSCH: Okay. And so...well, I think I'm going to hold that question for Senator Cornett. [LB323]

SENATOR UTTER: Any further questions? I believe you're going to get off...oh, Senator Louden, I'm sorry. [LB323]

SENATOR LOUDEN: Well, thank you for being here and you and Gary have traveled quite a ways here to voice this. Well, as I've mentioned before, is this a bookkeeping problem? First I should ask, do you have a liability now? Are you having to pay back some sales tax? [LB323]

WILLIAM BOYER: It depends on the month. Some months, no; some months, yes. We find out the month before. We get a note that says here's how much sales tax you earned, here's how much the state is keeping in a fee to collect it for you, and here's how much your rebates were for this month and here's how much your rebates are for next month. If that's zero, then we don't get any. Next...this particular month, coming up for next month we got a note that it's \$5.18. The next month it may be zero. The next month it may be \$25,000. There's no way to budget or plan and when that's 40 percent of your general fund and, you know, we too have put some money away in reserves and tried to plan for part of this, but we have no idea where these are coming in from. And kind of to go off topic a little bit, but Senator Hadley mentioned earlier regarding tax increment financing, yes, the cities are, quote, taking the growth on that away from schools or counties, however, that's an up-front public knowledge thing that has to be done by the city council or the community development agency. In our case, that's the same entity. So they're already making those decisions. They're already saying, yes, we want to fund you; yes, we're going to give you that sales tax back or that property tax. But ultimately, they're going to benefit in the end. They're going to receive all the growth

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

Revenue Committee
February 16, 2011

when that tax increment financing bond expires. So it's not...we're not going in and saying, you know, we're going to fund all this tax increment financing up-front. You give us back all of your property tax for the last or through the next 12 months, 14 months. You're not going to get anything from the state. We're going to take it all. And then when it does come back, cities are using this tool but ultimately the schools are getting sometimes two and three times the amount of tax money back because their levy is two or three times higher than cities. [LB323]

SENATOR LOUDEN: I see. Now what I was wondering, some of this can go back to LB775? [LB323]

WILLIAM BOYER: Uh-huh. [LB323]

SENATOR LOUDEN: Okay. And that was when, in 1987 or '88? [LB323]

WILLIAM BOYER: I was eight years old so it would have been difficult to plan for that. (Laughter) [LB323]

SENATOR LOUDEN: And that's about 20-some years ago. So you have no idea in any time frame there when any of this was levied or was charged or anything. [LB323]

WILLIAM BOYER: No. And, you know, and I mentioned in my testimony, but it's so frustrating because when you do call the Department of Revenue and the Department of Economic Development, they ask like...they act like you're asking them for personal information that they can't give out and that they're offended for asking. [LB323]

SENATOR LOUDEN: I know. [LB323]

WILLIAM BOYER: It'd be no different if all of a sudden we weren't going to report to them what we spent our money on; we said, well, this chunk of money is none of your business what we spend it on. I'm sure we would have the State Auditor's Office in our office really quickly saying we want to know what you spent this on. [LB323]

SENATOR LOUDEN: I know, and that's been one of the problems with this from years ago in Alliance and around places like that. They had no idea where that money was because nothing showed up. You don't know if it was spent down at the rail yard and some of it was the local bank put in a new vault and some stuff like that and were able to get that funding, and it showed up. But anyway, do you agree then we need some help on this bookkeeping so that you are notified of your liabilities? [LB323]

WILLIAM BOYER: I agree that that's... [LB323]

SENATOR LOUDEN: I mean they can keep a running account of what that town's

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

Revenue Committee
February 16, 2011

liabilities is all the way through and it wouldn't be that hard to do, I wouldn't think. [LB323]

WILLIAM BOYER: That certainly would address part of the problem. I think that would go a long way. Also, I know part of this bill and some of the comments that I've heard seems to indicate that maybe that shouldn't be a decision of the city council or mayor to decide whether to opt in or opt out. I guess my counter argument to that would be under LB840 there's no other way to do it. So our only local economic development tool is to make those people come in front of these boards and it has to be public. Are you going to give them LB840 funds or are you not? So why should the state be able to do something different or tell us we're going to use our money in a certain way without us having that say over that? So I guess to say that this would stop economic development would be the same way as saying that LB840 is not going to encourage economic development because it has to be done out front and public. [LB323]

SENATOR LOUDEN: Well, I don't know if I can support this, asking these towns to not do it, because that's what it was put in there for was, as Senator Utter or somebody said, to try and do something for rural Nebraska and any part of Nebraska, so... [LB323]

WILLIAM BOYER: And I agree...I understand what you're saying and I fully understand that argument and I understand what Senator Utter said earlier saying that if all of a sudden we let everybody opt in and out, all the cities are going to opt out and say, well, the state just paid for it. But ultimately it has to at some point in time be part of the city's decision as to whether or not we want to participate in this and whether or not we want to give up our local option sales tax. I would argue if you're a city that doesn't have a local option sales tax, the state is already paying for that. They're getting the same advantage that we're getting, they're getting the same amount of money back, but because the city doesn't have a local option sales tax the state is fronting all that bill and paying all that back. [LB323]

SENATOR LOUDEN: Well, I agree. My concern would be that if these smaller towns don't do that, these businesses will gravitate towards your larger metropolitan areas, and we're trying to get them out in the rural areas. Thank you for your... [LB323]

WILLIAM BOYER: And we need DED to help with that. Like I say, we're a staff of one so... [LB323]

SENATOR LOUDEN: Thank you for your testimony. [LB323]

SENATOR UTTER: Senator Hadley. [LB323]

SENATOR HADLEY: Thank you. I appreciate your being here. I wanted to follow up on your comment about "TIFing" and that eventually the schools...maybe I'm confused but I

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

Revenue Committee
February 16, 2011

thought that's what LB775 had, requirements as to new employees, investment, and such as that that are hopefully long-term improvements for the cities. And so consequently, hopefully there's, you know, if we're not generating money on LB775, maybe we should do away with it. [LB323]

WILLIAM BOYER: I think part of the problem is there's no tangible way to guarantee that that's going to happen. With TIF you know you're going to have the property taxes. With this particular...with LB775, there's nothing to say that those employees are going to live in your cities so you may not gain any extra property taxes off of that. There may not be any additional development other than this particular business itself. They may not spend any money in your town if you're a bedroom community. Say Cabela's, for example, that may benefit surrounding towns, yet Sidney is being forced to pay for all the local incentives. There's several folks that live in my community that drive to Cabela's to work everyday. We're not...we're reaping the benefits of that but we aren't having to pay for any of that. Sidney has been footing all that bill. So, yes, there may be...at the time there may have been a spike in sales tax when they spent that money to build whatever they were building, but to say that that's going to be a long-term benefit for the city of Sidney is pretty questionable. I mean I would argue that if it's one of the state entities that's filed statewide, like Burlington Northern, Union Pacific, I would be willing to bet that most of the time the trains driving through Bridgeport aren't really benefiting our local economy any, yet we're having to give the money back, I'm assuming, to one of those entities, because I'm unsure of where it's come from. [LB323]

SENATOR HADLEY: I'd like to...and that's one other point. I guess you're basically saying that you don't believe Bridgeport has actually received any additional sales tax but potentially you're paying it back? [LB323]

WILLIAM BOYER: I'm sure we've received it. I just can't tell you that it came...I can't specify and say here was the clear place where our sales tax went up. It's pretty much a slow increase but all the way for the last 20 years. But there's no place that I can say here is obviously where new development happened. Yeah, they very well may have come in and spent, you know, \$140,000 over a course of 15 years and now they're starting to recoup it all back at \$15,000, \$18,000, \$20,000 at one time, but there's no way I could have said, well, that was clearly related to a project. It's... [LB323]

SENATOR HADLEY: Do you put any of your sales tax into a reserve? [LB323]

WILLIAM BOYER: We do. [LB323]

SENATOR HADLEY: How much do you put in? [LB323]

WILLIAM BOYER: Usually around 5 percent and the other issue that you're going to have...see in a situation like Ravenna, even if they knew their liabilities, unless that's

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

Revenue Committee
February 16, 2011

exempted some way from what we can hold in reserves, you know, then we're going to be running into reserve issues because we can't...you know, and I think a lot of times, you know, you may say, well, \$15,000, \$18,000 doesn't seem like a lot. Well, when \$180,000 of sales tax generates 40 percent of our general fund, that's a huge, huge deal to the city of Bridgeport when it's only \$15,000 or \$18,000. Yeah, that's a big issue for us to try to say, okay, this \$15,000, \$18,000 may not seem like a big deal when they collected it slowly over ten months or ten years, but when they come back and hit you with it all at once... [LB323]

SENATOR HADLEY: One last thing and just real quickly,... [LB323]

SENATOR UTTER: Hurry on. [LB323]

SENATOR HADLEY: I'll hurry. To everybody that's testifying, I entirely agree you didn't cause the problem because this was...we're talking about somebody in the past, that's my point,... [LB323]

WILLIAM BOYER: Correct. [LB323]

SENATOR HADLEY: ...is somebody in the past hopefully should have understood what was happening. [LB323]

WILLIAM BOYER: Well, it would be like trying to speculate what might happen. [LB323]

SENATOR HADLEY: Yeah, I mean you can't do... [LB323]

WILLIAM BOYER: No. [LB323]

SENATOR HADLEY: ...what 10 years ago or 15 years ago was done. So I don't want anybody to take it personally that we're talking about decisions you're making now. [LB323]

WILLIAM BOYER: Correct. [LB323]

SENATOR HADLEY: And I hope that the cities understand that potentially, if we can't work this out, this could be a potential problem if you get a new industry into town and they are eligible for LB775. Somebody sitting in your chair 15 years from now, if you spend every dime of that sales tax increase, they might be looking at you later, so... [LB323]

WILLIAM BOYER: Uh-huh. [LB323]

SENATOR UTTER: Senator Pirsch. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR PIRSCH: Do you know how many projects have been redeemed against Bridgeport? [LB323]

WILLIAM BOYER: No. [LB323]

SENATOR PIRSCH: You don't even know the number. [LB323]

WILLIAM BOYER: I don't know the number, no. [LB323]

SENATOR PIRSCH: Okay. I'm trying to get a sense of...and maybe I can't get that from you on the...(inaudible) familiar with the other projects on the whole, although you don't know the specifics, you're not told because of these nondisclosure, if communities are, you know, such as yours, Bridgeport, are on the whole better off as a result, in other words a benefit accruing to a particular locality because you're participating in the refund, right? Do you have a sense of that or do you think in the majority of the cases maybe localities are not...? [LB323]

WILLIAM BOYER: I would argue that there's obviously benefits to all the communities. In Bridgeport's specific situation, I would say if it's all something on a statewide basis. You know, does it benefit Bridgeport to have a Verizon tower right outside of town? Probably, you know, because we obviously have cell phone service, but is that worth \$18,000 in sales tax because they built that tower and bought some of the parts locally, I don't know that our taxpayers would argue that that is an \$18,000 benefit that they should have to fund back to that company. [LB323]

SENATOR PIRSCH: So...and I have another bill that was designed to address this but it was from the aspect of financing which says you can essentially establish, you know, revolving loan and then communities, localities being able to pay it off over a period of time rather than take a one-time hit. But what you're saying here today is not that it's not necessarily...I mean it is the finances but you're saying there's a more fundamental issue you're saying of you're not benefiting, you believe. Is that what you're saying? [LB323]

WILLIAM BOYER: I would say on most of the statewide projects that's correct. And you know if you were to come in front of a city council and it was going to be a cell phone tower, I think it would be pretty easy to tell them, you know what, we're not willing to finance you on an Advantage Act for that plan. [LB323]

SENATOR PIRSCH: But you're saying statewide projects now but what I'm trying to get a sense from you is how many of the things that you're paying for, and maybe you don't know, are statewide projects? [LB323]

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

Revenue Committee
February 16, 2011

WILLIAM BOYER: I don't know. I can only assume. You know, we have had some recent economic development but no refunds have been filed since then, so we're putting some more back because we also have an ethanol plant. So after hearing Ravenna's story, I'm very nervous. But, you know, we just built that in the last two years and in the last two years we've only had a very minimal amount of money that's refunded back. So there's no way none of that could have come from the ethanol plant, but we also haven't seen the spike to say that, yes, all of a sudden we're collecting double or triple. We've seen at most a 10 to 15 percent swing in any month and it may be one month up, the next month down. [LB323]

SENATOR PIRSCH: Thank you. [LB323]

SENATOR UTTER: Mr. Boyer, thank you very much for your testimony. How many more folks to testify proponents? Three more. Okay, hurry along, folks, the hour is getting late. [LB323]

JIM LITCHFIELD: Good afternoon, Senators. Name is Jim Litchfield, city administrator, Wakefield, Nebraska, L-i-t-c-h-f-i-e-l-d. While the majority of Nebraska cities have enjoyed the benefits of Nebraska economic development programs such as Nebraska Advantage and LB775, each and every community that has established these local sales tax programs, and especially LB840 programs, have worked extremely hard within their own communities to utilize those sales tax dollars for many uses and projects that have long-term benefits. When we lose those revenues for any reason, it is difficult to maintain those commitments. We need to know in advance when those revenues will be cut or reduced, as well as a written notice prior to new incentive programs that would be initiated. We believe this is just a reasonable request and the city of Wakefield would appreciate the support of LB323. I do have one brief example. When the citizens of the community voted in LB840, they voted specifically to rebuild a swimming pool at \$1.3 million without one single tax dollar going towards that project. It was donations, pledges, and the use of sales tax dollars, and then the bonded debt of that project is paid by the commitment of sales tax dollars. So when we lose those revenues, it's hard to plan and budget correctly for the loss of those commitments. [LB323]

SENATOR UTTER: Mr. Litchfield, thank you for your testimony. Are there questions? Seeing none, thank you very much for coming. [LB323]

JIM LITCHFIELD: Thank you. [LB323]

SENATOR UTTER: Welcome. [LB323]

ALLEN HERINK: Good afternoon, Senator Cornett and members of the committee. My name is Allen Herink, A-l-l-e-n H-e-r-i-n-k. I'm with the city of Omaha. I'm the city comptroller. I appreciate the committee granting me this opportunity to express my

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

Revenue Committee
February 16, 2011

support for this LB. We are not included in this LB. It was for...it doesn't include municipalities of metropolitan class, but we still wanted to come down and give support for this LB. The city of Omaha has benefited greatly from the LB775 refund program and we appreciate what's in place right now. Allowing local governments to review and determine the pros and cons of each application would greatly enhance local governments' abilities to manage future revenues and resources, and we think this is an important aspect of this LB. Every year it's hard to budget for what type of refunds you're going to have, and the information isn't out there to do that. And we think this would be a tool that the communities could use to do that also if they had an opportunity to look at what applications were out there. Thank you for letting me testify. [LB323]

SENATOR UTTER: Thank you very much. [LB323]

ALLEN HERINK: Okay. [LB323]

SENATOR UTTER: Appreciate that. Questions? [LB323]

ALLEN HERINK: Sure. [LB323]

SENATOR UTTER: Senator Hadley. [LB323]

SENATOR HADLEY: Just a quick one, Senator. I'm glad you're here because we've heard primarily from small cities. [LB323]

ALLEN HERINK: Uh-huh. Again, we're not included in this and it would... [LB323]

SENATOR HADLEY: I understand that. I would assume that...do you put part of your sales tax into a reserve for refunds,... [LB323]

ALLEN HERINK: What we do is we... [LB323]

SENATOR HADLEY: ...those kinds of things? [LB323]

ALLEN HERINK: What we do is we try to budget every year for what we anticipate our reserves to be and that fluctuates widely every year. In the last ten years, our refunds have fluctuated from \$6 million a year to \$12 million a year. So it's...some years it's just a guess. We've had mayors in the past call up CEOs of some of the larger corporations in town to see what's out there and ask them rather than the Department of Revenue. And they would say, well, next month we're going to come in for some big ones and you're going to have to pay it and that type of thing. So it's hard for us to get a handle on it, too, and you can see the horror stories that you've had from some of these smaller communities. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR HADLEY: Okay. Do you believe that LB775 has helped Omaha? [LB323]

ALLEN HERINK: Oh, I believe so, yes. [LB323]

SENATOR HADLEY: Okay. Thank you. [LB323]

SENATOR UTTER: Senator Pirsch. [LB323]

SENATOR PIRSCH: Just a quick question: Is the biggest problem, since you have familiarity with Omaha and there has been some instances in recent years... [LB323]

ALLEN HERINK: Uh-huh. [LB323]

SENATOR PIRSCH: ...is the biggest problem with Omaha the financing or just information in terms of... [LB323]

ALLEN HERINK: Oh, information. I mean we...it's estimating and projecting what the refunds are going to be from year to year. We have no idea what's out there. They can...companies can come in, it's my understanding, any time and apply for the refund. They can hold it. They can ask for, you know, wage refunds and things like that. So we just can't get a number from the Department of Revenue. [LB323]

SENATOR PIRSCH: Thank you. [LB323]

SENATOR UTTER: Thank you for coming to testify. Lynn, welcome. [LB323]

LYNN REX: (Exhibits 15 and 16) Thank you. Senator Utter, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First of all, we want to thank Senator Cornett and Schilz for introducing this measure. This is extremely important. It's a high priority of our board to let cities have an option to do this, and we believe very strongly that municipalities do deserve that option. As has been stated already, Doug Ewald last year came, as Tax Commissioner, came and testified before this committee on a tax-related bill and noted again and underscored the fact that there is a 22-year window. And I would just submit to you, look at the issues that the Legislature has had trying to determine what your gap is, if it's one point over \$1 billion, if it's \$986, based on what assumptions, and that's just in one cycle. Imagine if now your job today was to decide what will the gap be, if any, in 22 years, taking into account and trying to project what future Legislatures over the upcoming years will decide. And that's really what folks are being asked to do on the local level. I would submit to you that the stories you've heard today are very, very typical. We have every first-class city, Lincoln, and Omaha represented on a larger city's legislative committee. We have over 40 representatives of second-class cities and villages on a smaller cities legislative committee, and the stories you've heard today are

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

Revenue Committee
February 16, 2011

very, very typical. And the larger cities, I would say cities like Kearney, are more able to try to make projections and a level of staff that you would have in Kearney when compared to a Bridgeport and some of the other cities that you have here. What I would also submit to you, that South Sioux City has had a very sophisticated city administrator for many, many years, so has Sidney; it is very, very difficult to try to determine what kind of projects are out there and what you might even try to anticipate, because city after city and village after village has told us that indeed they haven't seen these huge spikes so that you'd all of a sudden assume, wow, now we need to understand that we got a 22-year window here where somebody may come and file that refund. Indeed, it's up to the company. They may never ask for the sales tax refund. And has already been pointed out, I've handed out two handouts. One I'd like to underscore for you would be letters of support from Blair, Hickman, Ogallala, also Wahoo, Nebraska, as well as Scribner, Nebraska. The second handout represents the 189 municipalities plus one county with local option sales tax. One thing that has never been determined and we've been asking folks, well, how exactly would this play out, we've had a number of cities that have had a sunset on a local option sales tax. It was for a specific only project, maybe it was for a swimming pool, maybe it was for road construction. So they would have a sunset for a period of years. That sales tax is now gone. So if you have a LB775 company that comes in now and applies for a refund, they don't have any sales tax anymore. There's nothing for the state to withhold. What happens there? In short, this is a very important measure for us, as is the companion bill, LB209, and we strongly support it. And we do believe that cities deserve to have the right to know, as do the taxpayers, what's involved in this and I think it's vitally important, especially when you look at rural economic development. There's no question LB775 has helped the state. There's no question Nebraska Advantage Act has helped the state. But I will tell you that on the back end, if you're putting cities in the position like Ravenna, where they're going to be without sales tax for 40 months, what do you do with that? And I would just underscore the importance of this measure and I'd be happy to respond to any questions that you might have. And I do want to close by saying, as is stated, there have been instances when we believe that these companies are actually getting more than what they actually paid in because of...based on estimates, and Lance Hedquist may have reviewed that. He gave me a copy of the contract that companies actually sign with the state of Nebraska. Municipalities are not part of that contract. And again, we're not reflecting on any of the players here. Senator Hadley, I really appreciate what you said earlier because I do think it's...I always appreciate what you say but certainly appreciate (laugh) what you said earlier today, which is essentially that you're looking at a situation here where we're dealing with a different Tax Commissioner who's done his best to try to be accommodating, a different administration, different state senators. And I will also close with this. Senator Loran Schmit reminded me that when Vard Johnson, as Chair of this committee, was asked on the floor of the Legislature when LB775 was being considered about how many companies do you think will ever use this, he said eight or nine. I would submit to you that's why we are where we are today. I'd be happy to respond to your questions. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR UTTER: Thank you, Lynn. [LB323]

SENATOR HADLEY: Just one quick one: Lynn, what I worry about, our aggressive communities are going to take advantage of LB775 and grow, and the very rural communities that we need to help are going to take the conservative approach and say, you know, we're not going to, and we're going to see ten communities growing considerably because that's where the companies are going to go. [LB323]

LYNN REX: But I think what's going to happen, Senator, if given this information so that cities can make an informed decision and villages can too, that in Ravenna's case, and I can't speak for them but they'll be coming up again on the next bill, my guess is they would have preferred to have their half-cent sales tax, which they would like to have for an LB840 program, going for local programs that they decide that they're involved in, that they can plan, that they can manage. It's not that they're not going to grow; it's that they want to determine the destiny of how they grow and when they grow and how it impacts their budget, not to reduce your levy by 5 cents and then find out, guess what, for the next 40 months you don't get a dime. Big difference. [LB323]

SENATOR HADLEY: But, Lynn, I also say if you owe the state \$530,000 and you get \$160,000 a year, someplace along the line somebody should have figured out we had excess money coming in. I'm sorry, those are huge numbers as far as the discrepancy between what their yearly sales tax is and the amount the state owes. Now if the Revenue Department is wrong and they didn't collect any of these others, we need to talk to the Revenue Department. But if there actually is that difference between owing \$530,000... [LB323]

SENATOR LYNN: Yes. [LB323]

SENATOR HADLEY: ...and you average \$160,000, someplace somebody should have said, jeez, we're getting a lot of money. [LB323]

LYNN REX: And my guess is that it's not...I would bank on the fact that it's not the Department of Revenue that has the wrong projections here. I would tell you instead that what's happened is that, just like unfortunately with term limits, your predecessors 22 years from now are going to be trying to decide, well, what about that state aid to school formula and what about this and what about that and why did they do this and why did they do that. [LB323]

SENATOR HADLEY: And that was my point about that this is...20 years ago somebody might have made a decision that the city council of Ravenna is now wresting with. [LB323]

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

Revenue Committee
February 16, 2011

LYNN REX: Absolutely. And I would...actually, they didn't make the decision though. [LB323]

SENATOR HADLEY: But they made the... [LB323]

LYNN REX: The decision was made when the state of Nebraska signed the contract with the company. The city and the village are never a part of those discussions. And even in the recruitment process, we've had some cities that have tried to say to the companies, well, are you...you know, is this...are you going to do a Nebraska Advantage Act, are you going to do this or that. They don't say. They're saying it's none of your business. You have no play in that. And so it is a huge problem. Thank you. [LB323]

SENATOR UTTER: Other questions for Lynn? So, Lynn, is there any...does it make any sense if the local community doesn't want to participate in the tax refund that they get the tax as paid in the first place? [LB323]

LYNN REX: Well, Senator, first of all I would say yes. Number one, yes. Number two, you have 532 cities; 189 of them have local option sales tax, the rest do not. And I'm confident...well, I shouldn't say that. I don't know. I'm guessing, it's a pretty reliable guess, that there will be cities that do not have local option sales tax where LB775 or Nebraska Advantage Act companies have located. I mean I'm just guessing. There's got to be at least one. I'm guessing there's a whole bunch of them because you have quite a few cities out here without local option sales tax. So those are communities where basically they're still attracting industries, they're still growing. Right now, I think there's a real concern about those cities that have already...and I think you've had several examples today, South Sioux being one but there are many other examples where cities have gone forward on even a sales tax on a bonded issue and now the monies aren't coming in to pay off those bonds. I think there's some issues, some legal issues here that need to be addressed as well along the way. So I really appreciate Senator Cornett putting this bill in and Senator Schilz introducing this. We have talked to our members at various conferences. I know Senator Hadley raised the issue of has the league done anything to try to educate our members. We've been talking to our members about this. Gary Person, when he first brought this forward...actually the city of Norfolk is the one that first brought it forward to us years and years ago, and since that time people have been trying to discuss this and trying to figure out how can you budget for it, what can you do. So we are doing the best we can to try to determine where we move forward. And we've had a series of bills over the last 20 years in to try to give municipalities more information in a more timely way on LB775 and Nebraska Advantage Act. It is a huge, huge issue. [LB323]

SENATOR UTTER: It is a serious problem. Thank you. [LB323]

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

Revenue Committee
February 16, 2011

LYNN REX: It is very serious. And thank you so much for your courtesy this afternoon.
[LB323]

SENATOR UTTER: Are there opponents? Welcome. [LB323]

DACIA KRUSE: Thank you. I'd like to turn in my sheet here. Good afternoon, Vice Chairman Utter and members of the Revenue Committee. My name is Dacia Kruse, spelled D-a-c-i-a K-r-u-s-e, and I am testifying in opposition to LB323 on behalf of the Omaha Chamber of Commerce, the State Chamber of Commerce, and the Nebraska Bankers Association. Because sales tax purchases under our incentive programs are able to be made in communities across the state and not just in the community in which the project is located, this bill would require the Tax Commissioner to send a notice to every community in the state that has a local option sales tax every time the Department of Revenue receives a completed incentive application. Not only does this seem burdensome for the Tax Commissioner to undertake and to monitor, but it would require companies, local chambers, and area economic development organizations of communities where the project is located to come forward to lobby mayors and city council members, perhaps across the state, to participate in refunding local option sales taxes paid by the applicant if their application is approved. One way this could play out is for a project to locate in Nebraska; the Tax Commissioner would send out notices to all communities that have a local option sales tax. Those communities...if we could say half of those communities would say, gosh, we don't want to participate in this, and we have just sent a message to the rest of the country that Nebraska communities are not open for business and, as a result, we all suffer, not just Omaha, not just Lincoln and not just rural communities, but everyone suffers when companies across the country and around the world think Nebraska is not open for business. To say this would add unnecessary hurdles to Nebraska incentive programs and send a bad message to the rest of the country and would most certainly serve to discourage companies from locating in Nebraska is an understatement. We believe Nebraska's incentive programs have benefited communities across the state in terms of jobs created and investment made, as latest Nebraska Advantage numbers would speak to. You and your colleagues have done a great job positioning Nebraska to come out of this recession ready to capitalize on businesses looking for a business friendly state to invest in. Let's not take a step backwards and discourage that. We do understand that this is an issue for communities. It's an issue for Omaha. I will be up here testifying on the next bill in a different capacity as a result of that. But I will end my testimony now and I'd be happy to answer any questions. [LB323]

SENATOR UTTER: Seeing no questions,...oh, excuse me. Senator Fischer. [LB323]

SENATOR FISCHER: I've been quiet. Thank you, Dacia, for being here. So you think if this bill would pass we're sending a message that Nebraska is not open for business.
[LB323]

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

Revenue Committee
February 16, 2011

DACIA KRUSE: I think there's an opportunity to do that. [LB323]

SENATOR FISCHER: Did I hear you correctly? [LB323]

DACIA KRUSE: Pardon me? [LB323]

SENATOR FISCHER: Did I hear you correctly on that? [LB323]

DACIA KRUSE: I think there's an opportunity to do that. [LB323]

SENATOR FISCHER: Aren't incentives still available for businesses? You know, I'm not up to speed on a lot of things that come before this committee since I'm new but I think there's however many cities Lynn Rex said that have the local option sales tax, which means there's a heck of a lot more that don't have the local option sales tax. How are businesses receiving their incentives from those cities? [LB323]

DACIA KRUSE: If you don't...I mean if your community does not have a local option sales tax, then you don't pay it and you...there's nothing to get back. [LB323]

SENATOR FISCHER: Do they receive income tax credits? Do they...what do they receive under the Nebraska Advantage Act and LB775? [LB323]

DACIA KRUSE: Yeah. I mean certainly...yes, Senator, I mean you are correct, they do receive other credits and it's a matter of, I guess, by industry or by business in terms of how they...what is important to them. I think an opportunity...I mean I think one of the results of this could be that we don't know what a business always looks at in terms of what's important to them. And if they say, gosh, sales tax is important to us and they see that communities across Nebraska are opting out of this, we may never, ever hear from them. I mean Valentine may not ever hear from a company who that's important to them because they know that the community of Valentine is not supportive of that, or Omaha or Kearney or what... [LB323]

SENATOR FISCHER: But there are still incentives. I think you were a little harsh by saying Nebraska is not open for business. You know, as I'm listening to this today, it seems like the state is...the entire state is picking up the incentives that businesses get on one hand and it seems like certain cities are being hit. By the choice that a business makes on what the best option is for them, those cities are getting hit then individually on the other. Where the state is picking it up on one hand, they're targeted on another's. Maybe I'm not on to that... [LB323]

DACIA KRUSE: And I guess I... [LB323]

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

Revenue Committee
February 16, 2011

SENATOR FISCHER: ...but I just thought you were a little harsh with your comment there. [LB323]

DACIA KRUSE: Oh, well, and I understand that. And I want to reiterate, we understand this is an issue for communities. It's an issue for Omaha. We would like to be part of a solution. I mean I'll be up here in a different capacity on the next bill. And I understand where you're coming from and... [LB323]

SENATOR FISCHER: Just a point... [LB323]

DACIA KRUSE: Okay. [LB323]

SENATOR FISCHER: ...I thought needed to be made at this... [LB323]

DACIA KRUSE: Okay. I appreciate that. [LB323]

SENATOR FISCHER: ...at this point in our discussion. Thank you. [LB323]

DACIA KRUSE: Okay. I appreciate that. [LB323]

SENATOR UTTER: Senator Adams. [LB323]

SENATOR ADAMS: Dacia, simple question, maybe too simple. [LB323]

DACIA KRUSE: I hope. (Laugh) [LB323]

SENATOR ADAMS: So I'm a dues-paying member of the Omaha Chamber of Commerce and my dues are whatever level you guys establish, but let's say they're 10,000 bucks. [LB323]

DACIA KRUSE: We'd appreciate that. [LB323]

SENATOR ADAMS: Yeah. I know you would. But I'm not paying this month. Would you appreciate at least a notice that says I'm not paying this month? [LB323]

DACIA KRUSE: Yes. I mean certainly, and I mean and hopefully we would have had...there would have been some sort of indication leading up to the fact that you weren't paying this month, that we would have known that that was coming. As these many cities would have noticed a spike in their sales tax dollars at some point saying, gosh, this is coming, hopefully we would have known that, you know, through conversations or whatever, that there would have been some indication that, gosh, Senator Adams may not be paying his chamber dues next month because of X, Y, or Z. [LB323]

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

Revenue Committee
February 16, 2011

SENATOR ADAMS: Thank you. [LB323]

SENATOR UTTER: Thank you, Dacia. I see no further questions. Are there further opponents? Is there anyone here in the neutral capacity? Just to enter into the record that the Nebraska Department of Revenue has submitted a letter in the neutral capacity on LB323 (Exhibit 17), Senator Cornett, you're free to close. [LB323]

SENATOR CORNETT: Thank you very much. On LB323, it's the second half of the next bill that I will be introducing, which is LB209. Over the course of the last seven years in Revenue, we frequently have heard about disclosure issues with LB775 and privacy issues. What the communities are facing are a lot of these contracts were signed, as you heard, 20 years or more ago and, yes, they received the sales tax increase at some point during that and have seen a continuous, probably, rise in their sales tax. But they...again, it's been 20-some years and the current administrations don't necessarily know when these hits are coming. The second half of the bill is what we'll discuss in a minute, but I think Senator Pirsch had some questions for me. [LB323]

SENATOR PIRSCH: You know what, I've had those answered, so thank you. [LB323]

SENATOR CORNETT: Okay. [LB323]

SENATOR UTTER: Are there any questions for Senator Cornett? If not, we'll close the hearing on LB323 and move right on to LB209. [LB323]

SENATOR CORNETT: And I think that you have heard a lot of testimony on LB323 regarding LB209 also. [LB209]

SENATOR UTTER: Hopefully we won't have to repeat that at this late hour. [LB209]

SENATOR CORNETT: Exactly. That's kind of my point. I introduced LB209 in response to complaints from small cities about sales tax refund impacts on their budgets. Under Nebraska tax incentive laws, businesses creating jobs and making investments may claim a refund of state and local sales tax paid. These refunds can be claimed long after the business has created the jobs and, in some cases, may be claimed after the jobs have been transferred to another location. This happened in one of our communities last year. They attained their credits, the business did, had not filed for them, were no longer in the community, and then filed for them after they had left. Cities complained to me and other legislators about the large fiscal impact these refunds have made on their budgeting process. In some cases, the refunds were a surprise to the city officials; in other cases, they were large relative to the current sales tax yield of the city. My response to this issue involved two approaches: one which you've heard in the form of LB323 which allows the municipalities to opt out of the different businesses or the

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

Revenue Committee
February 16, 2011

different programs, and the second half is a policy change that would involve a delay of city payments of refunds to claimants for one year so they're notified that it's coming and they have a year to address the issue. You wouldn't have seen the lowering of the property tax in the one city as a result or the other city discontinuing its local option sales tax. The state would then notify the city that 12 months from the date of the claim filing the city would also be required to refund the claimant's sales tax. This is normally done by subtracting the amount due from the state collected city sales tax that would be returned to the city. This policy will give the city officials lead time for budget planning purposes. It will enable them to develop a budget base on reliable estimates of available sales tax resources, including the amount subtracted for the required refund. This will mitigate but not eliminate the problems the cities face with sales refunds...sales tax refunds. Tax credit claimants will receive their refunds in a timely manner, and the state will effectively finance the local share for one year. Basically, the state will pay the companies the refund and notify the cities that they have one year to start paying that back. With that, I'd be happy to answer any questions. I know there's people following me that wish to testify. [LB209]

SENATOR UTTER: Questions for Senator Cornett? Senator Cornett, would you like to just address for the committee the fiscal note? [LB209]

SENATOR CORNETT: You know, I don't have it in this copy of my book. I'm sorry. [LB209]

SENATOR HADLEY: Take, Senator Cornett, my copy. [LB209]

SENATOR CORNETT: I've read it but I need to take a look at it. [LB209]

SENATOR UTTER: And I guess the question arises, there's an awful large loss in revenue that first year and then, if you look down in the body of the fiscal note, it seems like some of that is gained back. But if this is essentially a loan... [LB209]

SENATOR CORNETT: It is essentially a loan. [LB209]

SENATOR UTTER: ...is not the loss just the interest on the money? [LB209]

SENATOR CORNETT: Yes, it is, at least that's my understanding. And that is part of the reason when we drafted it, unfortunately the city of Omaha was not included in this because the refunds that they are hit with were more than...more than we felt the bill could stand at the time. It is a significant problem for Omaha also. If you remember, last fall they were hit with a very large refund and the state was also from a company and, to give you an idea the amount of privacy involved, I couldn't find out what company and neither could anyone else and it wasn't that...that's just the way the contracts are signed is there's complete privacy. You don't know when the refund is going to hit, basically, at

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

Revenue Committee
February 16, 2011

the state level or at the city level. [LB209]

SENATOR UTTER: Thank you. Senator Pirsch. [LB209]

SENATOR PIRSCH: In looking at the fiscal note, why is the first year in 2011-2012 extraordinarily larger than the other...? [LB209]

SENATOR CORNETT: I believe it's what Senator Utter spoke to is, one, the cost of floating it that first year, the interest, the interest on the money that we are paying back and then holding for the municipalities. [LB209]

SENATOR PIRSCH: It's representing more than one year then? Is that the first two? [LB209]

SENATOR CORNETT: No, that would be one year. [LB209]

SENATOR PIRSCH: In 2011-2012, right? [LB209]

SENATOR CORNETT: You're having...yeah, well, you have a lag period and then also there's the administration cost of getting the program running. And the first year no municipality would be paying money back. They have a year to pay back. [LB209]

SENATOR PIRSCH: Okay. There's minimal cost to implement is what the administration...I guess I'm trying to get a sense. So 2011-2012 is \$1.7 million and then your 2012-13 is \$133,000 and yet '13-'14 is \$476,000 and then the next year is \$600,000. [LB209]

SENATOR CORNETT: Because, again, because we are floating that money for an entire year for the cities and the cities don't pay that back for a year, so... [LB209]

SENATOR PIRSCH: Oh, it's over the entirety of the year and then... [LB209]

SENATOR CORNETT: Yes. [LB209]

SENATOR PIRSCH: ...in 2012-2013 it wouldn't be for an entire year is what you're saying. [LB209]

SENATOR CORNETT: Correct. [LB209]

SENATOR PIRSCH: Okay. I just...thank you for clarifying that. [LB209]

SENATOR UTTER: Senator Hadley. [LB209]

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

Revenue Committee
February 16, 2011

SENATOR CORNETT: Because at that point the cities will start paying back what they owe from the previous year. [LB209]

SENATOR HADLEY: Senator Utter, thank you. Senator Cornett, this bill wouldn't help Ravenna, would it, because they owe \$530,000 and they get \$160,000 a year in sales tax. So all it does is... [LB209]

SENATOR CORNETT: It would not help...it would not help in regards to the amount they owe, no, but it would give them budgeting time, a year maybe to raise property tax, do whatever they need to do to budget for that. [LB209]

SENATOR HADLEY: Okay. [LB209]

SENATOR CORNETT: Basically, it's a budgeting tool. It's not...it's not... [LB209]

SENATOR HADLEY: Yeah, a budgeting tool rather than... [LB209]

SENATOR CORNETT: It's not saying they don't owe the money. I would not go there. That was brought to me by some of the municipalities, saying we just want to opt out of owing the money, and I'm like, you have received benefit from these companies, this is money you owe, but I recognize the fact that it is a serious budget crisis for a number of the municipalities. [LB209]

SENATOR HADLEY: Thank you. [LB209]

SENATOR UTTER: Further questions? If not, thank you, Senator Cornett, and we'll take... [LB209]

SENATOR CORNETT: And just due to the lateness of the hour and Exec Session, I will waive closing on this. [LB209]

SENATOR UTTER: Thank you. We'll take testimony now that are proponents. And in view of the late hour... [LB209]

GARY PERSON: Right, keep it brief. [LB209]

SENATOR UTTER: ...keep that in mind, will you please? [LB209]

GARY PERSON: (Exhibits 18 and 19) I'll try not to be repetitious. Gary Person, P-e-r-s-o-n, city manager, Sidney, Nebraska. We very much appreciate this legislation. The current notification process of only 30 days, you know, municipalities, as former mayors definitely know, you need 15 months' advanced notice to work things in your budget. This will allow us to do that. But I would also encourage the state to take the

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

Revenue Committee
February 16, 2011

refunds in 12 equal assessments so cash flow in the city budgets is consistent through the year regarding sales tax revenues and losses. The current proposal is to make it one year from the date of the actual refund, which will still create a cash flow situation challenge for municipalities during those months of heavy refunds. The lack of notification, the unknown factors created absolute chaos for our community over the past six years with our municipal budget. In one recent 12-month calendar period of time, we lost over \$1 million. That's the equivalent of wiping out our entire police and fire budget or wiping out our entire park and street budget in a given year. I just want to reiterate a couple of things. A lot of these projects we also participate, we try to be a good partner and we provided LB840 money. And if we know the situation up-front, then the community has better ability to deal with it and no up-front and to make those decisions whether you want to do both or if you're just going to do one. And then I would also say, because I did not address this in the first one, is that we never did see a significant spike. We saw a consistent, gradual incline, but we were also developing our interstate at the same time. We doubled geographic circumference of our community as a result of that and we were very aggressive at doing economic development. Then the same time that the economy starts to falter, that's when those companies have to look to those decisions to make their cash flow better so they rush to the table and file the refunds. So consequently, we're seeing a consistent decline in our sales tax revenue and then the Internet certainly has not helped that situation either, and you have a down economy on top of that and you have then the increase in all the refunds coming forward. And we've seen that gradually go up each of the last ten years to the point it's \$800,000 a year now. So I would...this certainly helps a significant amount and we appreciate it very, very much. I wished it would have happened 24 years ago and I wished, you know, we could make that time because I think it's done damage to the incentive programs because of the lack of knowledge. But thank you for your consideration. [LB209]

SENATOR UTTER: Thank you, Mr. Person. Questions? Next proponent. Welcome back. [LB209]

DOUG GORACKE: I'm Doug Goracke. Yes. Do you want me to go through the formalities again? [LB209]

SENATOR UTTER: Yes, you better do that. [LB209]

DOUG GORACKE: Doug Goracke, city of Tecumseh, economic development, D-o-u-g G-o-r-a-c-k-e. I've heard we've talked a lot about the spikes and the ups and downs of the intake. I think it's worth pointing out that Tecumseh never saw those. We...our average intake is somewhere in the ballpark...I mean it can range from \$20,000 to \$24,000. Christmastime, December, first of the year you'll see it hit possibly \$30,000 and, to me, I would want to see something a little more than that to be able to figure out where that came from. It's not definitive enough. So it did lambast us. We had no idea.

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

Revenue Committee
February 16, 2011

Then, I'll reiterate what I said before, when a company comes in and they do this and then you lose that investment, they lay those employees off, that equipment is being taken out the back door, they lay 35 people plus off, then that same company moves half their stuff to another town, you still have to ask yourself the question, what? In Tecumseh this year the economy is bad, I mean just like it is everywhere. We had four new businesses open. I was able to do that with LB840 money. If that keeps getting taken away from me, it's over. Yeah, they might be mom-and-pop shops but at least those shops I get sales tax revenue off of. Some of these businesses that are staking these claims, these towns don't get any of that. It's over. And that's all I have. Thank you. [LB209]

SENATOR UTTER: Thank you very much for your testimony. Questions? If not, thank you very much. Mr. Hedquist, welcome back. [LB209]

LANCE HEDQUIST: Thank you, Senator Utter. Lance, L-a-n-c-e, Hedquist, H-e-d-q-u-i-s-t, city administrator, city of South Sioux City, and I'm here in support of LB209. We appreciate Senator Cornett for introducing that. Just want to comment a couple quick things on Senator Hadley, talked about awareness, and I think we're very aggressive in our industrial development in our community. Sometimes we're aware of companies that have applied and even help them; sometimes not a clue. I met with a guy last week, said, well, we've just expanded, did all this other work, didn't have a clue they were undergoing that project. So sometimes you have no idea. If you looked at the charts and stuff I handed out (Exhibit 13), you don't see big spikes, you don't see elevations. You see lots of sporadic numbers. I don't know that you can see a spike in the data that we get provided to us on a month-to-month basis. We also don't have any understanding, I know the comment is, well, don't you have a clue, we have zero clue. I have over \$300 million worth of construction that's going on in our community by the private sector. Don't have a clue in terms of what their rebate request is going to be or when they're going to ask for it. Clearly, they're eligible for it. Clearly, they came because of the LB840...not LB840 but the LB775 program, but don't have a clue what they're going to ask for or what the impact of that is going to be on our community, and that's just one industry and just that project alone is \$300 million and we have about \$700 million worth of projects either underway or planned to happen in the future of the city. And you don't see their increase in terms of revenue to the city occurring with that, the construction that is taking place. To comment on would the cities opt in or opt out, if you do have an LB840 you can make a decision. Are you going to pave the street with the money that you have on hand or are you going to pay the money with the sales tax you're going to get? And I think the idea of preventing from double-dipping I think is an important thing and I think cities would look at that, and what is the most prudent thing for you and the most prudent thing for the industries that you deal with. And just one final thing: We are a great partner with the state. We think the state of Nebraska does a great job. We know Revenue's working, we know DED is working, and we think we're a great team. So thank you. [LB209]

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

Revenue Committee
February 16, 2011

SENATOR UTTER: Thank you, Mr. Hedquist. Senator Hadley. [LB209]

SENATOR HADLEY: I'll ask a quick question, Senator Utter. Senator Fischer will hit me. South Sioux City is unique because you've got Sioux City and North Sioux City that you're competing against, correct? [LB209]

LANCE HEDQUIST: Yes. [LB209]

SENATOR HADLEY: Do they have sales tax refund type of programs, to your knowledge? [LB209]

LANCE HEDQUIST: Not that I'm aware of. And also remember one thing with the sales tax is you can estimate it. If you read the agreement, how those work, it's not like I paid \$6,000, I'm going to get back \$6,000. You're going to do an estimation in that process so it's not necessarily reflective of what the people paid. [LB209]

SENATOR HADLEY: You mean the refund isn't? [LB209]

LANCE HEDQUIST: No, it's not necessarily reflective of what the people paid. [LB209]

SENATOR HADLEY: Oh, is that right? So we can refund more back to companies than they actually paid then? [LB209]

LANCE HEDQUIST: Yes. My understanding, in talking to Department of Revenue, that can happen. [LB209]

SENATOR UTTER: Thank you very much. [LB209]

LANCE HEDQUIST: Thank you. [LB209]

SENATOR UTTER: Next proponent. Oh, he's coming back for more. What a brave guy. [LB209]

SENATOR HADLEY: All right. (Laughter) Did you bring us any cheese this time? [LB209]

KEVIN LOCKHORN: No, brought you some wine. [LB209]

SENATOR UTTER: Mr. Lockhorn. [LB209]

KEVIN LOCKHORN: (Exhibit 20) Yes. I am Kevin Lockhorn, K-e-v-i-n L-o-c-k-h-o-r-n. I'm going to make it real short since you guys pretty much know where we're at. I only

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

Revenue Committee
February 16, 2011

have a couple notes. As the previous speaker just mentioned, you know, it does seem like some of the money that's being taken is more than what was received. I can't say that for sure but I can say that, you know, right now it would be scary for Ravenna to take out of our reserve to pay what's owed. Right now, with LB840 not really an option for our own economic development, it would still be wise for us to let this no-interest loan go for 40 months, but that's just the first rebate that was given. There's others out there. Not only are we not collecting income from sales tax from that corporation that filed that right now, none of the other...the grocery store, we're not benefiting from sales tax collected there or any of the stores for 40 months. It's all utilized to pay a bill. So with that, I am in favor of LB209 for notification because I would kind of like to know what's coming down. And thank you again for your time. [LB209]

SENATOR UTTER: Thank you very much, Mr. Lockhorn. Questions? Look at that, you answered all your questions the first time. [LB209]

KEVIN LOCKHORN: Excellent. Thank you again. [LB209]

SENATOR UTTER: And it is all right to say "me too." [LB209]

LINDA ZINNELL: Linda Zinnell, L-i-n-d-a Z-i-n-n-e-l-l, from the Ravenna Economic Development Corporation. And on behalf of the Economic Corporation, I truly feel that if the city was given an option as to whether...if they could be a partner in the decision of the business that's coming in that might be going for the tax advantage, I do not see Ravenna denying it. I just see that they would like to have notification that that is an opportunity that that business might be going for. And I don't see it as being a bad competition into the community either because usually in small communities you know if there's another business coming in that's going to be competing with yours, whether it's because of a tax advantage credit that they could receive or not. Without a guarantee of knowing that this half-cent tax is available to use according to the LB840 economic development plan, we have no way of knowing how to proceed, whether it is to put the present LB840 plan to vote to the citizens of Ravenna or, if it was to be voted into law, how to proceed in funding economic development that might be coming to us and asking for help to start a business in Ravenna. So again, thank you for listening to the concerns that we have in Ravenna that we're struggling with because of this program. Thank you. [LB209]

SENATOR UTTER: Thank you very much for your testimony. Questions? Next proponent. [LB209]

WILLIAM BOYER: Bill Boyer, B-o-y-e-r, city administrator with the city of Bridgeport. Me too. [LB209]

SENATOR UTTER: Good for you. (Laughter) [LB209]

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

Revenue Committee
February 16, 2011

WILLIAM BOYER: You're welcome. And, Senator Hadley, you know that was tough for me to do being a former radio guy, so... [LB209]

SENATOR HADLEY: Yeah. (Laugh) He's good too. [LB209]

SENATOR UTTER: Yeah. Well, thank you very much. Appreciate that. Next. Welcome back. [LB209]

JIM LITCHFIELD: Thank you. Jim Litchfield, L-i-t-c-h-f-i-e-l-d, city administrator in Wakefield. Again, I'll be real brief too. We have benefited from LB775. It is a huge economic development tool for us as well. We do appreciate the state in their efforts. We started late in 2007 to start sales tax collection on LB840 with the whole notion that we wanted to invest back in our community, and that's what we're trying to do. And we just would support the need of LB209 as a management tool for budgeting and other purposes. Thank you. [LB209]

SENATOR UTTER: Thank you. Questions? Seeing none, appreciate your testimony. [LB209]

ALLEN HERINK: My name is Allen Herink, A-l-l-e-n H-e-r-i-n-k. I'm with the city of Omaha and I just have one clarification I need to make from my previous comment. We, the city of Omaha, is included in the previous bill and I made the wrong assumption that we weren't included. But on this bill, this bill that we're talking about here, the LB209, we are not included. We do think it's an excellent budgeting tool and would like to be included, so down the road if that comes up we'd appreciate your support. And we do support this bill as is also. Thank you. [LB209]

SENATOR UTTER: Thank you. Senator Hadley. [LB209]

SENATOR HADLEY: Just one quick question: Would it be your opinion that if a city had a local option sales tax and opted not to participate with a particular industry coming in, should they be allowed to have the industry come in? [LB209]

ALLEN HERINK: You know, sometimes you got to call the bluff on these companies. They say we're not going to come here if you don't do this, and they're going to come here anyway. But... [LB209]

SENATOR HADLEY: Well, I guess it was more the point that a city that has a 1- or 1.5-cent sales tax and says, no, we want to opt out of the program, then a company comes and spends the money in the city, it becomes a boondoggle. I mean it becomes income to the city and they don't have to... [LB209]

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

Revenue Committee
February 16, 2011

ALLEN HERINK: Yeah. I don't foresee this...it would be a rare occasion if the city, I perceive, would not be a partner with the state on that. It would be rare, but there may be times that it may be unforeseen. [LB209]

SENATOR HADLEY: I guess my concern would be just the city has the ability to opt out and then the company comes. The city receives the... [LB209]

ALLEN HERINK: Well, I would think the company still may come because a lot of times... [LB209]

SENATOR HADLEY: Okay. [LB209]

ALLEN HERINK: Omaha is a good place to do business. [LB209]

SENATOR HADLEY: Sure. [LB209]

ALLEN HERINK: Okay. Thank you. [LB209]

SENATOR UTTER: Thank you very much. [LB209]

DON WESELY: Good evening. [LB209]

SENATOR UTTER: Mr. Wesely, welcome. [LB209]

DON WESELY: Don Wesely, registered lobbyist on behalf of the city of Lincoln, W-e-s-e-l-y. Me too. We'd like to be included in the bill. We like it so much, we'd like to be a part of it, city of Lincoln would. Just to give you a quick fact though, \$1.7 million is how much we gave in refunds, sales tax refunds, city of Lincoln, last year. On average, it's about \$3 million. So if you look at the fiscal note, you'd realize that we alone would match about what the rest of the cities come up with. I'm sure Omaha is even larger. So it does have a fiscal impact, we understand that, but if we could, we'd like to be part of it. Thank you very much. [LB209]

SENATOR UTTER: Thank you, Don. [LB209]

LYNN REX: Senator Utter, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities, and the same set of letters, basically, from the same communities and those are Blair, Hickman, Ogallala, Scribner, and Wahoo, all want to register their support for LB209. (Exhibit 15) We really appreciate Senator Cornett introducing this measure. We think this is extremely important because it is a budgeting tool that's desperately needed. And again, just to underscore the point, there are many, many communities in this state that do not have local option sales tax. Companies are still locating there. Companies are getting

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

Revenue Committee
February 16, 2011

incentives. Some of those are TIF. Some of those are LB840 programs because we have over 54 cities with local option sales tax as well as...pardon me, local economic development programs. So there are many, many other incentives out there. And the answer I would have to your question, Senator Hadley, is absolutely, if a company...the difference would be the company knows. The company would know that city X is not prepared under the former bill to participate with their application of the local option sales tax. If the company comes anyway, it may be because that city is going to be providing a road, maybe because that city, with their LB840 program, can do certain things for them they could never get in a different way. So absolutely, I think that the company should have...they would have the knowledge. And what we're asking for is a little bit of lead time and this is a great budgeting tool and we really appreciate the other bill too. Thank you very much for all your patience this afternoon. [LB209]

SENATOR UTTER: Thank you, Lynn. Are there questions? [LB209]

SENATOR CORNETT: I am so sorry I'm doing this to myself, but are there any cities that have LB775 companies that didn't have a local option sales tax and the companies went there anyway? [LB209]

LYNN REX: Well, of course, I don't know. I don't know because all that information is confidential. So... [LB209]

SENATOR CORNETT: But you'd anecdotally.. [LB209]

LYNN REX: ...what I'm saying is I would guess, with... [LB209]

SENATOR CORNETT: Because how many cities don't have a local option? [LB209]

LYNN REX: ...there are 532 municipalities, 189 of them have local option... [LB209]

SENATOR CORNETT: Do not. [LB209]

LYNN REX: ...have local option sales tax. [LB209]

SENATOR CORNETT: The rest don't. [LB209]

LYNN REX: That means the overwhelming majority do not. [LB209]

SENATOR CORNETT: And the companies... [LB209]

LYNN REX: And the companies come. And, you know, DED works really hard with their communities. Our communities want to partner with them. We want to be a part of the solution, but there is a point where I could see certain communities, certainly Tecumseh

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

Revenue Committee
February 16, 2011

and some of them that have been before you today, they would say no, because they are in the soup. [LB209]

SENATOR CORNETT: Thank you. [LB209]

LYNN REX: Thank you very much. [LB209]

SENATOR UTTER: Thank you, Lynn. [LB209]

LYNN REX: Thank you. [LB209]

SENATOR UTTER: Appreciate your testimony. [LB209]

SENATOR UTTER: Are there opponents? Is there anyone here that would like to testify in a neutral capacity? Welcome back, Dacia. [LB209]

DACIA KRUSE: Again, my name is Dacia Kruse, D-a-c-i-a K-r-u-s-e, and I'm testifying in a neutral capacity on behalf of the Greater Omaha Chamber of Commerce on LB209. As we understand it, LB209 would create a one-year delay in the deduction of the amount of refund...in the amount refunded from the city sales tax collections but that the refund to the businesses would be provided in the same time frame it is now. As I said before, we believe the incentive programs have benefited communities across the state, but we do recognize that for some cities the sales tax refund component of LB775 has led to situations where mayors and city administrators find it difficult to plan for their annual budgets. One way to address this would be to not collect the tax to begin with, as Senator Hadley and Senator Utter have talked about today, and another way is through what Senator Cornett has proposed in LB209. According to the green copy, LB209 does not include cities of the metropolitan class. If the committee chooses to pursue this legislation, we would respectfully ask that you seriously consider allowing it apply to Omaha too. We'd be happy to work with the committee on this bill and could in providing an amendment. And I do want to correct something that the previous testifier said in that we do know where LB775 companies are located. That's published in a report every year that is made available to the Legislature as well as to the general public and so we can match that up with communities who do or don't have a local option sales tax. We know that information. [LB209]

SENATOR CORNETT: I was going to say I thought so. I'll get that information from the Department of Revenue. [LB209]

DACIA KRUSE: Yeah. Yeah, we can do that. [LB209]

SENATOR UTTER: Questions? Thank you very much. [LB209]

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

Revenue Committee
February 16, 2011

DACIA KRUSE: Great. [LB209]

SENATOR UTTER: Any further neutral testimony? If not, that closes the hearing. Senator Cornett waived a long time ago so we close the hearing on LB209. (See also Exhibit 21) [LB209]