

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

Revenue Committee
February 07, 2013

[LB406]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 7, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB406. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: None.

SENATOR HADLEY: If I could have your attention, we will get started today. Welcome to the Revenue Committee. My name is Galen Hadley; I represent the 37th District from Kearney. I'm the Chairman of the committee. To my left is Senator Schumacher from Columbus; to his left will be Senator Pirsch from Omaha; and to his left is Senator Sullivan from Cedar Rapids. And on my far right is Senator Burke Harr, who will be here; and Senator Charlie Janssen from Fremont; Senator Beau McCoy from Omaha; Senator Hansen from North Platte. Please do not be offended if the senators are not here or if they get up and leave; we're all introducing bills in other committees that may require us to get up and leave. It is not a reflection on your testimony, so please do not take it that way, Governor. Okay...no, I'm kidding. (Laughter) Our committee counsel is Mary Jane Egr Edson. And Senator Pirsch is here, and Senator Harr. Matt Rathje is our committee clerk over here. An important job that you're going to do is, if you want to testify, please fill out this green sheet, hand it to the committee clerk when you come up. This is how we keep the record, which is very important to us. Also, be sure that you turn off your cell phones or put on "vibrate." Okay, just a minute now. Since the only one that calls me is my wife, this is always tricky. Okay. There are also clipboards in the back of the room to sign if you do not wish to testify but want to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted at the door. The introducer or a representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, please state your name and spell it for the record. If you have handouts, please try to bring ten; if you don't have ten, we'll make copies. And you can give the handouts to the pages. Our pages are Nathan Funk from Norfolk and we have Evan Schmeits from Columbus and Audie Aguilar from Grand Island. Okay, a couple other rules for today. I'm going to use the same concept that we used last...yesterday. I'm going to give a half an hour to proponents, total, half an hour to opponents, half an hour to neutral. Then we'll start over: half an hour, proponents; half an hour, opponents; half an hour, neutral, so that we can cycle through the people. One last thing. If you testified yesterday, I appreciate your coming back; I think that's great; we want to hear from people. But there is absolutely nothing wrong with saying, here's my testimony from yesterday, I would like to highlight a couple of things about it and go from there. Okay? You don't have to repeat the same complete testimony that you gave us yesterday. Is that fair? I am not using the light system. Yesterday we saw, I think, the Unicameral at its best. We had 55 people that testified yesterday on LB405; not one person was asked to shut their testimony down.

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

Revenue Committee
February 07, 2013

We're not going to shut people down today. But please be aware there are a lot of people that want to testify. There's nothing wrong in coming up and saying, I agree with the person behind you or ahead of you. Lastly, and this is kind of on an honor system: if you got to give your full testimony completely yesterday, you might want to wait just a few minutes to give some of the people who might have been here last night, who were here at 11:15 and really didn't get to give much testimony because we were trying to get done, just from a fairness standpoint. Okay? With that, Senator McCoy...we would ask the introducer to come up. And this is LB406. Senator McCoy, we appreciate your coming up. [LB406]

SENATOR McCOY: (Exhibit 1) Thank you, Chairman Hadley. And good afternoon, all members of the committee. I am Beau McCoy, B-e-a-u M-c-C-o-y. And I represent the 39th District here in the Unicameral. And I am before you here this afternoon to introduce LB406 on behalf of the Governor. Governor Heineman, Senator Ashford, and myself asked for a serious and robust discussion on tax reform, and we have only begun. It is an incredible, complex, and difficult task that I will not abandon. The time to act is now; Nebraskans are watching closely. Last night, even at the late hour when we adjourned our hearing on LB405, I received an e-mail: 82-year-old retiree who served our state and country for 40 years as a member of the Nebraska National Guard. He supplements his retirement and Social Security income by working part time. And again, he's 82 years old, and he needs our help now. We heard Governor Heineman offer the services of his staff and the Department of Revenue to work toward a solution through LB405. Now we heard from farmers, ranchers, and manufacturers along with those from the healthcare industry, who shared valid and serious concerns that I have taken to heart. You know, I have pages and pages of notes, as I know a lot of us do, from the hearing yesterday on LB405, and they are all legitimate and valid concerns; yet the suggestions, I think, that were shared I could probably put on a three-by-five card. I think that would be helpful again today to also hear what some ideas might be from those that would come testify on how best to proceed with this process. LB406 is merely an illustration of what we can do to help retirees and businesses across our state. We need to sit down now as a committee, in my view, as a working group, and eventually as a body, to address the challenges head-on. And with that, I would conclude, Chairman Hadley, and take any questions, if there are any. [LB406]

SENATOR HADLEY: Are there questions for Senator McCoy? Seeing none, thank you, Senator McCoy. [LB406]

SENATOR McCOY: Thank you. [LB406]

SENATOR HADLEY: Governor Heineman. Governor, thank you again for coming and sharing your views with the legislative body. [LB406]

DAVE HEINEMAN: Chairman Hadley and members of the committee, I'm Governor

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

Revenue Committee
February 07, 2013

Dave Heineman, D-a-v-e H-e-i-n-e-m-a-n. You gave me way too much time yesterday, and I appreciate that. So I only want to make two comments today. Yesterday was what this was all about. We wanted to hear from our citizens, and we heard from them. I had to depart about 7:45 for some other commitments I had to take care of, but I stayed up well past my bedtime last night watching you, all the way till 11:15. And I want to say thank you to every citizen, every organization who showed up to share their concerns. That's what we needed to hear and we wanted to hear. Secondly, I just want to reiterate the questions that you asked me yesterday and I articulated. We are ready to work with you, our staff, however you want to proceed in terms of a working group. But again today I think we should hear from other citizens. So I'm going to stop right there. Thank you. [LB406]

SENATOR HADLEY: Are there questions for the Governor? Seeing none, thank you, Governor. Commissioner Ewald. Should I send my tax return early or late, in terms of an audit? [LB406]

DOUG EWALD: Yours won't really matter. [LB406]

SENATOR HADLEY: Okay. Okay. I just wanted to be...I just wanted to (laughter) just wanted...you know, I got him here where he can't ask me questions, so... [LB406]

DOUG EWALD: (Exhibit 2) Thanks for teeing that one up, though; I appreciate that. Chairman Hadley, members of the Revenue Committee, my name is Doug Ewald, E-w-a-l-d, tax commissioner of the Nebraska Department of Revenue. I appear before you today as a proponent. LB406 eliminates approximately \$400 million in sales tax exemptions for purposes of eliminating the corporate income tax and exempting up to \$12,000 in retirement income from income tax. LB406 will provide uniformity across the Nebraska Advantage Act by limiting attainment, entitlement, and carry-over periods to five years and limiting the investment tax credit to 5 percent. LB406 would also eliminate the refundability of the income tax credit under the Nebraska Advantage Rural Development Act. Next I'd like to talk to you about four items that are drafting errors in LB406. These were unintended drafting errors; we didn't catch them till late; I'm bringing them to your attention right now. I know there will probably be people to talk about them here later on. But they were clearly unintentional. The first one relates to the elimination of the earned income tax credit. The repeal of the EITC was a drafting error. We were focusing there on research and development. It should have cited Section, I think, 41 of the Internal Revenue Code; it actually cited Section 32, which is "earned income tax credit." They both happen to be 10 percent of the federal credit. So that was an oversight, a drafting error. The next drafting error relates to Social Security benefits. Social Security was not included in the definition of retirement when this bill was drafted. So that's also a drafting error that would need to be corrected if this would go forward in the current format. And the other item is with respect to the carry-over period. As introduced, for Nebraska Advantage, this allows an unlimited carry-over period for

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

Revenue Committee
February 07, 2013

credits earned under Nebraska Advantage for all tiers except for Tier 6. The intent, like I said, was to limit it to five years for all tiers. And an unlimited carry-over period will result in an unknown reduction of revenue over the next ten years, so just a minor tweaking there. And then the last item there is with respect to the railroad rolling stock exemption. This bill repeals that exemption, but that was not intended in the drafting, as well. With respect to that, that concludes my comments, and I'd be more than happy to answer any questions you may have. [LB406]

SENATOR HADLEY: Senator Harr. [LB406]

SENATOR HARR: Thank you, Mr. Chairman. And thank you, Mr. Ewald, for coming back and for sticking around the whole time yesterday. I appreciate that. I want to ask you a couple of questions, and it partially has to do with your changes. You heard the testimony of Mr. Henchman from the Tax Foundation yesterday? He talked about two ways that would really help Nebraska, would be to eliminate the AMT and to mirror the carry-over: the state to the federal. Do you have a way of determining what that cost would be? [LB406]

DOUG EWALD: Yes. In fact, AMT, we feel that AMT, in the rankings, is worth two to four spots by itself in individual rankings. That estimate is somewhere between \$7 million to \$8 million a year. And with respect to the carry-over period, to go from 5 years to I think he said 20 years... [LB406]

SENATOR HARR: Twenty, yeah. [LB406]

DOUG EWALD: I believe we looked at that; I think that's somewhere...approximately \$40 million. [LB406]

SENATOR HARR: \$40 million? Okay. And based, again, on your experience as tax commissioner and in the private practice, do you think that's a good policy for us to carry out? [LB406]

DOUG EWALD: Those are both worthy of discussion, yes. [LB406]

SENATOR HARR: Okay. [LB406]

DOUG EWALD: Absolutely. [LB406]

SENATOR HARR: And that's all I have. Thank you very much. [LB406]

SENATOR HADLEY: Other questions for Mr. Ewald? Senator Schumacher. [LB406]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Welcome back,

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

Revenue Committee
February 07, 2013

Commissioner Ewald. A couple of things just to refresh my memory; it's been awhile since I've done income tax returns. But in...when a corporation pays out a dividend to its shareholders--and we're talking about a...I think it's called a C corporation, which is taxed like an independent person--does the corporation get to deduct those dividends from its income? If you...been a long time since you did... [LB406]

DOUG EWALD: I believe...I'm a state person; that's a federal question. [LB406]

SENATOR SCHUMACHER: Okay. [LB406]

DOUG EWALD: I believe they get a deduction for, like, 80 percent of them, something along those lines. But I don't...I guess I don't know. I'm going to...I guess I'm going to back up here: I don't know for sure, from that standpoint. [LB406]

SENATOR SCHUMACHER: Okay. Then along those same lines, when a person gets a dividend now on the federal level, if it's a domestic dividend, you do not pay 100 percent, you pay...a qualified dividend, which is a lower rate of tax. Does Nebraska charge you on 100 percent of the dividend or on the discounted rate? [LB406]

DOUG EWALD: Nebraska, if it's...a dollar of taxable income is a dollar of taxable income in Nebraska. We don't differentiate whether it's ordinary income through wages, capital gain income, or dividend income. [LB406]

SENATOR SCHUMACHER: So when we talk about a lesser tax rate...when Mr. Buffett talks about a lesser tax rate on capital gains income, as far as Nebraska is concerned, he pays on 100 percent. [LB406]

DOUG EWALD: Correct. [LB406]

SENATOR SCHUMACHER: And then that amounts to quite a percentage of the tax bite on that income, is that correct? [LB406]

DOUG EWALD: It's...yeah, I mean, income is income to us here in Nebraska, yes. [LB406]

SENATOR SCHUMACHER: Okay. Now when a corporation makes a dollar, invests that dollar either in employees or in expenses or in capital items, they get to deduct that dollar from the money that they made, is that correct? [LB406]

DOUG EWALD: That's correct. [LB406]

SENATOR SCHUMACHER: So, theoretically, if a corporation invested all of its money, over a depreciated period of time, on depreciable items, or for expenses, it would pay

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

Revenue Committee
February 07, 2013

no corporate tax because it would be spending all of its money that it was making.
[LB406]

DOUG EWALD: Well, I guess to the extent that its expenses match its income and you'd have no net profit, there's no tax in that situation. [LB406]

SENATOR SCHUMACHER: Okay. Thank you. [LB406]

DOUG EWALD: Um-hum. [LB406]

SENATOR HADLEY: Commissioner Ewald, I guess I just have one request. With these...I certainly understand the drafting errors. Would it be possible to get a letter from you with just, basically, the impact of those... [LB406]

DOUG EWALD: Absolutely. [LB406]

SENATOR HADLEY: ...on the fiscal note, so that we have actual... [LB406]

DOUG EWALD: Yeah, we have...I mean, I think the...we have it in my testimony here, but I think it's a good...I'll get a letter to the committee that outlines the specifics of that. [LB406]

SENATOR HADLEY: You know, just outlines and says, this is... [LB406]

DOUG EWALD: Yeah, and what the fiscal note would change a little bit, with respect... [LB406]

SENATOR HADLEY: Yeah, so we know for sure. [LB406]

DOUG EWALD: ...because, technically, the fiscal note is supposed to follow how the bill was originally drafted, from that standpoint. [LB406]

SENATOR HADLEY: Sure. Sure. I guess the last thing...I do really want to thank the Revenue Department. I know this has been a hectic time to get things together, and I think you've done, you and your staff...and the Fiscal Office for the Legislature has done a tremendous job in pulling these numbers together for us. So I really want to thank you for that. [LB406]

DOUG EWALD: You're...thank you. [LB406]

SENATOR HADLEY: Thank you, Commissioner Ewald. Okay, anybody else that...okay, we will start with the first proponent. No proponents? Okay, the first opponent. [LB406]

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

Revenue Committee
February 07, 2013

JOHN CEDERBERG: Oops. [LB406]

SENATOR HADLEY: We don't have insurance, John, so be careful. (Laughter) [LB406]

JOHN CEDERBERG: Fortunately, I'm on Medicaid. [LB406]

SENATOR HADLEY: Okay. [LB406]

JOHN CEDERBERG: Or Medicare, I mean. [LB406]

SENATOR HADLEY: Medicare. [LB406]

JOHN CEDERBERG: Medicare. You can tell that I... [LB406]

SENATOR HADLEY: That's where all accountants go, Medicaid. (Laughter) [LB406]

JOHN CEDERBERG: You can tell I stayed awake too long last night. Well, I was going to let someone else go first; but since nobody was brave, I'll be the guinea pig. I'm John Cederberg, J-o-h-n C-e-d-e-r-b-e-r-g. I am a CPA here in Lincoln, and I am here representing the Nebraska Chamber of Commerce and Industry this afternoon. I'm going to be very brief, and so I didn't even hand out prepared testimony. I have three points to make. One...the first one, quickly, is, in view of the hour, I want to reiterate and clarify my testimony last night on LB405 and my testimony today on LB406. The State Chamber is not here in opposition to materially revising the income tax. As a matter of fact, the Revenue Committee has other bills before it that we support that would reduce the income tax in one respect or another. The State Chamber is here and concerned about the pyramiding of sales taxes. That's the side of the coin that is a problem. The second one is that the State Chamber executive council and the board of directors, which met this morning and instructed me to repeat the instruction, request that LB405 and LB406 be killed by the committee. That does not mean that we are requesting that the initiative to make comprehensive revision of our tax structure dead. We are not in favor of killing that. Last night I committed the State Chamber and myself personally, and I'll repeat it today, to intensive participation in whatever process is useful to evolve a comprehensive revision of our tax structure, that is broadly vetted, that works for Nebraska, and facilitates, to the extent tax policy can, Nebraska reaching its vision for its economic future. So I wanted to take whatever the time that was to make sure everybody thoroughly understood our position. As to LB406, I'm appearing in opposition, on behalf of the State Chamber, to that bill. It has the same defects, in our view, as LB405, in that the repealed exemptions are, again, pyramiding. Now, they're not as serious. We don't have manufacturing components, okay, but the policy concept of pyramiding is still in LB406. And we view that as bad tax policy and something that we should avoid doing. The other point I wish to make...and the media has not picked up on this, apparently. As I read the bill--and perhaps I missed something, but I do have

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

Revenue Committee
February 07, 2013

a few years' experience in reading your bills--as I read the bill, for the...this would distinguish very markedly the taxation in Nebraska of C corporations, that is, taxable corporations, from the taxation of active trader businesses that are done in S corporation and LLC format. You heard some testimony yesterday about the substantial percentage of our economic activity that occurs in S corporation format. Numerous members of our State Chamber board are shareholders in S corporations. The LB406 would repeal the corporate income tax; it would also repeal, in effect, the depository institution tax. But as Senator Sullivan is well aware, I mean, from the banking industry, a very substantial number, between 85 and 90, of our banks--depending on who has made the election and who has been acquired--between 85 and 90 of our banks do business as S corporations. You can go on the FDIC's Web site and get a list of those banks; some of them are not small. What would happen here is that the C corporation banks would not pay the deposits tax; the S corporation banks would not pay the deposits tax. But a few years ago we equalized the situation by passing a law that gave the shareholders of S corporation banks a credit for their respective shares of the deposits tax. Well, if you repeal the deposits tax and you do not somehow impact the pass-through of business income from S corporation banks, the effect is that the S corporation shareholders still pay the exact same tax, because the deposits tax tends to be less than their individual income tax. The credit does not wipe out their individual income tax. And so I think this is an area...and it goes across all industries. I mean, manufacturers in the state, there are several S corporations; transportation has several S corporations. Banking is the only one that you can literally go on the Internet and find out who they are. But a major, major part of our business economy is in pass-through form. And we want, as the State Chamber, to make really sure that the committee is fully aware that LB406 would only repeal the tax for the C corporations. I have absolutely no idea how much difference that would make in the fiscal note if you were to treat pass-through income as previously taxed, and that...which would, of course, be one way to manage that. But it's an element of LB406 that clearly has to be addressed, in fairness. With that, I would be happy to take any questions. [LB406]

SENATOR HADLEY: Mr. Cederberg, just for the benefit of the audience, could you just spend just a couple minutes: the difference when you talk about a C corporation and an S corporation, just so people have an understanding, because it sounds like it's an important concept in this particular bill. [LB406]

JOHN CEDERBERG: Well, yes, and those of us who have been around here a few years, Mr. Chairman, you know, tend to talk in jargon, I'm sorry about that. A C corporation is an incorporated entity that is subject to the federal income tax and is currently subject to the state income tax. Once it pays tax on its income, that is the tax. Then when the C corporation makes a dividend distribution, the shareholder pays the individual income tax on whatever amount is received. The S corporation is an election that can only be made by certain selected companies. To be an S corporation, you must have less than 100 shareholders...now that, I mean, there are technical details around

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

Revenue Committee
February 07, 2013

that, but less than 100 shareholders. They all have to be individuals or certain named trusts; you cannot have a corporate shareholder. And they need to have active trader business income, particularly...unless, of course, they've been an S corporation from inception. If you are an S corporation, two important things happen. The corporation pays no tax, with one minor exception that we don't need to get into. The corporation pays no tax. The shareholders pay the tax on the corporation's taxable income, pro rata per share. The same treatment, of course, is given to limited liability companies that are taxed as partnerships. And then if there is a distribution, of course, that is previously taxed income and the shareholder does not pay the tax again, though that's also misunderstood by the public to just this extent: when the shareholder receives a distribution, he reduces his income tax basis in the stock. So if his income tax basis were \$100, and he received a \$20 distribution, and then he sold the stock for \$100, he would have \$20 of gain, in effect, you know, paying the gain on that value. But those are the two major differences: the tax is paid at the individual level at individual rates, and there is not a second tax on the distribution. Kind of responds to a question that... [LB406]

SENATOR HADLEY: Thank you, Mr. Cederberg. [LB406]

JOHN CEDERBERG: ...Senator Schumacher had asked. [LB406]

SENATOR HADLEY: Did you have any questions? Or anybody? Senator Harr. [LB406]

SENATOR HARR: Thank you, Mr. Chairman. Thank you for coming back, Mr. Cederberg. So I want to...for the first part...I'm going to ask you, really, two questions. The first one, I want you to wear your Chamber hat; the second one, your personal hat. [LB406]

JOHN CEDERBERG: (Laugh) I think I opened that up last night, didn't I? [LB406]

SENATOR HARR: Yeah. So the Chamber is for the process. [LB406]

JOHN CEDERBERG: Yes, absolutely. [LB406]

SENATOR HARR: And I think that's great; and I think, you know, maybe we should have a conversation. But my question is...there are a lot of moving parts with this, and I'm not a tax expert, and, I don't know, I think we have maybe a couple of tax experts on here. But my question is, how should this process look? Who should we include? Who should we exclude? How should we do this, going forward, in your opinion? Since the Chamber thinks we should have a process, do they have an idea of what this should look like? [LB406]

JOHN CEDERBERG: Actually, I can wear both hats on that subject. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HARR: Okay, great. [LB406]

JOHN CEDERBERG: We have a history in this state of being extraordinarily successful, Senator Harr, in developing legislation and, actually, developing legislation in some cases very quickly, by task force, and vetting it through our organizations. I recall back to 1985 when the U.S. Supreme Court effectively declared our bank tax unconstitutional. We tried once, in 1983; it was an unsuccessful fix. Then in 1985...and that was a more extended deal, but we put together a task force that included members of the Revenue Committee; members from the Revenue Department; a member from the Governor's Office, the research office; and representatives of the depository institutions. And they worked out a concept, a framework; they vetted it with their members; and then they turned it over to the professionals. One of the unique pieces of that experience was that they kept the professionals out of it until they had the business elements all down. And back in those days was before personal computers, and I remember the...one of the elements was the Department of Revenue should be...well, one of them was, any banker should be able to fill out his deposits tax return without having to pay his accountant, which was perfect. Another was, we have enough examiners in our office already, the Department of Revenue should be able to buy Alex Sheshunoff's book and audit their deposits tax return from that book, which, of course, the Internet has now supplanted. But then they turned it over to the pros to write. And the Revenue Department...I got involved. I will never forget a question at the bankers vetting meeting, when somebody asked the banking members of that task force how a certain item would be handled. And I was sitting in the back of the room with a fellow by the name of Masonbrink, Jim Masonbrink, at the time, from the Department of Revenue, and also Don Ellingson. And Joel Wiens was on the platform, and he says, "Guys, how does the call report handle that?" And so Jim Masonbrink told him. "That's the way we're going to do it; you three guys write it." (Laugh) And, you know, but by the end of the summer, they had a greased bill. You know, the Nebraska Advantage Act, which happened much more recently, also got...you know, the Chambers had people; various trade groups that were involved in the Nebraska Advantage Act had people; Revenue Committee people participated; the Governor's Office participated. And, again, we had a bill that we all came to this hearing and supported. This is a little bit different because we actually have a bill on it. And if we want to do it this year, we've got to speed things up. But, you know, we're all available. And, you know, there are many times--I haven't done it with Senator Hadley, but back with previous...Senator Janssen, Senator Landis--you know, we get around that big conference table in the vault and work hard, and then we go vet it with our members and find out where are the flaws. And, you know, the Chambers, the trade associations, the manufacturers, the healthcare, they all have very good communication networks. And that's the way you do that; you don't exclude anybody. But you, you know, each group is responsible for vetting the ideas through their members. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HARR: Okay. Thank you. And then to follow up, the personal question...
[LB406]

JOHN CEDERBERG: Yeah. [LB406]

SENATOR HARR: ...take off your Chamber hat, and use your own expertise, knowledge, and education. What taxes do you think need to be reformed, or would you like to see reformed, to improve the economy and business climate in Nebraska?
[LB406]

JOHN CEDERBERG: Now that is an issue that I have never studied academically, but I have 40 years of experience working with clients. And it's difficult for me to identify taxes that affect younger people and affect young married families. You know, they respond to opportunity. I tell people that my client experience is that, preretirement, most people respond to opportunity and to family. You know, they...we...when I was a partner at Touche, we would have so many applications from experienced CPAs who had gone to the city, married, and now their children were 4; and it was like, we'd like to come back to Nebraska and put them in the public schools. I mean, I'm serious. [LB406]

SENATOR HARR: I experience it every day. [LB406]

JOHN CEDERBERG: And...but then when you get to the retirement age, I think maybe because of the media attention and just the fact that they're more focused on fixed incomes, then the population becomes more tax sensitive. Businesses are tax sensitive within some parameters of resources. I mean, you are not going to get a business to Nebraska to process coal--because they'd have to transport it here--with any kind of tax incentive. So, as I have told previous Revenue Committees, when--and I said this both in 1987 and again in...in Nebraska Advantage Act--that when you are...if you are going to incent businesses to locate in your state, you have to be material, you can't piecemeal, you can't do little things, you have to do something material enough to affect behavior. And that's why we needed to change at that point from LB775 to the Nebraska Advantage Act, was that...and in 1987, LB775 was state of the art; we were ahead of virtually every state in the Union. By the time we were looking at the Nebraska Advantage Act, they had all caught up; and at that point we needed to do something dramatic and material that would affect behavior. And so that's, really, my response on that aspect. [LB406]

SENATOR HARR: And let me follow up on that, and I don't want to take too much of your time. But it seems as though LB775 was really...we were playing defense; we were trying to keep businesses that were here, here. [LB406]

JOHN CEDERBERG: And one in particular. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HARR: And one, possibly; we'll have to ask Mr. Nieman (phonetic). Then Nebraska Advantage Act was less...we were more on the offensive: How do we get a business that is somewhere else to move to Nebraska? [LB406]

JOHN CEDERBERG: That's true. [LB406]

SENATOR HARR: And I think in the last couple years we've changed that momentum. Because as you--you say you are an accountant--you know, it's easier to build a client from inside than it is to go out and get a new client. And so I think our tax structure has moved towards, more towards, let's take those businesses that are already there and how do we properly incent those to grow within our state and to stay within our state. Is that an accurate statement? [LB406]

JOHN CEDERBERG: Not only do I think it's accurate, you know, I guess I'm just ancient enough that I can remember Bob Kerrey, when he was Governor, saying that the most productive effort that you can make as a state is to grow the businesses already among you. And, you know, I believed that for a long time. Though in 1987, and actually still in Nebraska Advantage Act, when the state's vision is to so materially grow your nonproduction agricultural sector...and I'm, you know, as I said last night, I'm a first-generation non-farmer in my family, so, you know, I have very close ties...and this is no disrespect to production agriculture, but to be a state that has an effective sales tax and income tax, you have to grow your nonproduction agriculture private sector, and you have to grow it rapidly. And so, then, even if it is a bit inefficient, Senator, you have to reach out and try to bring the businesses to Nebraska. Yesterday morning... [LB406]

SENATOR HADLEY: I think... [LB406]

SENATOR HARR: Okay. [LB406]

SENATOR HADLEY: ...we have other senators... [LB406]

SENATOR HARR: All right. [LB406]

SENATOR HADLEY: ...that need to ask questions, Senator Harr. [LB406]

SENATOR HARR: I will enjoy talking to you more off the mike. Thank you. [LB406]

SENATOR HADLEY: Senator Janssen. [LB406]

SENATOR JANSSEN: Yes, since brevity has seemed to have gone out the window on this one...I would like to point out first off, I appreciate bringing up previous Senator Janssen, but I am still alive... [LB406]

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

Revenue Committee
February 07, 2013

JOHN CEDERBERG: Yes. [LB406]

SENATOR JANSSEN: ...I am still here. [LB406]

JOHN CEDERBERG: Previous Senator Janssen, yes. [LB406]

SENATOR JANSSEN: And he was here yesterday, and he's still doing... [LB406]

JOHN CEDERBERG: Oh, is he? [LB406]

SENATOR JANSSEN: ...quite well, as well. So... [LB406]

JOHN CEDERBERG: Good. [LB406]

SENATOR JANSSEN: ...thanks for bringing him up. And I'll be quick here. With the exemptions...and I heard yesterday...and it was a lot of testimony about exemptions. This is kind of a yes/no. Is every exemption sacred to the Chamber, or is it...? [LB406]

JOHN CEDERBERG: No. [LB406]

SENATOR JANSSEN: And now I'm almost reluctant to wonder if there's any people from the hospital industry here today. Maybe that's why I wore a red tie just like the Chairman today...that last night he brought up a good point... [LB406]

SENATOR HADLEY: This way if you get wounded it doesn't show. (Laughter) [LB406]

SENATOR JANSSEN: ...is, I was surprised...I have a 4-month-old daughter; I just went to a cafeteria at Methodist Hospital in Omaha, and it's a great cafeteria, great food there, and I wasn't a patient. And I was surprised to hear last night, I wasn't aware of, that there is an exemption for that. And it wasn't just me, it was workers who were there that were also enjoying this at, per se, the taxpayers' expense. So I think this kind of lifts the veil on that a little bit for us to look at. And I know, you know, there is, we were here late last night, and there are some exemptions that I, you know, also feel that we need to keep. I think it was...I think Mr. Kubat, if I said that right, kind of encapsulated it the way...how everybody felt. Sometimes you listen and you listen, then somebody just jumps out at you like: yeah, oh, yeah, that's how everybody felt; yep, I got that; why didn't he come earlier? And I see him here today. So if you can get up here earlier today, that would be good. (Laughter) I'm just wondering if you have a list of things that aren't so sacred, because it does seem...I'm new to the Revenue Committee; it's my first year on it. Of course, like everybody else on this committee, this is the first time we saw a bill like this. And, you know, I felt like kind of the popular kid at school the first day after I was appointed to the Revenue Committee. I'd never been called out to the Rotunda so many times on Government Committee about anything. And I was in and

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

Revenue Committee
February 07, 2013

out; it was great exercise. So everybody wanted an exemption. I mean, everybody came there to the trough, per se. So the conversation needs to be started. And where would you be on that? And I'll say, please be quick, because I'm not like my colleague here; I won't ask a follow-up. [LB406]

JOHN CEDERBERG: I don't have that much to say on the subject. Now, first of all, no, I don't have a list. Secondly, my commitment and my commitment of the State Chamber to really serious discussion about comprehensive tax revision presupposes that if the property tax is unconstitutional in the state and you have only two broad-based taxes, that if we're going to substantially reduce the income tax or even try to eliminate it, you've got to go the other way. But you have to go the other way...and I don't want to say "thoughtfully," but you have to go the other way with very deliberate picking and choosing that you don't damage our competitiveness and you don't damage the vigor of key elements of our successful economy. I take great pride in the fact that we have the second-lowest unemployment rate in the country; North Dakota is a special case. We don't want to mess with that. We don't want Omaha or Lincoln or Grand Island to compete with Las Vegas for unemployment. And so we have to be very deliberate in choosing where to tax, that our, you know, that some of the really unique things we have in...our nonprofit hospital system is, to me, is very unique and very valuable to our state. Production agriculture is still our base; I mean, that's how we live. Manufacturing, we have some wonderful manufacturing in the state. We have...you know, across the board. And so you pick the list, you think about it, you vet it with the taxpayers, and you evolve a list that says we all can live with this, and we're going to be a successful economy. That's the process. I have no preconceptions--other than that manufacturing components clearly isn't one of them--but I have no preconceptions of the answer. [LB406]

SENATOR JANSSEN: Well, in fairness to my colleague, I thought of about three follow-ups while you said that, but I'm not going ask them, because I'm sure there are several testifiers behind you that can answer that. [LB406]

SENATOR HADLEY: Thank you. Senator Pirsch. [LB406]

SENATOR PIRSCH: Great. And thank you. I think the testimony of Doug Ewald, the tax commissioner, was it's about \$400 million in sales tax exemptions for the purpose of eliminating the corporate income tax and exempting up to \$12,000 in retirement income. And the overall size of the corporate income tax that is collected now is approximately...my guesstimate was about \$260 million per year, is that...? [LB406]

JOHN CEDERBERG: I think that's what we heard last night, \$260 million or \$270 million, wasn't it? [LB406]

SENATOR PIRSCH: \$270 million, so... [LB406]

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

Revenue Committee
February 07, 2013

JOHN CEDERBERG: Counsel is shaking her head. [LB406]

SENATOR PIRSCH: Okay. So that's about \$130 million a year, then, over--after eliminating the corporate--\$130 million more, then, to lessen certain categories of individual income tax, is that right? Okay. And let me take you back to another...just a clarification, because we had talked about the C corps and S corps. Right now there's a different set of tax brackets, and C corps are taxed at a different rate, different brackets, and so...and on the top brackets...are on a higher basis than, say, pass-through corporations, as you mentioned, S corps, LLCs, those partnerships. Is that unusual in our region, to have those different types of brackets, where C corps are at a higher rate? [LB406]

JOHN CEDERBERG: Yes and no. For instance, Colorado, you know, has a flat tax, and so you don't end up with some of the same issues, I don't think. Iowa, you know, has wholly independent brackets, to my recollection. Missouri does not have a flat tax, but they get to the maximum individual rate very quickly, and so they have separate rates. Nebraska, without actually looking comparatively at a lot of states, Nebraska has such a high proportion of its business that is closely held, privately owned. And I, I mean, we've got wonderful Fortune 500 companies, don't misunderstand what I'm saying. But we have so much of our economy in private hands that I personally have long believed that it would be good tax policy to treat the C corps that are unable to make the S election for whatever reason--they have a corporate shareholder, they have family limited partnership shareholders, or whatever--to treat the C corporations and the S corporations as identically rate-wise as possible. [LB406]

SENATOR PIRSCH: So adopting the same, maybe, brackets is what you'd recommend. [LB406]

JOHN CEDERBERG: Adopting the same brackets, I think, would be a very good step. [LB406]

SENATOR PIRSCH: And that is...and even with C corps, as you discussed before, they're going to be, I guess, some refer to it as "doubly taxed," as well... [LB406]

JOHN CEDERBERG: Yeah. [LB406]

SENATOR PIRSCH: ...taxed on an entity level before distributions to the independent shareholders... [LB406]

JOHN CEDERBERG: And then at the individual... [LB406]

SENATOR PIRSCH: ...and then they have to... [LB406]

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

Revenue Committee
February 07, 2013

JOHN CEDERBERG: ...I mean, even if you made them identical, you still have an extra tax as a C corp, to the extent there are distributions. [LB406]

SENATOR PIRSCH: Would you estimate...do you have an estimate of what percentage of the population of business entities out there are C corps, overall, in Nebraska? I mean, they tend to be the larger ones, correct? And then... [LB406]

JOHN CEDERBERG: Well... [LB406]

SENATOR PIRSCH: ...probably... [LB406]

JOHN CEDERBERG: Oh, the C corps? [LB406]

SENATOR PIRSCH: Yeah. [LB406]

JOHN CEDERBERG: Well, yeah, obviously, it's, you know, the Fortune 500 ones. [LB406]

SENATOR PIRSCH: Sure. [LB406]

JOHN CEDERBERG: I mean, anything that's publicly traded must be a C corp, by definition. I don't know. You know, what is deceptive is that being an ag state, we still have so much of our production ag business in proprietorships and family partnerships that that builds up really fast in terms of the percentage of business enterprise that's in pass-through form. So, no, I...perhaps the commissioner has a, you know, knows better than I do. [LB406]

SENATOR PIRSCH: Well, thank you. Yeah, and I appreciate that. [LB406]

JOHN CEDERBERG: I just know that, from my experience, Nebraska is much heavier in the S corp area, much heavier in the S corp area in banking... [LB406]

SENATOR PIRSCH: Yeah. [LB406]

JOHN CEDERBERG: ...than most of the rest of the United States. [LB406]

SENATOR PIRSCH: I really appreciate that. No further questions. [LB406]

SENATOR HADLEY: Seeing no other questions, thank you, Mr. Cederberg. [LB406]

JOHN CEDERBERG: Thank you. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HADLEY: Next. [LB406]

DIRK PETERSEN: Good afternoon. I'm back, Dirk Petersen. D-i-r-k P-e-t-e-r-s-e-n is how my named is spelled. I think I covered a lot of the details about Nucor; I believe you probably remember them, so I won't go over all them again. I'm basically going to just focus on LB406 itself and the way...looking through it and analyzing it. On the electricity end, it would be about a \$2.1 million extra cost to Nucor, as far as the tax. As you heard yesterday with John McClure (phonetic), there would be, obviously, impacts on, if you taxed the...went with this. We estimate them around 7 percent increase in our rates, which would be about \$2.65 million. On natural gas, it would impact about \$452,000. Other states do not have a tax...energy and manufacturing...taxing this would take away the competitive advantage, in our opinion. Molds and dies, another aspect, would be about \$239,000 for us. This is an important exemption, because other steelmaking states exempt these. And we're in a very competitive situation in the steel industry; there is still too much steel being produced worldwide and also in this country. So there's a lot of pressure on pricing and a lot of pressure on being competitive. And we need to be competitive in Nebraska. So if you add in what I just talked about, including the anticipated increase in the rates from NPPD, because they do pass those along because it's based on a cost basis, and they put the rates where they need to be to cover all the cost, it would be about \$5.4 million impact in our facility in Nebraska here. You know, this would have a large impact on us. The steel industry is cyclical; we go through ups and downs. Some years this could have an impact to whether we go positive or negative in any given year. So it still is a big price to pay, and we would like to see LB406 killed. And that's all I had. [LB406]

SENATOR HADLEY: Okay, are there questions for Mr. Petersen? Seeing none, thank you, sir. Next. [LB406]

DOYLE HOPPER: Thank you. It seems like we were just here a few minutes ago. I'm Doyle Hopper; I'm the vice president of Nucor Cold Finish, Nucor Vulcraft, and Nucor Detailing Center. Again, I said a lot of the things last night, and Dirk said a lot of things; we are certainly here to oppose LB406, as we were LB405. Just to kind of repeat what I heard last night from one of our ag partners that really stuck with me is LB405 is like getting hit by the train and LB406 is like getting hit by the bus; both of them are going to do some damage. We don't feel manufacturing can carry this brunt of the tax reform on our shoulders. These pieces of legislation directly impact our ability to compete and grow in Nebraska. The 1,000 Nucor teammates in Norfolk urge you to kill LB406, LB405. The higher energy rates that Dirk talked about, the taxes on molds and dies, for our division, is about \$430,000. The greater impact on our division with LB406, as you heard Dirk say, with the higher energy rates, his ability to compete, we are his largest customer. If he does not go forward with these expansions, which we are depending on, we'll be forced to bring our raw material not from the steel mill 6 miles away but from steel mills 700 and 800 miles away. The \$430,000 on the molds and dies now turns to

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

Revenue Committee
February 07, 2013

millions for us. We went over the numbers for us last night in our testimony, so I'm not going to cover them all again. But we would just ask you to please consider the relationship that Nucor and manufacturing has had with the state of Nebraska in the past, and let's continue to go forward and not backwards. Any questions? [LB406]

SENATOR HADLEY: Senator Sullivan. [LB406]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you. How long has Nucor had a presence in Norfolk? [LB406]

DOYLE HOPPER: We've been here for going on 50 years now. [LB406]

SENATOR SULLIVAN: Okay. So it's fair to say that some of your work force is now retired? [LB406]

DOYLE HOPPER: Absolutely. [LB406]

SENATOR SULLIVAN: Have you had any indication from them how they feel about this tax package? [LB406]

DOYLE HOPPER: You know, I've not talked to many of the...or any of the retired that are gone now. Actually, I have, not about this legislation. The great thing about Nucor teammates is, and as any of you who have been to our plants and made visits--and if you haven't, please do--the Nucor culture is very strong. It's a very proud culture. It's a very proud culture of Nucor, and it's a very proud culture of Nebraska. It goes hand in hand. And our folks, whether they're working for us now or whether they've retired from us, are very loyal to both Nucor and Nebraska. These impacts that it would have on Nucor would still be catastrophic on those teammates because of what they've done and what they've poured into our divisions if they've been there 30, 35, or 40 years and retired. A lot of those have sons and daughters, nephews, uncles, cousins, brothers, sisters that are in Nucor. You know, the old saying in Nucor, N-u-c-o-r: nephews, uncles, cousins, and other relatives. That's what Nucor is, strong; there's a lot of pride there. So it does have an impact. [LB406]

SENATOR SULLIVAN: Do you have any indication, though, from the retirees of Nucor if they are staying in Nebraska or leaving? [LB406]

DOYLE HOPPER: You know, all the ones...I've been here eight years, and as I told you last night, I was a transplant from Arkansas. All the ones that I've seen retire the last eight years are here; they still come back to our Christmas parties, our summer picnics. We see them every day; as a matter of fact, a lot of them come back to the plant and walk through and talk to those that they've retired with. And I don't know of hardly any that have moved out of here, and especially for taxes. They've moved out of here,

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

Revenue Committee
February 07, 2013

possibly, because Padre Island or down in Florida is 72 degrees right now, and we're typically 8. [LB406]

SENATOR SULLIVAN: Thank you. [LB406]

DOYLE HOPPER: You're most welcome. [LB406]

SENATOR HADLEY: Seeing no other questions, thank you. [LB406]

DOYLE HOPPER: Thank you. [LB406]

SENATOR HADLEY: Before we go with the next one, could I see a show of hands, how many people are here to testify in opposition? Okay. How many neutral do we have? Okay. That answers my question. The next in opposition, please. [LB406]

STEVE WELLMAN: (Exhibit 3) Good afternoon, Chairman Hadley and committee members. I'm Steve Wellman, S-t-e-v-e W-e-l-l-m-a-n. I'm a third-generation farmer from Syracuse. Today I represent the Nebraska Soybean Association and our members of that organization. I currently represent Nebraska on the American Soybean Association, our national affiliate, and serve as chairman of the board. Today I present testimony in opposition to LB406. As introduced, LB406 will increase sales taxes on more of the inputs farmers purchase every year to raise their crops and livestock, removing a minimum of \$200 million from the agricultural community and our rural areas. With input costs for farmers and ranchers ever increasing, this number will even go higher. This tax shift and tax increase comes while state income taxes on unincorporated family farms will continue. These sales taxes will be applied regardless of profitability on our family farms and ranches. There's always a lot of discussion about helping young farmers and ranchers get started with their own operations, yet our actions often do just the opposite. This appears to be another example of policy that will hurt beginning farmers. Young families beginning to start their own businesses and operations usually face many obstacles. First of all is a lack of operating funds and working capital. Profitability, as they begin, is nonexistent or small, therefore income taxes are not a problem. Having enough capital to purchase input costs such as seed, chemicals, and energy is the challenge. And this proposal that's on the table now would drive up those input costs for those beginning farmers and make it more difficult to them to begin their business and create more jobs. And we also believe that LB406 would shift rental contracts from share rent to a cash basis. And the reason for that is because of the...the landlords that currently have share rents pay a portion of the input costs. And those input costs...if they want to avoid the 5.5 percent, or the sales tax, on those input costs, they'll want to opt for a cash contract, therefore shifting more of the tax burden to the farm operator. Just as an example of the effect that it has...that LB406 would have on my farm: first of all, there's a lot of differences between agriculture in Nebraska. I'm in the southeast part of the state; my farm is all nonirrigated. So my input

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

Revenue Committee
February 07, 2013

costs are normally less than a lot of the cropland that is planted and irrigated in Nebraska. About 70 percent of the corn planted in Nebraska is irrigated, and about 50 percent of the soybeans are irrigated in Nebraska. So we plant...dryland farmers plant fewer seeds; we use less inputs; and, of course, our energy use is considerably less than on an irrigated farm. So the example I have in here is just strictly on seed and chemicals, because, quite frankly, if I would include energy in my example, my comparison would pale compared to irrigated farmers and the impact on their operations. So, in essence, the sales tax on just the seed and chemicals would increase my tax burden by 2.5 times over what it currently is for the income tax we pay. That's about \$6.50 per acre. And compared to an irrigated farm, I can easily see the seed and the chemical sales tax cost reaching \$15 an acre on an operation such as that. So compare that: if there's an average of \$12 an acre over the basically 15 million acres of corn and soybeans in Nebraska, that's \$180 million. And if you...Senator Pirsch mentioned that, I think, the number for the corporate tax collected each year was \$260 million. So we're coming very close just on two inputs here of reaching \$180 million. And then if you add energy onto that, that's used in agriculture, it seems to me like we're going to get a large portion of this \$395 million that's out there for this supposed...the exemptions, or the lack of exemptions. A lot of that, more than half, will be coming from agriculture. So those are millions of dollars that are leaving our farms and families and our rural communities. This loss negatively affects Nebraska rural businesses and schools. And the only way to control this tax is to decrease our inputs. And in an era with growing global demand for our crops and our commodities and our meat products, when you decrease the amount of inputs you put in, you're going to decrease the amount of production that comes back out. And that's just the opposite of what we need to do to be competitive not only nationally, with our neighboring states, but internationally, with the producers in South America. So a couple things that I worry about as I drive around my small town...and there's a co-op that has a branch in Syracuse, and Syracuse has a 1 percent sales tax. That co-op has several other locations, in other towns, and they also have some locations out in the country that are not within communities' tax districts. So I worry about that location in my town that's going to have a 1 percent higher cost of their seed and their chemicals that they're selling to farmers than a location that's maybe in another, smaller town that doesn't have sales tax or their location that's four miles north of Syracuse. Will they move that business that's in town now, will they move that four miles north so they're out of the tax district in Syracuse? And then I see they probably will because it...even though it may only be 1 percent, it doesn't sound like very much, but we all know people drive right by one...a gas station to go to the next town if they know that gas is 3 cents a gallon cheaper, which basically is...that's less than 1 percent of the difference in gas at the current price. So you know people will go to other locations to do their business. And another thing that I wonder about is the independent seed dealer that is just wrapping up construction of a new seed building, tanks, and treatment inside the city limits of Syracuse. He's just...with passage of LB406 and that 1 percent city sales tax, his sales of his products would be 1 percent higher than a dealer that's out in the country and

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

Revenue Committee
February 07, 2013

doesn't have the city sales tax. So with that, there's the written summary and the points, there's five points that...why we oppose LB406. But I'll just point out the last one. We believe "it will shift the tax burden to fewer payers: fewer taxpayers carrying the risk and burden of these taxes will create a less stable, predictable, and consistent revenue stream for Nebraska." So on behalf of the soybean farmers represented by Nebraska Soybean Association, I ask the members of this committee to kill LB406. And thank you for the opportunity today. [LB406]

SENATOR HADLEY: Mr. Wellman, let me ask you a quick question. And I...just...you don't have to speak for the soybean...or if you don't want to answer it, you don't have to, either. Let's say that we developed a new system and we tried to look at services. And one of the services that we looked at was real estate fees, and you went out and you bought 100 acres at \$10,000 an acre--which we used to think was a lot of money, but anymore it...probably not completely uncommon--for about \$1 million, and you were to pay a realtor fee of 7 percent, about \$70,000. What would you think if the state suddenly had a 5 percent or 5.5 percent sales tax on that and you were going to pay \$3,700 in sales tax on that transaction, on the realtor's fee? [LB406]

STEVE WELLMAN: Well, again, as any other business owner, you'd have to assess the impact of that and decide whether that was still going to be an economic decision that you should make. [LB406]

SENATOR HADLEY: Okay. [LB406]

STEVE WELLMAN: And then just to further that a little bit, in the testimony there, on the seed and the chemicals that we purchase, those costs, when I looked, compared to 2008-2012, those costs have gone up 47 percent in that time frame. And that's without an increase in size of the operation or increase in additional products being purchased. And that's a little bit more than what my real estate taxes went up over that same time. My real estate taxes have increased 43 percent since 2008 to 2012. [LB406]

SENATOR HADLEY: I...and I didn't mean to put you on the spot. I guess I was framing the idea that if we truly are looking at some kind of examination of our tax system, one of the things that we may have to look at is a sales tax on services. And so if people want to not pay taxes in one area, are people going to be willing...because unless we... [LB406]

STEVE WELLMAN: Right. [LB406]

SENATOR HADLEY: ...bring expenditures down for the state, we have to have X dollars to run. And so I'm just thinking in terms of as we, as a committee working... [LB406]

STEVE WELLMAN: Um-hum. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HADLEY: ...with the Governor's Office and such as that, look at all areas of taxes, people may get upset with us because we may be looking at areas that aren't taxed right now. [LB406]

STEVE WELLMAN: Right. [LB406]

SENATOR HADLEY: And that always causes... [LB406]

STEVE WELLMAN: Well, the...understandable. And all I would say to that is I would think a larger tax base, with more people paying into it at a smaller rate, would be a more economical and more consistent stream of revenue for Nebraska. [LB406]

SENATOR HADLEY: We would work very hard to make this revenue neutral. This would not be a, for lack of a better term, a scheme just to raise taxes; it would be a fairness issue of trying to balance real estate... [LB406]

STEVE WELLMAN: Right. [LB406]

SENATOR HADLEY: ...property...or property, income tax, and sales tax. [LB406]

STEVE WELLMAN: Understood. [LB406]

SENATOR HADLEY: Senator Harr. [LB406]

SENATOR HARR: Thank you, Senator Hadley. I'm going to draw a hypothetical for you. You live in Syracuse, so you're very close to the border. If you rented your land out, you wouldn't have, if this bill passed... [LB406]

STEVE WELLMAN: Um-hum. [LB406]

SENATOR HARR: ...there would be no income tax, correct? On that... [LB406]

STEVE WELLMAN: Well, on LB406, if I would be incorporated, there... [LB406]

SENATOR HARR: Well, a small amount... [LB406]

STEVE WELLMAN: Right. [LB406]

SENATOR HARR: ...right? Yeah, sorry. [LB406]

STEVE WELLMAN: Okay. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HARR: So there would be a small amount. Now you get an Iowa farmer renting your property. They don't have to pay a sales tax if they buy everything over in Iowa. And they don't have to pay a use tax in Nebraska. Is that correct, as you understand it? [LB406]

STEVE WELLMAN: I am not sure what the situation... [LB406]

SENATOR HARR: Okay. [LB406]

STEVE WELLMAN: ...is for the use tax; sorry. [LB406]

SENATOR HARR: So we...let's just assume they don't have to pay a use tax, and they buy it over there and there's no sales tax on input. We're completely out all that money, then, aren't we, as a state? [LB406]

STEVE WELLMAN: Yes. [LB406]

SENATOR HARR: Okay. Thank you very much. [LB406]

SENATOR HADLEY: Any other questions? Thank you, sir; appreciate it. [LB406]

STEVE WELLMAN: Thank you. [LB406]

SENATOR HADLEY: We appreciate your coming in. Next. [LB406]

ROBERT J. HALLSTROM: (Exhibits 4-7) Senator Hadley, members of the committee, my name is Robert J. Hallstrom. I'm appearing before you today on behalf of the Nebraska Bankers Association. I've also submitted a letter on behalf of the Nebraska Pork Producers and the Nebraska Poultry Industries, and I also represent and have submitted written comments from the Nebraska Pharmacists Association and the National Federation of Independent Business, all of whom are opposed to LB406. I left early last night, so I get to submit that testimony on behalf of everyone. I would just note, in the interest of time, the bankers association has a position of opposition. We certainly would benefit directly from the changes with respect to the financial institutions franchise tax; we also would generally support the concepts of making material changes to the individual and corporate income tax. However, the calls that we've gotten from our members have expressed concerns that outweigh that, in terms of the impact on our borrowers and our customers, with regard to the repeal of the existing sales taxes. Much like Mr. Cederberg indicated in a couple respects, number one, we would think, with regard to the glitch that he described for the disparate treatment between C corporation banks and S corporation banks, that if something was to be done along the lines of LB406, we would want to make sure that that was addressed and taken care of so we had equal treatment for all banks, irrespective of their corporate structure. And

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

Revenue Committee
February 07, 2013

we also would pledge, from the bankers association and small business, to work with this committee or whatever format is put together, going forward, to try and look at material changes to improve and modernize the tax climate in Nebraska, as Governor Heineman has proposed. And we thank him for beginning the discussion. [LB406]

SENATOR HADLEY: Are there questions for Mr. Hallstrom? Thank you, Mr. Hallstrom. [LB406]

ROBERT J. HALLSTROM: Thank you. [LB406]

SENATOR HADLEY: Next opponent. [LB406]

GEORGE KUBAT: Mr. Chairman, members of the committee, George Kubat, K-u-b-a-t, appearing in opposition to LB406 on behalf of Phillips Manufacturing Company in Omaha, Nebraska. And before I begin with any testimony, I would like again to take the opportunity to thank all of the members on the committee. Yesterday was a very long day and very intense conversation. And I respect the questions, the time, the long night that was spent by this committee looking at a very, very difficult piece of legislation. And I'm sure you will come to the right conclusion on it. Now on LB406, why am I here today? At one point I wasn't planning to be here today. And as I've thought about it, I don't know that I'm as much in opposition to the bill itself as I am to the process at which these legislation, both LB405 and LB406, were arrived at. We heard a long rationale yesterday of why LB405 would be so good for the state. Today we heard nothing about LB406 other than it's intended to create a discussion. And I think that's great. We've heard it...Mr. Cederberg made a very strong presentation about what we need to do to arrive at what is the best, right, correct tax structure and policy in Nebraska. And that does not get figured out by having legislation in front of a committee, where people have to come in and say what their position is as to what's wrong with the legislation. And that's the position we've been forced in on both LB405 and LB406. Now why am I here today? Yesterday the Governor took the opportunity in relation to manufacturing, specifically singling out Lozier corporation, which is a very responsible, respected, strong manufacturing company in Omaha, Nebraska, a strong community citizen: why should they not have to pay sales tax on utilities, where others such as Runza, Union Bank, a listing that he had of businesses that have to pay sales tax? And my time here today is specifically to answer that question. Why don't manufacturing companies pay sales tax on utilities? Why don't they pay sales tax on molds and dies in Nebraska? It's because manufacturing in most states is treated in a respect of what they bring to the state. And manufacturers in most states are exporters of products: as I said yesterday about Phillips, that we do 50 percent of our manufacturing in 5 percent of our business. And from what I remember of Lozier, it was not all that dissimilar. We create jobs in the state, we bring materials into the state--God, a turnover tax would end that immediately--and we export product out of the state. So we are those who create an economy...help create an economy within a state. So why don't we pay sales tax on

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

Revenue Committee
February 07, 2013

utilities? Why don't we pay sales tax on molds and dies? Because other states do not tax and provide the same benefit. So it keeps us competitive, in Nebraska. There are only 13 states that tax utilities on manufacturing; there are only 11 states that tax molds and dies, sales tax on molds and dies. Of those states, there are only 6 that tax both. Now what should the policy be in Nebraska? I'm not going to tell you what the policy should be. You're asking a lot of good questions about what taxes, services, products, inputs, what should be taxed, what shouldn't be taxed. I'm simply here to answer the question that the Governor posed yesterday: why does manufacturing not pay sales tax? Ask the 38 states that don't charge it on utilities, ask the 40 states that don't charge it on molds and dies. There must be a reason. They want manufacturing in their states. Again, I'm not going to say I'm opposed to the legislation itself, although it appears to be very arbitrary in the way that taxes are being shipped from corporations to farms, manufacturing, hospitals. I'm opposed to the process as the way it was arrived at. I hope this bill will be killed and that it will lead to a discussion. End of my testimony. [LB406]

SENATOR HADLEY: Questions for Mr. Kubat? Thank you for coming down, sir. I appreciate it very much. [LB406]

GEORGE KUBAT: Thank you. [LB406]

SENATOR HADLEY: Next opponent. [LB406]

KATHY ENGLISH: (Exhibit 8) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Kathy English, K-a-t-h-y E-n-g-l-i-s-h. And I'm the executive vice president and chief operating officer at Children's Hospital and Medical Center in Omaha, Nebraska. First I want to thank you all for your dedication to the state. While we may not always be in agreement, we know that you're working for the best interests of Nebraska, as evidenced by these hearings yesterday and today. My testimony today is on behalf of Children's, Alegent Creighton Health, and Bryan Health, who make up the steering committee of the Friends of Nebraska Nonprofit Hospitals, and I'm here to offer our opposition to LB406. We do want to acknowledge that, thanks in large part to the policy decisions by the Legislature and leadership of Governor Heineman, Nebraska has outpaced the nation in terms of weathering one of the most difficult economic storms in our recent history. And for that we are grateful. However, after careful consideration, we cannot stand behind the Governor's most recent tax proposal, because it represents a tax shift and not a tax cut. The loss of sales tax exemptions, as provided in LB406, would prove detrimental to our patients, communities, industries, and economy. Allow me to share with you how LB406 would negatively impact hospitals and the patients that we serve. The liability of losing a tax exemption on the energy used to run lifesaving equipment and on other utilities would increase the cost to our facility by approximately 7 percent. This increase, coupled with a tax on medical equipment, both durable and nondurable, represents \$30 million of

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

Revenue Committee
February 07, 2013

new taxes for Alegent, Bryan, and Children's alone. At Children's we see thousands of patients with exceptionally complex medical cases, many of whom require not only care in the hospital but specialized care at home. And the medical equipment needed in those cases is more than Band-Aids and gauze. In the hospital, it's cardiac-bypass machines; it's ventilators; it's transport Isolettes. At home, it's specialized wheelchairs and IV pumps. And at such a critical time, the last thing families should face is one more barrier to prevent them from caring for an ill family member. With more of our population struggling to make ends meet, a family's ability to care for their sick loved one becomes an insurmountable challenge in light of the proposed tax. Since Children's opened its doors in the 1940s, we've grown to employ over 2,000 dedicated staff and have become nationally recognized as the best in many programs. We serve 350,000 patients a year, including children from every district in the state, as well as caring for children from around the country. Our mission, as well as those of other not-for-profit hospitals, positions us not only as a community resource but also as advocates for the patients and families we serve. Children's serves a disproportionate share of children from low-income families. Our percentage of Medicaid patients has grown steadily over the years, and this year it reached a high of 44 percent, and we expect to see that continue. So we pay close attention to tax proposals that would provide additional burden to these families. And that leads me to clarify a question that was asked yesterday about whether hospitals could pass along proposed taxes to Medicare and Medicaid. Scott Wooten (phonetic) explained to you last night that Medicaid pays a fixed amount for care. But not only do they pay a fixed amount, that amount, at Children's, is about 70 cents on every dollar of cost to take care of a patient. So adding additional taxes to the expense of care only increases the deficit between the cost that we incur to provide that care and the reimbursement we receive. So this would also occur in an environment where healthcare reform is asking us to accept decreased reimbursement and lower our costs. I also wanted to comment for a minute on the sales tax in the cafeterias. I understand the symbolism of that discussion, but I have to tell you that at Children's and also at Alegent Creighton Health we do charge non-patients that are employees and our visitors sales tax on their food in the cafeteria. So that one may bear some closer scrutiny. As business leaders, Nebraska's hospitals recognize the importance of implementing efficient business practices, employing incentives to recruit and retain a dynamic work force, and supporting our state and local tax bases through a competitive salary and benefits package. Not only are we caregivers to our patients, but we work to keep our communities strong and financially viable. We encourage the committee to consider the implications and the unintended effects that this bill would create. We wholeheartedly offer our time and our expertise to you as your discussions proceed on this critical issue. On behalf of Children's Hospital and Medical Center, Alegent Creighton Health, Bryan Health, and the Friends of Nebraska Nonprofit Hospitals, we respectfully request that the committee indefinitely postpone LB406. [LB406]

SENATOR HADLEY: Thank you, Ms. English. Are there questions? Senator Hansen.
[LB406]

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

Revenue Committee
February 07, 2013

SENATOR HANSEN: I have one. [LB406]

KATHY ENGLISH: Yes, sir. [LB406]

SENATOR HANSEN: Thank you for being here. I had a great tour of Children's Hospital last summer. [LB406]

KATHY ENGLISH: Wonderful. [LB406]

SENATOR HANSEN: I really appreciated that. I have one question, and it's recurring, too; I'm not exactly sure how this figure was arrived at. On your first bullet point on the second page... [LB406]

KATHY ENGLISH: Um-hum. [LB406]

SENATOR HANSEN: ...you say that the loss of tax exemption for energy would cost your facility approximately 7 percent. [LB406]

KATHY ENGLISH: Um-hum. [LB406]

SENATOR HANSEN: And why is that not 5.5 percent, or, like, the state sales tax rate, or does the city charge...? [LB406]

KATHY ENGLISH: I would have to go back and ask our finance department how those numbers were derived. [LB406]

SENATOR HANSEN: Okay. [LB406]

KATHY ENGLISH: And I would be happy to get that to you, though, Senator Hansen. [LB406]

SENATOR HANSEN: And it seemed like the energy taken...I mean, you're going to have an energy bill, for sure, but... [LB406]

KATHY ENGLISH: As I think more carefully about your question...no, let me go back... [LB406]

SENATOR HANSEN: Okay. [LB406]

KATHY ENGLISH: ...and make sure... [LB406]

SENATOR HANSEN: Thank you. [LB406]

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

Revenue Committee
February 07, 2013

KATHY ENGLISH: ...that I'm giving you accurate information. Thanks. [LB406]

SENATOR HANSEN: Thank you. [LB406]

SENATOR HADLEY: Okay. Any other questions? Senator Harr. [LB406]

KATHY ENGLISH: Yes, sir. [LB406]

SENATOR HARR: Thank you. And, just quickly, do you know what the sales tax rate is in Omaha? Is it 7 percent? [LB406]

KATHY ENGLISH: Is it 7 percent? I see heads nodding. [LB406]

SENATOR HARR: Okay. [LB406]

KATHY ENGLISH: It must be 7 percent. [LB406]

SENATOR HARR: So that's probably where that number came from. [LB406]

KATHY ENGLISH: That must be it. [LB406]

SENATOR HARR: Okay, thank you. [LB406]

SENATOR HADLEY: Okay. [LB406]

KATHY ENGLISH: Thank you. [LB406]

SENATOR HADLEY: Thank you, Ms. English. [LB406]

KATHY ENGLISH: Thank you. [LB406]

SENATOR HADLEY: Appreciate it. Next. [LB406]

CAROLYN ROOKER: (Exhibits 9 and 10) Good afternoon, Chairman Hadley and members of the Revenue Committee. I am Carolyn Rooker, C-a-r-o-l-y-n Rooker, R-o-o-k-e-r. And I am the executive director of Voices for Children in Nebraska. I'm here today because we are very concerned about what LB405 (sic) would do to low-income and middle-income hardworking families. I was encouraged to hear the tax commissioner mention that there was a bill drafting error in terms of this bill affecting EITC and low-income families. However, I think this conversation is worth having because I believe it would still be affected in LB405 (sic). So in 2007, as many of you know, Nebraska expanded the EITC to 10 percent of the federal EITC for low-income

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

Revenue Committee
February 07, 2013

and working families. These refundable credits help to offset some of the other taxes that families pay and help them meet some of their basic family needs. The federal credit was claimed on 132,185 income tax returns in 2010 and refunded approximately \$27 million to those taxpayers. Almost one in six income tax filers benefited from these targeted refunds. As part of my testimony today, I provided each of you a special gift, and that is how the EITC would affect those living in your districts. And I think that this is important information to know and to see because these are folks that are hardworking individuals that are living in your districts. They have your name on them; they were supposed to be in order, so, hopefully, you'll get them. [LB406]

SENATOR HADLEY: I may look like Hansen, but I'm a heck of a lot better looking than him. (Laughter) [LB406]

CAROLYN ROOKER: In order to receive the EITC, families must be working and earning wages to qualify. Most of the families claiming the EITC in Nebraska have adjusted gross incomes between \$10,000 and \$20,000 a year. A worker earning minimum wage would earn \$15,080 per year if they worked full time year-round. For families in this income range, every single penny counts and helps them meet their basic needs. Families use their EITC refund to cover essential needs such as gas, groceries, paying their utilities, so forth. The EITC is one of the most effective tools we have for reducing poverty, and especially among children. In Nebraska, the EITC kept 38,000 people, of which more than half were children, above the poverty line. Nationally, the EITC has kept 6 million, 3 million of whom were children, above the poverty line. We're equally concerned about what LB406 could potentially do to the childcare tax credit. In 2011, the refundable portion of the childcare tax credit returned \$6.8 million to 12,000 families making less than \$29,000 a year. This credit helps to offset the cost of childcare so families can work. In Nebraska, we value work, we are hardworking, and we want to have families working and have these tax...EITC and the child tax credit helps these families work and offset some of their expenses. Studies show that the impact of these tax credits for children and families are quite significant. An increase in family income from these credits increases student achievement in school as well as the child's future earnings as an adult. The investment we make in working families through the EITC and the child tax credit puts children on a solid path to a prosperous future for both themselves and for our future economy. We urge you to indefinitely postpone LB406, and instead let's, please, take a longer look and find ways to reform our tax policy that enhances the quality of life for Nebraska's low- and middle-income families. [LB406]

SENATOR HADLEY: Are there questions? Thank you so much. [LB406]

CAROLYN ROOKER: Thank you. [LB406]

SENATOR HADLEY: We appreciate your coming down. Next. [LB406]

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

Revenue Committee
February 07, 2013

MYLES RAMSEY: (Exhibit 11) Senator Hadley, members of the committee, my name is Myles Ramsey, M-y-l-e-s R-a-m-s-e-y. I am a fourth-generation farmer from Kenesaw, where I raise irrigated corn and soybeans. I'm also a member of the Nebraska Farm Bureau state board of directors, and I'm here today on behalf of the Farm Bureau to...in opposition to LB406. I'd like to reiterate that we appreciate Governor Heineman and Senator McCoy's efforts to start a statewide discussion on tax policy, growing the state's economy, and attracting business investment in Nebraska. However, the concerns that we expressed yesterday with LB405 also apply to LB406, as we believe it will hurt our state's largest and most vital industries, potentially even causing some to leave the state, cancel or indefinitely postpone new investment, or shed employees. Thus, our members strongly believe that it is best to indefinitely postpone the bill and focus on other means of tax relief and economic growth. [LB406]

_____: Whoa. [LB406]

_____: Whoa. [LB406]

_____: (Inaudible) [LB406]

SENATOR HADLEY: Yep, I'm okay. [LB406]

_____: Good. [LB406]

SENATOR SULLIVAN: I knew somebody was going to do that. [LB406]

SENATOR HADLEY: Got a cord. Sorry. [LB406]

MYLES RAMSEY: We don't have insurance. (Laughter) [LB406]

SENATOR SULLIVAN: I knew that somebody was going to trip on that cord because I saw that when we walked in. [LB406]

SENATOR HANSEN: What's this gentleman's name? [LB406]

MYLES RAMSEY: Similar to our testimony offered on LB405 yesterday, the provisions of most concern to Nebraska farmers and ranchers found in this bill are the removal of the sales tax exemptions for the purposes of inputs used to produce crops and raise livestock. The fact that the sales tax exemption for ag machinery and equipment would not be removed by this bill does little to relieve our concerns, given that the core inputs of ag production are still targeted for this taxation. These include seeds, chemicals and fertilizers, and energy and fuels used in farm and ranch operations. Furthermore, unlike the purchase of a new tractor or center pivot, these input costs must be paid every year.

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

Revenue Committee
February 07, 2013

They are an annual cost for farms and so, too, would be a sales tax placed upon them. In total, the estimates suggest removal of these exemptions would result in roughly \$211 million in additional costs of production due to this sales tax, of which my costs...if this tax was in effect last year, my costs would have been slightly over \$40,000 in these taxes. Because of the lateness of the hearing yesterday, we were unable to share with you the results of a study indicating the economic costs of this magnitude of tax increase on Nebraska agriculture. Nebraska Farm Bureau asked the economic analysis firm in Des Moines, Iowa, to analyze the input...impacts to the state's economy of the tax changes on agriculture contemplated in LB405 using an IMPLAN model. The study found a net tax increase on agriculture of \$217 million would result in a loss of 1,521 jobs and a loss in total economic output of \$170.7 million. Increased taxes on farmers and ranchers mean they would have fewer resources with which to purchase required inputs and invest in new equipment and technology. This would result in fewer purchases of supplies and equipment from businesses who supply production agriculture, meaning less income for these industries. We believe the analysis demonstrates the economic risks of LB406 and LB405. Agriculture remains one of the most, if not the most, vital industries to the health and consistency of this state's economy. While the prices of commodities may be high at this point in time, the cost of inputs for ag operations has risen as well. One difference in today's agriculture is the volatility from year to year in which farmers and ranchers must operate and the significantly increased dollars flowing through a farm or ranch operation. As an example of the volatility, just last spring many people were forecasting corn at \$4.00 per bushel, given the number of acres planted. Then the drought hit, production plummeted, and prices took off. The imposition of additional sales tax on farmers and ranchers would further narrow margins and, with the increased volatility and dollars involved today, would further compromise farmers' ability to stay afloat. Moreover, by raising costs, it would further raise the barriers to entry for beginning farmers. Particularly troubling for us is that over 50 percent of the value of the sales tax exemptions being targeted in LB406 directly hit agriculture. In effect, this shifts the majority of the offset, due to the state's loss in revenue, from the income tax for retirement income to the 45,000 or so farmers and ranchers in Nebraska who derive their living income from their operations. We do not believe that this is an equitable approach to tax reform. Finally, as we testified yesterday, the tax increase would be on top of the roughly 70 percent increase in property taxes that owners of agricultural and horticultural land have experienced since 2006. Nebraska farmers and ranchers paid nearly...it should be \$930 million. It says \$970 (million) but that should be \$930 (million) in property taxes in 2012. In the tax rankings released by the Tax Foundation, Nebraska's worst ranking came in property taxes, where it ranked 38th. We reiterate that a serious discussion on tax reform in Nebraska must include property taxes and the role the state has to play in regarding them. In conclusion, Nebraska Farm Bureau feels that this bill would result in a net loss to Nebraska farmers and ranchers and, therefore, we strongly oppose the bill and would ask the committee to indefinitely postpone it. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HANSEN: Thank you, Mr. Ramsey. In the absence of the Chairman and the Vice Chairman, Chairman Hadley has asked me to take over for a minute. So does anyone have any questions of Mr. Ramsey? Seeing none, thank you. [LB406]

MYLES RAMSEY: Thank you. [LB406]

SENATOR HANSEN: Next testifier. Oh, sorry that we didn't get much done while he was gone, but he's back, so. (Laughter) [LB406]

SENATOR HADLEY: The doctor of the day replaced my knee, so I'm in good shape now. (Laughter) I've been waiting for that for years. (Laughter) Thank you. I apologize for...that isn't as bad as...I fell on the ice the other day. This was nothing. (Laughter) [LB406]

ROGER FURRER: Well, I'm...yeah. [LB406]

SENATOR PIRSCH: You'll do anything for attention, won't you, Chairman Hadley? [LB406]

ROGER FURRER: (Exhibit 12) I'm glad there was nothing more damaged than your pride. (Laughter) Good afternoon, ladies and gentlemen. My name is Roger Furrer. I'm the executive director of Community Action of Nebraska. My agency represents the nine Community Action agencies serving all 93 counties in our state. [LB406]

SENATOR HADLEY: Would you spell your last name, sir? [LB406]

ROGER FURRER: Thank you. [LB406]

SENATOR HADLEY: No problem. [LB406]

ROGER FURRER: First name is Roger, R-o-g-e-r, last name Furrer, F-u-r-r-e-r. On an average year our agencies serve about 128,000 Nebraskans, low-income individuals that receive early childhood care, senior services, emergency food and shelter, and employment and life skills. We just recently released a study that we conducted last summer. We surveyed 10,000 Nebraskans on employment and employment training needs. Part of that survey revealed that approximately one in five...it was 18 percent. But one in five Nebraskans are struggling to meet their needs even though they are working. Of all employed respondents, 48 percent of those low-income individuals worked 40 to 49 hours a week. Of those, 24 percent worked over 50 hours a week. This jibes with the U.S. Census data that states that about 70 percent of low-income Nebraskans are working at least full time. So our concern here is that there's...even though we have a very low unemployment rate, we have a very serious underemployment rate in this state, and that leads us to our opposition of both LB405

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

Revenue Committee
February 07, 2013

and LB406. We see these attempts to reduce or eliminate the income tax and increase sales tax as a regressive form of taxation that will mean that families who are struggling to meet and struggling to get their needs met, they will have to pay a greater percentage of their income in taxes, and we do not feel that that is necessarily fair. We also share Voices for Children's concerns about preserving the EITC tax. In summary, since we're running long, Nebraskans are hardworking and caring people. They go out of their way to take care of their neighbors. That's just what we do. Our tax policy should reflect those values, one that rewards hard work rather than adding burdens to it. Thank you. If there are any questions... [LB406]

SENATOR HADLEY: Questions for Mr. Furrer? Thank you, sir. Next opponent. [LB406]

LAURA KAPUSTKA: Good afternoon, Chairman Hadley and other members of the Revenue Committee. My name is Laura Kapustka. That is spelled L-a-u-r-a K-a-p-u-s-t-k-a. I am the chief financial officer at Lincoln Electric System, and I am here today testifying on behalf of the Nebraska Power Association in opposition to LB406. The NPA is a voluntary organization representing all segments of Nebraska's power industry--municipalities, public power districts, irrigation districts, and cooperatives--which are engaged in the generation, transmission, or distribution of electricity within our state. Nebraska is the only state in the United States where every home and business is served by a publicly controlled utility. Publicly owned utilities exist to serve customers. There are no stockholders, thus, there is no profit motive. Public power electric prices do not include a profit. Nebraska utilities focus exclusively on keeping rates low and customer service high. Nebraska utilities currently do not pay sales tax on fuel they purchase and use in generation when more than 50 percent of the fuel purchased is used directly in the generation of electricity. The NPA is opposed to the elimination of this exemption, which is currently provided for in 77-2704.13 and which is eliminated in LB406. Elimination of this exemption will cause a double taxation on fuel. Under LB406 a tax will be assessed on fuel purchased and used in generation. A second taxation of this fuel will occur when the final product, electricity, is sold to the end consumer. Loss of this tax exemption will create a direct and immediate rate increase to utility customers. The loss of this exemption will erode our competitive positioning, especially as compared to the majority of other states in the region that continue to have exemption on fuel used in generation. Nebraska utilities have one source of revenue, and it is from the individuals and businesses in the state that purchase energy. Utilities will be unable to absorb this additional cost, and the loss of this exemption will result in a direct and immediate rate increase to customers. The range of the impact is from less than 1 percent to over 1.5 percent. Many businesses and farms in Nebraska are significant electricity consumers. The increased cost of electricity will be passed on to them by their utility as a result of LB406 and will directly increase the cost of their end product, putting them at a competitive disadvantage. In addition to paying tax on the fuel used to make the electricity, under LB406, the sales tax exemption on electricity consumed in agricultural processing and manufacturing will

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

Revenue Committee
February 07, 2013

be eliminated. This is a substantial cost increase for these customers, many of whom are very large consumers of electricity. The products they manufacture are then taxed at the time of sale, which results in a triple tax. The loss of both exemptions translates to average rate increases to individual customers which range from 4 to 9 percent. Currently, many businesses and consumers are implementing processes and equipment to decrease the amount of energy they consume in an effort to lower their costs. Although this is not currently a significant reduction, to the extent this trend continues, the reliability of the revenue stream from sales tax and fuel will continue to erode. While there have been and will be many testimonies opposing the taxation of inputs to business, the NPA believes that the exemption on fuel should not be eliminated as it results in double taxation, which is not a good policy. In summary, while we appreciate the Governor's initiative to look at the tax policies of our state, the NPA believes that the net impact of double taxation on fuel will work against this intended goal. Thank you for the opportunity to share our concerns, and I would be happy to answer any questions. [LB406]

SENATOR HADLEY: Are there questions? Yes, Senator Pirsch. [LB406]

LAURA KAPUSTKA: Um-hum. [LB406]

SENATOR PIRSCH: Thank you. Thank you very much for your testimony here today. And so mentioned that it's repealed, I think, in page 15 and 16 of the green copy. But do you know how much, in the aggregate, that your particular exemption repeal would...amounts to, in terms of dollars? [LB406]

LAURA KAPUSTKA: Speaking on behalf of all the NPA, I would not have that number right now. [LB406]

SENATOR PIRSCH: Sure. [LB406]

LAURA KAPUSTKA: But I could get that for you if you would like. [LB406]

SENATOR PIRSCH: Okay, I was just wondering. If you'd like to...thank you very much. [LB406]

LAURA KAPUSTKA: Yeah, I can get that for you. [LB406]

SENATOR SULLIVAN: Senator. [LB406]

SENATOR HADLEY: Any other...oh, Senator Sullivan. [LB406]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you for your remarks. You mentioned double taxation several times, but once you said triple taxation. In what

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

Revenue Committee
February 07, 2013

circumstances was that? [LB406]

LAURA KAPUSTKA: The fuel used in the generation of electricity would be the first time,... [LB406]

SENATOR SULLIVAN: Um-hum. [LB406]

LAURA KAPUSTKA: ...then the second time when we tax the customer for that, and then the third time when their eventual product is sold. [LB406]

SENATOR SULLIVAN: Oh, okay. All right, thank you. [LB406]

LAURA KAPUSTKA: Um-hum. [LB406]

SENATOR HADLEY: Thank you. [LB406]

LAURA KAPUSTKA: Um-hum. [LB406]

SENATOR HADLEY: Next. [LB406]

BRUCE RIEKER: (Exhibit 13) Good afternoon, Senator Hadley, members of the committee. My name is Bruce Rieker. It's B-r-u-c-e R-i-e-k-e-r. I'm vice president of advocacy for the Nebraska Hospital Association, here testifying on behalf of the association and the 89 hospitals that we represent. Before I get into the substance of my testimony for today, I owe you and the committee an apology because I misunderstood the question you asked me last night, Senator, about sales taxes in the cafeteria. I was focused on the patient. But as far as the guest to a hospital or anyone that...employees or anyone else, they do pay sales tax on their coffee, their meals, things like that. And I have a receipt from BryanLGH in my car from this morning that can prove that because I paid that tax too. (Laughter) [LB406]

SENATOR HADLEY: Okay, okay. [LB406]

BRUCE RIEKER: So my apologies, but I was...that was brought to my attention before I even left the hearing room last night, and so I wanted to make sure that...got that straight. [LB406]

SENATOR HADLEY: No problem, Mr. Rieker. [LB406]

BRUCE RIEKER: We're here testifying in opposition to LB406 and we urge you, the committee, to indefinitely postpone it. My comments will be very brief here. The NHA supports economic development and appreciates the idea of reducing or eliminating taxes but not at the expense of business, agriculture, or healthcare. The NHA supports

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

Revenue Committee
February 07, 2013

efforts to draw outside dollars into the state, which would boost our economy, rather than shifting the tax burden from one Nebraska taxpayer to another. LB406 is not the proper launching pad. It is our contention that, if there's a proper launching pad before the committee right now, it would be LB613, the Tax Modernization Commission (sic), that would bring an open, transparent process, bringing stakeholders to the table, where we could have a much more thoughtful and deliberate conversation, examination of these issues, before they would get to a point like this. I also want to bring to your attention--and this is in my testimony--that a lot has been made about the Tax Foundation and their rankings. But let me share with you from a report of theirs with regard to taxation of hospitals. This was in 2010. It says, the taxation of hospitals will drive up the cost of healthcare. In a report, "States Should Avoid Sales Taxes on Nonprofit Hospitals," the Washington, D.C., based Tax Foundation concluded: Ideally, a sales tax should be levied on all goods and services sold at retail, and to prevent distortions and hidden taxes, it should be levied only once on each good or service sold at retail. In addition, the study pointed out that, as imposing a sales tax on manufacturing inputs leads to hidden taxes and pyramiding on retail consumers, so, too, does imposing a sales tax on hospital purchases lead to hidden taxes and pyramiding on patients. So, in conclusion, we are here in opposition to LB406 and ask that the committee indefinitely postpone it. [LB406]

SENATOR HADLEY: Questions for Mr. Rieker? Seeing none, thank you, sir. [LB406]

BRUCE RIEKER: (Exhibits 14 and 15) Oh, I'm once again...like last night, I'm also submitting testimony on behalf of the Nebraska Restaurant Association and the Nebraska Retail Federation in opposition. [LB406]

SENATOR HADLEY: Thank you. Further in opposition. [LB406]

TIM KELLIHER: Members of the Revenue Committee, my name is Tim Kelliher. That's T-i-m K-e-l-l-i-h-e-r. I'm a farm producer from Kearney, Nebraska, where I live with my wife, Tiffany, and our two children. Lest you think that I have come on my own self...out of my own self-interest, I will disclose what I would rather not, that 2011 was my 18th year of farming and, while my wife and I paid to the state of Nebraska \$19,124 in income tax last year, I'm not here to ask you to change that. My taxes, in fact, will probably go down if LB405 passes. I have the ability to use animal manure for fertilizer, ability to purchase seed in Kansas, where I also have one piece of ground. And recent equipment purchases can be purchased elsewhere, and recent purchases can last me for a number of years without more purchases. The reason LB405 has brought me here is due to the negative economic consequences, injustice, and inequities that I see should this bill pass. Ross Perot was famous for his prediction that NAFTA would produce a giant sucking sound of jobs headed out of this country. As I drove 120 miles here today, to the State Capitol, for the first time in my life, in my Dodge truck, which is now made in Mexico and owned by Fiat, I came to warn you that Nebraska will hear the

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

Revenue Committee
February 07, 2013

same sucking sound of agricultural industry leaving across our state borders. Fertilizer, seed, and equipment will be bought in neighboring states whose Legislatures have not forgotten that it is profit that allows for payment of taxes and not gross expenses. LB405 will kill the goose that lays Nebraska's golden egg. This brings me to my second point of the injustice caused by LB405. Although 2012 will be my most profitable year in farming to date, my brother, who farms similar acres and similar crops, faced challenges that caused him not to make a profit this year. We used similar amounts of seed and fertilizer, both inputs and energy--excuse me--both inputs which would be subject to tax, regardless of profit, under LB405 and LB406. Excuse me. I wrote this testimony for LB405 and I mean...it is my intention for it to apply LB405 and LB406. I have the funds with which to pay my income taxes, while people who suffered loss in this drought and made not a penny could have a higher tax burden than I under this bill. I know how hard I struggled the first ten years I farmed, with several years of losses. We should not shift the tax burden further onto the backs of the next generation of beginning farmers who will face taxes on gross expenses, regardless of whether they make a profit or not. Lastly, I would like to point out the great inequity brought about by LB405 and LB406. LB405 taxes certain gross expenses on farmers and manufacturers, regardless of income, while not taxing other industries, such as a car dealer who has...who purchases in his inventory for further resale is not subject to the expenses in his business. A future professional may invest \$200,000 at a university with borrowed funds to obtain necessary credentials to perform his future job as a surgeon, no different than a beginning farmer may borrow \$200,000 to purchase machinery to perform his job, prior to having an income. But, yet, the farmer would be subject to sales taxes, and tuition is not subject to sales taxes. I'm not here to advocate that automobile dealers should pay sales taxes on the trucks they buy for sale, and I'm not here to advocate that we tax tuition. But I am here to point out the inequity of taxing farmers and no one else. LB405 and LB406 does not eliminate special tax exemptions but just targets agriculture and manufacturing in its levy of a tax on certain gross expenses instead of profit. While economic activity, which requires labor and employment, will be discouraged with tax burdens, even when no income is realized, those who live comfortably through investment, generate no economic activity for the state of Nebraska, and employ no one will be rewarded and will be asked to be...asked to contribute nothing, even if millions of dollars of income are realized. The economic activities targeted and discouraged by LB405 and LB406 are the economic activities which have allowed the state of Nebraska to weather the latest economic storm better than nearly any state in the nation. I ask that you kill LB405 and LB406 and give reprieve to the goose that lays Nebraska's golden egg. I would like to add a few items from the prior testimony and point out that...well, you had asked the question, Senator Hadley, about sales tax on realty or how to generate revenue equitably. And I can think of no greater equitable tax than the income tax which we are trying to replace. And I've never made a trip to the Capitol to try and eliminate the income tax. And I have the ability to pay that income tax. But if I were faced with a year where I did not make a profit, to go further into debt and to have to borrow to pay taxes on inputs, which no retail, such as the Buckle, they do not have

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

Revenue Committee
February 07, 2013

to pay sales tax on all those purchases of clothes that they bring into the Kearney warehouse. And I would just ask that you put yourself in the shoes of a farmer and ask, is it fair to tax tuition to someone who doesn't have an income or to a car dealer who hasn't made a profit yet? So I respectfully ask that you reconsider and kill LB405 and LB406. [LB406]

SENATOR HADLEY: Thank you, Mr. Kelliher. Are there questions? Thank you for coming in from Kearney, appreciate it very much. [LB406]

TIM KELLIHER: Thank you. [LB406]

SENATOR HADLEY: Are there other opponents? [LB406]

JOHN HANSEN: Chairman Hadley, members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and appear today as also our president and lobbyist. As we have been talking about things, I thought, perhaps I ought to back up a bit and explain a little bit about who we are and how we get engaged in tax policies and public policies and all of these things. Next year we'll...Nebraska Farmers Union will celebrate 100 years of being in business. We're the second-largest general farm organization in the state. We have about 6,200 farm and ranch families. We also have a lot of members of the rural community, a lot of associate members who are in the business community, whose service we have always viewed our obligation is not only to our members but to the communities in which we live. It's a partnership and it's all about improving our economic well-being and our quality of life together. And we have prided ourselves, in all of those 99 years, of never asking for things for ourselves that we wouldn't want for our neighbors. It's not a game, in terms of public policy, of achieving some sort of advantage for yourself at the expense of not paying your fair share of the load. So when my organization, as I briefly explained last night, came down very solidly at our state convention in opposition to getting rid of the income tax, it was not because we're trying to get out of paying our fair share of taxes or that we don't believe that we ought to. We believe that it's important that we all pay our fair share of the costs of governmental services for ourselves and our neighbors and that, in that process, agriculture is...I have learned by being in production agriculture myself and also having been in the ag supply business while I was doing that...I'm a recovering ag chemical, ag fertilizer, seed corn, crop insurance, purebred cattle breeder, commercial cattle breeder, hog, dairy, and, I very cautiously admit, goats business. And I look at all of these business enterprises that I'm involved in and all the people that I've done financial counseling with down through the years to fill out forms, all of my customers. We carried a significant number of folks as customers in our ag supply business that the bank would not carry. And so I'm...I've spent a lot of time with cash flows both myself but also with others. I also continue to have my own land and my own family's land that I manage. And so I've been doing cash flows lately. I would also point out to the committee that Gale Lush,

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

Revenue Committee
February 07, 2013

who offered his cash flow numbers last night, that the cash market price that he expects next fall, based as of today, would be about \$1.25 below his projected cost of production. And so we are an industry that operates on margins and the thinnest of margins. A little bit here or there makes all the difference between whether you break even, you cover your bills, and whether you have enough to feed your family and move forward. Ag is an industry that we don't get a wage. We live off of depreciation. (Laugh) And I see the banker in the committee smiling. I've lived off a lot of depreciation, unfortunately, going through the '80s. And as we look at what it takes to be able to survive, when is the appropriate time for us to be able to pay our fair share of the tax load? It seems to us that it's a good idea to tie into that revenue stream after the investment has been made, after the risk has been taken, after the product has been produced, after it's sold, and there's a profit. If there is a profit, we can afford to pay our fair share of the taxes. The reason that ag gets so...is so unified in opposition to these two proposals is that, at a time of increased, enormous volatility at the state and the national levels, in terms of the weather, in terms of the climate, in terms of...we have never had a Congress that didn't pass a continuing, permanent farm bill since 1933. That's 80 years that we have never had that happen before. That's why I'm going back to Washington next week is to try to figure out how do we get something in place. We have a tax on our crop insurance. We have tax on farm programs. The recent, temporary, mangled, partial extension that we got didn't give USDA the tools to help us deal with livestock disaster assistance for our livestock producers who are struggling with the worst drought in 50 years. The amount of uncertainty and volatility that we're facing is unprecedented as we go into the future. So when we load up ag with higher fixed operating costs, those margins disappear. And so the last time that...and I've been either a local government, local public official, or the president of a farm organization since 1974. So during that time we've done a lot of different things on taxes. But I do remember the discussion that we had, as I served on Governor Nelson's property tax review committee in the early '90s, is we talked about the business of...as we looked at different kinds of tax loads and different kinds of things, to be very careful of both manufacturing and ag because when you put taxes on...especially components and those things, that ag, in particular, really, along with manufacturing, to a significant degree, is at the bottom of an economic slope. And you have the snowball effect--we're calling it pyramiding now, but we called it snowballing--so that ag, all of the input sectors who got those additional costs, added those on, and not the incremental added costs but the entire load...and if they had the ability to pass it on, they did, and they passed it on to the next and then the next and the next. And at the bottom of the economic slope was the farmer who paid the grand total for all of those accumulated, snowball tax increases. So we, as a business, are significantly unique and different from other kinds of businesses in this key respect, and that is that we are price takers. We do not have the ability to pass costs on, and that our entire load is absorbed...in a lot of cases, the margins are so thin we simply are not able to be able to absorb that kind of load. And so with that, I would close and not only thank the committee, but thank my friends, Rick (sic) Ewald and Governor Heineman, for being here today. And I would suggest that

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

Revenue Committee
February 07, 2013

there are better ways to go forward with a process that gets at the facts, the information, that does the counseling, that does the consults, that does the consideration, and does the comparison to other places to find out what works and what doesn't. But as we all want to do better, as I travel and work with folks from other states, Nebraska has an awful lot of good things going for it. And we didn't get to be the fourth-largest ag producing state in the nation and the second leading ethanol producing state in the nation by accident. We're doing an awful lot of things right, and we want to be careful that we don't deconstruct that which is already working. Thank you. [LB406]

SENATOR HADLEY: Thank you, Mr. Hansen. Questions? Senator Sullivan. [LB406]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, John. You mentioned this...was it the property tax review committee that was under Governor Nelson's leadership? Can you tell me a little bit about how that was structured and what the end result was? [LB406]

JOHN HANSEN: The committee, I think, operated for around 18 months, which seemed, at the time, closer to 18 years. And we met on a regular basis, we had a wide diversity of stakeholders, and we discussed property taxes. And of course, all taxes are connected to all other taxes, so once you start down one trail, it leads to all of the others. And so we had a pretty far-ranging discussion on all of the different kinds of things that we might be able to do to develop a more balanced and fair state tax policy that had buy-in. And then, as now, as we reviewed the data ourselves at that time and then also looked at all the previous data, the obvious was that Nebraska had altogether too much reliance on property taxes and that one of the inequities in property tax as a tax source is that there is a very significant difference in the amount of earned income behind different kinds of property. So there was a significantly different income stream behind the person who bought a million dollar house in town as opposed to a farmer who bought a million dollars' worth of land and the amount of disposable income that they had to be able to support that property ownership. And so the preponderance of the use of property taxes to pay for K-12 education was the focus of a lot of the discussion. We needed to get, by our own operating rules, a two-thirds majority in order to be able to offer a clear recommendation to the Legislature and the Governor. And we were one vote short of two-thirds in order to, at that time, as I remember it, to raise the state's income and sales share of funding K-12 education to 55 percent. And so we sort of fell apart at that point, and that was where the majority of the committee wanted to go. We couldn't get to two-thirds, and so there may have...I'm maybe being unkind to the committee. There may have been other things that we did recommend, and I suspect we did, but that seemed to be kind of the focus at that time. And we didn't get there, and so we had to kind of agree to disagree. [LB406]

SENATOR SULLIVAN: Thank you. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HADLEY: Thank you. Seeing no other questions, thank you, Mr. Hansen.
[LB406]

JOHN HANSEN: Thank you. [LB406]

SENATOR HADLEY: Next opponent. [LB406]

CASSY FOGALE: (Exhibit 16) Good afternoon. My name is Cassy Fogale, C-a-s-s-y, Fogale, F-o-g-a-l-e. I'm here on behalf of the Nebraska Association of Public Employees, AFSCME Local 61, the recognized, collective bargaining unit for the over 10,000 employees, to express our opposition to LB406. LB406 fundamentally will do three things: LB406 shifts the tax burden onto working Nebraskans, increasing their taxes; LB406 will place significant pressure on state budgets, jeopardizing core services that working Nebraskans desperately need; and LB406 would be devastating for public employees, as cuts to services translate into job losses. LB406 is a tax shift and will increase taxes for everyday Nebraskans. Shifting corporations away from paying their fair share will move more of the responsibility onto lower- and middle-class Nebraskans. Eliminating the corporate income tax and earned-income tax credit while replacing this revenue will through sales tax will increase taxes on the middle class and make it harder for working families to meet their basic needs. LB406 will significantly...will place significant pressure on state budgets. We need to look no further than Kansas to see how this worked recently. Kansas recently passed a similar tax measure and is now facing a projected \$4.2 billion budget deficit over the next five years. This required Kansas to dramatically cut funding for public education and other critical services. Nebraska cannot afford to make this same mistake. Nebraska already is facing shortfalls in key areas. For example, LB406 would jeopardize as much as 30 percent of the Department of Correctional Services' budget, roughly the cost of incarcerating more than 9,300 inmates. The department is already facing 95 percent of inmate capacity but is just 70 percent of staffing capacity, and a funding shortfall already exists of at least \$31 million. As scarcity for money looms, larger in the event LB406 were passed, cuts for children's services, like child welfare and Medicaid, or public school funding or many other key, related services would be inevitable. LB406 will result in job losses. Since Governor Heineman took office, we have seen a steady decline in the number of state employees, a reduction in staff of over 1,800. If LB406 were to pass, this trend would only escalate. The cuts to services mentioned above, along with others, would force state employees to do more with less and ultimately require that state employees be laid off and lose their jobs. Nebraska cannot afford the risky venture that LB406 clearly is. When we shift taxes onto working Nebraskan families at the expense of the wealthy, we force Nebraska families to unfairly do more with less. When we reduce our investment in what creates jobs and builds a strong economy, like public education, public service, and infrastructure, we hamper Nebraskans' ability to prepare for and succeed in the future. We must always be diligent about how we examine state revenue and spending to ensure we are using tax dollars efficiently and strategically. This will

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

Revenue Committee
February 07, 2013

help promote a prosperous Nebraska now and in the future. LB406 does not do this. LB406 will not work. It's bad policy. Thank you. [LB406]

SENATOR HADLEY: I...Ms. Fogale, could you help me...how LB406 could jeopardize 30 percent of the Corrections budget? [LB406]

CASSY FOGALE: This was written more for LB405. About 30 percent of Department of Corrections' budget comes directly from the General Revenue Fund; and if the General Revenue Fund is reduced, that's going to dramatically reduce what we can put towards the Department of Corrections. [LB406]

SENATOR HADLEY: But I think the goal in these bills is to be revenue neutral. [LB406]

CASSY FOGALE: I don't...I disagree, and so does our organization, that this bill would be revenue neutral. [LB406]

SENATOR HADLEY: Okay. The second thing is I would think there might be people in the state that says a decline of state employees probably isn't all bad, as we see...across the nation we see all kinds of people, all kinds of firms who are shrinking their work force. [LB406]

CASSY FOGALE: If we're anticipating that this bill would grow our population here in Nebraska, we're going to need more state employees to do those key services--public education, our roads, infrastructure, simple things, the DMV. [LB406]

SENATOR HADLEY: But you say that we've had a decline of 1,800. [LB406]

CASSY FOGALE: We have. [LB406]

SENATOR HADLEY: And if this were to pass, this trend would escalate. So help me. Why would the trend escalate like... [LB406]

CASSY FOGALE: Because right now what we're doing is we're choosing to move away from state services. And I believe that if we're underfunding those budgets, particularly HHS and Department of Corrections, we're moving away from funding those budgets, that means less people able to do the job. [LB406]

SENATOR HADLEY: Well, I'll just...I just have to say there's some real jumps in logic. Any other questions? Thank you. [LB406]

CASSY FOGALE: Thank you. [LB406]

SENATOR HADLEY: Next opponent. [LB406]

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

Revenue Committee
February 07, 2013

REBECCA GOULD: (Exhibits 17-19) Good afternoon, Chairman Hadley, members of the committee. My name is Becky Gould, B-e-c-k-y G-o-u-l-d. I'm the executive director with Nebraska Appleseed. I am submitting testimony on behalf of the Nonprofit Association of the Midlands and the Center for Rural Affairs in opposition to this bill and then testifying on behalf of Nebraska Appleseed. We're here to oppose LB406 for many of the same reasons that we testified yesterday in opposition to LB405. So I won't go into a lot of detail other than to say that we feel that LB406 is, in essence, a tax shift that's going to make it harder for low-income, working Nebraskans to move forward. And what I do want to say just a bit more about though is some of the conversation about process that the committee has had this afternoon. And while we believe that LB406 is not the right policy for Nebraska, we recognize the need for review of the current tax structure. Such a review should occur prior to major changes in our tax structure. It should also be based on some simple principles. It should ensure that our revenue system is able to support the very systems and structures that make our communities, our state, and our economy strong. And it should ensure that the system for raising adequate revenue is logical and balanced, asking all Nebraskans to share the load. Such a deliberate examination of our tax system can help to avoid any unintended or, in the case of LB406, predictable, negative consequences for individual Nebraskans and the state as a whole. As a result, we support the commission that's proposed by Senator Schumacher's LB613 and urge the committee to focus its energy on a process to examine the best way to reform our tax code in Nebraska. In short, we're concerned LB406 is risky and unnecessary strategy that puts our good life at risk, and we urge the committee not to advance LB406. I'd be happy to take any questions. [LB406]

SENATOR HADLEY: Questions for Ms. Gould? Seeing none, thank you. [LB406]

REBECCA GOULD: Thank you. [LB406]

SENATOR HADLEY: Next opponent. Could I see a show of hands of how many more we have? If you want to move up to the front seats here, please, if you plan to speak in opposition. Yes. [LB406]

SCOTT MERRITT: Good afternoon, Mr. Chairman, members of the Revenue Committee. My name is Scott Merritt. I serve as executive director of Nebraska Corn Growers Association, S-c-o-r-n G-r-o-w-e-r-s A-s-s-o-c-i-a-t-i-o-n. The Nebraska Corn Growers Association opposes LB406. While we believe there should be a comprehensive review and debate of Nebraska's tax policy, LB406 does not do that. Rather, it creates a dynamic shift in the structure of our state's tax policy that would potentially cause a devastating harm to many industries, including agriculture, in this state. Agriculture, along with its related industries, is the economic driver in Nebraska and, yet, is one of the highest-taxed businesses in the state. Farmers and ranchers of this great state already pay a majority

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

Revenue Committee
February 07, 2013

of the property taxes and support school districts and local government bodies as well as paying sales, income, and real estate taxes. Nebraska has been able to weather the current national recession better than many states. With our balanced tax structure and stable agricultural sector, it has made us a shining example in a very dim economic environment. This is partially accomplished with a tax system that includes a regressive sales tax and a progressive income tax. This bill would be a dagger into the heart of this current system. A fundamental issue of taxing inputs and taxing the final product will be the...it will result in higher prices for the end consumer as the manufacturer has to build this into their sales and into the final price. This only harms the end consumer. Production agriculture generally does not get to set the prices they receive for their products they produce. Because of this, agriculture cannot build the higher cost of production into what it receives. Implementing...the higher implement and a pyramid tax system into crop production will need to be absorbed by the Nebraska farmer. This will only decrease the spending power of the farmers and ranchers and, thus, hurt the economy of the state, especially in rural areas which already struggle to keep businesses in their small towns. As input costs rise, farmers will adjust their input needs downward to maintain profit. The result will be limiting local purchases and the unintentional consequences of border bleed scenario for agricultural inputs. While the Nebraska Corn Growers Association thinks there needs to be a comprehensive review of tax policy in this state, we would urge the committee to kill LB406. [LB406]

SENATOR HADLEY: Okay, are there questions for Mr. Merritt? Seeing none, thank you. [LB406]

SCOTT MERRITT: Thank you. [LB406]

SENATOR HADLEY: Appreciate it. Next opponent. [LB406]

DAVID GRIMES: I'm David Grimes, D-a-v-i-d, Grimes, G-r-i-m-e-s. I farm, with the help of my family, in Lancaster County. I'm a member of several farm organizations, the president of the local school board, treasurer of the local fire board, but I'm just here representing myself. And I need to be brief because several of the previous speakers have expressed some of my thoughts, and I need to get home and prepare my financial reports for my fire board meeting tonight. (Laugh) As I thought about coming here while I was cutting and splitting firewood yesterday afternoon, I thought of four things that kept going through my mind. The one thing is that we need to consider property taxes more in talking about our whole system of taxation in the state of Nebraska and in changing things. The second thought I had was that, generally, we should...our taxes should not be a disincentive or a penalty to being productive and producing income, which then gets multiplied through our economy. Ideally, if we could, we should just tax consumption or things that are more in excess of what might need it. Third thought: We need to consider the side effects of what we change. One of the previous speakers said, well, I could go to Kansas and buy something for my farm instead of Nebraska.

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

Revenue Committee
February 07, 2013

And that's something I heard at the local co-op yesterday morning while I was at my marketing club. Number four, and last, we don't want to screw up what we have that's working good as well. We have a very solvent state government in Nebraska. Some of the other states in the United States can't claim that. We have states that...of course, from debt. I guess, of those four points, the one I really want to strive to emphasize though is that, in the whole scheme of supporting government in Nebraska, we need to...maybe the one that I feel could be the most out of kilter is property taxes. We tax our property and we have to pay those taxes, of course, whether we raise a crop; or even if our house is destroyed by a storm, we still pay taxes on our house, even that year, I believe. And property taxes are a state issue. They are a local issue because we in local government do set our budgets and are responsible for that. But the role of what local government has to be supported by with property taxes is part of our state constitution, our state statutes. And the only significant changes that really can be made to that system are, of course, at the state level. I'm a farmer. I believe removing the sales tax exemptions on agriculture in LB406 would be counterproductive because, again, they penalize; they are a disincentive to the production. Those kinds of things reduce the economy rather than build the economy. Property taxes, in my family, we pay two-and-a-half times as much property tax as we do state income tax. So this is how big of an issue it is for farmers and ranchers in Nebraska. One of the state senators--I'm sorry, maybe it was Senator Janssen; I'm not...I don't remember--sure said there weren't many suggestions or alternatives. And although I'm a very amateur economist and certainly not a tax expert...but some of the ideas I could think of were that we could raise the sales tax rate increment...a little bit, as opposed to removing the exemptions. We could target certain items for sales tax. Maybe the...a real estate transaction or maybe a real estate transaction in excess of a certain amount so that the first \$100,000 of a house we buy or the first \$200,000 would be exempt and the amount over that could be taxed. I certainly think we need to look at sales tax on services. And then the other thing I could think of, you know, also, maybe expensive items, like an automobile, could be taxed a little higher if it's above a certain value as well. I want to thank you for the opportunity to speak, again, as certainly not an expert, just someone that's getting more experience all the time. I'd be happy to answer any questions. [LB406]

SENATOR JANSSEN: One quick question. [LB406]

SENATOR HADLEY: Senator Janssen, and then Senator Hansen. [LB406]

SENATOR JANSSEN: Janssen and Hansen. Thank you. [LB406]

SENATOR HADLEY: The sons. [LB406]

SENATOR JANSSEN: Thank you, Chairman Hadley. Just to be clear, Senator Janssen never said, raise the sales tax, just to be clear. [LB406]

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

Revenue Committee
February 07, 2013

DAVID GRIMES: I did. [LB406]

SENATOR JANSSEN: I know. I just...not... [LB406]

DAVID GRIMES: Yeah, I did. [LB406]

SENATOR JANSSEN: No. I appreciate you coming here today. I just was trying to be facetious and it didn't work. (Laughter) [LB406]

SENATOR HADLEY: Senator Hansen. [LB406]

SENATOR HANSEN: I had a real quick question for you. How could you propose fixing the property tax dilemma that we're in without another tax shift? [LB406]

DAVID GRIMES: Oh, all of these would require tax shifts. The first and most important we do is we need to build our economy and our tax base so that we have more to tax at a lower rate. And it may very well require for us to make a sacrifice and paying a little higher taxes in order to get more people here. We may have to look at that. I don't agree with the way that's done here because there is a sacrifice proposed here, and that is by certain agricultural...well, farmers, ranchers, and certain businesses, of course, would make that sacrifice. Not a very good answer? [LB406]

SENATOR HANSEN: Well,... [LB406]

DAVID GRIMES: It's easy to identify problems and harder to come up with solutions. [LB406]

SENATOR HANSEN: I think that this needs to be part of the discussion too. I mean, we've been talking for two days about this discussion and this conversation that we're having. [LB406]

DAVID GRIMES: Thank you, thank you. [LB406]

SENATOR HANSEN: Property taxes need to be addressed, too, but I can't figure out how to fix property taxes without another tax shift. [LB406]

DAVID GRIMES: It would...yeah. No. [LB406]

SENATOR HANSEN: If right now the three-legged stool we have is going to have to charge more income tax...not charge more. Do you take more income and sales tax to fix property tax? [LB406]

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

Revenue Committee
February 07, 2013

DAVID GRIMES: And right now that's... [LB406]

SENATOR HANSEN: I'm with Senator Janssen. I don't want to raise taxes again. [LB406]

DAVID GRIMES: Yeah, and right now shifting is the only alternative in any of this discussion, I believe. [LB406]

SENATOR HANSEN: Okay, that's...that was... [LB406]

DAVID GRIMES: And property taxes isn't just a farm and ranch issue. [LB406]

SENATOR HANSEN: No, that's for sure. [LB406]

DAVID GRIMES: I'm sure, if you're retired, on a fixed income, those taxes on your house and even your automobile are an issue as well. [LB406]

SENATOR HANSEN: Yeah, thank you. Thank you. [LB406]

SENATOR HADLEY: Mr. Grimes, correct me if I'm wrong, but did you say you're on the local school board? [LB406]

DAVID GRIMES: I've been on the board for 12 years, and I have the pleasure of being the school board president of Raymond Central now. [LB406]

SENATOR HADLEY: Okay, so it's an interesting dynamic because you see it from both sides. [LB406]

DAVID GRIMES: Yes. [LB406]

SENATOR HADLEY: You see the property taxes that have to be paid and, yet, on the other side you see the concerns of school districts in trying to fund education and have a quality education. Is that a correct statement? [LB406]

DAVID GRIMES: Oh, very much so. And even with my fellow school board members, not everybody understands what other people do and what they pay for taxes. I'm the only farmer on our school board. And roughly--and this is pretty much typical, I think, all over Nebraska--three-fourths of my property taxes go to pay for the school, pretty close to that. [LB406]

SENATOR HADLEY: Well, I commend you for your service because those are...being on the local school board can be a very difficult undertaking because of the tax situation, teacher negotiations, everything. So I know everybody appreciates your work

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

Revenue Committee
February 07, 2013

in that sector to help your community and your area, so. [LB406]

DAVID GRIMES: Well, thank you, and I appreciate all of you for your sacrifice too. You're not highly paid, although you do get paid more than I do for being on the school board. [LB406]

SENATOR HADLEY: Well, we get a lot...we get to eat and drink a lot, too, though, so. [LB406]

DAVID GRIMES: And I will say that, you know, we do our best to nickel and dime, and sometimes more than that, to conserve the resources that we have. But we're still...you know, property taxes are a statewide issue, not just a local issue, because of all the statutes about teacher tenure and negotiations and what we need to provide for roads and bridges and schools. And are all...you know, there's those state expectations and standards, those federal mandates, and so this is all part of the picture. I don't...I just, again, I'm sorry to waste time. [LB406]

SENATOR HADLEY: No, you're not wasting our time at all, sir. [LB406]

DAVID GRIMES: But I don't want property taxes to be relegated as, this is just a local issue, go complain to your village board or your school board, because it's all part of the design, the system that our state has. [LB406]

SENATOR HADLEY: Yeah, and there...I made a comment: It's like a puzzle and we have to put the pieces together, and hopefully all the sides are square and they work. [LB406]

DAVID GRIMES: And back to Senator Hansen's question. I guess, if I had to choose, to be honest, I'd rather pay a higher income tax rate, to make that personal sacrifice, to try to provide some sort of break, if you will, to attract those from outside into Nebraska, than probably what's proposed here because, if I have a good year and have the income, it seems like that's the fairer thing to do, probably, the equitable thing to do. [LB406]

SENATOR HADLEY: Thank you, Mr. Grimes. [LB406]

DAVID GRIMES: Thank you for giving me this opportunity. [LB406]

SENATOR HADLEY: We'll let you get back, and hopefully your budget will work for the... [LB406]

DAVID GRIMES: I think my books balance, but I've got to go home and go over it anyway. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HADLEY: Well, I'm an accountant. I can help you. What number would you like, you know? (Laughter) [LB406]

DAVID GRIMES: Probably your phone number. (Laugh) [LB406]

RENEE FRY: (Exhibit 20) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. And I'm here today to testify in opposition to LB406 because, much like LB405, this bill violates many principles of sound tax policy, will not lead to economic growth, is unlikely to affect where people live, harms rural Nebraska, and it's a tax shift to the middle class, ag, and manufacturing. As I mentioned yesterday, the best tax policy is to have a diversified mix of taxes, including a corporate income tax. But, like LB405, LB406 will remove and reduce a key part of our balanced tax code. LB406 will do this with cuts to personal income taxes and the elimination of our corporate income tax. Proponents of the bill claim LB406 will spark economic growth, but research counters that assertion. As is the case with personal income taxes, studies fail to show a clear relationship exists between corporate income taxes and economic growth, as you'll note in Figure 1 before you. On that figure you'll see that Nebraska outperforms all states without corporate income taxes in GDP growth. Research also fails to find a clear relationship between corporate income taxes and unemployment, which is illustrated in Figure 2. You can see that Nebraska also fares better than nearly all of the states without income taxes in terms of unemployment. Some studies found that state corporate income tax cuts can sometimes have a small, positive effect on state economies over a period of time ranging from 5 to 20 years. But it's important to note that these studies tend to find a positive effect only when state services that benefit businesses are not cut and other state business taxes are not increased. Also, like LB405, LB406 will tax business-to-business sales. This is a practice that is universally acknowledged as bad tax policy, and it puts extra stress on our state's businesses as they look to compete in national and global markets, also increasing cost to consumers through a series of hidden taxes. In this regard, we believe LB406 actually will do more harm than good to Nebraska businesses as it will increase taxes on business-to-business sales in order to make the plan revenue neutral. The claim that elimination of the corporate income tax will lead to more jobs also raises caution. Nebraska is a, excuse me, single-sales-factor state, where multisales corporations are taxed only on the percentage of their total sales that occur within our borders. They are not taxed on factors such as the value of their facilities or what they pay in salaries. That means these corporations can build, expand, and hire in this state and not incur any additional income tax liability. Therefore, eliminating the corporate income tax provides little incentive for these companies to hire or invest more in our state. Research also shows that corporate income taxes are not a big reason businesses stay or move to states. The state corporate income tax is a tiny fraction, only about one-tenth of 1 percent, of total expenses for corporations that do business in Nebraska. These taxes

pale in comparison to other factors like the cost and quality of labor, proximity to customers, quality transportation networks, and access to suppliers and materials. State corporate income taxes were not even in the top ten factors listed in a recent survey of consultants who help businesses choose site locations. It should be noted that Nebraska corporations are part of our communities. Companies that do business in Nebraska benefit from the investments we've made in education, a skilled work force, transportation, and safe communities. Nebraska's high quality of life makes it attractive for businesses to be here. In fact, the survey I mentioned earlier found that high-quality public schools are the number one quality-of-life factor that businesses consider when they look to move their operations. While it is a small fraction of business expenses, the corporate income tax adds up to a significant source of revenue for the state that allows us to invest in education and other services that promote jobs and a strong economy. Then there is the issue of business tax credits. Nearly \$900 million worth of earned tax credits are presently due to businesses under the Nebraska Advantage Act and other incentive programs. As of 2011, 65 percent of Nebraska Advantage tax credits and 39 percent of LB775 credits have been used against the corporate income tax liability. If the corporate income tax is eliminated, would Nebraska continue to honor those commitments? And would we use the sales tax revenues to do so? And would this reduce our General Fund revenue? Before eliminating the corporate income tax, it would also be important to look at how much of a benefit of such a cut would be reaped by people who live out of the state. Typically, corporate income taxes are paid primarily by out-of-state corporations. Before we eliminate this tax, I would urge you to ask the Department of Revenue to determine how much of this cut would benefit non-Nebraskans. LB405...LB406, excuse me, is bad for rural Nebraska. As you can see in Figure 3, we estimate that more than half of the new sales taxes in LB406 would come from agricultural inputs like seeds, fertilizers, fuel, and machinery. As you heard many times yesterday and today, taxing these inputs would add to cost for Nebraska farmers and ranchers and make it harder for them to compete with producers from other states and countries. We also estimate that cities with local-option sales taxes will see a windfall of about \$78 million in fiscal year 2014-15, which may allow some of those localities to reduce property taxes. Rural Nebraskans who live outside these city limits will help fund that windfall but will not see any of the property tax benefit. More than 95 percent of taxable sales in Nebraska occur in cities that have local sales taxes, but only 45 percent of the state's property value is found there. This means rural Nebraskans will pay higher sales taxes but will be left out of any resulting property tax relief. Yesterday, when Senator Schumacher asked me about...asked about expanding the sales tax base, I responded, it depends on whether that money is used to address our structural deficit, reduce the sales tax rate, or cut income taxes. I neglected to mention that devoting of revenue to property tax relief would be a good option to consider. That option was specifically discussed in both the Syracuse study and the Burling report. Property taxes are our largest and fastest-growing tax. Finally, it should be noted that LB406 would raise taxes on middle- and low-income families in Nebraska. We found in our research that 80 percent of Nebraskans would experience a tax increase under

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

Revenue Committee
February 07, 2013

LB406, as seen in Figure 4. These are the consumers most likely to spend their paychecks here in Nebraska and boost our economy. I would like to note, with the change in the EITC, the 80 percent would still remain the same, but those dollar figures that you have before you would change slightly. When 80 percent of the population has less money to spend, most businesses will suffer; and it's highly likely that this will reduce jobs in the state, rather than create them. For these reasons, LB406 is a bad deal for Nebraska and Nebraska businesses. But I would again reiterate our support for a discussion on tax modernization, such as proposed by Senator Schumacher's LB613. Please note that I am again leaving you with a bibliography so that you can see the research which our conclusions are based upon. Thank you for your time, and I'd be happy to answer any questions. [LB406]

SENATOR HADLEY: Any...seeing none, thank you, Ms. Fry. [LB406]

RENEE FRY: Okay, thank you. [LB406]

SENATOR HADLEY: Senator Schmit. [LB406]

LORAN SCHMIT: (Exhibits 21 and 22) Chairman Hadley, members of the committee, first I have submitted testimony from Alice Licht, from the Nebraska Agri-Business Association in opposition to the bill. And she asked me to present it, glad to do so. Secondly, I appear today...my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I'm executive director of the Association of Nebraska Ethanol Producers. I am here today to testify in opposition to LB406. When I first saw LB405 and LB406 I was deeply concerned about them because, having known Senator Beau McCoy for some time and Senator Ashford for a long time and having had an even longer association with Governor Heineman, could not think of a time when I really ever disagreed with Governor Heineman and was sort of concerned about testifying against these bills. I think that, probably, today I understand a little bit better. I think that they have gotten our attention, and we've had really excellent discussion here these last two days. I think that most everyone agrees that Nebraska has a continuing problem in the area of taxation. And there is an old saying that goes...no matter of property is safe when the Legislature is session. And I think that goes for the present Legislature, Senator, oh, whether things considered...but they also...nothing ever remains the same in the Nebraska Legislature. And so when LB--I forget the bill number--was passed in 1967, the adaptation of that bill began in 1969 and it continues today. And so the arguments that we have heard here in the last few days, relative to what we should do, what we should not do, what we can't do, I think, will be, no doubt, considered well by this Legislature. LB406 would eliminate \$395 million in sales tax exemptions. Unfortunately, more than half of those new sales taxes would be collected from the agricultural sector. The ethanol industry uses large amounts of both energy and chemicals in the refining process, so our industry would be particularly negatively impacted, as would many other manufacturing enterprises. The question has been raised by proponents of the bill, why should some items be exempt

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

Revenue Committee
February 07, 2013

while others are taxed? That same question applies to both LB405 and LB406. Neither bill proposes to eliminate all exemptions. Both bills pick and choose which items should be taxed. Unfortunately, LB406, as drafted, will shift a major portion of the burden to the ag sector. The cost to the ethanol industry, which is a large consumer of both energy and chemicals, will be huge. The ethanol industry has been a major contributing factor to improve the economic conditions in this state. We've heard many comments from farmers who testified before this committee that it has only been in the last few years that agriculture has showed a profit, and we are really pleased to have been a major contributor to that. The improvement is a result of many years of hard work by many individuals and businesses who have invested billions of dollars in the creation of a new industry. The state of Nebraska has been a major contributor to the development of the industry. That industry, which now benefits all Nebraskans, could be severely damaged by the passage of LB406. More than 1,200 persons are directly employed in well-paying jobs by the ethanol plant, more than 3,000 individuals have jobs in supportive industries, and hundreds more are involved indirectly. I do not believe that this legislation wants to reverse a program that has provided a major market for our corn, made Nebraska a leading producer of energy and a major livestock feeding state. Before there is a major change in the tax policy of the state of Nebraska, it would be prudent for the Legislature to conduct an interim study, hold public hearings, involve the executive branch and the public, and attempt to develop a policy which will accomplish the goal of making Nebraska a state which is even more favorable to business, industry, and agriculture than the present. The opposition to LB405, which was expressed yesterday, is an indication that the public wants to be involved. Speaking as an individual who has participated in much of the debate when various Legislatures provided certain exemptions, I can assure you those exemptions were vigorously debated. They were not placed into statute in a casual manner. And, I can tell you personally, it was not a pleasant experience to be involved with Senator Vard Johnson and Frank Lewis and John DeCamp and Ernie DeCamp (sic)--some people were here to experience that the next few weeks--to debate those issues where agriculture was able to secure some of these exemptions, and we do not want those to become a part of the tax structure again. We have understood that the passage of LB...we...I understand that...I believe the passage of LB406 would be bad for the state. I think the passage of LB613, introduced by Senator Schumacher, would provide an excellent method to review, in depth, the tax policy of the state and would provide input from all sectors. I would ask the committee to indefinitely postpone LB405 and to advance LB613 to General File. At this time I would like to thank the committee for what I consider a most exemplary hearing that we've had the last two days. I especially appreciate your allowing us to testify as much as we chose. And I understand that there may be times when the committee may need to limit the lobbyists from the...and their testimony. When people from the public, the second house, as we call it, travel hundreds of miles to testify, Senator, I know they appreciate being allowed to testify to their heart's content. We all appreciate it. Thank you, and thanks to the committee. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HADLEY: Senator Schmit, you probably, of anybody in the room today, have seen more of the history of Nebraska and the way taxes have been handled the last 40-45 years. Do you believe we have a problem on the taxing side, or do you believe we have a problem on the expenditure side? [LB406]

LORAN SCHMIT: Well, Senator, both sides have their problems. And I think the Legislature...my first biennial session down here, the annual budget--it was a biennial budget--was about \$275 million. We've made extensive improvements since that time. But I'd like to just, at the risk of being...I might have to have the Patrol officer escort me out, but I think we have to look at some new ideas. And Senator Schumacher has been chided a few times. But without changing Nebraska's statutes, I, one time, entered into a gambling business in this state which could have brought billions of dollars of revenue to the state. My colleagues in the Legislature put me out of business, even though the Supreme Court says that my business was a valid form of lottery. And we could have been the third state in the gambling business at that time. Now, if we ever get into the gambling business, we'll be the 38th state to legalize that kind of gambling, and we'll just be exchanging dollars with each other. And I'm not talking about the morals of gambling or so forth. We all have our own thoughts about that. I have chided the Legislature from time to time because the greatest amount of gambling in the state of Nebraska today is illegal, unregulated, unlicensed, and untaxed, and that takes place every Saturday during the football games and also, I might add, now during basketball and probably hockey and everything else. So also, I hope you're prepared, I'm just really getting started. In addition to that, I, one time, introduced a bill that would provide for the courts to establish a Nebraska...the state of Nebraska's right to the underground water and that they had the right to sell that water if that proved to be a course of action. Well, I don't mind telling you that there wasn't anyone...Mr. Ewald is not here. Senator...there wasn't anyone testified in support of that bill either, Senator McCoy. I was all by myself. And I...and if you go back and read the transcripts, one person said, Schmit, would you sell your mother's birthright for a pound of gold? And that was one of the nicer things they said. But 93 million acre-feet of water fall on this state every year. A million acre-feet flow into the state; 8 to 10 million acre-feet flow out. I made a speech one time at the Southern Miss University and I said, someday, someone will determine how to vaporize that water, turn it into atomic power, put it up in the jet streams and send it around the world, and dump two inches on Phoenix or an inch and a half on Saudi Arabia, and we can sell it for hundreds of dollars an acre-foot, maybe thousands. Jim Cookson (phonetic) at the Department of Water Resources was at that meeting. He said, well, Loran, that was a pretty good speech you made until you got to that Buck Rogers stuff. (Laughter) Not very many in here are old enough to remember Buck Rogers. But you've got to start thinking about some new ideas, and I think those of this committee here, especially the young guys, like Senator Janssen and Senator Harr and Senator McCoy...no harm. (Laugh) No, offense... [LB406]

SENATOR HANSEN: No, that's...none taken. (Laugh) [LB406]

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

Revenue Committee
February 07, 2013

LORAN SCHMIT: ...to these good gentlemen. But you've got to be able to take some risks, and I think Senator McCoy has stuck his neck on the line with this bill. He knew he had some problems, as did Senator Ashford and the Governor. But they got our attention, and we cannot continue to be the same old bag of bones and scratch the same old straw and try to get more money out of it. It's not going to work. And I'm not saying that we would have been much better off had even my colleagues not put me out of business in 1984, in the gambling business. But it was an opportunity. Little town of Dwight, Nebraska, had some lottery machines. Their budget for the year was \$7,000. They took in \$9,000, not too bad for a town of 180 or 200 people. With that...now, and, as I said, that opportunity is gone. That part of it is gone. But the water idea is there, we've got...we can only get so much money out of this income tax, sales tax, and property tax. As witness after witness have talked today, you can tell that property taxes have become confiscatory. We've all gone through that. And we've seen such rapid escalation of property taxes that the time may come when my grandfather says, boy, don't buy more land than you can pay the taxes on, and I never thought that would happen. But when I see the tax...if I had grossed as much money on the home half-section today, the first year I farmed, as the taxes are today, I'd have thought I was in hog heaven because it was...it would have been tremendous. But today, you know, \$40-an-acre tax, well, that's one thing, not too bad with \$7.50 corn. Try it with \$2 corn. And we are, as one gentleman said last summer, one good rain away from \$3 or \$4 corn. We may have good...we don't know if we're going to have a one-year drought, two-year drought. We may have another year of drought. If that happens, it's going to be a different situation. But the fact that we were able to bring the price of corn from \$1.50 to almost \$8 has allowed this state to participate in an economic boom we would not have had otherwise. And we've...in the process of the ethanol industry, we take a bushel of corn that's worth \$7. It's worth 125 percent of that as distiller's grain. A rancher called me this morning. He said, Loran, plant up here has slowed down, I can't get distiller's grain, I've got a whole bunch of baled cornstalks I gave \$90 a bale for, they're not worth \$25 without distiller's grain. He said, what am I going to do? And I says, you know, I don't know. He says, what's going to happen? And I said, I can't tell you that either. So we have to remember that we've made some...this Legislature put \$300 million into the development of the ethanol industry; \$150 million of that was paid by farmers. I like to think that the state has gotten their money back many times over. When you take a 1.5 billion bushel corn crop and increase the value from \$2 billion to \$8 (billion), \$10 (billion), \$15 billion, that's pretty effective. You don't buy the \$600,000 combines that Senator Hansen talked about yesterday with \$2 corn. And so what you're doing here today is good because, I think, as the Governor has pointed out, Senator McCoy has pointed out, something has got to give. You can only bring about so much money out of this system. And there's going to come a time when there's a backlash, and so you look at something else. And I think that you have to involve those at the executive; you've got to involve the Legislature; you've got to bring the public in. This brought the public in. We heard more good ideas in the last few days, I think, from the

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

Revenue Committee
February 07, 2013

men and women who traipse through here, not just the farmers and ranchers but a wide variety of people. And they all...I was actually amazed that as many of them testified against the (inaudible) income tax as we did have. I've not been fortunate enough to be in that upper-income bracket too many years. But the years that I have had good income and I paid all my bills and I paid my taxes, I still have more money left than those years when I didn't raise a good crop or didn't have a good cattle sale and had to pay my bills and go down to the bank and say, well, you know, I've got to borrow some money here. So we've got to get together and talk. And some of the younger guys have got good ideas. It doesn't hurt to listen to some of the old guys. And, Senator Schumacher, I'm not really looking at you; you just happened to be in my line of sight. But I really believe that you're on the right track, Senator, and I think that we need to take...and we don't need to do it today. We don't need to do it tomorrow. The...it took me years to get the bill passed that took the tax off private, personal property, farm machinery, sale of business inventory, and livestock. Some of it went back on. I don't think that was the right thing to do, but the other legislators saw it differently. I believe so. But you can understand what the Governor has talked about. There comes a time when people will move. They're mobile today. And I was appreciative of the young people who testified that they don't even think about paying income tax when they get out of school. And, shucks, they're so glad to be out of school and go get a job, that's the last thing they think about. But as they get around, get married, and raise a family, it reminds me of...a banker friend of mine one time told me--it was Senator (inaudible). He said, I never really had a bad loan, but, he said, I had some that got pretty heavy once in a while. He said, these kids go to school, they borrow a little money, and really don't have the resources to pay it back, and they get a job, and then they get a girlfriend, then they get married, and they've both got jobs, and so some money is rolling in. Pretty soon, he said, they're having babies, so momma can't work anymore and income slows down, and they have to borrow more money. Pretty soon they have another baby, things get tougher again, but dad works another, second job, and he says, I have to carry a loan. After a while, the kids are going to help him, and things...the pressure gets soft. And then they go to university, loan gets heavy again, have to borrow money on the house. At any one time, he said, the loan was probably in jeopardy half the time. He said, finally, he said, the kids go away from home, dad and mom don't have that pressure, the loans are good again. He said, never really lost money on an honest person, he said, lost money on a crook once in a while. But, he said, you can't beat a crook. He said, he's going to beat you. But we have to be fair, and a lot of us know I couldn't believe...when I started farming, I bought a few bags of seed corn and planted 100 acres of corn and put \$4 of fertilizer on it. That was it. When I got done farming, I was farming with helicopters and \$400-an-acre inputs. And the costs are tremendous, the lines of credit are tremendous, and so it's a completely different world. I like to say I started farming with horses and wound up with helicopters. That's quite a transition, and... [LB406]

SENATOR HADLEY: Thank you. Thank you, Senator Schmit. We appreciate you're

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

Revenue Committee
February 07, 2013

here. [LB406]

LORAN SCHMIT: Thank you, Senator. You bet. [LB406]

SENATOR HADLEY: Thank you. [LB406]

LORAN SCHMIT: You shouldn't have asked that last question. (Laughter) [LB406]

SENATOR HADLEY: No, I...we appreciate it. We appreciate your knowledge. [LB406]

KENT KNOLL: That's a hard act to follow. [LB406]

SENATOR HADLEY: Yes. [LB406]

KENT KNOLL: Hi. My name is Kent Knoll. I'm representing Omaha Steaks. I'm the director of compliance, and my testimony will be very brief here. We oppose LB406 for a variety of reasons. And if you have any questions, I'd be glad to answer them. [LB406]

SENATOR HADLEY: Would you spell your last name for us? [LB406]

KENT KNOLL: Oh, I'm sorry, K-n-o-l-l. [LB406]

SENATOR HADLEY: Thank you. We appreciated your testimony last night, and we appreciate it today. Thank you. [LB406]

KENT KNOLL: Thank you. [LB406]

SENATOR HARR: Yeah, (inaudible). Thank you. [LB406]

SENATOR HADLEY: Next. [LB406]

BILL MUELLER: (Exhibits 23-26) Senator Hadley, members of the Revenue Committee, my name is Bill Mueller, M-u-e-l-l-e-r. I appear here today on behalf of four clients of our firm: Nebraska Methodist Health System; the Children and Family Coalition of Nebraska; Ash Grove Cement Company; and Duncan Aviation. We were here late last night along with you. The page is handing out statements from each of these four clients. Silly me, I was concerned that no one would come today and offer testimony on these bills, and we wanted to be sure and be on the record. My concern was not based in fact. We do oppose this bill. We are concerned, as you heard, about the taxation of medical equipment and devices. We're concerned about removing the exemption for purchases of electricity and gasoline by a hospital. We are concerned about removing the exemption for energy used in manufacturing. We also have concerns about the effect of LB405 and LB406 on the Nebraska Advantage Act. Commissioner Ewald

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

Revenue Committee
February 07, 2013

raised some of those in his opening that, perhaps, there were some mistakes in the drafting of the bill. But we are concerned about the effects of both these bills on those. We do stand ready to work with the committee to engage in this important state tax policy discussion. I'd be happy to answer any questions that the committee may have. [LB406]

SENATOR HADLEY: Are there any questions for Mr. Mueller? Seeing none, thank you, Mr. Mueller. [LB406]

BILL MUELLER: Thank you. [LB406]

SENATOR HADLEY: The next opponent. [LB406]

STAN KEISER: My name is Stan Keiser. That's spelled K-e-i-s-e-r. Thank you, Senator Hadley, for having this meeting. And it's a real privilege to be here at this Capitol, and it's a...I consider it a privilege to be able to talk. I'm a farmer, a cattle feeder and farmer from Ashland, Nebraska. And I'm a proud owner of a century farm. It's 100 years, and they've got six generations, with my grandkids. And the families went through a lot to save that place through the '30s. But I'm a proud member of the Nebraska Cattlemen, along with Mr. Hansen there. And that's the biggest industry we've got in the state of Nebraska. We've got 6 million cows and 1.8 million people. And we've got to stand up for these rights. And I just don't think we need to be taxed anymore. The real estate taxes...I've got a neighbor that told me the other day on an irrigated 80 he's paying \$75 on taxes. And so I think we need to really kick this back and look at some other alternatives on how we're going to do things. And I also...I'm going to make this short. My son is a...works for the state of Tennessee, and he's in the accounting down there for the Legislature. So I talked to him last night and I says, David (phonetic), I says, they're considering doing away with income tax and do a sales tax in the state of Nebraska. And he says, Dad, don't let them do that. He sent me 75...or, no, 49 pages on e-mail today, opponents and the...he said it has hurt that state tremendous. So I suggest for this committee to do a little research and ask some of these states how they've handled this. And so I think we need to table this LB406, go to the table, and get some more facts and figures on this stuff because it's a serious thing. I'm 69 years old, and I'm going to farm and feed cattle until they probably put me in the ground. But...and I enjoy it. It's been a good life. If any of you folks seen the Super Bowl the other night, did you see the Dodge commercial? And I'm proud to be part of that theory. And thanks a lot for your time. [LB406]

SENATOR HADLEY: Thank you, appreciate it. I see no questions, so thank you. Any other testifiers? [LB406]

KELSEY LIDDY: Hi. My name is Kelsey Liddy, K-e-l-s-e-y L-i-d-d-y. And a letter was submitted yesterday on behalf of the Center for People in Need in opposition of LB405,

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

Revenue Committee
February 07, 2013

and I just wanted to go on record today and say the center also opposes LB406 and submit that same letter. [LB406]

SENATOR HADLEY: Thank you so much. [LB406]

KELSEY LIDDY: Um-hum. [LB406]

SENATOR HADLEY: Appreciate it. Any other... [LB406]

ED WOEPPEL: (Exhibit 27) Senator Hadley and the committee, I'm Ed Woeppel, here today representing the Nebraska Cooperative Council, which is a trade organization for the farmer-owned cooperatives in the state. We are in opposition to... [LB406]

SENATOR HADLEY: Would you spell your last name, sir? [LB406]

ED WOEPPEL: Oh, I'm sorry. It's W-o-e-p-p-e-l. We are in opposition to LB405 and LB406. I know that you've had plenty of discussion on the agricultural issues and...that, certainly, our members would face. And we've talked a little bit about that border bleed issue, but that's another big issue that would certainly affect the farmer-owned cooperatives in the state as...particularly for those that are on the border or close to the bordering areas of other states where they could purchase products elsewhere. And in addition, in this Internet age, certainly that business could go, so that would be a very large concern for us. So if you have no questions, I will... [LB406]

SENATOR HADLEY: I...seeing no questions, thank you, Mr. Woeppel. [LB406]

ED WOEPPEL: You bet. [LB406]

PETE McCLYMONT: (Exhibit 28) Chairman Hadley, members of the committee, for the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president for legislative affairs for the Nebraska Cattlemen. We appreciate your service. And out of respect to you, we have submitted written testimony in opposition to LB406; in addition, the Nebraska State Dairy Association, also in opposition to LB406. With that, I will conclude my testimony. [LB406]

SENATOR HADLEY: Senator Harr. [LB406]

SENATOR HARR: Thank you. Thank you for coming. In response to that earlier comment about the Super Bowl ad, I noticed it was, "And they made a farmer," not a rancher. What do you have to say to that? (Laughter) [LB406]

PETE McCLYMONT: It should have been a rancher. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HARR: Okay. (Laughter) [LB406]

SENATOR HANSEN: We've had a few of these. (Laughter) [LB406]

SENATOR HADLEY: Thank you, Mr. McClymont. [LB406]

PETE McClymont: Thank you, sir. [LB406]

SENATOR HADLEY: Anybody else? [LB406]

ROGER PROCHASKA: Yeah, good afternoon. My name is Roger Prochaska, P-r-o-c-h-a-s-k-a, and I'm a smaller corn and soybean farmer from Ravenna. And I also worked at West Pharmaceuticals in Kearney for a number of years so, you know, I've kind of been on both sides of the coin here as far as wage worker and farmer. And I guess my view on this would be to maybe...I never heard anybody at West company ever complain about state income tax, you know. Federal, yeah, but not so much state. And then from the farming side I'd be much more to pay income tax than, of course, the sales tax ahead of time when you don't know if you're then going to make anything or not, so. And then the pyramiding, of course, and then, you know, the border bleed, you know, it's going to cause problems. It's going to make, as you've kind of indicated yesterday, you know, things that people shouldn't be doing or whatever. So I guess I would support Senator Schumacher's LB613 and I think we need more time to discuss. I was kind of...don't know where this...some of the senators here said this bill appeared very suddenly and...kind of blindsided by it. It's kind of troublesome. You know, you don't always know there's...I know there's some very well-funded, high-pressure, out-of-state PACs that's pushing a lot of things in a lot of areas. It's maybe not always the best interest of local. [LB406]

SENATOR HADLEY: Thank you. [LB406]

ROGER PROCHASKA: So I guess that's about all I have to say, so. [LB406]

SENATOR HADLEY: Well, I very much appreciate your coming in from Ravenna. For those of you who...that don't know, it's a wonderful town in central Nebraska. Appreciate your coming in. Thank you. [LB406]

ROGER PROCHASKA: And then our Abengoa alcohol plant, as you probably...well, no, it's shut down temporarily so, you know, there's impact there, and so...okay, thank you. [LB406]

SENATOR HADLEY: Thank you. [LB406]

SENATOR SULLIVAN: Thank you. [LB406]

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

Revenue Committee
February 07, 2013

SENATOR HARR: Thank you. [LB406]

SENATOR PIRSCH: Thank you. [LB406]

SENATOR HADLEY: Anybody else? Senator McCoy, would you like to close? Waives? [LB406]

MARY JANE EGR EDSON: Neutral. [LB406]

_____: Neutral. [LB406]

MARY JANE EGR EDSON: Jason is doing neutral. [LB406]

SENATOR HADLEY: Neutral? [LB406]

JASON HAYES: (Exhibit 29) Good afternoon, Chairman Hadley and members of the Revenue Committee. For the record, my name is Jason Hayes, spelled J-a-s-o-n H-a-y-e-s, and I represent the Nebraska State Education Association. I won't take your time. I'm just here to reiterate our concerns from yesterday with regard to having the bill be revenue neutral as it comes out of committee and some of the tax income rebate issues. And I've submitted a letter. Thank you for your time. [LB406]

SENATOR HADLEY: Thank you, Mr. Hayes. Questions? Seeing none. [LB406]

JASON HAYES: Thank you. [LB406]

SENATOR HADLEY: Anybody else that would like to come up, we've got about eight more hours if you want to come up. (Laughter) [LB406]

FLOYD ZABEL: (Inaudible.) Sure. Look what he... [LB406]

SENATOR HADLEY: He had a green sheet. I can see that. [LB406]

MATT RATHJE: Are proponent. [LB406]

SENATOR HADLEY: A proponent? Okay. [LB406]

FLOYD ZABEL: (Exhibits 30 and 31) Yeah. My name is Floyd Zabel, F-l-o-y-d Z-a-b-e-l. I am the state director of Nebraskans for FairTax, and I always want to save the best for last. I'm a proponent of eliminating the income tax, and I'm also a proponent of...the FairTax as a tax on consumption only, so...and business purchases would be eliminated, would not pay the FairTax. So this would free farmers and businesses up.

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

Revenue Committee
February 07, 2013

It's a jobs bill, so it would be a bill that would grow the numbers in our state. Congressman Steve King from Iowa is a strong proponent of the FairTax. He's been here in Nebraska with Congressman Fortenberry and Congressman Lee Terry. And so my suggestion is that we look into the concept of the FairTax. And Doug Ewald said he'd be...get with me and we'd look at that and crunch the numbers and see what tax it would take in Nebraska to make this function. The FairTax also has a prebate in it, which "untaxes" us up to the poverty level. So it would free the low-income people to make a living. So any questions? [LB406]

SENATOR HADLEY: Okay. Questions? Seeing none, thank you. [LB406]

FLOYD ZABEL: Thank you. [LB406]

SENATOR HADLEY: Anyone else? With that, I close LB...the hearing today... [LB406]

MARY JANE EGR EDSON: Did he waive? [LB406]

SENATOR HADLEY: Um-hum. [LB406]

MARY JANE EGR EDSON: Did he waive? [LB406]

SENATOR McCOY: Yeah, I did. [LB406]

SENATOR HADLEY: He waived, waived. I close LB406. Thank you so much. We appreciate your being here and, I assure you all, we're done. [LB406]