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Revenue Committee
February 27, 2013

[LB266 LB370 LB531 LB600]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 27, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB531, LB370, LB600, and LB266. 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. [LB531]

SENATOR HADLEY: Good afternoon. Welcome to the Revenue Committee. Appreciate your coming to visit us. You've got nothing better to do than...oh, I shouldn't say that. My name is Galen Hadley. I represent the 37th District, which is Kearney and part of Buffalo County. To my left is Senator Schumacher from Columbus. To his left is Senator Pirsch from Omaha. Senator Sullivan will be the next one. Don't feel bad if people aren't here, we're still all in the process of introducing bills in other committees. So if somebody gets up and leaves in the middle of your testimony, it's not because they don't like your bill; they have other things to do. On my far right is Senator Burke Harr from Omaha. To his left is Senator Janssen, who will be here; Senator McCoy from Omaha; Senator Hansen from North Platte. Our committee counsel is Mary Jane Egr Edson, to my right. Bill Lock is our research analyst. And Matt Rathje is the clerk, on the far left. Pages are Evan Schmeits and Nate Funk; they're college students. They will help you out when you come up; they'll remind you to give slips to the clerk and such as that. Turn off your cell phones or put them on "vibrate" while in the hearing room. The sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand your testifier sheet...this is what it looks like. But if you forget it, we'll make sure you...somebody gives it to you to fill out. And the reason we need that is for the record; we want an accurate record of who testifies and who they're representing. There are also clipboards in the back of the room to sign if you do not wish to testify but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We'll follow the agenda posted on the door. We have had a change from the agenda that was in the legislative area. So that has changed, but it's on 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, state your name and spell it for the record. If you have handouts, please bring ten copies for the committee and staff; if you only have the original, we will make copies. Give the handouts to the page to circulate to the committee. We have a fairly long agenda. We have four bills to hear today, so I am going to use the light system. And the light system, you'll notice in the front there's a green and amber and a red light. And the clerk will keep track for you. At four minutes--and four minutes is a pretty good time--we will turn on the amber light, and then eventually you will get the red light. I will try not to give you the red light when you're in the middle of a thought or during that, so we're not going to be...five minutes,

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automatically it does not come on. Lastly, we have a lot of people here today, so there is absolutely nothing wrong with saying, "I agree with the people who went ahead of me," and sitting down. Okay? With that, Senator Conrad. This is getting...Senator Conrad, it just seems like every day you're back to the...you've fallen in love with the Revenue Committee. [LB531]

SENATOR CONRAD: Well, how can you not? [LB531]

SENATOR HADLEY: Well, you want to be on it next year? [LB531]

SENATOR CONRAD: No, thank you. [LB531]

SENATOR HADLEY: Yeah, okay. Senator Conrad, we'll have LB531. You're cleared to open. [LB531]

SENATOR CONRAD: Thank you, Senator Hadley, members of the Revenue Committee. As you noted and I mentioned to a few members earlier...oh, let me start. My name is Danielle Conrad, D-a-n-i-e-l-l-e Conrad, C-o-n-r-a-d. I represent the "Fightin' 46th" Legislative District of north Lincoln, and I'm here today to introduce LB531. As you correctly note, Mr. Chairman, I'm kind of like an unlucky penny that keeps showing up in Revenue Committee this year, but nonetheless we have important business to attend to. I'm here today to introduce LB531, which repeals the Build Nebraska Act passed via LB84 in 2011 and which goes into effect in July. As you know, this legislation takes about a quarter-cent of sales tax and diverts it to the State Highway Capital Improvement Fund, about 85 percent; and the Highway Allocation Fund receives about 15 percent. And that results in approximately a \$70 million loss to the General Fund annually, for a total loss of over \$1 billion over the 20-year period this bill is in effect. To put that in perspective, that would be an extra \$70 million to pay for, in the biennium budget, more than enough to fund a biennial increase of 2 percent in TEEOSA, which has a price tag of \$50 million; more than fully fund the \$25.7 million difference between the Appropriations Committee preliminary recommendation and the Governor's proposal on a tuition freeze at the university, as part of higher education; and would more than support a 4.5 percent, or \$29.25 million, annual increase in provider rates across the state. Additionally, this represents more funds than would be necessary to cover the state's portion of the developmentally disabled waiting list, which currently has over 2,207 vulnerable citizens who are waiting for critical services. I am not against highway construction. In fact, I have a strong record of supporting roads funding and have taken many difficult votes to back that up. My concern has been, and it was when this bill was originally debated, that this might not be the best way to fund roads. Historically we've funded roads via a user fee. Diverting sales tax has many potential unintended consequences. One reason I introduced this legislation this session is because of a concern that the Governor's tax proposals would have increased the amount diverted from the General Fund for this program by almost double, up to about \$114 million

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annually, which really changed the equation from what the body had a chance to consider before with LB84. In addition, now every time the Legislature makes any changes related to the sales tax in the next 20 years, we'll have to keep this bill in mind. Senators, I know that there has been a lot of concern about this legislation. And I have heard from many who have asked why I don't support highway funding. Again, I do. And to reiterate my intentions, I'm glad that we have this bill introduced this session because, as you've indicated a willingness to engage in a comprehensive review of our revenue infrastructure, this has to be one piece of that puzzle. This legislation has also prompted many positive conversations with proponents and opponents about ways that we can continue to work together to meet our shared objectives when it comes to funding for education, roads, human services, public safety, and other critical state obligations. So with that, thank you. [LB531]

SENATOR HADLEY: Are there questions for Senator Conrad? Seeing none, thank you, Senator. [LB531]

SENATOR CONRAD: Thank you very much. [LB531]

SENATOR HADLEY: Will you stay for closing? [LB531]

SENATOR CONRAD: I am going to listen to as much as I can, but I am running between Appropriations and Health and Human Services this afternoon. But I do thank you for your kind attention and will reserve the right to close at this moment. Thank you. [LB531]

SENATOR HADLEY: Thank you, Senator Conrad. The first proponent, please. [LB531]

JASON HAYES: (Exhibit 1) Senator Hadley and members of the Revenue Committee, I am Jason Hayes, spelled J-a-s-o-n H-a-y-e-s, representing the 20,000 members of the Nebraska State Education Association. We want to thank Senator Conrad for introducing LB531. NSEA strongly supports the repeal of earmarking a quarter-cent state sales tax for road construction. Given the timely discussion this year on modernizing the state tax system, we believe it is important that the 103rd Legislature revisit this decision made by the 102nd before the Build Nebraska Act is fully implemented. LB531 will stop the removal of more than \$74 million annually from the state budget. This earmark takes money away from other vital governmental services such as education, healthcare, law enforcement, and juvenile services and transfers it to our state's already high-performing highway and interstate systems. If an additional \$74 million remained in the state budget, it could help open doors to educational opportunity for 7,789 children next year; it could help prevent the overcrowding of our children's classrooms with the hiring of 1,480 new teachers. Nebraska is ranked as having the fifth-best state road system in the country and ninth in total highway system disbursements. While this is good news, our commitment to public education does not

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equate, as we rank 47th in the percent state funding for K-12 education. The facts do not support shifting our priority towards road construction and away from Nebraska's public education. Attached to my testimony is a spreadsheet showing the reduction of state aid to education over the past few years. State aid to education in 2010-11 was at \$950 million. This current fiscal year it was down by \$98 million to \$852 million. This number is still below the "needs" amount. Given continued economic uncertainty, a further guaranteed expenditure on road construction puts both our state's budget and people at risk, as services such as quality education and healthcare will inevitably be affected. A repeal of this earmark will help prevent these harmful results and help ensure that Nebraska maintains its commitment to the education of its children. Thank you for your time, and we urge you to advance LB531. [LB531]

SENATOR HADLEY: Are there questions for Mr. Hayes? Senator Hansen. [LB531]

SENATOR HANSEN: I've got one quick one. Thank you, Mr. Chairman. [LB531]

JASON HAYES: Yes. [LB531]

SENATOR HANSEN: Mr. Hayes, I know you mentioned in your...and I didn't see it in your written report, but, anyway, the interstate system that you think is really good in Nebraska--and I agree; I mean, for the most part it is good--but it's funded also by federal funds and the gas tax in several different ways. I think what the Build Nebraska Act will do is to get further off the interstate than that; I think that's the idea of the bill. And we've got kids that are going to high school, going to elementary schools, their parents go to work driving on roads that aren't all that great. And there's a lot of them out there. And those are the ones, I think, that the Nebraska Build Act would help. [LB531]

JASON HAYES: Yeah. [LB531]

SENATOR HANSEN: And whether they're bypasses or roundabouts or whatever you call them that are around the towns that they're supposed to help, they're still going to help safety on the roads of Nebraska. And some of the roads need a lot of help. [LB531]

JASON HAYES: Well, I certainly agree with you. And again, we're not opposed to building roads or...similar to what Senator Conrad said, but just giving that flexibility to the Legislature, particularly in this year when they are looking at, you know, perhaps what the proper formulation should be or possibly in LB613, if that's adopted. We would just ask that some consideration be made before this fully goes into effect. [LB531]

SENATOR HANSEN: Thank you. I hope we look at that too. [LB531]

JASON HAYES: Sure. [LB531]

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SENATOR HANSEN: We will...we will look at it. [LB531]

SENATOR HADLEY: Mr. Hayes, I guess I want to echo what Senator Hansen just said, because in Transportation yesterday I think we heard two or three school bus bills. And in rural Nebraska, school buses are very important for the ability to get children safely, as we heard yesterday, safely to their destination, and I think the roads are an important part. And so I guess that's just a statement that they are a part of the education system. [LB531]

JASON HAYES: Sure. Understandable. [LB531]

SENATOR HADLEY: Thank you, Mr. Hayes. Thank you. Appreciate it. [LB531]

JASON HAYES: Thank you very much. [LB531]

SENATOR HADLEY: Next proponent. [LB531]

CAROLYN ROOKER: (Exhibit 2) Hello, Senator Hadley and members of the Revenue Committee. My name is Carolyn Rooker. That's C-a-r-o-l-y-n Rooker, R-o-o-k-e-r, executive director of Voices for Children in Nebraska. We're here today in support of LB531 because of our concerns that we have related to the adequacy of available general funds for children's services. As you know, in 2011 the passage of LB84 created a hierarchy in the use of sales tax revenue in which funding for roads was prioritized over investments in children's services like health and education. We do appreciate that there is a need for investments in infrastructure but do not support those investments coming at the expense of services for our children. As you know, our state's child poverty rate is the highest it has been in a decade; it increased from 10 percent to just over 18 percent. Almost one in five children currently are living in poverty. This is in spite of the fact that our state has fared better in the current economic climate than many others. We have seen cuts to programs serving children, including education, child care, and Medicaid, dating back to at least 2002. And the majority of these cuts have not been restored, even when the state had the additional funds to do so. The reallocation of the sales tax revenue prioritizes roads over education, health, and other programs for years to come. Investments in children and infrastructure are both important to the future of our state. Today's children are tomorrow's taxpayers, and failure to invest in children is costly to their future as well as to the future of our state. We cannot fully anticipate what the greatest need will be for either infrastructure or Nebraska's children ten years from now. Future Legislatures need the flexibility to be able to respond to changing circumstances and prioritize the biennial budget based on our state's most pressing needs. We urge you to look for alternative sources of revenue to fund infrastructure in a way that doesn't impede our ability to invest in children, and respectfully urge the committee to advance this bill. Thank you. [LB531]

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SENATOR HADLEY: Are there questions for Ms. Rooker? Ms. Rooker, you urge us to look for alternative sources; do you have any suggestions? [LB531]

CAROLYN ROOKER: No, I would hope that this committee would be able to look at some of those options. And I think, from our perspective, you know, the appropriators need to have flexibility on an annual basis, and our concern is prioritizing the infrastructure over the availability of funds for children's services. [LB531]

SENATOR HADLEY: I would ask the question...since I'm on Transportation also, we deal a lot with the Department of Roads... [LB531]

CAROLYN ROOKER: Um-hum. [LB531]

SENATOR HADLEY: ...and they talk about 8 to 10 to 12 to 15 years between the time you start a project and the time you get it done. How could we do that when every year we're either deciding to fund the project or not fund the project? [LB531]

CAROLYN ROOKER: I certainly couldn't answer that; that is not my level of expertise. I do know for certain, though, that we really feel concerned about prioritizing the infrastructure over the availability of services for children, especially in the backdrop of our economic climate right now and the things that have been cut for years and years and years. These are our children, and we have to start investing in them. As my testimony stated, it really is our future work force; it's our future taxpayers; it's our...the future of Nebraska. [LB531]

SENATOR HADLEY: And just one last quick question, and you may not know this but you could probably find out. Our poverty rate is at the highest; where do we stand among the 50 states in the poverty rate for children? [LB531]

CAROLYN ROOKER: I don't know that I could give you the exact data on that. I do believe that we have fared better than many other states during the challenges economically across our nation. But I will certainly get back with you on that. [LB531]

SENATOR HADLEY: Okay. Thank you. Thank you, Ms. Rooker. [LB531]

CAROLYN ROOKER: Okay. Thank you. [LB531]

SENATOR HADLEY: Always a privilege to have you here. [LB531]

CAROLYN ROOKER: Thank you. [LB531]

SENATOR HADLEY: Any further proponents? We will now have opponents. Will the

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first opponent come forward? We have some empty chairs in the front, so if you're going to be an opponent, would you please kind of migrate toward the front so we can kind of keep it going? Mr. Todd. [LB531]

LOY TODD: Chairman Hadley, members of the committee, my name is Loy Todd; that's L-o-y T-o-d-d. I am the president and legal counsel of the Nebraska New Car and Truck Dealers Association. And I'm testifying today also on behalf of the Nebraska Bankers Association, the Nebraska Independent Community Bankers Association, and the Nebraska Chamber of Commerce and Industry. I will try to be very brief, Senator. Our reasons for opposing this legislation are, of course, identical to our reasons for supporting LB84 previously. Our method of supporting roads in the state of Nebraska has been the envy of many other states. Our Highway Trust Fund that is primarily funded by user fees such as the sales tax on motor vehicles and also fuel taxes has worked very well historically. But, unfortunately, with the changes that are made in the world these days, that has been going into a significantly declining spiral. Car sales have been down significantly because of the economy. And fuel sales are also down because of the efficiency in motor vehicles, a real press toward alternative fuels, and less driving because of the economy. A couple years ago, back in '08, we were selling 18 million new cars a year in this country. That went to 8 million during the recession. We're back at least into double digits now, but you can see that that source is declining. And when you're talking about fuel economy that is targeted to be in the 40s, there's a significant gap. LB84 was an answer, and we think a wonderful answer. It's...we want it to have a chance to work. As you have pointed out so accurately, building roads isn't something you do on an annual basis. You don't come to the Legislature and: Can we have \$15 million to build this piece of road; and it gets funded. These projects are long-term; the money has to be accumulated over time and then spent on the project as it comes along. And so our system is terrific. This helps. There certainly...it isn't as if roads are fully funded and everything else has gone begging. This...the gap is still significant, and you're going to hear from other speakers who can testify to the numbers; I'm certainly not qualified to do that. But we would urge you to...like other people have asked, let's find some more ways. But this is the best way we've seen in a long time; it's the first funding source that's been identified and might help. And we do appreciate the fact that the Legislature has approved it in the past, and we want to give it a chance to work. Thank you. [LB531]

SENATOR HADLEY: Thank you, Mr. Todd. Are there questions for Mr. Todd? Yes, Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony, Mr. Todd. How do we measure whether a particular road investment is a good investment? Do you know? Is there such a tool? [LB531]

LOY TODD: Well, you're asking a question that's way above my pay grade. But, you

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know, the Department of Roads certainly goes through that process and prioritizes these projects. And they do it beginning with safety and then efficiency, and there are formulas. And people who are really good at those things do those priorities. And, obviously, I would always think that my road is more important than yours, and that's something they struggle with at all times. But the one thing I think is really good about our system in Nebraska, also, is it takes you out of the equation, as far as legislators. I think that you would hate a system where it was a competitive process each year for every community to come in and try to prove to you that their road was the most important and seeking funding for that, which is why I think, you know, our methodology is terrific in this state and takes it out of the political process as much as possible. [LB531]

SENATOR SCHUMACHER: If, for example, we threw an extra \$100 million at roads, could we reasonably expect a increase in derivative revenue from that to equal 4 percent, \$4 million a year more revenue? Or is there a tool or somebody who could answer that question for me? [LB531]

LOY TODD: I don't know that. I know that I participated in the Governor's task force where we went around the state and looked at some things like that, and needs, and worked with the communities and with people with good ideas. And a consistent testimony in those hearings was that these roads are basically pipelines of money and that you get the traffic moving and you get people able to go from community to community and businesses able to bring their supplies and inputs in and then get their products out. I think it would make a huge difference. And it's the only way it can work. I look at a community like Norfolk, with Nucor, the places like that. If they didn't have good roads going there and good roads out and good transportation in every direction, they'd be somewhere else. So I...but I don't know. Maybe if people from Roads can give you that formula...and I know they're going to testify later. But I'm... [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

LOY TODD: ...I simply don't know. [LB531]

SENATOR HADLEY: Any other questions for Mr. Todd? Thank you, Mr. Todd. [LB531]

LOY TODD: Thank you. [LB531]

SENATOR HADLEY: (Exhibits 3-7) Next...while they're coming up, I have received...the committee has received many letters, and they will be entered into the record. I'm not going to list each of the letters we received, but we have received many of them, and they will be entered into the record. [LB531]

MARK WHITEHEAD: Good afternoon, Chairman Hadley, the rest of the members of the

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committee. My name is Mark Whitehead. I serve as the...in this capacity as the president of the board for the Nebraska Petroleum Marketers and Convenience Store Association. I appreciate the opportunity to appear before you today. Senator Fischer crusaded... [LB531]

SENATOR HADLEY: Mr. Whitehead, could we have you spell your name for the record? [LB531]

MARK WHITEHEAD: Certainly. Just like it sounds: W-h-i-t-e-h-e-a-d. [LB531]

SENATOR HADLEY: Thank you. [LB531]

MARK WHITEHEAD: Senator Fischer crusaded for many years on the issue of proper funding for roads because she identified the...the needs were great. She discovered...she first of all went on that crusade thinking the same mind-set as so many others, that the excise tax on motor fuels was the proper way to go with that. But she quickly learned, for a variety of reasons, that that was not the best way to go. First and foremost, it's simply a competitive nature. The state of Nebraska has the highest excise tax of any surrounding state currently, and we go beyond that. It puts us at a severe competitive disadvantage. With over half our population of this state within, I would venture to guess, 25 to 30 miles of our eastern border around Lincoln, it makes it a very easy alternative for people to drive across the Missouri River to fuel, which, of course, many people in Omaha currently do, with the 3.5 cent differential between Nebraska and Iowa excise taxes. The other reason, as well, is, as Loy had mentioned, is that there is a diminishing return on the excise tax simply because people are not driving as much as they used to. And I think that's projected to continue along that fashion as well. So the thing that we need to...this is where LB84 was born in that we needed to diversify away from the old, traditional excise tax formula simply to balance it out and do that. Since its passage, there's been a renewed degree of interest in moving along at the contemplated funding of the different roads. You've probably seen where the Department of Roads has as early as two years ago, I believe, has done a priority list on what exactly will happen if this funding comes available, and it's projected out for the ten-year life of it. Senator Schumacher, to your question specifically, in terms of identifying where exactly the benefits would come from, that can easily be identified from that priorities list. And I can only speak from my frame of knowledge here in the city of Lincoln. Certainly the South Beltway has been a huge matter of consideration here. And any of us who has driven along Highway 2 along the southern border knows and has seen the safety concerns associated with the current configuration of that. South Beltway will go a long way to alleviating that. And this is about the only mechanism that I have seen since we've had this discussion to really move that project forward and bring it to the top. In conclusion, this is far and away the best measure that has been presented to move our state infrastructure needs forward, and the Petroleum Marketers and Convenience Store Association strongly urges you to stay in positive,

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pro-growth measures and in favor of LB84 by voting against LB531. I'd be glad to answer any questions you might have. [LB531]

SENATOR HADLEY: Any questions for Mr. Whitehead? Senator Harr. [LB531]

SENATOR HARR: Thank you. I guess I have a couple of questions. First off, since you're a petroleum guy and this is a chance to ask a question, why is diesel taxed at a higher rate than gasoline? [LB531]

MARK WHITEHEAD: That's done at a federal level. And so I can't really... [LB531]

SENATOR HARR: Okay. [LB531]

MARK WHITEHEAD: ...I can't really answer that. It might have to do... [LB531]

SENATOR HARR: It's not a state... [LB531]

MARK WHITEHEAD: What's that? [LB531]

SENATOR HARR: It's not a state level? [LB531]

MARK WHITEHEAD: No. Well, I... [LB531]

SENATOR HARR: I think there is. [LB531]

MARK WHITEHEAD: I... [LB531]

SENATOR HARR: I think it's nineteen and twenty-one, isn't it? [LB531]

MARK WHITEHEAD: ...take that back. I don't know, I'm sorry. I apologize. [LB531]

SENATOR HARR: Okay. Okay. [LB531]

MARK WHITEHEAD: But I know it's priced differently on a federal level. [LB531]

SENATOR HARR: Okay. And then my second question is, you talked about that...the highway south of Lincoln. [LB531]

MARK WHITEHEAD: Um-hum. [LB531]

SENATOR HARR: And that's paid for a little differently than how traditionally we paid for highways. You agree with me on that? Insofar as there was money on that half-cent that went to local municipalities to pay for projects? And my question is, do you think that is

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proper? And why? [LB531]

MARK WHITEHEAD: I go just purely from a basis of the priority list the Department of Roads did. And I do know that at this point we have been frustrated on how exactly to get either the South or the East Beltway built. Even on current projections that the Department of Roads has put out that I recall, it doesn't even show the East Beltway until 2025. And this at least gets the South Beltway at least on that priority list and moving forward. I don't know if, specifically, whether or not that addresses your question, but that's my basis. [LB531]

SENATOR HARR: It changes the priorities, though, doesn't it? It changes the listing of projects because it gave money to municipalities? Is that correct? [LB531]

MARK WHITEHEAD: I don't recall. I do not know. [LB531]

SENATOR HARR: Okay. I'll follow up off the record. Thank you. [LB531]

SENATOR HADLEY: Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. I'll ask you the same question. I'm trying to fish for a methodology here. If we put an extra \$100 million into roads, could we reasonably expect an extra \$4 million in state and local revenue to be derived from that improvement? [LB531]

MARK WHITEHEAD: Well, my analysis would be somewhat subjective, based on what I've seen. And I would go back to what I'd indicated earlier. Those of us who are familiar with the activity that we've seen along Highway 2 know that Highway 2 is a dangerous situation, with the number of truck traffic that's used on a throughput basis currently that is being utilized as an internal thoroughfare going through the city of Lincoln. It creates a very dangerous situation. I can't cite specifically the traffic accidents on Highway 2, but I know that...I think they're substantial. And one of the reasons for the South Beltway being proposed to begin with is to help alleviate that and make sure that we get that loop going around the outside to make sure that the heavy truck traffic does, in fact, at least circumvent a little bit more towards the outside. It also will help...by definition, the beltway is designed, as well, for helping to manipulate internal traffic within the city as well, which is stronger economic development. And development will, in fact, develop around the new South Beltway as soon as it's built. [LB531]

SENATOR SCHUMACHER: How much will it cost us to build that beltway? [LB531]

MARK WHITEHEAD: Do not recall. [LB531]

SENATOR SCHUMACHER: Okay. Thank you. [LB531]

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SENATOR HADLEY: Any other questions for Mr. Whitehead? Thank you, Mr. Whitehead. [LB531]

MARK WHITEHEAD: Thank you. [LB531]

SENATOR HADLEY: Next proponent (sic). Hmm? Oh, opponents. I'm sorry, counsel told me we're in opponents. Misspoke. [LB531]

RICHARD REISER: Good afternoon, Senator Hadley and members of the Revenue Committee. My name is Richard Reiser; it's R-i-c-h-a-r-d R-e-i-s-e-r. I am testifying here today on behalf of the Omaha Chamber of Commerce. I'm on the board of directors and head of the Transportation Council of the Omaha Chamber; former highway commissioner and served on the Highway Commission between 2001 and 2010; on February 10, 2011, testified in support of LB84. February 16, 2010, we testified in opposition to LB1098. We're here today in opposition to LB531 for the same reasons. LB84 was fully considered, fully debated, and passed by the Legislature in 2011. It deserves support again today. The necessity of maintaining a strong statewide network of good roads remains a high priority for the Omaha Chamber of Commerce, and an absolute necessity for economic development. For approximately eight years Nebraska Department of Roads has been raising the warning flag on highway funding. The same problems that existed in 2011 that led to the passage of LB84 exist today. There's too little money for new construction. The problem of rising maintenance and construction costs and declining revenue from fuel taxes has resulted in less money available to the department to maintain roads, which are, again, costing more to maintain. The highest priority of the Department of Roads is maintaining the existing approximately 10,000 miles of roads on the state highway system. Each year they measure the quality of the pavement with the goal of maintaining 84 percent of the highway system miles in at least good or very good condition. From 2001 through 2005, the percentage of highways in those categories was between 81 and 85 percent. From 2006 through 2010, the number has been between 80 and 75 percent. In 2011 the number fell to 74 percent. If this bill passes, the State Highway Capital Improvement Fund will lose approximately \$62 million in fiscal year '14-'15. The cities and counties will lose approximately \$11 million; \$1.5 million of that \$11 million would go to the city of Omaha. While not a perfect solution to the funding of adequate roads in Nebraska, the Build Nebraska Act was an important step which was taken for the right reasons. As I sit here today and listen to the testimony from the opponents, there's a little bit of deja vu, because as this was raised to the members of the Legislature for several years prior to 2011 there was almost unanimity that, yeah, it's a problem: we don't have enough money; we have to do something to support roads. A phrase I heard a lot was: We have to find some money. Well, there isn't any money to find; it's got to come from somewhere. And this...the problem with roads is, once they start to deteriorate, the roads don't know that they're supposed to stop deteriorating while we find some money;

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they just keep right on deteriorating. If you delay fixing some of those roads, a problem that could have been fixed fairly economically with a surface overlay or filling the cracks gets down into the subbase of the road and then you're looking at a much more expensive problem and have to basically repair or replace the entire road. So we strongly support...or we support LB84, the Build Nebraska Act, and are opposed to LB531. Thank you very much. [LB531]

SENATOR HADLEY: Are there questions? Senator Harr. [LB531]

SENATOR HARR: Thank you, Chairman Hadley. Just quickly...and I know you were here on LB405 and LB406. If we were to transfer our tax system and make it less reliant on income and more reliant on sales tax, at that point do you think it would be viable to reopen LB84 and evaluate...? Obviously, the funds would drastically increase into the LB84 funds. [LB531]

RICHARD REISER: Senator, I...it certainly could be something that would be talked about in the entire mix of the funding, of reopening that and what happens to the sales tax. Without knowing specifically what happens in that, it's hard to say. But in the meantime, this will start keeping our roads in good condition. [LB531]

SENATOR HARR: All right. Thank you very much. [LB531]

SENATOR HADLEY: Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony. Two questions, much like I've asked before. What is a reasonable rate of return that we can expect in the form of state and local revenue on \$1 invested in new roads? Do we get 4 percent? [LB531]

RICHARD REISER: I would suspect you do get 4 percent. I've listened to the question a couple times now, and I don't have a great answer for you. I thought about it. Much of the money that we're spending today is not on new roads; this is money that's needed to fix the existing 10,000 miles of roads. So to the extent there's a road there now and you spend \$1 million to fix that road, there's a benefit to the economy, of course, during the construction and the jobs that are involved in that and the revenue that that spins off. Whether there's a further economic benefit, I can't really say. I know that there are many people that feel strongly that new roads have a real strong economic benefit for their communities, part of the reason for the expressway system, the desire to connect all the cities of 15,000 or more to the interstate with four-lane highways. But to whether it's a 4 percent or a 5 percent, I really don't know. [LB531]

SENATOR SCHUMACHER: And then the second question: How much, assuming a large amount of money available, how much could the Roads Department reasonably

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handle extra in a year on new roads construction? [LB531]

RICHARD REISER: There are people here from the department who will testify, are better qualified than I to answer. I would say, from my experience on the Highway Commission, they could handle a large amount more than they are now. [LB531]

SENATOR SCHUMACHER: On the order of another \$50 million or \$100 million a year? [LB531]

RICHARD REISER: Oh, certainly. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR HADLEY: Any other questions? Thank you, sir. Appreciate it. [LB531]

RICHARD REISER: Thank you. [LB531]

SENATOR HADLEY: Next opponent. [LB531]

BRUCE BOHRER: (Exhibit 8) Good afternoon, Chairman Hadley, members of the Revenue Committee. Bruce Bohrer, registered lobbyist for the Lincoln Chamber of Commerce, testifying on behalf of the Lincoln Chamber of Commerce today and also the city of Lincoln. For the record, my name is spelled Bruce, B-r-u-c-e, Bohrer, B-o-h-r-e-r. The Lincoln Chamber and the city of Lincoln are united in our opposition to LB531. I'm going to abbreviate my comments, but you are...I think, in front of you now you have a written statement. It's already been mentioned before, we see the Build Nebraska Act as a culmination of years of trying to find the solution. And I appreciate the comments that Senator Conrad made regarding some tough votes and some efforts that she's made. And I agree with that; she has been an advocate for road funding in different forms. So I don't disagree. The thing about it is, LB84 was a solution to a lot of the needs that kept piling up as we, as Mr. Reiser just said, as we waited, as different efforts to either pass a gas tax increase or pass a local...transportation districts was an idea that we supported that never got anywhere either, just other different, you know, different ideas that came before this body over about eight or nine years. And as we were doing that and saying, "Oh, that isn't going to work either; that's not going to get the votes," all those needs across this state kept piling up and piling up. So that's the way we view LB84, as landmark legislation. So you're not surprised to see us here, opposed to an effort to repeal it. As you've heard from two individuals now about this South Beltway, that's a very important issue for us, obviously, and we'd like to get a complete loop system for our city completed within the next 25 to 30 years. We're going to be at about 300,000 people here pretty soon, and I think we're one of very few cities across the country without a transportation loop. That has ramifications related to public safety, economic development, and just simply road system efficiencies. So, in closing,

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we would ask that you would be opposed to this, continue to support the Build Nebraska Act. And I'd be happy to answer any questions you might have. [LB531]

SENATOR HADLEY: Questions for Mr. Bohrer? Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just briefly, my favorite question of the day. [LB531]

BRUCE BOHRER: Yeah. [LB531]

SENATOR SCHUMACHER: How much will it cost you to complete that loop? [LB531]

BRUCE BOHRER: It's \$175 million to \$200 million. It's an 80/20 split, so the city of Lincoln needs to put in 20 percent. [LB531]

SENATOR SCHUMACHER: Okay, so the local...is that a split with the state or with the feds? [LB531]

BRUCE BOHRER: Yeah, the state. [LB531]

SENATOR SCHUMACHER: Okay. So we're looking at \$200 million. Will that \$200 million a year investment bring in an extra \$8 million, 4 percent, in today's economy, in state and local revenue? [LB531]

BRUCE BOHRER: Well, as previous testifiers talked about, Senator, I don't have any model that says absolutely guaranteed. I do think each project is probably, kind of, has to be evaluated uniquely. I do think in the case of completing a beltway and, you know, the development that that's going to prompt in Lincoln as we add people and just as we've already heard from many developers, you know, if we get this beltway built, we're going to get out there and expand and grow. So that's going to cause quite a bit of increase in our valuation base, increase in sales activity, business activity besides the transportation improvement efficiencies that are created. So I have heard different numbers for the multiplier effect, for \$1 of road funding and how it multiplies into the community, but I'm certainly not an expert; I would defer to the department on that. [LB531]

SENATOR SCHUMACHER: Okay, so, I mean, if I were to guesstimate that kind of beltway is worth \$10 million a year, I wouldn't be out of line. [LB531]

BRUCE BOHRER: I, you know, I don't think so, but I really don't have any frame of reference... [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

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BRUCE BOHRER: ...to tell you yes or no. [LB531]

SENATOR HADLEY: Thank you, Mr. Bohrer. [LB531]

BRUCE BOHRER: All right. Thank you. [LB531]

SENATOR HADLEY: Appreciate it. Next opponent. [LB531]

DENNIS HOUSTON: (Exhibit 9) Good afternoon, Chairman Bradley (sic) and distinguished members of the Revenue Committee. My name is Dennis Houston, D-e-n-n-i-s H-o-u-s-t-o-n. I am the president and CEO of the Norfolk Area Chamber of Commerce. On behalf of the Norfolk Area Chamber of Commerce and its more than 660-member firms, the 15,000 area residents that our members employ, and the 125,000 people in the Norfolk trade area, I am testifying in opposition to LB531. I urge your opposition of LB531 as well. Twenty-five years ago the Norfolk Area Chamber of Commerce was actively involved, along with our then-Senator Connie Day of Norfolk and others, when the Nebraska expressway system was designated by the Legislature as a statewide priority. That was back in 1988. Two years ago this month, in this very room, we were here in community support of LB84, the Build Nebraska Act. In Norfolk it remains a top priority today. We would like to take this opportunity to acknowledge and thank U.S. Senator Deb Fischer, your former colleague, for her steadfast leadership and partnership on this most important issue of roads and infrastructure for the state of Nebraska. For the citizens of Norfolk and of Madison County, the Build Nebraska Act is not just about maintaining and building new roads. It's about building a rural economic development success story in northeast Nebraska. It's about new job creation in our part of Nebraska. We consider LB84 to be an economic development bill as much as it is a transportation bill. Why? Because the passage two years ago will most certainly lead to economic prosperity for Nebraska. We must not take that potential economic prosperity away. One of the first questions prospective industries in northeast Nebraska ask the Norfolk Area Chamber of Commerce and the Norfolk Area Economic Development Council is whether the region is linked by a four-lane expressway to the interstate. The answer, for us, is always no. If the state wants communities to grow, to recruit employers that create jobs, then funding for expressways is needed as a foundation to do that. The economic impact that incomplete segments of the 1988 expressway plan are having on the state's local communities is significant. We ask that the Nebraska Legislature make economic development the most urgent and determining factor in your decision to save the Build Nebraska Act. If we attract new industry, we create new jobs. If we create new jobs, we increase our population and bring Nebraskans back home. We, in turn, generate more tax revenue that is also more diversified. This additional tax revenue will help cover the costs of the very roads we are discussing today. Nebraska is positioned very well in the coming years to come out of America's slow economy, as it's already started to, as the country's leader in economic

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development success. As long as we can maintain our current plan to not raise taxes and combine that policy with tremendous new economic development initiatives and infrastructure investment, we will be that shining state on the prairie that all others look to for leadership. More importantly, the business community will look to Nebraska as one of the best places to call "home" for their own entrepreneurial and business investment success. The Nebraska Legislature does not create jobs; the business community creates jobs by making financial investments in our great state. Having said that, the Legislature initiatives need to provide the Nebraska business community with the tools and investment we need to create the jobs of Nebraska's future. A modern infrastructure is one of the most important tools we have available to do so. It is our public/private partnership that will lead to our future success. I would like to express our thanks to each of you for taking the lead on this important matter and being a partner in that success. People throughout rural Nebraska describe the expressways as the economic lifeblood of their communities. Expressways truly are Nebraska's roads to prosperity. We urge your opposition to LB531, and we appreciate your partnership in this process. Thank you. [LB531]

SENATOR HADLEY: Thank you, Mr. Houston. Are there questions? Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. My favorite question of the day. Has the Norfolk chamber done any analysis about what would be the return on investment in state and local revenue if...for every, you know, \$1 million of investment in that four-lane into Fremont or a little longer route through Columbus? Any idea what...? I mean, we talked about roads being a great investment, a great return on investment, the expressways. Does anybody know or have you found a way to put a number on that? Is it 4 percent return? Is it 10 percent return? [LB531]

DENNIS HOUSTON: That number hasn't been quantified, Senator, but I can assure you one thing, that the business community in Norfolk will do everything they can to be a part of that, to help create that 4 percent. We have opportunities we have missed in the past because we did not have that direct four-lane access. And if we do have that four-lane access in the future, we know some of those opportunities...for us, the answer would be yes, as opposed to no, so... [LB531]

SENATOR SCHUMACHER: So a 4 percent number isn't ridiculous. [LB531]

DENNIS HOUSTON: I don't think that's unreasonable at all. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR HADLEY: Thank you, Mr. Houston. Any other questions? Seeing none, next opponent. [LB531]

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DENNIS HOUSTON: Thank you. [LB531]

SENATOR HADLEY: Could I see a show of hands, how many more opponents? Okay. [LB531]

COBY MACH: (Exhibits 10 and 11) Good afternoon. My name is Coby Mach, C-o-b-y M-a-c-h. I'm the president of the Lincoln Independent Business Association, also known as LIBA. We're strongly opposed to LB531, the bill that would reverse the 2011 action by the Legislature to fund roads with the passage of LB84, the Build Nebraska Act. In the last 12 years...in the last 12 years, we have 18 people that have lost their lives in tragic accidents on Highway 2. Now to clarify, those 18 deaths occurred on the stretch of Highway 2 in the city limits of Lincoln, from the east side to the west side. One of those lives was lost in just the last 3 days: Maurine Mumma of Lincoln died 3 days ago. According to the Nebraska Department of Roads 20-year plan, Highway 2 is the only Nebraska highway in the red zone, or extreme category, for semitruck traffic. This problem only gets worse unless we do something about it. The Build Nebraska Act allows us to do something about it. It's not just LIBA that supports road funding, or any of the other groups that are here today. In June of 2009, then-United States Senator Ben Nelson told the Lincoln Journal Star's reporter Don Walton that he had, and I quote, concern over the lack of progress on the Lincoln South Beltway. Lincoln Mayor Chris Beutler summed up the importance of a South Beltway in '09 when he told the Journal Star that the beltway's completion is crucial to Lincoln's economic vitality and to driver safety. Just 5 months ago...just 5 months ago we had to close part of Highway 2 in Lincoln when a 17,000-pound container of radioactive waste slid into the sleeper-cab of a semi that was hauling it. This occurred on a Husker football game day. For the safety of our families, please vote no on LB531. Thank you. [LB531]

SENATOR HADLEY: Any questions for Mr. Mach? Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. We heard about the \$200 million beltway that would be nice to build around Lincoln. Has your organization been able to determine or have a "guesstimation" on what that would return in additional state and local revenue, were it constructed? [LB531]

COBY MACH: Well, I think maybe what you're looking for is ROI, a return on investment. And business people understand that. We also understand, though, that when it comes to government, you don't put an ROI on everything, for example, the Nebraska State Patrol and the funding that you give to them. What is the ROI? It's safety. And that's what we're talking about... [LB531]

SENATOR SCHUMACHER: But I'm looking for a number here. [LB531]

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COBY MACH: I don't have a number, Senator. [LB531]

SENATOR SCHUMACHER: Okay. All right. Thank you. [LB531]

COBY MACH: Thank you. [LB531]

SENATOR HADLEY: Mr. Mach, I guess the quick question I have is that would you also say it's pretty hard to put a value on the 18 lives that you said have been lost? [LB531]

COBY MACH: I would say it's extremely... [LB531]

SENATOR HADLEY: High, to put a... [LB531]

COBY MACH: It's impossible, and ask those families to try to put a value on those lives. [LB531]

SENATOR HADLEY: I was stuck at the light at 14th and Highway 2 the other day, and I was just absolutely amazed at the number of semis that came by the light there. It just...is it basically a true statement if semis are coming from the south to the southeast--St. Louis, Kansas City--and going to go west, if they come up this way, they're going to use Highway 2; is that a fair statement? [LB531]

COBY MACH: Well, they are going to use Highway 2; they are using Highway 2. And, in fact, to those testifiers that talked about needs for children, we have children that are crossing Highway 2, at 48th and Highway 2, so they can get to Pound Middle School. That right...in that area right there, you're crossing seven lanes of traffic. When you count the four driving lanes and the turn lanes, there are seven lanes of traffic to get across Highway 2 as it exists. [LB531]

SENATOR HADLEY: Thank you. [LB531]

COBY MACH: I will provide you with photocopies of many of the articles... [LB531]

SENATOR HADLEY: Thank you, Mr. Mach. Next. Yes, Senator Janssen. [LB531]

SENATOR JANSSEN: Thank you. Thank you, Chairman. I apologize for getting here late. Thanks for being here today. With LIBA and yourself, your own personal opinions if you want to include those, which I know you continually...sometimes do, how do you see roads funding? I believe that government's purpose is for infrastructure, for taxes, but do you see LB84 and keeping LB84 in place helps with that mission, for as far as businesses go, or...? [LB531]

COBY MACH: Certainly. We...and as businesses, we look to the government for a lot of

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things. And we look to the government for safety in our communities, whether that's the State Patrol or police; infrastructure; providing water; keeping our air clean; and regulating those sorts of things. And providing infrastructure and roads is one of them. And we see that as one of the vital roles, one of the most important roles for government. [LB531]

SENATOR JANSSEN: I appreciate that, and I agree with you. And I bring that up because I personally think this is token legislation; it's not going to get out of this committee. That's my personal opinion. I just say that to the people that are coming behind you that... [LB531]

COBY MACH: Well, we would hope that everyone would oppose this; thank you. [LB531]

SENATOR HADLEY: Thank you, Mr. Mach. [LB531]

COBY MACH: Thank you. [LB531]

SENATOR HADLEY: Next opponent. Welcome. [LB531]

MARLENE JOHNSON: (Exhibits 12-14) Thank you. Senator Hadley and members of the Revenue Committee, my name is Marlene Johnson, M-a-r-l-e-n-e J-o-h-n-s-o-n. I have brought for the record a resolution from the city of Wahoo concerning LB531 and letters from Nebraska City and from Gering. And those will be shared with you and entered into the record. I'm the mayor of West Point; I am president-elect of the League of Nebraska Municipalities. And I am testifying in strong opposition to LB531 on behalf of the city of West Point, the League, and a coalition of municipalities referred to as NEED, which stands for "Nebraska Expressways for Economic Development." We formed approximately in 2007, and we have been working to work very hard to get LB84 passed and we continue to support LB84. LB531 would repeal the Build Nebraska Act, which was created by the passage of LB84 in 2011. LB84 reserves 0.25 percent of state sales tax revenue to fund highways, roads, and expressways that serve all Nebraskans. Transportation infrastructure is critically important to economic development. As you know, the funding which will result from the Build Nebraska Act will not address all the unmet needs for important highway projects. But it will help, and it will be a start. Good roads are a priority for attracting business and industry to our communities, as well as attracting new residents to our smaller communities who'd like to live in a small community but yet want to be able to get to the city to participate in activities and functions and plays and games and things like that that go on there. So I would respectfully ask that you indefinitely postpone LB531. [LB531]

SENATOR HADLEY: Thank you. Questions? Seeing none, thank you. [LB531]

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MARLENE JOHNSON: Thank you very much. [LB531]

SENATOR HADLEY: We appreciate it. Next opponent. [LB531]

KHALIL JABER: (Exhibit 15) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Khalil Jaber, K-h-a-l-i-l J-a-b-e-r, and I am the deputy director for engineering of the Nebraska Department of Roads, NDOR. Director/State Engineer Randy Peters is unable to be here today, as he is in Washington for a legislative conference for state DOT directors. I am here to testify in opposition of LB531 on behalf of the Department of Roads and on behalf of Governor Dave Heineman. As you know, the department's focus in recent years has been to preserve and maintain the existing state highway system. Due to limited state and federal funding, capital improvements, which is to say, construction of new and expanded highways were deferred essentially indefinitely. That was how matters stood until two years ago when the Legislature put in place a 20-year capital improvement program that is slated to start this summer, the Build Nebraska Act. Under the two-year lead period that was enacted in 2011, the department has been diligently preparing projects for the first ten years of this vital new program. I would like to refer you to the list and project locations map that were distributed with my testimony. I will point out that the list was vetted by the State Highway Commission before being initially presented to the Legislature and the public at the annual needs assessment report before the Transportation and Appropriations committees in the fall of 2011. Next, the department published the list in the "Surface Transportation Program Book" for the current state fiscal year. Because Program Book includes projects for the next five years, the current edition also provides basic details for each Build Nebraska Act project that will be initiated through fiscal year 2018. The NDOR has always provided transparency in this manner, and we take very seriously the responsibility to deliver the projects that have been promised. These projects will increase safety and improve mobility throughout the state. They will also remove bottlenecks in metropolitan areas. As I am sure you can appreciate, highway capital improvement projects require careful planning and prioritization to ensure that the department meets critical needs in a responsible and durable manner. A reliable 20-year revenue stream is a great asset in that regard. The Build Nebraska Act gives us vital tools and sets the bar high. The NDOR knows the Legislature and the people of Nebraska have great expectations for the funding they are committing to this venture. In return, the department will provide the best possible value on an aggressive schedule. This concludes my testimony. I'd be happy to answer any questions you may have. [LB531]

SENATOR HADLEY: Questions for Mr. Jaber? Senator. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Simple question: Is the department in a position to handle an extra \$100 million a year in capital improvements? [LB531]

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KHALIL JABER: Sir, we... [LB531]

SENATOR SCHUMACHER: Could you eat that much that fast? [LB531]

KHALIL JABER: We illustrated and I think we demonstrated that when President Obama passed the stimulus package where we sent the state of Nebraska over \$235 million. And the condition of that stimulus package: we had to obligate half of the money before June of 2009. And we were very successful. [LB531]

SENATOR SCHUMACHER: So you can eat pretty fast if the opportunity is... [LB531]

KHALIL JABER: We have plenty of needs, sir. And while resources are scarce, I can assure you that we're pretty creative and pretty proud of our record, and I think we can handle it. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR HADLEY: Mr. Jaber, I don't want to misquote Director Peters, but I have asked him in at least two or three open sessions and I wonder if you would confirm it, that if this goes away we will be hard-pressed just to keep up with maintenance on our highways, let alone doing any new construction. Is that a fair statement? [LB531]

KHALIL JABER: Senator Hadley, that's a fair statement, and Director Peters was right on the money. That is the case. And we're barely keeping up with the preservation need in the state of Nebraska. I think you were part of that when we presented the needs last November. Stated in current prices, it's almost \$10 billion. With inflation, that's over \$14 billion. We are short of the mark. [LB531]

SENATOR HADLEY: Thank you. Seeing no other questions, thank you very much for coming in to testify. [LB531]

KHALIL JABER: Thank you. [LB531]

SENATOR HADLEY: Next proponent (sic)...opponent. [LB531]

SENATOR SCHUMACHER: You're just trying to be fair. [LB531]

SENATOR HADLEY: I think you know...you'll tell us if I missed it, the wrong way, huh? [LB531]

GREG WOLFORD: (Exhibit 16) Good afternoon, Senators. My name is Greg Wolford, W-o-l-f-o-r-d. I am the District 7 highway commissioner and the current chair of the

State Highway Commission. I'm here today to speak in opposition of LB531. Three years ago the Highway Commission began holding four outstate meetings each year, allowing us to visit each of the eight districts once every two years. The commission felt we needed to allow more access to the citizens of Nebraska to voice their concerns about highways, and we believe this change has been a resounding success. A common theme of all of these meetings has been that while everybody appreciates the work the department does in maintaining the existing highway system, they also want the Department of Roads to pursue capital needs projects, in other words, new and expanded highway capacity. Until two years ago, the funding mechanism for the roads in Nebraska had not changed in over 20 years. For years, inflation had been taking a toll on the available funding for highway maintenance and improvements. By the middle of the last decade, it became obvious that the Department of Roads would soon have only sufficient funding to maintain what was already constructed. In 2008 and 2009 the department worked extensively with the Highway Commission to develop a new policy of prioritizing highway improvements. That policy is now to fund high-priority bridges first, maintain existing highways second, and construct capital improvements third. While this all sounds good and fair, the net result of this policy is the first two items take all the available funding. In 2010, all capital improvement projects were put on hold indefinitely. Through the system of prioritizing highway projects, the Department of Roads maintains an extensive list of needed capital improvement projects. Prior to LB84, the only response we could give citizens requesting that these identified capital improvements actually be constructed was that there wasn't money available. In 2011, after passage of LB84, the department produced a list of projects that could be funded by LB84 and built in the ten-year time frame from 2014 to 2023. This list was submitted and approved by the Highway Commission and was released to the public. The list is now published in the Department of Roads' current "One- and Six-Year Plan." And Mr. Jaber included that list in his handout. Every one of these projects has the support of the public. If we want to see these projects constructed, there has to be a way to pay for them, and LB84 is that way. While all these capital improvement projects address capacity needs for the state of Nebraska, several also address real and pressing safety needs. The first project on the list is a prime example, the four-lane expansion of Highway 133 between Blair and Omaha. This project was the main topic of discussion at our outstate meeting in Omaha held prior to the passage of LB84. The citizens living and traveling that corridor daily deal with the heavy traffic and the resulting accidents from an undersized highway. They let us know in no uncertain terms that this project was one they wanted built. As I said earlier, this has been a common theme in all of our meetings in the districts all across the state. The passage of LB531 would put an immediate stop to work on the expansion of Highway 133 and the other capital improvement projects published in the "One- and Six-Year Plan." It will guarantee, at a minimum, delays of many years for those projects and possibly that they wouldn't be built at all. Again, I am speaking in opposition of LB531 and urge you to vote against this bill. And I would be happy to answer any questions. [LB531]

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SENATOR HADLEY: Thank you, Mr. Wolford. Questions? Senator Hansen. [LB531]

SENATOR HANSEN: Thank you. Mr. Wolford, I noticed that you're from McCook, so you know... [LB531]

GREG WOLFORD: Yeah. [LB531]

SENATOR HANSEN: ...western Nebraska a little bit. [LB531]

GREG WOLFORD: Yes, sir. [LB531]

SENATOR HANSEN: A lot of people back here when they go west on the interstate they get to Kearney, and I call it--it's the Kearney bypass, the East Bypass--I affectionately call it the Hadley exit (laughter). And it looks like people can get off there but they can't get back on until they go broke. But if you draw a line north and south, doesn't matter, east and west, there, I mean, in that general area, there's no projects scheduled in the Build Nebraska Act, other than the Heartland Expressway up by Alliance, and I'm assuming you represent that area. Are there some projects up there that...that...in that...in that two-thirds of the state? [LB531]

GREG WOLFORD: In my district, District 7, which is southwest Nebraska, there are no projects in the Build Nebraska Act. [LB531]

SENATOR HANSEN: And north of there, either. [LB531]

GREG WOLFORD: And in District 8, which would be the Sandhills area, there are no projects. [LB531]

SENATOR HANSEN: There's a road between, in McPherson County, between Tryon and Arthur that is long and winding. [LB531]

GREG WOLFORD: Um-hum. [LB531]

SENATOR HANSEN: The high school in McPherson County...they have one high school, and I think it's an elementary school, too, now. They have memorialized that whole gym with scoreboards, and I think the foul line may be memorialized by youth that have died on that road. I don't know, the car count across the road will never meet the criteria of the Department of Roads. Whether it ought to be put back to a gravel road or fixed up, one of the two, but that's certainly a road that is a sad, sad road for that area of the state. [LB531]

GREG WOLFORD: Sir, I have roads like that in my district as well. [LB531]

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SENATOR HANSEN: And no projects. [LB531]

GREG WOLFORD: The...we do have projects. The Department of Roads categorizes them as "maintenance." But it's really...to the citizens, when you go out and give them a new asphalt road, they look at that as a brand-new road, but it's "maintenance." [LB531]

SENATOR HANSEN: No, it's maintenance. [LB531]

GREG WOLFORD: And the Department of Roads is doing that and doing it regularly. They have...with the new priority system, the budget for my district doubled to maintain roads. But, on the other hand, the expenses of maintaining those roads have gone up, to where we're building a few more projects but not as many as you would have thought. The fact of the matter is, we don't have enough money to build the roads we want and maintain the roads. It's going to be a difficult chore in the next 10 to 20 years. [LB531]

SENATOR HANSEN: Yeah. I think we could go on and on about the Tier 1, Tier 2, and Tier 3, but it looks like it's...and then that's where the people are, in the eastern part of the state, but the western part of the state, as you well know, has needs too. [LB531]

GREG WOLFORD: Yes, sir; I agree. [LB531]

SENATOR HANSEN: Appreciate your service on the Highway Commission. [LB531]

SENATOR HADLEY: Senator Pirsch. [LB531]

SENATOR PIRSCH: Just keeping on that theme, can you tell me, just in general...Heartland Expressway, right? The...kind of...are you familiar with the underlying concept of... [LB531]

GREG WOLFORD: Yes, sir. [LB531]

SENATOR PIRSCH: ...Heartland Expressway and how other...where other states are at in terms of their progress? [LB531]

GREG WOLFORD: The other states do have plans of connecting, both South Dakota and Colorado. South Dakota, I believe, does have it now four-lane from Rapid City to the Nebraska state line. Colorado is not as far along, and I know that they are struggling for funds just like we are and looking for ways to pay for it. [LB531]

SENATOR PIRSCH: I appreciate that. No more questions. [LB531]

SENATOR HADLEY: Senator Schumacher. [LB531]

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SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony. Are you aware of any methodology that would be able to give us, in financial terms, a rate of return on a new construction, say, four-lane construction. If we spend \$100 million, can we reasonably expect, in state and local revenue, that to produce a, say, 4 percent or \$4 million-a-year rate of return? [LB531]

GREG WOLFORD: I...we...I have seen studies that claim that. I can't specifically put a number on it. But if anybody doubts the viability of expanded highways and four-lane highways, all you have to do is use the state of Nebraska as a case study and look at where the population growth is in the state of Nebraska. That famous "J" hook follows the four-lane roads in the state of Nebraska. [LB531]

SENATOR SCHUMACHER: And so the thinking right now in today's economy that there's a 4 percent rate of return isn't out of line. [LB531]

GREG WOLFORD: Not at all, I don't believe. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR HADLEY: Thank you very much for... [LB531]

GREG WOLFORD: Thank you. [LB531]

SENATOR HADLEY: ...your time and service to the state. Next opponent. [LB531]

DEB COTTIER: (Exhibits 17, 18, and 19) Senator Hadley, and Revenue Committee, my name is Deb Cottier, D-e-b C-o-t-t-i-e-r, and I'm from Chadron, Nebraska. And I have often driven the road from Arthur to Tryon; and you're right, it's pretty curvy. I'm here today representing the Heartland Expressway Association. And that's an organization...a volunteer business organization, communities and organizations dedicated to seeing a four-lane expressway built in western Nebraska from the Colorado border to the South Dakota border. I'm testifying in opposition to LB531 and ask that you oppose it as well and allow the Build Nebraska Act to be implemented as the Legislature intended when they passed LB84 in 2011. More than 20 years ago, a group of dedicated community leaders began discussing economic opportunities in western Nebraska that could be realized if we had a more direct connection to the front range of Colorado through western Nebraska. We partnered with our friends in South Dakota and were able to garner some federal funds to get the project started. Today, as the commissioner just told you, South Dakota is almost to the South Dakota-Nebraska state line with their four-lane highway from Rapid City south. The vision developed in 1994 remains strong today, as does the commitment from the leaders in western Nebraska to see it completed. The Nebraska Department of Roads has spent

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considerable time and resources on a document known as the Corridor Development and Management Plan for the Heartland Expressway. This is a federally designated high priority corridor and this document, due out in a few months, clearly shows the cost benefit ratio of 2 to 1. And that includes the entire investment and the entire list of benefits. The document further outlines the safety improvements when the plan is completed. That document will be out in a few months and will be used by the Nebraska Department of Roads to proceed. NDR is also proceeding with planning on a portion of the Heartland Expressway route on U.S. 385 from Alliance south. That is in that list of priorities for the LB84 funding. The engineering and environmental assessment on that project is more than 50 percent complete. We would hope that that project would be one of the first to be constructed...new construction funded partially by the Build Nebraska Act. If LB531 is allowed to move forward, there will be no funds in the foreseeable future to finish the work that has been started...no funds with which we can partner either at the federal or local level to see the expressway system finished. It would, undoubtedly, take much longer to finish these projects without the resources from the Build Nebraska Act. And I think we're hearing fairly clearly today that they would just go back on the back shelf and probably not be on anybody's priority list. The longtime commitment demonstrated by the Heartland Expressway Association deserves the opportunity to see the project moved forward. The Legislature created that opportunity when they passed the Build Nebraska Act. We ask that you not take that away before it has a chance to be implemented. I just wanted to point out that I also handed out to you a letter on behalf of the Nebraska Economic Developers Association. I co-chair their legislative committee and serve on the board. They voted on February 7 to oppose the bill. As well as a letter from a staff member of the Ports to Plains Alliance, of which Heartland Expressway is a member. And that also is in opposition to LB531. [LB531]

SENATOR HADLEY: Thank you, Ms. Cottier. Questions? Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. You get a different question. [LB531]

DEB COTTIER: Okay. [LB531]

SENATOR SCHUMACHER: Where does the southern termination point of that Heartland Expressway? [LB531]

DEB COTTIER: Highway 71 south of Kimball. And it would actually go into Colorado to Fort Morgan. [LB531]

SENATOR SCHUMACHER: Was there any thought or how much additional expense there would be to terminate that at the I-76/I-80 intersection? [LB531]

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DEB COTTIER: The I-76/I-80 intersection is considerably east. [LB531]

SENATOR SCHUMACHER: Further east, yeah. [LB531]

DEB COTTIER: The corridor that was designated by the federal government takes (Highway) 71 into Limon, Colorado...Fort Morgan eventually into Limon. I believe the reason they kept it there was their effort to divert traffic off of I-25 and felt as though they would come north at Limon off of I-70...or Fort Morgan off of (Highway) 76, as opposed to going clear east. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR HADLEY: Senator Janssen. [LB531]

SENATOR JANSSEN: Thank you, Chairman Hadley. Ms. Cottier, nice to see you here. [LB531]

DEB COTTIER: Thank you, I think. [LB531]

SENATOR JANSSEN: I've known you for awhile and... [LB531]

DEB COTTIER: Um-hum. [LB531]

SENATOR JANSSEN: ...now I think...I perceived that we run in somewhat different political circles sometimes. Would you say that LB84 in its original intent is a good policy, nonpartisan-wise for economic development for the entire state of Nebraska? [LB531]

DEB COTTIER: Yes, it's absolutely critical for the state of Nebraska for many of the reasons that Senator Hansen indicated. There are needs in western Nebraska that are going to take the revenue-generating capacity of the entire state to help us be able to afford those. They are no less important or less needed, but yes, I believe it is good policy to prioritize keeping our infrastructure safe and modern in order for us to retain businesses, attract businesses, or our communities are not going to be large enough to support any kind of a school district. So I really believe it's a good investment. [LB531]

SENATOR JANSSEN: Thank you, Deb. Thanks. [LB531]

SENATOR HADLEY: Any other questions? Seeing none, thank you for coming. [LB531]

DEB COTTIER: Thank you. [LB531]

SENATOR HADLEY: Next opponent. [LB531]

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JOE MANGIAMELLI: (Exhibit 20) Thank you, Senator Hadley, and members of the Revenue Committee. My name is Joe, J-o-e, Mangiamelli, M-a-n-g-i-a-m-e-l-l-i. I'm the city administrator for the city of Columbus. In the handouts that are coming to you, I have a resolution in opposition to LB531 passed by the Columbus City Council two weeks ago. I have letters from our Chamber of Commerce, a 700-member strong; as well as a number of businesses in our community opposed to LB531. You've heard reference to the 1988 Expressway Plan. That was presented to the Legislature by Governor Orr and was to be followed by a funding mechanism. It never happened. Not until the Legislature, two years ago, approved the Build Nebraska Act. So it's long overdue that funding for highways be committed to by the state. Had we had a funding mechanism in place back in the late '80s, early '90s, we probably wouldn't be here today. Our roads would have been in better condition than they are. The Build Nebraska Act is important, obviously, you've heard. And I don't want to get into detail, but for economic development, for safety, etcetera. Senator Schumacher, in answer to your question, when you were visiting our communities with then-speaker Flood, you heard about the fiscal impact that we believe that the extension of Highway 30 alone from Fremont to Schuyler will have on the cities there, as well as all of northeast Nebraska. We even got buy-in from Norfolk because of that. If they couldn't have (Highway) 275 be in the tier...one of the first tiers to be constructed, Highway 30 extension provided access for them; as the expressway plan was intended to connect cities with populations of under...or 15,000 to the interstate system; that will do that. On behalf of Columbus and the other communities in northeast Nebraska that will benefit by the Highway 30 extension, I would ask you to oppose and vote against LB531. Questions please. [LB531]

SENATOR HADLEY: Any questions? Seeing none, thank you. [LB531]

JOE MANGIAMELLI: Thank you, Senator. [LB531]

SENATOR HADLEY: Next opponent. Can I see a show of hands now, how many we have left? Okay. [LB531]

LOWELL JOHNSON: (Exhibit 21) Senator Hadley, and Revenue Committee members, I'm Lowell Johnson, L-o-w-e-l-l, Johnson. I'm the City Administrator at Wayne. Appreciate the opportunity to speak today. I speak on behalf of the mayor of Wayne in opposition to LB531; and in support of a predictable funding plan for the Department of Roads capital projects. Before LB84, there were two abandoned highway projects that have been left behind in the annual crunch of spending priorities. Highway 30 Expressway connecting Columbus industrial regions' labor and resources pool with Lincoln and Omaha, and the Highway 275 Expressway that drains northern Nebraska traffic from Ainsworth all the way into Lincoln, Omaha region. These are two major transportation arteries that our future state economy depends on. Convenient

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transportation and education enables our standard of living. The issue here is transportation. Transportation projects are very complex and they're very expensive to build. There are two major problems that I see working with the Department of Roads that face them. Number one, the complexity of projects. If the Department of Roads were to start today to finish the gap in Highway 30, just to pick a project, it would take probably five to seven years just to get the design work, the environmental review, and the land acquisition done so the work could be bid out. The construction would take probably another five to seven more years. The Department of Roads can't and won't restart this kind of a construction project, or any other, until they can be assured they can complete it. Declining revenues is the other issue. We all want to burn less gas. We are successfully doing that. However, as gas tax revenues decline, we all know we need to provide predictable funding that the public will accept so that we can plan and build long-term capital projects. As public officials, we have to also focus on the long term in the midst of the constant need for the short term. And I thank you for the opportunity to speak today. Any questions? [LB531]

SENATOR HADLEY: Questions for Mr. Johnson? Seeing none, thank you. [LB531]

LOWELL JOHNSON: Thank you. [LB531]

SENATOR HADLEY: Next proponent...opponent. [LB531]

DAN PARK: Mr. Chairman, members of the committee, good afternoon. My comments will be short, the afternoon is getting long. My name is Dan Park, D-a-n P-a-r-k. I'm the chair for the legislative committee for the American Council of Engineering Companies of Nebraska. I'm here today to speak in opposition to LB531 on behalf of our organization. LB84 or the Build Nebraska Act was a very bold step by the Legislature to reverse a decade-long trend of underfunding and deferring needed transportation improvements. Funding provided by the act, as you've seen by the materials received by the department, will make it possible to complete needed projects and make our roads safer and will create economic opportunities for us across the state. Our organization respectfully requests that you kill the proposal as is. And we thank you for your consideration. [LB531]

SENATOR HADLEY: Questions for Mr. Park? Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. Are the resources here if we were to throw an extra \$100 million or more a year at roads to do the job to...I mean, is the manpower available, the construction companies available, the engineers, are folks available? Can we do it? [LB531]

DAN PARK: Yes. [LB531]

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SENATOR SCHUMACHER: Okay. Thank you. [LB531]

DAN PARK: How's that? Good? [LB531]

SENATOR SCHUMACHER: (Inaudible). [LB531]

SENATOR HADLEY: Those are the kind of...love those kind of answers, Mr. Park. [LB531]

LARRY DIX: Good afternoon, Senator Hadley, members of the committee, my name is Larry Dix, L-a-r-r-y D-i-x. I'm the executive director of the Nebraska Association of County Officials appearing today in opposition to LB531. And I am here to place NACO on the record as a position so that we show up on the committee statement as opposed to this bill. Thank you very much. [LB531]

SENATOR HADLEY: Questions for Mr. Dix? Seeing none, thank you. Next opponent. [LB531]

STAN DARLING: Mr. Chairman and senators, my name is Stan Darling, D-a-r-l-i-n-g. I am a volunteer with the Fremont Area Chamber of Commerce and I'm the chairman of the government affairs council. And we have a resolution coming around that we recently voted on at the Chamber of Commerce in opposed to LB531. We've talked about economic development, that's true for Fremont. We've talked about safety. I can only tell you that the road between Fremont and Schuyler is one of the most traveled two-lane roads in our state simply because of our population and commuters to and from Fremont. We are frustrated in Fremont because of the bureaucracy in our federal government and roads funding. Since Mr. Bush was in, President Bush was in office, Senator Janssen can attest to this, we have been waiting on environmental studies to be passed now with going on a third administration in Washington. Imagine what we could do if we had our own funding and our own authority to allocate and appropriate and prioritize our own projects without having to go to Washington. We are, like I mentioned, very much against LB531 and hope that you would stop it right here. Thank you. [LB531]

SENATOR HADLEY: Questions? Senator Janssen. [LB531]

SENATOR JANSSEN: Thank you, Chairman Hadley. Thank you, Mr. Darling, for being here. But overall we'd say that we're very pleased with the government services and representation we get in Fremont, right? [LB531]

STAN DARLING: Yes. [LB531]

SENATOR JANSSEN: Thank you. [LB531]

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STAN DARLING: Absolutely. [LB531]

SENATOR HADLEY: You know, we don't put people under oath, but we might have to at this point. (Laughter) Thank you, sir. [LB531]

STAN DARLING: Thank you. [LB531]

SENATOR HADLEY: The next opponent. [LB531]

JESSICA KOLTERMAN: (Exhibit 22) Senator Hadley, members of the committee, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I come before you today on behalf of Nebraska Farm Bureau Federation where I serve as the director of state governmental relations. We are opposed to LB531. We supported the passage of LB84 and continue to back the measures as a way to improve the health of Nebraska's highway systems. Our farmers rely heavily on reliable roads and a strong transportation infrastructure for the movement of agricultural inputs and commodities. Good roads, highways, and bridges are essential to farmers and ranchers who have faced more and more global competition, thus the key to our competitiveness continues to be the cost of our marketing our commodities through efficient movement of our products to market. We would appreciate your consideration of keeping this bill in the committee and killing it. And would be happy to answer any questions you might have. Also, I will mention that you have a letter coming around from the Nebraska Cattlemen, which I'd also like to submit for the record. [LB531]

SENATOR HADLEY: Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony, Jessica. Are you aware...our road system, our market system and general highway system is laid out a hundred or so years ago when things were much different from the way they are today. Are you aware of any study and the effort...any thought that there maybe should be an effort of how we would design a farm to market system where were we to start from scratch? [LB531]

JESSICA KOLTERMAN: I am not aware of anything specifically. But I think, you know, we would always be willing to work with the committee on looking at some kind of effort along those lines. I mean, basically for our members in order to get their products to market, they have to have good roads. They have to have solid bridges and they have to have the good infrastructure that our state currently enjoys. That infrastructure has been declining; the money has not been there to improve it, or in some places to even maintain it. And that's why we fought and worked so hard for LB84. And so that's why this bill is troublesome to us. [LB531]

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SENATOR SCHUMACHER: Thank you. [LB531]

SENATOR HADLEY: Thank you, Ms. Kolterman. [LB531]

JESSICA KOLTERMAN: Thank you. [LB531]

SENATOR HADLEY: Next opponent. [LB531]

CURTIS SMITH: Good afternoon, Senator Hadley, members of the committee. My name is Curtis Smith, C-u-r-t-i-s S-m-i-t-h. I'm executive director of the Nebraska Chapter, Associated General Contractors, here to speak in opposition to LB531. I would echo the comments made by other opponents to this bill and go further to say to remember that really nothing has changed in Nebraska since the bill was passed in 2011. Nebraska...NDR has moved forward with the prioritization, planning, and design of work that will be funded with the dollars provided by Build Nebraska Act. When the first projects are let for construction, hopefully this year, then things will actually start to change. Nebraskans will see the projects that are much needed and move Nebraska forward. Now is not the time to stop this major step towards safety, mobility, and progress. We respectfully request that LB531 not move forward. Thank you. [LB531]

SENATOR HADLEY: Questions for Mr. Smith? Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony. If we get it figured out a way to organize another \$100 million a year for road construction, are you guys ready to go to work? [LB531]

CURTIS SMITH: Well, I've been asked that question in the past, and I will say the contractors have never failed to get the work done that's been let to contract. [LB531]

SENATOR SCHUMACHER: Thank you. [LB531]

CURTIS SMITH: And I don't...would expect that to continue. Thank you. [LB531]

SENATOR HADLEY: Thank you, Mr. Smith. Next opponent. [LB531]

RON TILLERY: Good afternoon, my name is Ron Tillery, I'm the executive director of the Fremont area Chamber of Commerce. Thank you, Senator Hadley, members of the committee. I'd just like to make one... [LB531]

SENATOR HADLEY: Spell your name. [LB531]

RON TILLERY: My name is Ron Tillery, R-o-n T-i-l-l-e-r-y. Wanted to make one further point that...and echo also the comments by Stan Darling, from our board of directors,

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about our opposition to this bill. We believe that LB84 is an example of how we can solve a problem and move forward to construct badly needed infrastructure. Senator Conrad, in her opening remarks, referred to the loss of about a billion dollars over a 20-year period to other projects in Nebraska. But in reality, this represents a \$1 billion investment, a tangible investment in infrastructure that is actually going to be a revenue producer to the state. And Senator Schumacher, you've asked several people how do we quantify what that return on investment might be. And the U.S. Department of Commerce says that for every one dollar of highway construction that a state makes it can expect to receive \$2.23 in return on investment. Now I don't have the details of that study, but I'm sure that it is available for members of your staff and the committee to refer to. So I think that you're undershooting by a fair margin what that potential return may be when you ask, can we expect to get 4 percent. So I'm hopeful that you oppose and don't let this bill get out of committee because in communities like Fremont and across the state of Nebraska, the evidence is all around us when we build good infrastructure, private development follows. Thank you. [LB531]

SENATOR HADLEY: Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just to clarify, is 4 percent too high or too low? [LB531]

RON TILLERY: Well, I think...if the U.S. Department of Commerce is correct, 4 percent is way too low, that the return on... [LB531]

SENATOR SCHUMACHER: I thought you said 2.23 percent. [LB531]

RON TILLERY: Two dollars and twenty-three cents for every dollar, so that would be two... [LB531]

SENATOR SCHUMACHER: Oh, oh, oh, that isn't...boy, we got a picnic going here. Thank you. [LB531]

SENATOR HADLEY: Senator Janssen. [LB531]

SENATOR JANSSEN: Thank you, Chairman Hadley. Thank you for being here, Mr. Tillery. And I'm certain that Senator Conrad, when she put this bill forward, she opposed this years ago, a couple of years ago. At the time the argument was kids versus concrete, education verses concrete. Now I think we come down on the same side of this issue, you're in opposition of it, but how would you say that that impacts Fremont or District 15, which is my district, and your Fremont area, obviously, I mean how does that, how do you decide between we need more roads funding versus, at the time was, education funding or other programs? [LB531]

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RON TILLERY: Well, I believe that evidence and experience has shown us that this kind of investment is going to attract private investment. So there is going to be a rising tide. The pie is going to get bigger, to use another metaphor. So that money that is currently being diverted from other programs in the state to this infrastructure is going to produce a greater rate of return and more than replace those dollars through other investments. [LB531]

SENATOR JANSSEN: Now if you could...I believe you live in Lincoln permanently, don't you? Do you still live in Lincoln? [LB531]

RON TILLERY: I am bicoastal so to speak, both Fremont and Lincoln. [LB531]

SENATOR JANSSEN: Yes. So I mean, on a personal side, how do you feel about LB84 and its funding mechanism as a resident of Lincoln, if you can switch hats? [LB531]

RON TILLERY: Well, I think it's very important for us to have connectivity from not just Lincoln to Fremont, but throughout the state. And as Stan Darling testified, Highway 30 is a big priority for Fremont, Columbus, and Norfolk, and the entire northeastern corridor because it represents infrastructure improvements that is going to attract additional development. [LB531]

SENATOR JANSSEN: I appreciate your views because I know that we pass each other every day going the opposite direction from Lincoln to Fremont. [LB531]

RON TILLERY: Yes, we do. [LB531]

SENATOR JANSSEN: Thank you. [LB531]

SENATOR HADLEY: Just a quick question, Mr. Tillery, Did you live in Kearney at one time? [LB531]

RON TILLERY: I did. [LB531]

SENATOR HADLEY: Okay. [LB531]

SENATOR JANSSEN: We won't hold that against you. [LB531]

SENATOR HADLEY: Would you say that the representation that Kearney now has in the Legislature far exceeds your current location? (Laughter) [LB531]

RON TILLERY: No comment. (Laughter) [LB531]

SENATOR HADLEY: Thank you. Thank you, Mr. Tillery. Next opponent. [LB531]

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JOE KOHOUT: (Exhibits 23 and 24) Chairman Hadley, members of the Revenue Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of two clients, first the Professional Engineers Coalition, and second, the United Cities of Sarpy County. I'm passing a letter around, we appeared in support of LB84, and for the same reasons then we supported LB84, we oppose its repeal. And so with that I'll add the...I'll be the first to say it, "us too". [LB531]

SENATOR HADLEY: Mr. Kohout, I have just one quick question. I believe I'm correct, you live in the Omaha area, is that correct? [LB531]

JOE KOHOUT: I do live in the Omaha area. [LB531]

SENATOR HADLEY: Okay, have you noticed, or is there any groundbreaking...we hear a rumor that they're going to expand the interstate by 14 lanes between Lincoln and Omaha, is there any truth to that? (Laughter) [LB531]

JOE KOHOUT: You know, Senator Hadley, I would be fine with that. [LB531]

SENATOR HADLEY: Okay, I just wanted to be sure. We just...we see all those lanes just keep piling out to...some day we will have concrete to from Plattsmouth to Lincoln to Omaha. Thank you. [LB531]

JOE KOHOUT: Thank you. [LB531]

SENATOR HADLEY: Next opponent. [LB531]

LARRY JOHNSON: Good afternoon, Senator Hadley, members of the committee, my name is Larry Johnson, L-a-r-r-y J-o-h-n-s-o-n. I'm here to represent...I'm the president of the Nebraska Trucking Association and I'm representing the trucking and transportation industry in Nebraska today. I guess I'll say "me too", safety and efficiency are very important to transportation. It is important at every corner of the state to move goods to and from the industries and farms. One of the big things that we recognize in terms of Senator Schumacher's question is that how do you equate economic development? In just using some examples that we're familiar with is the second interchange at North Platte when we had that large distribution center move in there. That created 500 trucks in and 500 trucks out every day. The auxiliary supportive filling stations and those kinds of things filled in behind it. But those are 500 different trucks each way, so it's about a thousand trucks a day. So, since we pay our registration on a proportion basis to each state that we operate in, and also the fuel taxes, there is a considerable amount of growth that comes back into the Highway Fund, and then, of course, uses other things that you could use it for. We've always been at the table to examine other ways of raising funds. And we worked hard, along with our other

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partners, to help support LB84 last year. And again, we say, if it made sense last year, we don't think the need has gone away and we hope that you'll be opponents of the bill here. Any questions? [LB531]

SENATOR HADLEY: Are there questions? I had just one quick one. Two exits into North Platte? (Laughter) [LB531]

LARRY JOHNSON: Uh, uh, it...well, is there three now? No, I think it's...(laughter). [LB531]

SENATOR HADLEY: Thank you. [LB531]

LARRY JOHNSON: But, you know, I think that is a great question. But thinking along the Norfolk area, seeing Affiliated Foods and that distribution center and the growth up there, the changes in traffic lanes and logistics are rapidly occurring and we need to be really ready because right now with the recent highway reauthorization bill, it mandated that we have a national freight committee that will be looking at where they're going to put the emphasis on 27,000 miles of roads. And we, of course, want that on Interstate 80 and fanning out from there instead of Interstate 70. So we'll keep an eye on that as well. Thanks. [LB531]

SENATOR HADLEY: Thanks. Senator Pirsch. [LB531]

LARRY JOHNSON: Oh, yes. [LB531]

SENATOR PIRSCH: I'll just be brief, but in terms of economic development attracting the...you know, the Battelle study identified the...just a couple few years ago, as one of our, I guess, competitive strengths or strategic strengths being transportation and logistics, how important is it, I mean obviously, within the state that is an important cluster, but as you look at...as transportation and logistic companies look at moving here, do they look at factors involving the roads as key to their decision making? [LB531]

LARRY JOHNSON: I think most of them are probably drawn to easy on, easy off access. So potentially bypasses around would be areas that they would look at, new interchanges, kind of around Kearney and that area might be someplace that they would try to locate. So, yeah, it's important. And I think because it changes so rapidly, we need to be ready with those places improved already. So, when it comes down to, you really have to have competitive labor, land, lights, because we have public utilities, we're very competitive on that, but also balance logistics. And because we're right in the center of everywhere, we have that right now; we have that competitive advantage with no congestion and, hopefully, a good workforce because we're working very hard on creating that career pathway in education that will train that future workforce as well.

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[LB531]

SENATOR PIRSCH: Thank you. [LB531]

LARRY JOHNSON: Thank you. [LB531]

SENATOR HADLEY: Thank you, appreciate it. [LB531]

LARRY JOHNSON: Thank you. [LB531]

SENATOR HADLEY: Any other opponents? Neutral? [LB531]

RENEE FRY: (Exhibit 25) Good afternoon, Chairman Hadley, and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute. I'm here to testify in a neutral capacity on LB531. Good roads are critical to Nebraska's prosperity. Unfortunately, the state's investments in roads have been declining significantly, and I've handed out a chart behind my testimony, and you can see there in Figure 1 that roads...the decline in roads funding. For a greater explanation about the reasons for this decline in Nebraska, they have been well laid out in the Transportation Committee's LR152 Report from 2009. So while we support adequate investment in our state roads, we do have concerns with the way in which LB84 strays from the traditional funding of roads from motor vehicle and gas taxes and instead diverts money from the General Fund when we are already struggling to adequately fund education and other public priorities, which you can also see in Figure 1. In fact, if you look at Figure 2, you can see how the roads earmark competes with K-12 funding. Also, using the sales tax to pay for roads violates the "benefits principle" which states that those using the transportation network the most should pay the most for its continued operation. So the theory goes, someone driving 40 miles each way to work should pay more for the maintenance of the highway system than someone who works from home. Similarly, a person driving a heavy truck should pay more than someone in a compact car, given the difference in roadway wear and tear created by those two vehicles. A better long-term option for meeting our transportation needs is to tie our gas tax to the rate of growth in transportation infrastructure costs or to the Consumer Price Index to ensure adequate funding of roads without taking funding from other state priorities. Finally, LB405 and LB406 illustrated how a sales tax earmark for a particular program could receive considerably more funding than intended as a consequence of changes to the sales tax. So while we support adequate funding for roads, we do hope that you will revisit the roads earmark as a method by which to fund roads as part of the overall tax modernization discussion. I do want to say that I was struck a little bit listening to the testimony, and I'll speak...I'll show you some data in the next bill, but I am a little bit concerned too that an indirect consequence of this legislation, this earmark, may actually be to increase property taxes as there is a direct relationship between state aid for local governments, education, counties, and cities,

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and an increase in property taxes. So in essence, this structure that we have here today could, in effect, end up increasing property taxes which a number of the groups in support of LB84 were here to talk to you about their concerns or their support for this bill today. So it's just something that I want to throw out as a consideration and hope that you will discuss this as part of the tax modernization commission process. And I'd be happy to answer any questions. [LB531]

SENATOR HADLEY: Ms. Fry, since I...this is my fifth year here, the first time I ran, I believe it was after the Unicameral had put in a cent or cent and a half increase in the gas tax and I consistently heard from my constituents that this was the worst thing that ever happened. So how can you tell us that we should go out and raise the gas tax when we hear consistently from our constituents they don't want to pay a higher gas tax? [LB531]

RENEE FRY: Right. So, I mean, what's happening, obviously, is cars are becoming more economical or people are driving less, it's putting pressure on our roads and on our motor vehicle funds, but in order to have a sustainable system whereby funding for roads is keeping pace with our transportation needs, we need to do a better job of tying the amount of revenue that we're bringing in to actual transportation costs. And so...so Florida, actually, uses CPI as a method and so they do a much better job of actually being able to maintain a stream of revenue that keeps pace...closer pace with transportation costs. Part of the issue with our formula is that the end number is changed much like happens with TEEOSA, and so even though the intent is for it to keep pace, there are limitations there as well. So I don't think there is any easy answer. And we fully support and think roads should be a high priority for the state. But I would hope that we can look at other alternatives in terms of how we should be funding this without putting pressure on other budget priorities or impacting other revenue sources. [LB531]

SENATOR HADLEY: Senator Pirsch. [LB531]

SENATOR PIRSCH: And thank you for your testimony. And kind of keeping up with the same topic, you know, I think other states, and I'm trying to recollect if it was Oregon or Washington, found that their gas tax was problematic, wasn't it, in that paradigm, because of the shift to electric cars, and the shift, as you mentioned, to lesser routes. [LB531]

RENEE FRY: Actually, most states are actually grappling with this right now, just must like the incentives issue. There are a lot of states that have actually tied to a flat rate that's not keeping pace, so because of the way that we're...cars are becoming more efficient, a lot of states are having problems. [LB531]

SENATOR PIRSCH: Yeah, is there any other approach that you see that is working

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somewhere else? [LB531]

RENEE FRY: As I mentioned, Florida is tied to CPI, which isn't quite as good as tying it to actual transportation costs, but they are able to keep better pace with their transportation needs. That would be something I would suggest that the committee look at. Michigan and Ohio did, at one time, tie their rate of growth to transportation infrastructure costs, but you actually need to have a volatility measure in there as well to make sure that they aren't really sporadic and those didn't have that volatility measure so those weren't ideal either. There are a lot of states that are looking at pilot projects. Oregon, for example, is piloting a new way of looking at gas taxes and I'm not sure how far along they are, but I hope it is something that would be a consideration as you're looking at the tax structure as a whole. [LB531]

SENATOR HADLEY: Just more of a comment, it seems to me that I remember not long into President Obama's first administration, his Secretary of Transportation talked about doing a pilot project using GPS or miles driven, and within a week that was absolutely killed and he was instructed to never talk about that again. So Washington is not politically enthused about... [LB531]

RENEE FRY: Right. I think that's what Oregon is piloting, so it will be interesting to see how that comes out. [LB531]

SENATOR HADLEY: Yes, I think it is Oregon. That is correct. [LB531]

RENEE FRY: Yeah. [LB531]

SENATOR HADLEY: Thank you, Ms. Fry. [LB531]

RENEE FRY: Thank you. [LB531]

SENATOR HADLEY: Oh, I'm sorry, Senator Janssen. I forgot to look to the right. [LB531]

SENATOR JANSSEN: I know. (Inaudible) Like yourself, I've served on the Transportation Committee for the last five years so very interested in this and roads funding, obviously. I hear a lot about it not only in this committee, but, obviously, in Transportation. And I was interested in what you were saying, but...because we do have to change the way we fund our roads. I mean it's obvious that people are driving less, vehicles are lighter, I mean there needs to be an alternative. And we did a statewide tour three or four years ago and we went to Kearney before they had an exit which isn't done yet by the way, North Platte has two, means Tom is probably better than you. But short of raising taxes, you know, tie it to the CPI, tie it to whatever you want, and you're in a neutral capacity so you're in a good position to kind of give us some advice on this.

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Unless the goal is to raise taxes to allocate, use the kid versus concrete thing that came up, is it...is it...are you advocating for raising taxes, funding roads at the current level that LB84 does, because that is important, which you've said, and then raising taxes in other areas to... [LB531]

RENEE FRY: So I actually think that you could reduce taxes in other areas if you had a...if you were funding...if you're funding roads by a mechanism that is tied to roads, right? So if you're funding it through gas tax, motor vehicle, and you're having it keep pace, because what is happening right now and what I mentioned in the comments, and I'll be talking about this more in the next bill, but what we've seen is that as we actually cut state aid to local governments, K-12, cities, counties, the impact has been to raise property taxes, because it's all connected. And so by virtue of the fact that our gas tax is not keeping pace with our transportation needs, which now resorted to diverting sales tax, right? So either that means that we're going to be cutting K-12 out altogether, right, or HHS, into ability that we're not able to do that we're going to transfer the responsibility of whose paying for that, right. So if we continue to cut state aid to education, for example, depending on how that is structured, we may end up, in effect, at least what we have been doing over the last decade is actually shifting who is paying for that. So in 2002, 43.8 percent of K-12 was paid for by property taxes; FY '12, 49.2 percent of K-12 is paid for by property taxes. So to the extent that we're actually using money that is currently going to the General Fund, right, and we're taking that away, if we're going to make up that pie, what we've been doing is we've making it up through increase in property taxes. [LB531]

SENATOR JANSSEN: So has...I'm only speaking specifically to my legislative district, property taxes have actually gone down. So maybe that's not the case. [LB531]

RENEE FRY: In most parts of the state they've gone up pretty considerably. And I'm going to have some charts on the next bill. [LB531]

SENATOR JANSSEN: And I know you guys have all kinds of charts and stuff so I... [LB531]

RENEE FRY: Yeah, we have a couple that speak specifically to this issue. [LB531]

SENATOR JANSSEN: I just know that there's a lot of different issues that people bring up and it's always kind of the scary thing in the room is we'll raise your property taxes if somebody opposes something; which you're not. I mean you're in neutral capacity. [LB531]

RENEE FRY: No, no, and actually...and I don't know if I have the chart with me, but I can certainly share it with you. We've actually looked since 1998 at the different taxes in the state, and so property tax actually goes down in the late '90s, and then it does

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this...it looks like a check mark, and it's gone back up pretty considerably, whereas sales and income tax have fluctuated differently, they responded differently to different economies, but have stayed relatively flat compared to the property tax which has been going up like a check mark. So it's, actually, almost back up where it was in the late '90s where there was a deliberate effort made to reduce property taxes. So they may not be going up in your area, but they're going up in most parts of the state. [LB531]

SENATOR JANSSEN: That's because our area has good government. Thank you, I appreciate it. [LB531]

SENATOR HADLEY: Are there any other...Senator McCoy. [LB531]

SENATOR McCOY: Thank you, Chairman Hadley. And thank you, Ms. Fry, for being here this afternoon. To kind of elaborate on a couple of things that you mentioned in your prepared testimony here, from a geographic sense...well, let me back up, are there any other states that have gone to the Consumer Price Index model for... [LB531]

RENEE FRY: Other than Florida? [LB531]

SENATOR McCOY: ...other than the state of Florida that you're aware of? [LB531]

RENEE FRY: No, not that I'm aware. [LB531]

SENATOR McCOY: Well, I would submit that possibly the reason for that is the great preponderance of citizens of Florida have oceans surrounding both sides of them and it would be a little bit difficult for them to go to another state for gas. So that may be why other states haven't done that. The other point, I guess, and maybe any elaboration you care to make is, you know, we heard a lot of testimony on LB405 and LB406 about a border-bleeding issue. How would you not have that be a concern if you're going to tie a gas tax to the rate of growth and transportation infrastructure costs if we're already a disparity with our neighboring state of Iowa, and we already have such a...and probably will continue, to have a good number of our citizens living in a pretty close distance to Iowa, how do you not create a situation that really is a problem when it comes to that if you're talking about maybe even a greater disparity as far what a gallon of gas is going to cost inside the state of Nebraska and what it may cost inside the state of Iowa? [LB531]

RENEE FRY: So I have not looked at the border-bleed issue specific to gas tax, and I can see if there is any research that's been done on that, but typically border bleed is a very, very, very small impact to the overall revenue that you're going to bring in. So you will have border bleed, but you will still bring in more revenue than you would lose. The border bleed ends up being a very, very small fraction of the total revenue that you bring in. For example, I live in Omaha; I'm not going to drive 30 miles to Council Bluffs so it

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would actually cost me more than to just buy at my local gas station. But, I mean, I can certainly look and see if there has been any research specific, but, generally, in terms of border-bleed issues, you still...unless you're a complete outlier, you know, unless we're talking about a dollar or more, I mean, you're not going to...you're still going to bring in more revenue than you're going to lose. I know Wyoming raised their gas tax 10 cents this year, so you do see some of the surrounding states that are looking at addressing this issue. But I would be happy to look at that more. I haven't looked at that issue specifically. [LB531]

SENATOR McCOY: Well, I think as we've heard on a number of earlier bills that we've talked about this session, I think we're very unique in Nebraska in that we do have such a large geographic state with a large number of our citizens in close proximity to other states, not really quite the case for the state of Wyoming, except for the city of Cheyenne, which isn't that far from the Colorado border. So I think those are some very interesting issues. We heard previous testifiers as opponents to LB531 that talked about the concerns about border bleeding. In particular, I believe a testifier was someone that represented Petroleum Marketers Association, who I presume would probably have a pretty good pulse on the border-bleed issue as it affects convenience stores, truck stops, that type of thing in other states. [LB531]

RENEE FRY: I'd be happy to look into it more. I haven't looked at that specifically. [LB531]

SENATOR McCOY: I would guess that there would be some pretty good data there that would show that that is a concern. Thank you. [LB531]

SENATOR HADLEY: Senator Schumacher. [LB531]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Renee, for your testimony today. This benefits principle as set forth in your presentation, basically you say in there that the folks who use something should be the ones that pay for it. And you say the guy who drives the truck should pay more than somebody in the compact car. But let's suppose the person in the compact car owns a hospital, or owns the trucking company, and they make a lot of money because of this road. They're not using it, they're just driving a compact car, but they're making a lot of money. How does that play into what is fair, because while they don't have four tires on that road, they're certainly using that road and how do we measure that? [LB531]

RENEE FRY: Yeah, that's a great question. I don't have an answer to that. I wish I had an answer for that, that's a really good question. [LB531]

SENATOR SCHUMACHER: Okay, I've got...fortunately, I've got to (inaudible).
(Laughter) [LB531]

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SENATOR HADLEY: Why didn't you have one about 1:30? (Laughter) [LB531]

SENATOR SCHUMACHER: Because I needed to (inaudible) at 5:00. (Laughter) [LB531]

SENATOR HADLEY: Any other questions for Ms. Fry? Thank you, Ms. Fry. [LB531]

RENEE FRY: Thanks. [LB531]

SENATOR HADLEY: Any other neutral? Senator Conrad. You don't have any papers to read to us. [LB531]

SENATOR CONRAD: I don't. I just want to thank the committee for their careful consideration of this important dialogue. And I think that we had a great discussion this afternoon about these issues that we really don't have a value difference on. We have a disagreement about the funding source. We have a lot of common ground here where we agree that critical infrastructure is critical to our economic development picture, but we have other state obligations to meet as well. So I think the one takeaway from today is that LB84 should not be the last word on roads funding. We have to keep talking about that, because that fails to even meet all of the existing needs that are out there and maybe there is some safety considerations that we need to give even more precedence to. So I look forward to continued dialogue and we'll take very seriously the charge to work with this committee, proponents, and opponents to address this issue and meet our shared objectives. [LB531]

SENATOR HADLEY: I would just say I would agree entirely, Senator Conrad, and I will assure you that our tax commission or committee, or whatever we're going to call it, will be looking at the concept of allocating part of sales tax, because Natural Resources now is talking about this. [LB531]

SENATOR CONRAD: Sure, yes. [LB531]

SENATOR HADLEY: And it's not going to be long before other groups will be talking about this also. So it is something that we have to take a look at. [LB531]

SENATOR CONRAD: Absolutely. Very good. Thank you, Mr. Chairman. [LB531]

SENATOR HADLEY: Thank you. Thank you, that closes LB531. Senator Lathrop. Well, you chased them out of here. [LB531]

SENATOR LATHROP: It would appear to be the case. Good afternoon, Mr. Chairman and members of the Revenue Committee. My name is Steve Lathrop, L-a-t-h-r-o-p; I am

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the state senator from District 12. And I'm pleased to present today LB370, which is the county property tax assistance program and the municipal property tax assistance program. And I think I'll begin my remarks by telling you a story that might be familiar to all of you in some respect; it would probably mirror your experience when you were campaigning. Eight years ago when I went out to secure this job, I knocked a lot of doors, as I'm sure you guys did too. And I went to the home of a fellow in Ralston. He was a retired guy. I knocked on his door. It was a nice day out, and he had the screen door shut but the door was open. And he shouted at me to come in the house; he couldn't get out of his chair. And I went into the house. And he didn't know what I was there for; he asked me, and I told him. And he said, well, what can I, you know, what can I do for you? And I said, well, I'm running for the Legislature. He said, I want you to know something, that I raised my kids in this house; my wife and I lived here and raised our kids in the house. He was a widower. And he said, if my property taxes go up one more time, I've got to leave. And this year we've had a lot of conversation about taxes, about income taxes, corporate income taxes, and bringing jobs to Nebraska. And I think it's important to pause, and maybe that's what LB370 will do today: make us pause and remember that every one of those jobs we're trying to create are going to be filled by somebody who has to go home and pay property taxes. And all of us, all of us, when we were knocking doors, when we were going from farm to farm or when we were going from door to door in town, we had people that talked to us about the issues that were important to them. And, without question, without question, when I knocked doors, when I talked to people in my district, the number one issue to them that, at least, relates to this committee is property taxes. In 2011 we eliminated the aid to cities and counties. We did that at a time when we were facing a budget crunch. And I'm not particularly critical of that decision, except to the extent that it became a permanent part of our revenue. We had \$22 million that we were spending on state aid to the cities and counties. We took it away from them and then began to criticize them for the way they were spending money and told them to hold the line. The cities and the counties are hurting, and the people who are paying the property taxes to support the people that live in those cities and counties are tired of it. They want some relief. LB370 provides that relief. I will grant you, it is a pretty general outline for relief. My thought is to develop some discussion with this bill relative to the aid to the cities and counties, with the requirement that any aid that's provided from this bill go directly to reducing the property tax obligations of the cities and counties. I've talked to you about my experience in knocking doors, and I'm sure that all of you have a similar story. When "Cap" Dierks was in the Legislature, he used to stand up frequently and talk about what property tax costs on every single cow in the herd. And he had a number, and I honestly don't know what it is; it was a couple of hundred dollars a cow goes to pay for the property taxes that the rancher pays. The problem isn't an urban problem; it is a statewide issue: the folks that own big ranches, it's the guy who owns a farm, and the fellow that lives in Omaha or Lincoln. And LB370 is my attempt to steer us back to some aid to the cities and counties, not that they can spend as they please, but to provide aid, because you'll probably hear from some folks from the cities and counties today, I hope, that will tell

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you that they're hearing from their constituents. The people who are paying the taxes and doing the jobs that we hope to create want some relief. And that's what this is about. I'll add this, that if you're not inclined to fill in a couple blanks and move this to the floor, I think it's important that it be a consideration as this committee that you'll chair, Senator Hadley, takes to considering our tax structure. It's important that we create jobs, I agree; it's important that we provide incentives to prospective employers to come into this state. But we also must be mindful that those people that work the jobs that we want to create end up paying property taxes, and they've had enough. And with that, I'd be happy to answer any questions. [LB370]

SENATOR HADLEY: Senator Sullivan. [LB370]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Lathrop. In this whole discussion, you know, a lot of times when we talk about property taxes we're reminded that all property taxes are local. However, do you think that in this whole discussion of tax policy, do we have to think of it in terms of a three-legged stool: the property tax, income tax, and sales tax? And is there or should there be an attempt to...of a goal to have either a level playing field in terms of each of those three providing an equal balance in terms of support for the government services? You know, for example, in TEEOSA, in the state aid to schools, we originally, clear back, what, LB1059, there was the goal of having 50 percent of state support coming. Well, we've fallen woefully short in that. So getting back to my question, I guess, is...should we strive for a balance among all those three, or what's your thoughts on that? [LB370]

SENATOR LATHROP: I think it's important that we have a balance. I wouldn't be able to sit here...and I think it would be useful for the committee to listen to, your study committee, to listen to experts on that subject about where the sweet spot is and striking the balance. The one thing I would say, though, Senator Sullivan, is that the state relies upon income and sales tax. The counties and the cities have only one source: they can go to property taxes. We need to be a partner with the counties and the cities. We need to appreciate what they're going through trying to run local government, and have a better relationship with them, because they're going to need some help. If we want property taxes to be lower, then they're going to need some assistance from the state that they're not getting right now, in my opinion. That can come in the form of better state aid to schools; certainly that would have the effect, in many of the schools districts, of lowering property taxes. But the state aid is another, you know. Some of those small towns, when we took the state aid away, that was the guy who maintained the roads and the streets and the park and everything else in town. And when that guy left, the city had to raise...the cities...the small cities had to raise property taxes to pay for the guy who they used to pay for with state aid. [LB370]

SENATOR SULLIVAN: Thank you. [LB370]

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SENATOR HADLEY: Senator Pirsch. [LB370]

SENATOR PIRSCH: Thank you. So as I'm trying to understand the bill, LB370 in concept would establish two new state aid programs, one for county property tax assistance and one for municipal, you know, city property tax assistance. And...but it doesn't allocate funding at this point. [LB370]

SENATOR LATHROP: No, that would...I can tell you that we used to--and I just looked at some news articles from when we eliminated state aid to the cities and counties--that we were spending about \$22 million a year then. And I'll tell you that this would allocate that money according to a per capita formula. And that may not be the best formula, you know, I suppose whatever is the fairest formula to provide relief that reflects, maybe, the value of property in the community or in the county. [LB370]

SENATOR PIRSCH: Yeah. Well, I'm glad you brought up the issue of property tax. And I experienced as I was out, you know, campaigning in my district and knocking on doors...you know, it's the same comments that you hear, and there is a focus on property tax being onerous, in particular, as you talk to the individuals, at least in my district. And so the question I have is, why is it...why do you think that is, that property tax is brought up? Is it because something inherent in the type of tax, you know, property tax, or is it something that occurs because property tax is perhaps the most transparent tax, that, you know, it's... [LB370]

SENATOR LATHROP: Well, I think... [LB370]

SENATOR PIRSCH: ...incurred... [LB370]

SENATOR LATHROP: I don't know that it's any more transparent than your income tax, because if you're filing an income tax return, you eventually get to the bottom line on April 15, whenever you pay them... [LB370]

SENATOR PIRSCH: Um-hum. [LB370]

SENATOR LATHROP: ...or whenever you complete your return and you see how much you're paying the state. And that's no different than when you get that statement from Wells Fargo that says, you know, by the way, you just got done paying \$5,000 for the privilege of living in your home and for paying for services to the county and the NRD and the city. And I just think it's because people generally feel it's too high when they compare...particularly folks that move to Nebraska from a different state; they are impressed that the housing costs are lower generally, but the property taxes are so much higher. So I'm not exactly sure why people have the greatest concern for property taxes, but clearly that was the case in my experience. [LB370]

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SENATOR PIRSCH: Thanks. [LB370]

SENATOR HADLEY: Senator Hansen. [LB370]

SENATOR HANSEN: Thank you. Thank you for bringing LB370 here today. Is LB370 based on residents of a county or property owners of a county? [LB370]

SENATOR LATHROP: You might have been gone when I said this. I think it's based upon the...it's kind of per capita formula. And I've had people approach me since I introduced it to say: I have other ideas about a more equitable way to distribute that aid. And I'm open to that. [LB370]

SENATOR HANSEN: Even those who...those people who rent a house are paying the property taxes, but it's not on their list, but... [LB370]

SENATOR LATHROP: Well, it's in their rent. [LB370]

SENATOR HANSEN: Yeah. [LB370]

SENATOR LATHROP: Sure. [LB370]

SENATOR HANSEN: It's in their rent, for sure. Okay, thank you. [LB370]

SENATOR HADLEY: Senator Janssen. [LB370]

SENATOR JANSSEN: Thank you, Chairman Hadley. Senator Lathrop, thank you for bringing this bill for us. And I always respect your opinions, and so I'm...with this particular legislation and going back...you've been here two years longer than me. It probably feels like more than that. [LB370]

SENATOR LATHROP: Some days. [LB370]

SENATOR JANSSEN: When we had CIR reform...and that was kind of ushered in to us as something great for cities, counties, to save them money. And it was almost ushered in as a way to say, hey, we took county aid away from the counties, which we've heard quite a bit about...in fact, I sponsored a bill that was very minimal to counties, and they were upset about it because it cost a very minimal amount of money, based on the...it always went back to: we lost state aid, we lost state aid. I hope I'm not deviating too far off the path of what you're going for, but with CIR reform, has it not really been all we thought, because my county is not coming to me saying that this has been a big windfall, we've saved money, we're not dealing with this... [LB370]

SENATOR LATHROP: I thought I just heard you say your county was lowering property

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taxes. [LB370]

SENATOR JANSSEN: They are, they are. They are, actually. [LB370]

SENATOR LATHROP: Maybe that was the CIR reform. [LB370]

SENATOR JANSSEN: Of course, their property tax rate went up quite significantly in the county, so it's...it's, you know, it's not exactly a zero-sum game. [LB370]

SENATOR LATHROP: Right. Here's the problem with CIR reform in terms of it providing an immediate, short-term, and noticeable gain. For the people in the city of Omaha, for example, they have a \$500 million deficit in their retirement account. If they can save anything from their labor contracts, and they will under the CIR reform, they will, that will go to satisfy the deficiency in their retirement accounts. We can't legislate away the retirement account deficit, right? That's a contract the cities have entered into with their employees. And so when the city has a \$500 million deficit in their retirement account, in Omaha, we can't do anything about that. What we can do is put the police and the firefighters in Omaha, for example, and the city of Omaha, in a better position to address and get ahead of that deficit or start to pay it off. And that's happening in Omaha with their collective bargaining agreements. So is there savings to be realized from the CIR reform? There certainly is. More importantly, and we are way off into the weeds now, but, more importantly, on CIR reform, the number of filings in the CIR have gone down because of the certainty created by the reforms that we passed when that bill passed just, I think, two years ago. [LB370]

SENATOR JANSSEN: Yeah, that was a long night, and long nights for you especially. I'm just... [LB370]

SENATOR LATHROP: It was a long nine months. [LB370]

SENATOR JANSSEN: I'm just wondering, though, because I hear it more and more as, really held up as a champion of this legislative body, and I don't necessarily agree with that. And full disclosure, I think it was 49-0 or somewhere along those...those...but I... [LB370]

SENATOR LATHROP: Well...yeah, yeah. [LB370]

SENATOR JANSSEN: It was close to that, I think. [LB370]

SENATOR LATHROP: No, it was. I think there was one person that didn't vote for it, and he was absent. [LB370]

SENATOR JANSSEN: So...but you say it will work. Has it worked? I mean, I don't...and

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I know...and we're not...and I'm not trying to get off in the weeds, because we are dealing with counties, and, you know, I hear back from my counties, and, of course, they would like to have legislation like you're proposing right now. They would certainly be in favor of that, I would assume. And I see Mr. Dix here, and I'm certain that he will most likely be in favor of this type of legislation. I'm just wondering if we've done all we could do or we didn't go far enough with CIR and, I know you're in Omaha, Senator, but look statewide, and certainly you did. You...I know...when you... [LB370]

SENATOR LATHROP: What I can tell you is that by the time we got done, I had every vote of everybody who was present on Final Reading. I had the approval of the State Chamber, the Lincoln Chamber, and the Omaha Chamber. I had the approval of the executive branch of the state of Nebraska. And I had the approval of the League of Municipalities and the counties. [LB370]

SENATOR JANSSEN: Well, I, yeah, I certainly understand that. We've had...we've had 49...we've had... [LB370]

SENATOR LATHROP: The utilities, who have public employees, were all on board as well. [LB370]

SENATOR JANSSEN: ...49-0 votes going on here before that necessarily, I mean, most blatant example is LB599, which last year...was a bill that went 48-0 two years prior, and then the next year it was overturned, two years later. Nothing to do with this bill, I'm just saying that not necessarily a 48-0...is not exactly saying that it worked or it was the right thing to do. I'm questioning, is it working for the counties right now, because you're bringing legislation forward to bring more money to the counties, but we were sold this bag of goods, if you will, that the CIR reform was going to uplift all of our counties and cities and we were no longer going to deal with labor issues. And now, now it's... [LB370]

SENATOR LATHROP: I don't think we are. I've had that bill pass two years ago. We've had two years go by. Since then I have not had one bill introduced into the Business and Labor Committee dealing with collective bargaining of public employees. Listen, it was reform. And if you want to have the conversation about it, I'd be happy to. We put the hourly rate value in there that did a significant thing for the cities and the counties in the state of Nebraska, and they understood it. The people that were involved in the negotiation understood it. I think a lot of the people that were on the floor and voted for that bill understood that we set real comparisons between public employees and their contemporaries working similar work in similar circumstances. And what we did is reduce the pensions and all of the benefits and the hourly value of each of those employees who were public employees to an hourly rate value that provided for an apples-to-apples comparison with their contemporaries doing like work under like circumstances. And that saves cities and counties money. [LB370]

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SENATOR JANSSEN: So in your assessment, is CIR working? [LB370]

SENATOR HADLEY: Well, I need to step in here, only from the standpoint we're trying to get to the... [LB370]

SENATOR JANSSEN: Well, I understand that, Chairman. I...if you could...if you could, please... [LB370]

SENATOR HADLEY: I mean, if we want to fight the CIR bill again... [LB370]

SENATOR JANSSEN: ...indulge me, though, I'd really...this is really a county issue, though, that I'm trying to get to. [LB370]

SENATOR HADLEY: Hmm, okay. [LB370]

SENATOR JANSSEN: And it...I think it kind of goes together, but, I mean, you're the chairman. [LB370]

SENATOR HADLEY: Okay. [LB370]

SENATOR JANSSEN: If I could just... [LB370]

SENATOR HADLEY: But...but I don't want to...you know, you're asking if it's working, but I don't want to get to the CIR; I want to talk about this bill and tax. [LB370]

SENATOR JANSSEN: Well, I think I am. [LB370]

SENATOR HADLEY: So I'll let...go ahead. [LB370]

SENATOR JANSSEN: If I can. I mean, I just...this is my final question, and I certainly respect your opinions on all matters legislative. Is CIR working right now, in your opinion, our reform that we passed? [LB370]

SENATOR LATHROP: The reform? Sure. [LB370]

SENATOR JANSSEN: Okay. Thank you. [LB370]

SENATOR HADLEY: Senator McCoy. [LB370]

SENATOR McCOY: Thank you, Chairman Hadley. And thank you, Senator Lathrop. Do you mind elaborating a little bit, how would you anticipate this working if this mechanism was put in place, as far as...it's kind of hard to determine, obviously, and I know it's not

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necessarily your intent to determine what the fiscal impact would be. But do you mind elaborating a little bit on how you would anticipate that process working, as far as the mechanism being put in place and how you would anticipate... [LB370]

SENATOR LATHROP: You know, I would...thank you for the question, Senator McCoy. And my answer to that would be, I would expect...or I anticipated that we would be back to something that would be similar to the state aid to cities and counties that we had prior to the repeal two years ago. Now, this bill may not be drafted perfectly to mirror what that program looked like before. Now that we are at a place where this Legislature and your committee in particular, this particular committee, will be intimately involved in that study, probably something that you're going to want to include in the study and say: what do we need to do to help out the cities and counties? I think the bottom line is, it's time we have a partnership with the cities and counties instead of the relationship we've developed, which is handing them unfunded mandates, taking away their state aid, and then expecting them to be able to do more with less money. [LB370]

SENATOR McCOY: Do you have...I appreciate that. And I'm sure that will be an issue we'll spend a great deal of time, among many others, in looking at here in the coming weeks and months. Do you have...and I'm not sharing in any way, shape, or form any doubt on this; I'm just trying to find out. How would we...how would you anticipate this working? Any round numbers? Or I'm not trying to get you to put any...give us a number. But I'm just trying to...how do you anticipate this...? [LB370]

SENATOR LATHROP: What I can tell you is, before we... [LB370]

SENATOR McCOY: Have you had any conversations...? [LB370]

SENATOR LATHROP: ...before we eliminated the program, Senator McCoy, we were spending about \$22 million a year on it. So when we eliminated the program, my understanding is we were spending about \$22 million, and that put a...I've got newspaper articles that show what it cost various communities across the state in terms of the aid that they lost. And certainly there was money lost even in the small towns like Tekamah, for example, that, you know, had one guy that they paid to do all the public works stuff in Tekamah, and that money was gone. [LB370]

SENATOR McCOY: So this would be the jurisdiction of the Appropriations Committee, obviously, but would it be your hope to get somewhere back to the approximate levels we were at? [LB370]

SENATOR LATHROP: Well, I think at this point I would leave that to the conclusion of whatever the study group comes up with, because you're not going to move this bill, I would expect, because there's no point in trying to get to providing property tax relief if your committee is going to come to the conclusion that that's not where we need to put

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our reforms. I happen to believe that it is. But I don't have an expectation that you're going to, as a committee, move this bill. And all I'd do now is encourage you to study the issue and provide some help to the cities and counties. They're our partners in providing a quality of life to people at home and... [LB370]

SENATOR McCOY: Well, I certainly applaud you, Senator, for trying to find a creative way to address what I think is a major issue to taxpayers across the state, and that is property taxes. And as has been said, I think it will be something we certainly talk a lot about. So thank you. [LB370]

SENATOR LATHROP: Good. Thanks, Senator McCoy. [LB370]

SENATOR HADLEY: Senator Lathrop, you probably haven't looked at our further schedule today, but we do have a bill later to eliminate the half-cent local sales tax that we allowed cities to, basically, implement with a vote of the people and such as that. I guess, and if I remember right, part of this was to give back, you know, allow them to raise funds to replace part of the money that we took away. So would you be in favor of eliminating that? If we go this route, where we give state aid back, would you be in favor of eliminating, then, the potential of the half-cent? [LB370]

SENATOR LATHROP: My answer to that is, this bill contemplates that for every dollar we give the city or the county, they reduce property taxes. If all we're doing is restoring state aid and they're not reducing property taxes, then it defeats the purpose, right? Secondly, when we passed that, I had an opportunity to...and you probably heard some of the folks over the last two days from the League of Municipalities talk about the half-cent sales tax. That bill, you know, when we were in York talking to people about the half-cent sales tax, we had mayors and city council members from communities nearby that came to our meetings or our tour, if you will, and tell us that they have unfunded mandates for water and water treatment, and they have no way to pay for it. I think the half-cent sales tax was a good idea because it allows the people to make a decision about it. And a lot of these cities don't have anyplace to go. They have noplacemento go to take care of things that are unfunded mandates and things that improve the quality of life. So they have no way to pay for a swimming pool in some small town unless they get the people to agree to a half-cent sales tax. And is it important to those smaller communities particularly but not exclusively? I think it is, particularly when it comes to unfunded mandates like water treatment plants. If we're going to tell people they have to do those things, then we've got to provide them with a way to get it done. [LB370]

SENATOR HADLEY: Okay. Any other questions for Senator Lathrop? Thank you, Senator Lathrop. Are you going to stay for closing? [LB370]

SENATOR LATHROP: My pleasure. Yeah, I think I will. [LB370]

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SENATOR HADLEY: Okay. [LB370]

SENATOR LATHROP: Thanks. [LB370]

SENATOR HADLEY: I'm going to get this right: the first proponent. [LB370]

LYNN REX: (Exhibit 26) Senator Hadley, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We support Senator Lathrop and support him putting this measure in for your consideration. I'm handing out to you a list of the handouts of the recent cuts, starting in 2002, of the cuts made to state aid to municipalities, the MIRF fund, the Municipal Infrastructure Redevelopment Fund. All of that funding was taken away in 2011 with passage of LB383. You've eliminated the remaining approximately \$11 million that was left in the state aid to municipalities. That fund actually started out...the total amount was \$17.9 million. There was not one year when we were actually given \$17.9 million. And the funds which we now...used to refer to as, I guess, state aid to municipalities, we used to call that the reimbursement to local governments for the prior property tax exemptions granted by the Legislature to special-interest groups. Because once that happened...and one example that we've used over the years--and I know this has been a long hearing, so I'm not going to belabor the point--but just one bill, LB518 which passed in 1978, that's the bill that gave tax exemptions for livestock, business inventory, and farm equipment. And, by the way, that is not to say that those were not legitimate exemptions, but that bill alone put local governments across the state in that day at a \$250 million deficit, when that took effect. And the Legislature at that time, the senators with whom we were working--and that included at that time Senator Schmit, John DeCamp, and others--they assured local governments that with passage of that bill there would be no shift over to residential homeowners and property-taxpayers because the Legislature was going to make up that difference: when those exemptions were granted, the Legislature would be there to make up the difference. Then Governor Exon said: The state of Nebraska, we can't afford that, so we're going to put a \$70 million cap on that. And again, that was never fully funded. So what I'm suggesting to you is that the property tax issue is a critical issue. Local government officials and...certainly municipal officials all over the state would share the testimony that Senator Lathrop gave you, which is that the property tax issue is a critical issue for them. Of the 530 cities and villages in this state, we have well over 250 of them at this time that cannot even go beyond the maximum levy limit because they are at the maximum levy limit of 45 cents plus 5 per \$100 of valuation. And that was put in play with passage of LB1114 in 1996. The Legislature at the same time said: You're going to have two years to reduce what your levy is, and you're going to reduce that. If you were a second-class city or village, at that time they had \$1.05 per \$100 of valuation. But they had two years to reduce that down to 45 plus 5. So the very smallest villages and second-class cities in this state paid a huge price in the sense that they cut services dramatically; their

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budgets were cut dramatically. And the result of that is that now they're at a point where not only do they have the cap, they have a two-level cap. And as a former mayor of Kearney, you're certainly aware of this: they've got the levy limit cap of 45 plus 5, and they've got the cap, the lid, on restricted funds of not to exceed 2.5 percent plus an additional 1 percent and a supermajority vote. We have many of those 250 cities and villages in the state of Nebraska, many of them--and they're typically the smaller ones--they can't even raise to get to the 2.5 percent because they're at the maximum levy limit. So what I would share with you is that this is extremely important in terms of having a discussion on tax reform. I simply do not think you can have that discussion, Senators, without looking, legitimately, at property tax reform in the state of Nebraska. And we certainly appreciate Senator Lathrop introducing this measure for your consideration. And we strongly support his efforts in this regard. And again, I just want to thank you for the opportunity to appear today, and I'd be happy to respond to any questions. [LB370]

SENATOR HADLEY: Are there questions for Ms. Rex? Senator Sullivan. [LB370]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Ms. Rex. I can identify with that, living in a small village and a husband who's on the village board. But can you give us kind of a broad brush of what have been some of the difficult decisions that have had to have been made in some of these communities that, really, maybe even damage safety, well-being, quality of life of some people because of these cuts? [LB370]

LYNN REX: Well, in 1996, again, when LB1114 passed, putting the levy limits in place, again, the smaller cities had to go from \$1.05 down to 45 cent plus 5, and almost all of them were at the \$1.05 because they'd had voter-approved bond issues over the years. So they were there. The first-class cities, Omaha and Lincoln, I'm not saying didn't have an impact, but, quite frankly, there were very few first-class cities at 87.5. And then their maximum levy limit, Senator, was 87.5, and they had to go to 45 plus 5 too. And in these smaller cities and villages, that's when most of them, many, many of them, certainly the villages and many second-class cities, gave up local law enforcement. That's a safety issue. And you might say, well, in these smaller villages maybe they don't need to have a local police officer. But if you have a business there and you've got the kids that know maybe the one time a week when the sheriff comes through, then what do you do with that? And now we're to the point where many of them can no longer even afford to contract with the county to have the sheriff come in there. And so the sheriffs have told them--and I understand they're tight with their budgets, they're facing issues--so they've said, you know, unless you have an incident, we're not just coming through to enforce. So the safety issues were there. And certainly that also had limitations in terms of local fire departments, even though they're volunteer fire departments, the kinds of revenue sources that were available then so that those local governments could provide the type of resources that they need. [LB370]

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SENATOR SULLIVAN: Thank you. [LB370]

SENATOR HADLEY: Any other questions? Ms. Rex, I have a question. If the cities are up against their levy limits, spending limits, and we gave them the opportunity to increase sales taxes by 0.5 percent, why haven't there been cities who have increased their sales tax by 0.5 percent and dedicating it to property tax relief? [LB370]

LYNN REX: Why haven't they done that? [LB370]

SENATOR HADLEY: Yeah. [LB370]

LYNN REX: Oh, Senator, many, many of them have... [LB370]

SENATOR HADLEY: Well, they haven't with this... [LB370]

LYNN REX: ...no question. [LB370]

SENATOR HADLEY: ...with this additional one that we passed last year... [LB370]

LYNN REX: Oh, oh, no. With the extra...no. No, sir. With passage of LB357 in 2012 the Legislature restricted how those funds could be used; it could only be used for infrastructure. The only exception is for the city of Lincoln, and they're allowed to use it for some day-care facility if they choose to partner with LPS. And that's because previously, when LB357 was considered before the amendments were attached on Select File in 2012, the bill was broader, and that would have allowed for economic development, public safety, IT, any number of purposes. But when the amendments were adopted by the Legislature...and, basically, it was Speaker Flood that told us the day that that bill was considered on Select File in 2012 that he would only support it with infrastructure, with that limitation. So that bill, Senator, the extra half cent, going from 1.5 to 2 percent--and now there are three cities that have done that--can only be for infrastructure purposes. [LB370]

SENATOR HADLEY: Would you... [LB370]

LYNN REX: But the prior sales tax, Senator, many, many cities used that for property tax relief. [LB370]

SENATOR HADLEY: Should we go back and relook at that with the...give the cities the ability to use that extra half-cent to lower their property tax? [LB370]

LYNN REX: Well, I can tell you that certainly that is something we would have supported when LB357 was going through the process. At this point we're concerned

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about having that...that, frankly, that discussion, for fear we're going to lose...it seems that we...sometimes we take one step forward and two steps back, to be blunt. So we're concerned about that. [LB370]

SENATOR HADLEY: Well, I would guess our committee when we look at this whole tax picture, as we hope to in the next eight or nine months, we'll try and evaluate the relationships, because we do hear about property taxes. But it's rare that we hear about sales taxes and income taxes, but we do hear about property taxes. [LB370]

LYNN REX: I will tell you that of the 202 municipalities now with local-option sales tax, that of those 202 municipalities, certainly the ones that...and the first 1.5 percent, that was the single most important way in which municipalities in this state lowered property taxes. No question about it. The Syracuse report, which was done and commissioned by this committee years and years ago, one of the major recommendations was significant influx of monies to reduce property taxes and to do that through local governments, and that was never done. [LB370]

SENATOR HADLEY: Yes, Senator Pirsch. [LB370]

SENATOR PIRSCH: Just a couple of questions. The three cities that have since (inaudible) the local-option sales tax, the additional half-cent...and you said three cities had adopted that. [LB370]

LYNN REX: Yes. [LB370]

SENATOR PIRSCH: And then, what is... [LB370]

LYNN REX: Well, three municipalities, one village. [LB370]

SENATOR PIRSCH: I'm sorry. [LB370]

LYNN REX: One village, three municipalities. [LB370]

SENATOR PIRSCH: Oh, three municipalities. I'd just like a quick comment about that. And then also, in terms of the, kind of, three-legged stool, you know, the old paradigm, which, you know, sales tax, income tax, and property tax, where is that stool at right now in terms of percentage where monies are being derived from the average, you know, Nebraskan. Do you have any comments on either of those? [LB370]

LYNN REX: I don't know what the percentages are. But I think what Senator Lathrop said is exactly right: it's a balancing test. And as a committee and as a Legislature, you need to look at that, and, I think, too, because our economy has changed dramatically. Since the original bills were put in place and since "Nobby" Tiemann enacted and the

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Legislature looked at the sales tax issue, a lot has changed. And our economy has changed, in terms of being a service-based economy. So I think there's a lot of considerations that need to be put on the table. And everything needs to be on the table in terms of consideration. [LB370]

SENATOR HADLEY: Thank you, Ms. Rex. [LB370]

LYNN REX: Thank you very much. [LB370]

SENATOR HADLEY: Next proponent. [LB370]

LARRY DIX: Good afternoon, Senator Hadley, members of the committee. My name is Larry Dix, and I'm executive director of the Nebraska Association of County Officials, appearing today in support of LB370. A few comments. Certainly we appreciate Senator Lathrop bringing this forward. And many of you know that know my background when it comes to property tax that that history goes back into the '70s. And so I've sort of lived and breathed this for a number of years. And, Senator Pirsch, I find it interesting, when we talk about the three-legged stool...and one thing that's a little bit different for counties than others is, the counties is really a one-legged stool; make no doubt about it: it is property tax. And anything that...when we have a increase in revenue or a reduction in revenue, that directly impacts property tax, because outside of some road funding that we get...but to fund the general operation of county government, we truly do look at it; it is property tax alone. So whenever you see that reduction, if you're going to keep the same level of service, property taxes are going to have to go up, or we're going to take a hit on the services. So with...what Senator Lathrop is bringing forward is an idea that certainly helps balance the one-legged stool, if you will. And when we look at, over the years...and you can go out to the Department of Revenue's Web site and see that 20 years ago there was some \$46 million that were going to counties for state aid. Now, you know, you think of that, and that is not long ago, but that's where these programs were. At that point in time there was a significant amount of money dedicated by the Legislature through a number of state aid programs that were there to assist in state aid. And over the years, there's been a number of programs that counties have. We've...over the years...some of you that have been here long enough have lived through the jail reimbursement debates, and so you knew the fight of that. And that money was tied to an idea to reduce property tax by assisting the counties in housing of state prisoners. And so that program was developed. And at that point in time, Senator Wickersham developed a separate aid, a county property tax relief aid that...at that time he felt it was important that counties that didn't have jails and really weren't having a large number of prisoners receive some state aid. So at that point in time there was a county property tax relief aid program that went through. And that one there had a little bit of a tie to number of road miles, and so that's how that formula was based. And I've had a conversation with Senator Lathrop, and we've talked about the differing formulas. And so over the years we've had a few of those formulas. There has also been what

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was just called the "aid to counties," which was another relief. And that was a fixed dollar amount that was put into a pool, and then it was divvied out based on the levy rate within your county. And so that was a program. Then right before state aid was just completely eliminated, we had LB218. And LB218 was an aid program that...there was a general agreement that said, hey, we fought for 10 or 15 years over jail reimbursement; enough is enough; let's come up with some kind of different formula so we're not always arguing about, is jail reimbursement properly funded or not? And so we came up with LB218, which...that, in essence, was a formula that said every county gets a base amount, and then the remainder of the money is divided based on valuation. So the history of state aid has been there for the counties for a number of years, and there's a number of different formulas that work in different ways. And I would tell you, within your committee, Bill Lock and I have had numerous conversations about, what do different state aid formulas do, who do they benefit? And certainly now that Mary Jane is on, I'm sure we'll probably have some of those conversations. But when we look at it...when we look at state aid and what Senator Lathrop is looking to do here, which we applaud, we're open to any...whatever formula base we want to look at. We want to make sure that we take into consideration the vast difference across the state of Nebraska, from the smallest of the counties to the largest of the counties. So we certainly are interested in what we're doing. We know it's going to be tied into a bigger picture when you start to look at Senator Schumacher's bill and Senator McCoy's priority bill. And we just think that property tax relief must be in there. I would tell you, to a T, county board members, they hear the same issues that you folks are hearing when you're knocking on doors. Property tax is really an issue. Last statement I would make, someone, I think, had asked about, well, why do we think that property tax, you know, why is it at the forefront; why, you know, why is it so much...why do people complain about that more often? I mean, it comes in one statement that you can pay in two halves. And I think your sales tax is sort of...you sort of pay as you go every day. And with property tax, when you get that statement, it's like: oogh, here it is, and I've got to go pay it if I want to keep my property. So it's an area that has to be looked at. I think it has to be part of the overall, big picture. And I think LB370 is a step in that direction. So I'd be happy to answer anything... [LB370]

SENATOR HADLEY: Questions for Mr. Dix? [LB370]

LARRY DIX: ...that anybody would have. [LB370]

SENATOR HADLEY: Seeing none, thank you, Mr. Dix. [LB370]

LARRY DIX: Thanks. [LB370]

SENATOR HADLEY: Next proponent. Could I see a show of hands for the proponents? Opponents? Neutral? [LB370]

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JACK CHELOHA: Good afternoon, Senator and other members of the Revenue Committee. My name is Jack Cheloha; first name is spelled J-a-c-k; last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in favor of LB370 today. Senator Hadley, I appreciate your time today. First of all, let me thank Senator Lathrop for introducing the bill. We appreciate his attention and concern that he was interested enough to actually introduce a bill to try and, if you could, reinstate state aid to local governments, if you will, particularly counties and cities. I've been at this job for the city of Omaha now for almost 19 years. And I remember, you know, in my first decade, in the '90s, that the citizens were really, at that time, up in arms over property tax. And so I remember the Legislature having studies on it, and what can we do. And then we went forward: the Legislature passed various bills to put restrictions on the local levies; they put a spending lid on the communities, where you could only have, like, 2.5 percent growth; and items along those lines. And so we thought that we were doing okay. But then we moved along, and as we needed to pay debts on unfunded mandates as pensions for our police and fire got out of line in terms of obligations to retirees, etcetera, there was always pressure against our budget to be able to do more with less. And in particular, if I could give you a little bit of history, back, you know, as I recall, and just kind of some background that my finance department gave me, you know, back in 1987 we first enacted LB775. And then since then we've had the Advantage Act, and cities are a partner in that, where local-option sales tax is refunded to businesses that qualify. And whether or not we think it's a good idea or not, what I want you to know is that it's counted on our books as a deduction from our revenue that's available for local-option use, if you will. And so in Omaha, that amount varies each year, can run anywhere from \$8 million to \$15 million, as high as \$15 million in terms of refunds. Back in 1996, as we were doing the lids and levy bills, a certain thing happened where local governments lost their insurance premium tax. We used to get a share of the insurance policies that were written within a community; the tax on it went back to the community. I don't have a specific number because unfortunately it's been so long ago, but at least that was \$1 million a year to the city of Omaha. As the League of Municipalities pointed out, we lost MIRF, which was the Municipal Infrastructure Redevelopment Funds; that was about \$900,000 a year to the city of Omaha. Our state aid total, it started at a high of roughly \$4.5 million. By the time...it was decreased because of recessionary times and special sessions. By the time it was finally flat-out eliminated in 2011, we lost \$3.4 million a year. Other things that have unfortunately happened that have hurt our budget in Omaha include the loss of a commuter fee that we wanted to implement to, if you will, tax or charge a fee on workers that came into our community. That was prohibited before it was even implemented by the Legislature, and that was roughly \$3 million a year. Additionally, on December 31 of 2012 we lost roughly \$3 million a year from that day forward on wheel/commuter fees on people that reside in our 3-mile extraterritorial commuter zone. Let's see, additionally, we're under various mandates from the federal government, roughly a \$2 billion sewer-separation project. We have other concerns, other mandates, from the ADA, etcetera. I want to let you know that our general fund property tax rate right now is roughly about 28.5 cents per \$100 of value. Our total

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property tax is about 49.9, so roughly 50 cents per \$100. Although on the surface that may look like it might be low, you have to look at it in the community as a whole. You have to consider the taxes that the school districts have, your ESUs, your counties, etcetera; and also within Douglas and Sarpy counties you have the Learning Community, etcetera. And so I just wanted to let you know that there are concerns for the property tax levy overall; citizens are upset about it; that's one of their least-favorite taxes. And I'd just like to thank Senator Lathrop for trying to start a program, reinvigorate state aid to local governments or whatever you want to call it. But at least please consider this when you do your study on the overall tax structure of our state. And I'll try to answer any questions. [LB370]

SENATOR HADLEY: Any questions for Mr. Cheloha? I have just a quick one, and it requires speculation on your part, and so if you can't do it, that's fine. How would you think the citizens of Omaha would react if a proposal was put to them that there would be an increase of a half-cent in sales tax with all of it going to property tax relief? [LB370]

JACK CHELOHA: You're right, that is absolute speculation. And I'm not certain how that would go over. At this point we don't have the opportunity to look at that. But I do want to let you know that I have heard you have your discussions on stools and trying to balance your budget. Typically when the city of Omaha did their budget, we always tried to have about a third and a third and a third: a third coming from sales tax, a third coming from property tax, and then the other third would be local fees, expenses, business occupation fees, etcetera. Since the last 15 years or so, we've really kind of gravitated already to the sales tax where that carries a heavier load than one-third right now. So ultimately, I'm sure it would be up to the elected officials to try and sell it. But I'm not sure how it would work in terms of a... [LB370]

SENATOR HADLEY: Okay. I just... [LB370]

JACK CHELOHA: ...you know. Right. [LB370]

SENATOR HADLEY: I...it's speculation. So any other questions? Thank you. [LB370]

JACK CHELOHA: Thank you. [LB370]

SENATOR HADLEY: Any other proponents? Opponents? Neutral. [LB370]

RENEE FRY: (Exhibit 27) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Renee Fry. I'm the executive director of OpenSky Policy Institute, and I am here to testify in a neutral capacity on LB370. Our research has shown that property taxes have been growing significantly faster than any other tax since the late 1990s. Again, I have...hopefully, circulating here will be some charts, and

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the charts that I referred to in the last hearing you'll actually be able to see. But there are different ways to go about property tax relief. For example, if the state were to fund local government such as counties, cities, and K-12 at a higher level, we would see the property taxes go down. Again...and you'll be able to see this in Figure 2. And feel free to ask questions about this. And you can really see the relationship between property taxes and state aid to schools in Figure 3. So in evaluating the best way to reduce property taxes, one of the first considerations should be how to target those reductions. In other words, you'll want to look at how to target areas with property taxes that are high relative to the rest of the state or high in relation to taxpayer incomes. At this point we haven't had time to determine whether distributing property tax relief on a per capita basis would be better or worse than distributing it based on property values, as the current property tax credit does. If it would be helpful, we would be happy to look into that and estimate what the effects would be if an amount equivalent to the current credit was distributed through the per capita mechanism proposed in LB370. The Burling Commission recommended that any resulting property tax relief should be shared by school districts, homeowners, and renters and should be structured to not encourage more spending at the local level. It also recommended that the Legislature study the valuation of agricultural property and determine whether either a change to an income-based formula for valuing agricultural property or a further reduction in the percentage of value of agricultural property which is subject to tax is warranted. The commission also recommended that the Legislature reexamine the manner in which school facilities are funded and consider whether state funds should be utilized to aid in funding school construction. Finally, the commission recommended that the Legislature examine the tax costs and potential economic growth value of eliminating the property tax on tangible personal property used for the production of income in order to remain competitive with other neighboring states. So, in conclusion, we fully support Senator Lathrop's intent to look at property taxes, and I suspect that this will be a critical component of the LB613 review. We would be happy to further look into the implications of reducing property taxes through a per-capita mechanism as proposed in LB370, if that would be helpful. I do actually have the breakdown of the three-legged stool; Senator Pirsch is not here. I'd be happy to tell you that, and I'd be happy to answer any questions. [LB370]

SENATOR HADLEY: Any questions for Ms. Fry? Seeing none, thank you. [LB370]

RENEE FRY: Thank you. [LB370]

SENATOR HADLEY: Any other neutral? Senator Lathrop, your close. [LB370]

SENATOR LATHROP: Senator Hadley, all I want to do is say thanks. I know we're getting far into the session; it's late into the day; and I want to thank you for your patience and your attention, your questions, and your thoughtfulness. And if I can answer any questions for you, I will. [LB370]

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SENATOR HADLEY: Any questions? Seeing none, thank you, Senator Lathrop.
[LB370]

SENATOR LATHROP: Okay, thanks. [LB370]

SENATOR HADLEY: Senator Wightman, we're ready for LB600. Could I have...while Senator Wightman is getting ready, could I see a show of hands, how many people intend to testify on this bill? One, two, three...okay. We will use the light system. Senator Wightman. [LB370]

SENATOR WIGHTMAN: (Exhibit 28) Good afternoon, Senator Hadley and members of the Revenue Committee. For the record, my name is John Wightman; Wightman is spelled W-i-g-h-t-m-a-n. LB600 is intended to carry out the intent of LB502 of the 2007 session of the Legislature. The intent of LB502 was to make long-overdue updates to the Nebraska inheritance tax laws. While it might not have been the intent, the argument, I think, made by the county officials was that it would keep the total tax burden of this inheritance tax at the same level as in previous years, or to be revenue-neutral. And then later, in checking, we find out...and I think you have a copy that's just been handed to you that shows that it was not level. And starting in 2007 it was about \$38 thousand, went up to \$48 thousand, almost...\$41 thousand, have three years in the \$40 thousands, and last year was \$48 thousand. So it turned out it wasn't revenue-neutral. And LB600 would reduce the inheritance tax rate for two classes of the beneficiaries and reduce their inheritance tax burden. The rates, exemptions, and classes are as follows. The rate is reduced from 13 percent, in our bill, to 9 percent of the value of the property received by each Class II beneficiary in excess of \$15,000. Class II beneficiaries are uncles, aunts, nieces, nephews or their lineal descendants or adoptees of the same, or of the surviving spouses of such persons. The rate would be reduced from 18 percent to 13 percent in excess of \$10,000 received by each Class III beneficiary. Class III beneficiaries are non-family members. Currently, Nebraska is one of only seven states that have an inheritance tax. There are some others that have state estate taxes. And for those who may not know the difference, an inheritance tax is based upon each person's inheritance, where the estate tax is based upon the total estate. But there are, I think, 21 states, or approximately that, that have one of the two. So when you hear it has only seven, that doesn't mean they aren't taxing deaths in a lot of the other states, because they are. In 2012, Indiana and Tennessee passed laws to phase out or increase the tax exemptions until the inheritance tax is repealed in 2022 or, in the case of the inheritance tax. LB600 will not repeal the inheritance tax--and, of course, that was brought before you in other years by the Governor--but is intended to return the statewide revenues generated by the inheritance tax to pre-LB502 levels and treat Class II and III beneficiaries in a more reasonable manner. Since only two members of the current Revenue Committee were senators in 2007, some history may be helpful. In 2007 both former Senator Mines and I introduced bills to change the

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inheritance tax rates and exemptions. Senator Mines' bill was LB502; mine was LB22. Although there was a compromise between the two bills, LB502 was advanced from the committee on a 7-0 vote, and I then designated it as my priority bill. Changes in the inheritance tax laws are difficult to pass in the Legislature. We've found that out: we've come back about three or four years; we don't have a lot to show for it. Changes in the inheritance tax laws are difficult...in 2007 the exemption from the inheritance tax had never been increased since 1901, the year the tax came into existence; now that gives you a hint of how difficult it's been to change those over the years. So we went from 1901 to 2007, 106 years, without ever changing those rates. My primary reason for designating LB502 that year as a priority bill was because it was reasonable and rational to increase exemptions that, if adjusted for inflation, would be substantially larger after 105 years. The 1901 exemption for Class I beneficiaries of \$10,000 in today's dollars is worth \$236,740, if adjusted for inflation using the CPI from the earliest date available, 1913. Using the CPI, the 1901 exemption for Class II beneficiaries--as opposed to the 1913 for Class II beneficiaries--of \$2,000 in today's dollars is worth about \$46,000. The 1901 exemption of \$500, which it was for Class III, if adjusted by the CPI, is worth \$11,630 in today's dollars. The exemptions from the inheritance tax as raised by LB502 were but a modest and long-overdue beginning to update the law to current values. The exemption from the tax was raised from \$10,000 to \$40,000 for immediate family members; \$40,000 is only about 17 percent of the increase in the exemption needed to adjust for 105 years of inflation. The exemption for Class II beneficiaries was raised from in excess of \$2,000 to in excess of \$15,000; \$15,000 is only about 33 percent of the increase needed to adjust for 105 years of inflation. The exemption for Class III beneficiaries was raised from \$5,000 to \$10,000; \$10,000 is about 86 percent of the increase in exemption needed to adjust for 105 years of inflation. In contrast, the exemption in New Jersey is for estates below \$1 million. To offset the increase in the exemptions in LB502, the rates for Class II and III beneficiaries were raised substantially in an attempt to make the changes revenue-neutral. The increases were as follows: Class II rates were more than doubled, from 6 percent to 13 percent; and Class III rates of 6 percent to 18 percent, in accordance with categories based on the size of the estate, were raised to a flat rate of 18 percent. The counties were very opposed to LB502 on General File, and, as a result of that, an attempt was made by the Revenue Committee to make them revenue-neutral. In my mind, I'm concerned that the compromise would increase the inheritance tax burden on Nebraskans. The facts are now available to determine if LB502 was revenue-neutral. And I think they were in prior years when I brought this bill, or similar to this bill; but we didn't see them at that time, and so we do have a little more evidence on what would have been revenue-neutral. Over the legislative interim this year the Revenue Committee conducted a study pursuant to LR644. The study collected statewide revenue collections from 2005 to 2010 from the counties. The pages have distributed a copy of the dates. What the facts show is that after the passage of LB502, death tax revenues grew by 22 percent in the first year and stabilized at that amount and then in 2010 increased another 21.7 percent. So you can see that it was not revenue-neutral.

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One more year of receipts is reported in the fiscal note to LB600. The counties reported that they collectively received \$56,428,000 in inheritance revenues in 2010-11, which is another 17 percent increase in the revenues over the prior year. During the debate in 2007, death tax revenues were estimated at a statewide burden of \$30 million. This estimate was low. The LR644 interim study report shows that revenues after the passage of LB502 increased to the \$40 million range and remained at that level until they increased to over \$48 million in 2010. The 2007 bill was clearly not revenue-neutral and added to the inheritance tax burden placed on Nebraskans. The facts clearly do not prove the allegations made in 2007 that the counties would suffer substantial losses in inheritance tax revenues. Increases in the wealth accumulated by hard work and inflation in property values are generating inheritance tax revenues far in excess of the modest and long-overdue reforms made in 2007. The statewide annualized growth rate of inheritance tax revenues over this ten-year period exceeds 5 percent. Last year the increase in gross revenues was 17 percent. This is a growth rate considerably faster than the state's economic growth over this same period. Nebraska not only has an inheritance tax, the inheritance tax is a growing source of revenue that is not included in the receipts subject to the budget lid on county governments. If the inheritance tax is to continue in Nebraska, it should be reformed. And, then, this is the intent of LB600. The inheritance tax is a rather poor source of revenue. Many of the smaller counties use it as a rainy day fund to fund special projects because the revenues vary significantly from year to year. Now you won't find that to be quite the case in larger counties. Douglas and Lancaster counties, just because of the size, is pretty standard. Larger counties use it for a small part of county operations or for special projects. Inheritance taxes are so high that we are really discouraging the elderly to stay in Nebraska, as the tax ratings show. We should keep the living in Nebraska so that they pay property taxes, income taxes, and sales taxes. These other revenues can offset losses in inheritance tax revenues. Our inheritance tax laws have not been significantly reformed since 1901. They were reformed, but it still left about the same dollars, as far as the total dollars, in 2007. Instead of keeping revenues neutral, as intended in 2007, revenues have increased by over \$24 million, as reflected by the most current information. The inheritance tax burden continues to grow at a rate that exceeds the rate of the growth of the general economy. The inheritance tax discourages people to stay in Nebraska for their retirement...not to stay in Nebraska for their retirement and hampers the transfer of hard-earned wealth to the next generation of farmers and business owners. We all know that farm and ranch values have risen significantly. It does not take a very large estate for the inheritance tax to apply. Such high inheritance tax rates make it difficult for new farmers and ranchers who are uncles, aunts, or nephews or nieces to take over a farm from a childless relative. LB600 would reduce the rates back to a more reasonable level. For this reason I've brought LB600. Now I know we've had a similar bill several times. I think they have handed out this to you. You will notice in some of the small counties there is a tremendous variance, between high and low rates, as to what they've produced in a year's time. And if you look at some of them...I'm looking at Blaine now, has \$17,000 on its low year, has \$220,000 on one high year. That comes about

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probably as a result of some wealthy person dying not having children, and nephews and nieces or perhaps unrelated parties received some of that. Now I know there's always a thought on the part of this committee, I think, that, well, if they are unrelated parties, that they really shouldn't have any complaint. But a lot of times these unrelated parties are people that either are very distantly related or not related at all but come out, and they've got no children left on the farm, and these people farm with them for a number of years. So I think there's reason to still keep these rates reasonable. And I think they've gotten almost unreasonable when you have them at 18 percent on one and 13 percent on another. There are some where it's almost 20 times between the highest year and the lowest year in these figures. Logan County, I think, maybe has one of the higher...had \$379, and I wonder if that might be incorrect; but their highest year is \$36,810. So you're looking at almost a 100-to-1 ratio in that particular county. But I think all of this, if you looked, you would find that there is either a Class II or a Class III relative of a...not a relative in the case of Class III because they'd be unrelated, that died that year, and that's where their big amount of money came from. And most of these counties now--I don't think it's true of Lancaster, Douglas, and perhaps Sarpy County, who have far more of this coming in--but a lot of them it's just used for special projects. And they could in many cases use additional property taxes to fund the same project. But there are some that are bumping up against their limit, as well. So with that, I'd try to answer any questions you might have. [LB600]

SENATOR HADLEY: Are there questions for Senator Wightman? Senator Sullivan. [LB600]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Wightman. I don't suppose there's any way to know who actually is paying that tax, whether it's a Nebraskan or someone from out of state, as far as heirs. [LB600]

SENATOR WIGHTMAN: There probably is a way of knowing that, Senator Sullivan, if one checked all these counties. [LB600]

SENATOR SULLIVAN: Um-hum. [LB600]

SENATOR WIGHTMAN: But I think a lot of them would be found that they...that most of them are relatives, probably, if they're out of state. [LB600]

SENATOR SULLIVAN: Um-hum. [LB600]

SENATOR WIGHTMAN: So the Class II... [LB600]

SENATOR SULLIVAN: Um-hum. [LB600]

SENATOR WIGHTMAN: ...probably tend to be relatives within or without the state.

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Class III, I think, would be mostly people in the state, but I don't know that. [LB600]

SENATOR SULLIVAN: Um-hum. Okay. Thank you. [LB600]

SENATOR HADLEY: Senator Wightman, I have a question. You made the comment about property taxes. If the counties shift from an inheritance tax to a property tax that that property owner is going to pay for numerous years, would they be better off with the inheritance tax rather than increasing property taxes over 20-30 years of owning this property? [LB600]

SENATOR WIGHTMAN: You know, I can't...I haven't looked at the rates, Senator Hadley. But I think if you went back and looked, what this raises would be such a small part of property taxes that it might be 0.1 or 0.01 of 1 percent. It's not very big if you look at all the property owners in the county, but it's extremely large for someone that's handling them...or that owns or is receiving the property by way of inheritance. [LB600]

SENATOR HADLEY: Okay. Any other questions for...thank you, Senator Wightman. Are you... [LB600]

SENATOR WIGHTMAN: Thank you. [LB600]

SENATOR HADLEY: ...going to stay for closing? [LB600]

SENATOR WIGHTMAN: Well, I'll wait a little bit and see how long that goes. [LB600]

SENATOR HADLEY: Well, okay. First proponent. [LB600]

JESSICA KOLTERMAN: Senator Hadley, members of the committee, my name is Jessica Kolterman, J-e-s-s-i-c-a, Kolterman is spelled K-o-l-t-e-r-m-a-n. I serve as the director of state governmental relations for the Nebraska Farm Bureau Federation, and I come before you today on behalf of our organization in support of LB600. I know it's been a long day for you, so I'll try to be brief. Our policy calls for increasing the exempt amounts and reducing the rates of the county inheritance tax. Our policy also calls for state aid to be provided to counties to offset the inheritance tax revenue losses rather than shifting to more property taxes, as you might expect. You know, we have the situation in farms and ranches that by their very nature they require a great deal of capital investment. And most farmers and ranchers work their entire career to acquire land and machinery needed to maintain a successful farming business. The tax on...at...the end, which our members refer to as the death tax, is a tax on the assets; and the cash to pay it is not necessarily readily available without liquidating some of those hard-earned assets. At the very least, the inheritance tax diminishes the total estate these agricultural producers can pass along to their heirs and drains resources that can maybe be better used to diversify, expand, or optimize their operation. At the

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worst, parcels of the farm or ranch itself must be sold to pay for the tax. The other thing that our members talk about when they talk about this issue is it used to be...I'll just use the example of when my mom was growing up; she had five siblings. And usually in families like that, in a farm family, one of them wanted to come back and farm. And today that is not necessarily the case. We find that oftentimes producers are working with a niece, a nephew, a cousin, someone who's more removed from the immediate family, who maybe wants to carry on that family farm in some way. And so it makes it difficult in those transitions if they, you know, maybe work with that person their entire life and then want to transition that land to stay in the family, in a sense; it makes it difficult to do so. You know, at the core, we appreciate what Senator Wightman is trying to do with this bill; we support the bill; and we encourage you to at least, at the very least, include this in the discussion that you have, going forward, on taxes. Be happy to answer any questions. [LB600]

SENATOR HADLEY: Are there questions for Ms. Kolterman? Thank you, Ms. Kolterman. [LB600]

JESSICA KOLTERMAN: Thank you. [LB600]

SENATOR HADLEY: Further proponents? Opponents. [LB600]

JIM PETERSON: (Exhibit 29) Good afternoon, Senator Hadley and committee members. My name is Jim Peterson, J-i-m P-e-t-e-r-s-o-n. I'm a Cass County commissioner as well as...I serve on the board of directors for the Nebraska Association of County Officials. The handout that you are receiving will be the basis of my testimony today. And I'd like to offer it to you as a reference point and for the ability to examine some of the effects of LB600. The first page that you're going to receive is a five-year...shows on it a five-year history of the inheritance tax in Cass County. It will show you the total amount collected, the number of estates, and the average per estate. As you go down through the list, you'll also see that we've given you an opportunity to look at the effects that the inheritance tax has had...or would have had on our final mill levy. And you can see in the different years what that would have done. And in most cases, you'll see that that increase...without the inheritance tax, it would have amounted to a major increase in our mill levy. The second page is just a reference to show you what the mill levy has been for Cass County over the last ten years. And you can take a look at that. That excludes the mill levy that we derive...or assess for the rural fire districts in the communities. The third page is the amount of money that we spent of the inheritance tax fund in this last year, and I've itemized those projects that we have spent it on. The first one on this page is labeled, "18th Street," and I'd like to discuss that, because we were very fortunate in Cass County that the Department of Roads has been able to begin the project of taking Highway 73/75 south from the Platte River on into the center of the Plattsmouth area. However, with that project we had a major safety factor with all of our citizens that lived in that area surrounding the project. With

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the inheritance tax funding, we were able to pave the 1.5 miles of gravel road that was in that area so that we could feel more secure that our children were going to be able to get to Plattsmouth High School safely as well as get the citizens out to the highway with all the construction projects going. Without the inheritance tax for this very special project, we would not have been able to do that. The rest of the projects that we show listed there are all projects in which we are giving the money back to the citizens. "Roof": that was our courthouse project that we've been involved in for the last five years. Many of the mandates that are placed on Cass County require us to offer space for the Department of Motor Vehicles, the Health and Human Services, and that type of thing. Well, when the state moved the motor vehicle titles from the county clerk's office to the county treasurer's office, our courthouse, which was built in 1895, didn't have appropriate space for the additional employees that that mandate was going to put on us. So we...in the course of the remodeling project that we were in, we rented an additional space in the city of Plattsmouth and expanded the amount of room the Department of Motor Vehicles has. And now they have sufficient parking, the ability for CDL drivers to come in and out of our town safely. We increased the amount of space that HHS has, and we went from two representatives to four now, at this time. So it's an example that we're taking this money and giving it back to our citizens. In addition to that, in past-year projects throughout the county we have used the money, for the most part, for infrastructure projects--expanding paved roads for our villages such as Eagle or Greenwood and that type of thing--and spent, you know, hundreds of thousands of dollars in order to increase that infrastructure for those citizens. The last page is a graph of what the inheritance tax meant to Cass County for the fiscal year of July 1, 2011, to June 30 of 2012. You can see that the amount of money that we experienced or brought in through the inheritance tax for all the different classes...and we have an example of what those percentages are at the current one and also an example of what LB600 would do to that amount of money that we brought in. And you can see the net result in that particular year is a loss in inheritance tax of \$80,448.71 to our county. In order to get the figures that I've just given you, it took a lot of man-hours. Our county attorney was involved in this project, our county treasurer, as well as commissioners. And what we found out is that it's very difficult; it's very difficult to get the information because every one of the deaths that happened in Cass County and that went through the inheritance tax procedure was kept in a separate file. So in order to get all that information, you'd have to open every file and compile it individually. Now when you take a look at that, you can see that Class II in that particular year amounted to the largest amount of money. How can we be positive that this isn't just an aberration of that particular year, when we don't have any ability to rapidly compound all the data for a number of years? And I believe that that in itself is a problem with LB600, in that it's just very difficult for us or for you to be able to get all the information on what effect this is going to have on county government. Thank you very much. And if you have any questions, I'd be more than happy to answer them. [LB600]

SENATOR HADLEY: Questions? I have a...just a back-of-a-sheet-of-paper computation

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trying to use your numbers here. If we did pass this bill, it looks to me like it would increase your property tax about 0.25 of 1 cent. Would that...? [LB600]

JIM PETERSON: That's correct. As you go down through the years there, Senator Hadley, for the most part, if you go over to the mill levy from this last year that I gave you the examples of what we spent the money on, that was 0.036100. I think that's going to be fairly...fairly accurate year in and year out, as fairly close. [LB600]

SENATOR HADLEY: But what we're doing, we're lowering the rate, so we're not...this isn't a...we're not eliminating it. So... [LB600]

JIM PETERSON: Oh, I'm sorry. [LB600]

SENATOR HADLEY: Yeah. [LB600]

JIM PETERSON: I misunderstood your...yes, exactly. [LB600]

SENATOR HADLEY: You're saying 3.6 percent... [LB600]

JIM PETERSON: The \$80,000 we would have lost. [LB600]

SENATOR HADLEY: Yeah. The decrease...or you would have to increase your property taxes by 0.25 of 1 cent to take care of...okay, just wanted to put that number out. Thank you. [LB600]

JIM PETERSON: Thank you. [LB600]

SENATOR HADLEY: Could I just see a show of hands of the...what I'm looking for is neutral. One neutral, okay. So we have to get Senator Chambers in here for the next bill. So when we get done, when the neutral comes up, we'll...okay, next opponent. [LB600]

JOE LORENZ: (Exhibit 30) Good afternoon, members of the committee. My name is Joe Lorenz, L-o-r-e-n-z, and I'm the finance director of Douglas County. And I'm here to talk to you today about the impact of LB600 on Douglas County and why the county commissioners and staff oppose this bill. So I'm handing out this data sheet that I'm going to talk to. Over the past five years the inheritance tax has provided annual proceeds of about \$10 million a year to Douglas County. And over that period, the average number of estates subject to the inheritance tax is 986 per year, which represents 0.2 percent of the county population, 0.2 percent. So it's impacting a very small amount of county residents. This average of \$10 million that the county collects through the inheritance tax, in our fiscal 2012-13 budget, was primarily used towards mandated social services. If you'd look down this list, we put \$4 million to the County

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Health Center, which provides long-term care and assisted living to the poor and indigent and aged of the county; \$3.4 million to General Assistance; \$1.5 million to the Health Department; \$1.5 million to debt service to cover county infrastructure projects; only \$750,000 to the general fund; \$250,000 to the veterans; and \$100,000 to the state institutions for mental health at the three state locations; accounting for \$11.5 million that we're budgeting in our operating budget this year to be funded from the inheritance tax. Last year as we did the budget, we had above-average inheritance tax collections of \$12.4 million in Douglas County. That additional money was used to cover a \$2.5 million deficit, and it really allowed Douglas County to avoid an increase in the property tax levy; it filled our gap. LB600's proposal to decrease the inheritance tax rates on lineal descendants from 13 to 9 percent and on nonrelatives from 18 to 13 percent is estimated to reduce Douglas County's inheritance tax collections by approximately 30 percent, or \$3 million. I can tell you, yesterday we had our preliminary budget meeting, and we were looking, just as the inheritance tax is today, at a \$5 million deficit. So this legislation, if you put it in there, would increase the amount of our deficit by 60 percent; it would go from \$5 million to \$8 million that we would have to try and find through either cost-cutting measures or...the alternative is to raise the property tax. For Douglas County, we have two levers. It's the property tax, which, you know, we are an urban county, so we haven't gotten any benefit from the increase in farmland; we're all commercial and residential property. I called the county assessor as I was preparing for our budgeting, and he told me, again expect flat property tax valuations. So we're stuck in a situation where we have flat property tax revenues. The other way we could increase it is to increase fees on transactions. But that would require statutory action by the Legislature, which, you know, for good reason does not want to really raise fees. So those are really our options. So if we would get a reduction of \$3 million here, that's worth a penny to us in our property tax levy. And without many other options, that would probably result in an increase in the property tax. Alternatively, we're always open to the idea that the state could assume responsibility for some of the services performed by the county which are currently mandated but not funded by the state, including courts, general assistance, corrections, and youth center, which Douglas County spends in the tens of millions of dollars on. My last point is that last year when they were trying to eliminate the inheritance tax, a lot of the justification was that the elimination of the inheritance tax impacts businesses expanding or locating in Nebraska. I see no evidence of that. Before I came to the public sector, I was in the private sector and worked specifically on where we would locate new plants and capital operations. And I can tell you, if you went down the list of things, inheritance tax was, you know, at the bottom of the list. It just really didn't matter compared to things like infrastructure, transportation, labor, environmental, and, most importantly, the sort of incentives that you can negotiate with specific jurisdictions in terms of tax abatements. Those were the things that really mattered when we made a decision, not inheritance tax. So that's just kind of my review. And if anybody would have any questions, I'd be glad to entertain them. [LB600]

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SENATOR HADLEY: Any questions? Seeing none, thank you. [LB600]

JOE LORENZ: Thank you. [LB600]

SENATOR HADLEY: Next opponent. [LB600]

LARRY HUDKINS: (Exhibit 31) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Larry Hudkins, L-a-r-r-y H-u-d-k-i-n-s. I am appearing before the committee in my capacity as chairman of the Lancaster County Board of Commissioners. I am here to express our county's strong opposition to LB600. Please consider the following important points. In Lancaster County, the inheritance tax plays a key role in balancing our budget and keeping property taxes as low as possible. All inheritance tax revenue is deposited in the county's general fund to help cover operating expenses, thereby providing direct property tax relief. While the Legislature has created numerous mandated responsibilities for our county, our revenue tools have been very limited. It makes no sense to reduce one of these few revenue sources available yet to us. If inheritance tax is decreased, there is no guarantee the additional money received by the beneficiaries will stay in our communities or, for that matter, even in the state of Nebraska. On the other hand, every cent of inheritance tax collected will be invested in our community. Reducing the inheritance tax paid by distant relatives and nonrelatives will result in a tax shift to the average property taxpayer. Of the 714 probate actions processed by the Lancaster County Court in 2012, only 518 cases resulted in an inheritance transaction with the county. And since most transfers are made to close relatives, even fewer transactions affected distant relatives and nonrelatives. However, the revenue from even a few of these inheritance tax returns can and sometimes is substantial. And replacing these funds with a property tax increase will come right out of the pocket of every hardworking property owner in the county. Finally, a major criticism of the inheritance tax is that it creates a financial barrier to parents who wish to pass along the family farm, ranch, or business to their children. This problem is simply not involved with inheritance tax paid by distant relatives and nonrelatives. The bottom line is that my constituents are very concerned about high property taxes, and any decrease in county revenues will equate to even higher property taxes. Property taxes are the problem in our state, not sales and income taxes. Thank you for the opportunity to testify. I'd be happy to answer any questions about my testimony. [LB600]

SENATOR HADLEY: Are there questions for Commissioner Hudkins? Yes, Senator Hansen. [LB600]

SENATOR HANSEN: Thank you. Thank you for coming this afternoon/evening. Where is Lancaster County on the levy limit? [LB600]

LARRY HUDKINS: We are at 28.83. [LB600]

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SENATOR HANSEN: Okay. And you had 714 probate actions; I appreciate that figure. And then the paper that Senator Wightman handed out: in 2007, before the...or '05-06, I guess, I'm sorry, you had \$4.589 million in your inheritance income, and now you're at \$6.6 million for 2010-2011. And you think that will go down too far with this small increase, that you're going to miss that? I mean, you're going to be back to where you were in 2005-06. [LB600]

LARRY HUDKINS: This is something that's unpredictable. We don't know the size of the estates, and we don't know who's going to pass away. All I can say is that it's been a godsend to have some large estates, because we have been in a declining tax base in Lancaster County. Our farm raised last year 28 percent, and with that we barely had an increase. The previous two years we stayed the same or declined because the residential housing and commercial has gone down. And in my 30 years as a county commissioner, only the last three years did I not have growth to work with. Usually at least I have 3 percent growth. I have not had that in the last three years. [LB600]

SENATOR HANSEN: To your point of being unpredictable, Platte County, which--Senator Schumacher is not here to represent them this evening--last year they received \$44,622; this year they received \$2,800,000. That's pretty unpredictable. [LB600]

LARRY HUDKINS: Yep, that it is. [LB600]

SENATOR HANSEN: But you do have room to increase property taxes, if necessary. [LB600]

LARRY HUDKINS: Very little. We're getting very close to the... [LB600]

SENATOR HANSEN: 28. [LB600]

LARRY HUDKINS: ...30-cent limit. [LB600]

SENATOR HANSEN: But you're at 28 now. [LB600]

LARRY HUDKINS: 28.63, I think. [LB600]

SENATOR HANSEN: Okay. Thank you. [LB600]

SENATOR HADLEY: Further questions? Seeing none, thank you, Commissioner. Next opponent. [LB600]

LARRY DIX: (Exhibit 32) Good afternoon, Senator Hadley. My name is Larry Dix; I'm executive director of the Nebraska Association of County Officials, appearing today in

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opposition of LB600. I have a letter here that Richardson County asked me to enter into the record on opposition. And I know there's a number of other counties that have sent e-mails that I'm sure, Senator Hadley, you'll read into the record for them. A couple of things that, when we start to talk about inheritance tax...and I'm going to talk about it from a fairly broad level, because when we look at it, we look at it over 93 counties. And certainly you heard from three counties, and some of the most populated counties, here. When we look at this...and I appreciate Senator Wightman sort of bringing the history back, because I, too, lived through that history and know some of the circumstances that went through it. But one of the things that makes it very, very difficult when we come forth with a bill like LB600 and says, okay, we're going to reduce this rate by this much, and this rate by this much, I don't think there's anyone here on the committee that can really say, here's exactly what's going to happen: here's how much revenue is going to go down; here's how much revenue is going to go up. I think that's the case back in the day when the negotiation went on and somebody said, we want to make it revenue-neutral. I think there was an agreement at that time that a number of folks thought, okay, this must be revenue-neutral. But you can see as these things fluctuate...and, Senator Hansen, you brought that out in Platte County. These estates fluctuate so drastically from year to year that you need to really study to determine what is the impact of Senator Wightman's bill. Is it a 25 percent reduction? Is it...I've heard from some counties that said, if they look at last year, it would be a 40 percent reduction. And that's one of the things that are so difficult. Senator Sullivan, when you talk about how do we know who pays this, I just out of my briefcase I grabbed just a sheet that sort of says, here's how you fill it out. And what it asks for is, give me the relationship of the beneficiary and what they are; but it never asks where did they live. And so I think if we were to go through all the records today--and this is sort of just a blank one--that you have to go through to figure out who fits into what silo...so you have to take every one of these cases, go through, read it, go through, go through. At the end of the day, we still don't know where they live. So I know a number of senators have said, well, Larry, how much of this inheritance tax, how many people from outside the state are paying this? And we simply don't know, by the nature of the form that they're asked to fill out today. And so that makes it very, very difficult. The amount that goes into a silo, as you heard the commissioner from Cass County report, you have to go through each and every one of these to figure out what goes into each and every one of those silos. The last time that we went through it...and I would tell you, the statistical accuracy is a little bit difficult when you just take a random number of counties. If you take ten counties and go through it, you're going to get a look at one year's period of time on ten counties. And so to really understand it, it's going to take an in-depth study that we would have to go through to answer the question, how much is in silo two? And if we reduce it from 13 to 9 percent, what would it do across the state of Nebraska? So my point is, it's making it very, very difficult. I would tell you that many times people will say, well, what are the counties doing? I would tell you, more and more counties are using it for property tax relief than they did in the past. I would tell you that last year we had 56 counties that either lowered their tax rate or their tax rate stayed at zero. So

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that's two-thirds of the counties that actually had a reduced tax rate. Some of the things that some folks had talked about: seeing that there's an increase Senator Wightman alluded to. Is there an increase? I think estates are getting larger. I think family sizes are getting smaller. So we're having fewer direct descendants. And as you move people across the column, that could have an impact on that. We have been hit with the issue that some folks have said, well, there are more domestic partners in this day and age than there ever, ever used to be. And a domestic partner would place you in the third tier. And so I think there's a number of things that relate to it. But simply by coming in and saying, we're going to reduce this rate and this rate, I don't think anybody really has the answer as to exactly what that will do. So with that, that certainly states our opposition, and we'd be happy to answer any questions that you would have. [LB600]

SENATOR HADLEY: Questions for Mr. Dix? Senator Schumacher. [LB600]

SENATOR SCHUMACHER: Thank you, Senator Hadley. One quick question. One of the issues of what seems a little unfair is the situation of a domestic partner or of a business owner or farmer who's maybe had a niece or a nephew that's been...put a lot of sweat equity into the farm, and he leaves it to that niece or nephew, and that niece or nephew has got to pay the higher rate due to being a Class II recipient...is to leave the rates alone and make it possible for the decedent to select Class I treatment for one individual. And that way the domestic partner would be treated as a Class I heir, or the niece or nephew in that case would be a Class I heir. And yet the nieces or nephews who saw Uncle Joe once at a family picnic five years ago, and it would be a windfall anyway, would still pay the higher rate. In any calculations that you're doing, it would be interesting to know what impact that would have. [LB600]

LARRY DIX: Yeah, I think it would. I think the interesting would be is, you had five nieces and nephews, the family battle that it would set off as to who got it, possibly, in one of those situations. But...and Senator Schumacher and I have talked about this before, in moving one of them. And it's my understanding that there is a precedent set in one of our counties where someone had a...I believe it was a niece or a nephew, and they actually went to court, and the court...the judge determined that this person, because of the relationship, should be treated as a direct descendant. And so there is...it was just reported to us this year that there was a court case where the judge ruled in that favor because of inheritance tax. [LB600]

SENATOR HADLEY: Any other questions? Thank you, Mr. Dix. [LB600]

LARRY DIX: Thank you. [LB600]

SENATOR HADLEY: Any other opposition? Neutral. [LB600]

RENEE FRY: (Exhibits 33 and 34) Good afternoon, members of the Revenue

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Committee. My name is Renee Fry. I'm the executive director of OpenSky Policy Institute, and I'm here to testify neutral on LB600. I am going to abbreviate my comments. We did, actually, a pretty thorough report on the elimination of the inheritance tax last fall, which is being handed out to you now. You would have received it this fall when we did it, but I wanted to make sure that you had it again. And I'm going to kind of summarize for you. As Mr. Dix was just explaining, you know, unfortunately, our report does talk about elimination of the inheritance tax, but we really don't have any way to do an analysis of what LB600 specifically would do because we don't know what percent of inheritance tax revenues come from each level of taxation. But what I want to do is just kind of walk you through our main conclusions. So what we did was we took a look at the counties. There's a lot of data at the beginning that really shows how much inheritance tax varies from county to county, in terms of what percentage of their budget it is, how large it is, that sort of thing. And so in this case and probably in all cases, you know, no two counties are exactly the same. But we were able to put them into four broad categories. The first category would be that 26 counties would suffer the most hardship, again from elimination of the inheritance tax, because they have very low reserves and can't raise property taxes to replace the revenue without exceeding property tax limitations. The second category were 36 counties that can temporarily manage the loss of revenue by drawing down their reserves, but they lack the flexibility to raise property taxes when those reserves run out. The third category were eight counties with low reserves and room under the property tax limitations to replace the revenue through increased property taxes. And the last category were 23 counties with the most flexibility to manage the loss of the revenue. In general our conclusion was that the elimination of the inheritance tax would leave counties with an impossible choice: slash services that we rely on such as roads maintenance; drain reserves that are needed to protect bond ratings leaving counties vulnerable to unexpected emergencies or needed building renovations; or raising property taxes in those counties that can do so without violating state and constitutional limits. Again, I realize today you're not contemplating complete elimination of the inheritance tax, but because it will undoubtedly be discussed as part of LB613, I thought it was important to share this information with you. Again, it's the perfect illustration of how when we cut one tax, there are consequences, intended or otherwise, such as increased property taxes or maybe larger class sizes or more gravel roads. And we talk about how Hall County, for example, is actually turning paved roads into gravel to save money. So we will reiterate some of the other comments. It's difficult to really make a judgment about the inheritance tax since we don't have the data about who's paying the tax. We don't know if they're Nebraska residents, if they're nonresidents, if they're immediate relatives, nonrelatives. So any steps that could be taken to collect this information, moving forward, would help make a better-informed decision. And thank you for your time, and I'd be happy to answer any questions. [LB600]

SENATOR SCHUMACHER: Any questions from the committee? Seeing none, thank you, Renee. Any other neutral testifiers? Senator Wightman, you're up to bat. [LB600]

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SENATOR WIGHTMAN: Thank you. If I run over two minutes, just go ahead and kick me out. But don't time it too closely. First of all, let me just, in a half a minute maybe, talk about fairness. There...you know, you can say that very few people are going to pay these higher rates, particularly the Class II, but more the Class III. So, you know, maybe you tax them at 40 or 50 percent. But I think we all know that wouldn't be fair, and I don't think that 18 percent on these...you're almost up to half of what the federal estate tax rate would be. So we're talking a pretty high rate of tax here. The other thing that you need to know is that this inheritance tax is not a very enforceable tax. And I know that happens all the time. And I know accountants that sometimes tell people they don't need to do anything on jointly owned property. And they can go and take that out of the bank, take out a jointly owned CD, and there's no way to determine that that tax was owed. And I'm sure the attorneys here could probably tell you that that's the situation. So it seems to me that it's still a matter of fairness. And, you know, just because it will cut off a few dollars of property tax does not mean that you should go and charge an exorbitant rate. And I think at 18 percent on unrelated and 13 percent on inheritance taxes, we're getting awfully close to that exorbitant rate. So with that, I'll close. [LB600]

SENATOR SCHUMACHER: Any follow-up for Senator Wightman? Seeing none, thank you, Senator, for presenting this bill today. [LB600]

SENATOR HADLEY: With that, that closes LB600. LB266: Senator Chambers, welcome to the Revenue Committee. [LB600 LB266]

SENATOR CHAMBERS: Mr. Chairman and members of the committee, it is indeed a pleasure to be here. I see one of my colleagues here who tried to help me in her committee to get a bill to the floor. And she spoiled me, because now I expect that of the Chairperson of every committee where I present a bill. (Laughter) Anyway, this is a very straightforward bill. And in order that nothing be sprung on you that I have not already suggested, I'm going to hold myself in this presentation to a statement of intent. This bill, LB266, repeals LB357 enacted last session allowing a half-cent increase in the local sales tax, if approved by the voters. The state levies a 5.5 percent sales tax, while cities currently levy up to 1.5 percent. If this additional 0.5 percent is added to that, the total tax bill could be 7.5 percent. And when it comes to the poor, the sales tax hits them hardest. And I'm among that number. It means that...see, we don't have a lot of discretionary income. We spend everything that we get and then are in debt. So we are paying more than what people who pay income tax would pay. When they say poor people don't pay, we're paying 7 percent right now on everything, everything. There's no way to hide it. There are no tax shelters. Everything you get, other than what you spend for food, is exposed to this tax. In addition to increasing the most regressive of all taxes--as I said, it hits the poor the hardest--that bill, LB357--I don't know if you all have read it recently--but, as I state, it is so wide-ranging, it is so complicated, there are so many divisions and subdivisions of this bit of tax money that would come in that it is

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more complicated than something put together by the Jesuits. And they were able, in the way they argued things, to split a hair between the north and the northwest side and then split that even further. But not the least important is that this local sales tax increase which is authorized does impinge on the state's tax base, which as you all know is limited to sales and income taxes. And, significantly...I don't believe in drama, but that's my rendition of a drumroll. Senator Brad Ashford, who at the request of the city of Omaha shepherded LB357 to passage over the Governor's veto, has signed on to this bill as cosponsor, which I've referred to as an act of true statesmanship, because despite the fact that he managed to get that bill passed in a highly politically charged environment with other matters looming such as a tax on cigarettes and a tax on restaurant food or something like that, this monstrosity emerged. And what Senator Ashford recognizes is that in the current climate that we're facing, even though people are boasting about how Nebraska as a state came through it very well, there are many people who live where the rubber meets the road who don't feel that it's been survived very well at all. So, the Legislature considering a comprehensive review of the tax structure in the state, it would be wise and prudent to repeal the authorization of the 0.5 cent local sales tax increase. I know that there are at least three entities--one, I think, is a city, the other may be a village or another smaller subdivision--who have executed the steps necessary to levy that tax. However, the overall good of the state and taking the long-range view of what is best for the state, the fact that those few municipalities have imposed this tax is no reason not to repeal that general authorization. And there is a way to hold those entities harmless, if you're interested in that, and you probably know how to do that already. So, in keeping with my promise to be brief, I have now reached the end of what I will present, but I'll answer any questions that you may ask me. [LB266]

SENATOR HADLEY: Are there questions for Senator Chambers? [LB266]

SENATOR CHAMBERS: I accept that, but I'm going to hang around and see if my luck holds throughout the entire hearing. [LB266]

SENATOR HADLEY: Thank you, Senator Chambers. First proponent. [LB266]

MATTHEW LITT: Chairman Hadley and members of the Revenue Committee, my name is Matthew Litt, M-a-t-t-h-e-w L-i-t-t. And I am the Nebraska deputy state director of Americans for Prosperity, a free market advocacy group with over 40,000 members statewide. We support Senator Chambers' LB266 to return the local-option sales tax cap to 1.5 cents because it protects Nebraskans' hard-earned dollars during these tough economic times. In previous testimonies we've talked about the tax climate in Nebraska, so in the interest of time I will spare you that. But right now we think it's the worst time for local governments to raise taxes, when Nebraska families have already been cutting back. And, according to the Federal Reserve, the typical American family has seen their net worth fall 37 percent since 2007. While Nebraska has weathered the

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national economic storm better than most, as Senator Chambers mentioned, nearly 40,000 Nebraskans are still unemployed, home values have fallen, and wages remain stagnant. But take-home pay has decreased because of the federal payroll tax in going back up. In Nebraska, families simply cannot afford to pay a higher sales tax rate at the same time the cost of energy is going up, cost of education is going up, cost of healthcare is going up. And over the past three years, the majority of residents have seen our property taxes go up, along with new occupation taxes imposed. So with that, we support Senator Chambers in his efforts to repeal a significant tax burden on hardworking families when they can least afford it. We believe the needs of Nebraska families outweigh any other interests. Thank you for your time. [LB266]

SENATOR HADLEY: Are there questions for Mr. Litt? I have just one quick question... [LB266]

MATTHEW LITT: Yes. [LB266]

SENATOR HADLEY: ...Mr. Litt. Since we put...an integral part of this is a vote of the people. Isn't that, really, the purest form of democracy? And if you say that the average family doesn't want to do this, they certainly wouldn't vote this in; would that be a fair statement? [LB266]

MATTHEW LITT: Well, two things. So the Legislature sets caps on taxes, whether it's property tax rates, sales taxes, the type of...the way occupation taxes are administered, that it's not outside of the Legislature to do what's in the best interest of the state as a whole, as Senator Chambers mentioned. And two, in the last month and a half I've personally been...I'm not saying this to point out your districts, you just happen to be in many of those districts. But in Norfolk, Columbus, Grand Island, Kearney, North Platte, York, Nebraska City, and Omaha, where at every time people are saying they don't want this, they don't want this option, they don't want the higher tax rate. [LB266]

SENATOR HADLEY: But they have the ability to vote that, right? [LB266]

MATTHEW LITT: Sure, and... [LB266]

SENATOR HADLEY: Because it just happened in Kearney within the last two years. [LB266]

MATTHEW LITT: And what I'm saying is it's not outside the bounds of the Legislature to do what's in the best interest of the state as a whole. [LB266]

SENATOR HADLEY: Okay. Any other questions? Thank you. [LB266]

MATTHEW LITT: Thank you for your time. [LB266]

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SENATOR HADLEY: Further proponents? Opponents. [LB266]

LYNN REX: (Exhibit 35) Senator Hadley, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And we do respectfully oppose this measure. What I'm handing out to you is just a listing of the 202 municipalities in the state that already have local-option sales tax. And I've noted for you that there is one municipality with a 0.5 percent local-option sales tax. There's also a county...the only county in the state that has local-option sales tax is Dakota County. There are 107, if you look at the handout, 107 municipalities with a 1 percent sales tax; 91 municipalities with a 1.5 percent sales tax; and three that just went to 2 percent. And that would be a first-class city, Sidney; a second-class city, Alma; and then the village of Waterloo. And I would just share with you that as you look at this you'll see the vast number of large and small cities. Obviously, Omaha, Lincoln, all 30 of the 30 first-class cities have local-option sales tax; 98 of the 117 second-class cities have local-option sales tax; and 72 of the 381 municipalities have local-option sales tax. And we strongly support LB357, which passed in 2012. We think that that was absolutely important for us in terms of being able to fund basic infrastructure needs across this state. And, as we discussed in the prior legislation, the original proposal in LB357 was open-ended in terms of how those funds could be used, still with a vote of the people, and you still had to put on the ballot what the purpose would be. And then that was then further restricted, with our support, by a proposal by Senator Schumacher to, basically, have that limited for IT purposes, economic development, education, infrastructure, and other needs like that, I believe; public safety was the other one. And then, finally, Speaker Flood, on the day that LB357 was being scheduled for Select File debate, said he would support that if it was limited for infrastructure. So with the exception of the city of Lincoln, the extra half-cent is limited solely for infrastructure. And infrastructure is broadly defined in this bill. It's the same definition of infrastructure used in the Municipal Infrastructure Redevelopment Fund but for the fact that it has also broadened it to include money for streets and roads, because there was such a huge deficit and need in that area. We do strongly support LB357. As we've discussed before, we have so many municipalities across the state, over 250 of the 530, that are already at their maximum levy limit of 45 cents plus 5 on a per-\$100-of-valuation. We have many of those, hundreds of those, that are at a place in their budgets where they can't even raise the 2.5 percent which you allow them to spend on restricted funds, and there's an additional 1 percent with a supermajority vote. But they're not...they don't...they can't even...they don't even have the capacity under their levy to even raise those funds to spend it. So, Senator Hadley, as you pointed out, this does have numerous protections in it. The LB357 that passed in 2012 requires not just a vote of the people, but it requires expressions on the ballot that outline very clearly how the funds will be used for infrastructure and when it would be going in and when it will be coming out. There's a ten-year sunset, or the life of the bonds, whichever is greater. So we do feel that LB357 has a lot of protection. And again, we appreciate the fact that this committee advanced

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LB357 to the floor and that many of you voted for it. With that, we just respectfully oppose LB266. And I'd be happy to respond to any questions that you might have. [LB266]

SENATOR HADLEY: Senator McCoy. [LB266]

SENATOR McCOY: All right, thank you, Chairman Hadley. And thank you, Ms. Rex, for being here today. Earlier this afternoon, Senator Hadley asked a question of Senator Lathrop in regard to LB370, which we heard earlier in this very afternoon of hearings. If that bill were to become part of statute, and we'd be going back to some aid to cities and counties, would you still be opposed to LB266? Again, Senator Hadley posed that question to Senator Lathrop, so I think it would be important to pose it to you as well. [LB266]

LYNN REX: Okay, and let me see if I understand the question. The question you're asking me is that if the state Legislature granted more funds to be used as an offset for property tax reductions, would we still oppose LB266; is that the question? [LB266]

SENATOR McCOY: Correct, because one of the arguments made for the passage of LB357 last year was, through what happened in 2011 with LB383, which... [LB266]

LYNN REX: Right. [LB266]

SENATOR McCOY: ...eliminated city and county aid; that was one of the main arguments given... [LB266]

LYNN REX: Yes. [LB266]

SENATOR McCOY: ...for the passage of LB357. So I guess I'm asking for the reverse. If the programs were set up in place of Senator Lathrop's legislation, would then you be opposed...would the League be opposed to eliminating what would be LB357? [LB266]

LYNN REX: And the answer is we would oppose the repeal of LB357. And the reason for that is because LB357 addresses our ability to have additional infrastructure needs. We support what Senator Lathrop is trying to do with LB370 because we support having additional funds from the Legislature for a property tax offset. Those are two different issues, in our view, because we have been looking at years and years...and I guess we're just mentioning one or two of the programs in terms of what has occurred to municipalities in the loss of funding. And you're right, Senator, that, in fact, many of the arguments...and perhaps why some senators voted for LB357 was because the Legislature had eliminated...totally eliminated the remaining \$11 million-plus in state aid to municipalities with the passage of LB383 in 2011. But I will also share with you that, in terms of LB357, this is a bill that we think will help address a huge infrastructure gap

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in funding throughout the state of Nebraska. And it is a huge infrastructure gap. We have municipalities in this state that are looking at unfunded mandates on the infrastructure side from the federal government and the state government. And those are significant, and we do need to address those, plus just the basic streets, roads, and maintenance and things that need to happen. That is separate and distinct from another question, which is, what about property tax relief? As Senator Hadley and I had the earlier discussion, and I believe it was on LB370, that, in fact, of the municipalities, of the 202 municipalities with local-option sales tax at this time, basically we had, other than the three that just adopted this, they still had...they were at 1.5 percent; they went from 1.5 percent to 2 percent. And as they did that, those municipalities...some of...we have hundreds of them that literally put on the ballot the vote for local-option sales tax in order to reduce property tax. For example, I know Norfolk was one of many cities that did that. Other cities, however, said that what we will do is, here's the specific project that we want to have for a local-option sales tax based on whatever their need was. Kearney, Nebraska...and Senator Hadley is the most informed on that and can share that information with you. But Kearney, Nebraska, went through a series of, I want to say, over 70 focus groups with citizens in Kearney, Nebraska, to determine how sales tax monies could be used in the city of Kearney or should be used in the city of Kearney. And, in fact, they are using that predominantly for capital improvements and projects that came out of those focus groups. So this is driven...the sales tax issue is driven...it's a locally driven issue by, and a determination by, local voters. So what I'm suggesting to you is, the property tax issue, I think, stands alone as something that needs to be looked at for major reform in this state. There was a time when there was a very broad property tax base. Over a period of the last 40 years, the Legislature--and I'm not saying that those exemptions were not valid--but has significantly reduced what that property tax base has been. And the monies for local governments have never been made up. So what has happened is we had a huge property tax base that has been narrowed dramatically, Senator McCoy, over a period of decades. It didn't happen in one day; it didn't happen...but again, the example I used, which is one that I'll never forget, was passage of LB518 in 1978. And those three exemptions alone...municipalities, counties, and schools and other political subdivisions lost \$250 million when that took effect, the day that that took effect. And that's not the valuation; those were actual dollars, \$250 million, that would have been generated from the valuation. It was exempted with just those three exemptions on the property tax side. So again, how are those funds made up? It was made up through what was supposed to be a dollar-for-dollar reimbursement by the state of Nebraska because that was the commitment that was made. Then Governor Exon said: Can't afford that, so it's going to be a \$70 million cap. And that also was never fully funded. So all those costs have been shifted down to the localities. And the reason why it was called "state aid" was because the Nebraska Supreme Court, in a period of three different Supreme Court cases, said, you know, it's a closed class; you can't call it a personal property tax relief fund because state aid used to be the Personal Property Tax Relief Fund and the Governmental Subdivision Property Tax Relief Fund. Well, the Supreme Court said, those are closed

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classes, so we're going to call it something else. And John DeCamp, one day he said, we're going to call it "state aid." And that's how it came about. Now we have no state aid, in terms of localities, because that was eliminated with passage of LB383. So what I'm suggesting to you is that in addition to the extra half-cent local-option sales tax...which we're very grateful for getting. I can't thank you enough for those of you that voted for that; that gives another option for citizens to help determine the destiny of those localities, large and small. But that is separate and distinct from whether or not the Legislature should do what the Syracuse report said you should do as a Legislature, what other...I think there's at least one other significant report...study that was done by the Legislature. And each one of those reports said, you need to have a major influx of aid to local governments to deal with the property tax issue. That was never done; it has never been done. So we would...even with, and which we would strongly support, a dollar-for-dollar offset on property tax, if the Legislature would be so kind as to give us additional revenue, we would strongly support that. But we would also strongly support the retention of local-option sales tax which has been the single most effective way in which municipalities have lowered property taxes across the state. And that's why, Senator, you've got some first-class cities with lower property tax rates. It's because of city sales tax, because of the local-option sales tax. [LB266]

SENATOR McCOY: Thank you. [LB266]

LYNN REX: You're welcome. [LB266]

SENATOR HADLEY: Senator Pirsch. [LB266]

SENATOR PIRSCH: Sure. And thank you for your testimony. I just have some, kind of, background...so Alma, Sidney, and Waterloo are the three jurisdictions that did...have passed this, then, the half-cent? [LB266]

LYNN REX: Yes. Since passage of LB357, those three municipalities... [LB266]

SENATOR PIRSCH: Okay. [LB266]

LYNN REX: ...their voters, their voters... [LB266]

SENATOR PIRSCH: Um-hum. [LB266]

LYNN REX: ...passed them. [LB266]

SENATOR PIRSCH: Right. [LB266]

LYNN REX: But Nebraska City...and the city administrator from Nebraska City is here today to talk about what happened in Nebraska City. That one did not pass. And the

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one in Bellevue did not pass. [LB266]

SENATOR PIRSCH: Okay. [LB266]

LYNN REX: It's voter determination. [LB266]

SENATOR PIRSCH: So those are the five instances... [LB266]

LYNN REX: Yes, sir. [LB266]

SENATOR PIRSCH: where... [LB266]

LYNN REX: Yes. [LB266]

SENATOR PIRSCH: ...it had been tried. [LB266]

LYNN REX: And there are others right now putting...preparing plans that they want to discuss with voters, with focus groups and things like Kearney has done. And we have cities right now that are planning moving forward on infrastructure needs in their cities. [LB266]

SENATOR PIRSCH: And I have to apologize, but I'm just asking for...thinking back to the bill that passed. [LB266]

LYNN REX: Sure. [LB266]

SENATOR PIRSCH: Was it...and if you can clarify... [LB266]

LYNN REX: Sure. [LB266]

SENATOR PIRSCH: ...was the...one of the...you said one of the requirements that people have to vote to approve it and the ten-year sunset, and then... [LB266]

LYNN REX: Yes. [LB266]

SENATOR PIRSCH: ...you said, with respect to how it can be used, it would have to be specifically enumerated on the ballot... [LB266]

LYNN REX: Yes. [LB266]

SENATOR PIRSCH: ...in terms of how it would be used for infrastructure. Does the law require--and I can't remember it--that it be... [LB266]

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LYNN REX: I have it right here, so go ahead. [LB266]

SENATOR PIRSCH: Well, good, right, and you can...you probably know this offhand: does it require that it be a new infrastructure project, or can it be utilized for infrastructure that had been...that's not new, that's existing infrastructure? [LB266]

LYNN REX: Well, for example, a maintenance and improvement of roads would be...I mean, it doesn't have to be a new road...or it is not funding for a road that never existed; it could be funding for roads that need to be improved. It can be used for new infrastructure, if there's something that you would like to do in that regard. But it also requires that we look at partnerships and interlocal agreements with other political subdivisions, whether it's a county or city or school or some other political subdivision. So it requires the interlocal agreement, and it requires as a condition...and not all the funds, Senator Pirsch, have to be used for funding the interlocal agreement. But one of the major issues that we thought was a very good idea that Senator Schumacher had was that there needs to be more collaboration among political subdivisions. There needs to be looking...a more concerted effort at looking at unified governance. So part of this, in order to even look at an additional half-cent sales tax, to go from 1.5 percent to 2 percent, you first have to have an interlocal agreement with another political subdivision that has to deal with an infrastructure project. Not all the funds have to go for that, but in the actual ballot language, Senator Pirsch, you have to identify the political subdivision with which you are going to have that interlocal agreement; the percentage of funds that will be used for funding that interlocal agreement; and then, if all the funds don't go for that, then what are the other funds going to go for, and identify what those projects would be, specifically. [LB266]

SENATOR PIRSCH: What's the minimum...is there a minimum level of funds enumerated in the bill, that says you must use...with respect to that, you said there could be other uses... [LB266]

LYNN REX: Well, they all have to be infrastructure uses, including the interlocal agreement. Every...the only exception was, frankly, Speaker Flood told Mayor Beutler that since the city of Lincoln had already had discussions with the Lincoln Public Schools about the city of Lincoln helping to fund an after-school program with the city of Lincoln, that if every Lincoln senator agreed to that amendment that would allow the city of Lincoln to use a part of it for that program to partner with LPS, that he would allow that exception. That...every Lincoln senator supported it, and so the city of Lincoln has that exception. But for that, everybody else in the state has to use it for infrastructure, and Omaha has additional limitations. The city of Omaha has additional limitations, above and beyond what everybody else has. [LB266]

SENATOR PIRSCH: Okay. Thank you. [LB266]

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LYNN REX: You're welcome. [LB266]

SENATOR HADLEY: Senator Schumacher. [LB266]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just briefly, as I understood Senator Chambers' presentation, the fact that the sales tax is, along with the property tax, generally thought of as being fairly regressive, what, if any, ways to access the I guess the only progressive tax, that's the income tax, do cities have, short of asking the state for state aid? Or do you have any other way to access that? [LB266]

LYNN REX: We have no other way to do that... [LB266]

SENATOR SCHUMACHER: Okay. Thank you. [LB266]

LYNN REX: ...no. The only two revenue sources...well, we have two major revenue sources: property tax and certainly local-option sales tax. And again, 202 of the 530 municipalities have adopted a local-option sales tax. But, as you know, municipalities also have occupation tax, and they have other fees and things of that nature, but those would pale in comparison to the other two. [LB266]

SENATOR SCHUMACHER: Thank you. [LB266]

LYNN REX: You're welcome. [LB266]

SENATOR HADLEY: Ms. Rex, you've mentioned Lincoln and the exception, and, you know, my memory, when I get older it's harder to remember things. [LB266]

LYNN REX: Mine too. [LB266]

SENATOR HADLEY: They have not, though, gone and asked for the extra half-cent, is that correct? [LB266]

LYNN REX: No, they have not. [LB266]

SENATOR HADLEY: So this exception has not come into... [LB266]

LYNN REX: No. [LB266]

SENATOR HADLEY: ...play yet... [LB266]

LYNN REX: No, it has not. No. [LB266]

SENATOR HADLEY: ...is that a fair statement? Okay. Thank you. [LB266]

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LYNN REX: You're welcome. [LB266]

SENATOR HADLEY: Any other questions for Ms. Rex? Thank you. [LB266]

LYNN REX: Thank you so much. [LB266]

SENATOR HADLEY: Next opponent. [LB266]

KEN BUNGER: (Exhibit 36) Three decades of testifying, that's the first time I've (laugh)...my name is Ken Bunger. I'm the village attorney for the village of Waterloo, Nebraska, and we're indeed one of the three communities that have passed the LB357 half-cent tax. [LB266]

SENATOR HADLEY: Would you spell your name, please, for... [LB266]

KEN BUNGER: B-u-n-g-e-r. And I'll, again, try to be brief, given the lateness of the hour. The village of Waterloo had an election--the results of that are being passed out to you right now--wherein the citizens voted to increase the sales tax from 1.5...local option sales tax from 1.5 cents to 2 cents. The use, on the ballot, the use is to fund street and roads. The village is a, you know, a small community of 600-plus people about a few hundred yards from the city of Omaha across the Elkhorn River. The village is a...very astute politically in that they've recently completed a levee project which has gotten national attention as being one of the more successful cooperations between the Corps of Engineers, FEMA, the Papio Natural Resources District, and the village of Waterloo, in which they did bond issues and had very big citizen support. So when this opportunity came forward to repair some of the deteriorating infrastructure in the village, the citizens of Waterloo took advantage of it. One of the things that has come up today, of course, and I won't repeat the fact that local-option should mean just that: that it's a very...purest form of democracy, in that the citizens had a chance to decide whether or not to tax themselves. One of the things is, with the smaller communities, including villages and some second-class cities, is that they don't have the different resources that my...one of my...who was city attorney of Omaha for a very long time, that the city of Omaha, for instance, or city of Lincoln have. They're limited very much in having very few retail facilities. Waterloo, for instance, has five restaurant-slash-bars, not very much other retail activity, but a lot of residents. And so the sales tax to a village, in large part, comes from people coming to eat and drink and be entertained in the village; there's not a lot of other retail facilities. So a sales tax is a very important way to garner income to the village for those streets and other infrastructure that's needed. So that's one thing. And I think it's...one of the important facts is, in that all different...municipalities across Nebraska have different needs and priorities in how they raise money. I think it's no accident that the first two out of the box were--two of the three--were villages. As I said, the resources of a village or a small community are much more limited than a larger

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community. So the local-option sales tax, the opportunity to have another half-cent, is a big deal for a village. The amount of money, I think, raised by 1.5 cents in Waterloo, for instance, on a yearly basis is about \$250,000. So this adds, essentially, \$80,000, which is about one-third of the entire street program of Waterloo for the year. So it's, you know, very important. I think if you look at the question that Senator Hadley put to...earlier in the day that was just discussed, I think it is important that if state aid is reintroduced as part of an overall review of tax policy in Nebraska, you know, that might indeed require LB266 going forward in some form but only if that would be replaced in additional property tax relief, because that would not solve the problem that I think the extra half-cent did indeed solve, and that was take care of infrastructure, which, quite frankly, smaller communities just don't have any other option. [LB266]

SENATOR HADLEY: Questions? Thank you. We appreciate... [LB266]

KEN BUNGER: Great. Thanks. [LB266]

SENATOR HADLEY: ...your staying for the late hour. [LB266]

KEN BUNGER: Great. [LB266]

SENATOR HADLEY: Next opponent. [LB266]

JOE JOHNSON: Proponent or opponent? [LB266]

SENATOR HADLEY: Opponent. [LB266]

JOE JOHNSON: Opponent. (Laugh) [LB266]

SENATOR HADLEY: And don't get me confused now. Don't get me confused. Opponents. [LB266]

JOE JOHNSON: Opponents. Senator Hadley and members of the Revenue Committee, my name is Joe Johnson, J-o-e J-o-h-n-s-o-n. I'm the city administrator of Nebraska City. I'm here on behalf of the mayor and city commissioners of Nebraska City. Nebraska City urges you not to support LB266 or any other legislative bill that would repeal LB357 as passed and made law in 2012. One of the successful highlights to implementing an LB357 project is the approval of the citizens of that community. This is truly the best form of taxation, giving those directly impacted the ability to vote yes or no. This sales tax is not a mandate, and it provides local control. This is truly where the rubber meets the road, and it doesn't get any better than that. Why LB357 is important to Nebraska City. Nebraska City's current property tax levy is 38 cents per \$100 valuation, of which 25 cents is used for general fund services, 13 cents is used for debt service on five street projects and storm-water improvement projects and the

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construction of the public safety complex. Moreover, Nebraska City has committed to two bridge projects: the Fourth Corso viaduct is one of the most deficient (inaudible) bridge in the state, with the local cost being \$1.6 million; also the state Highway 2, which was mentioned previously--that's where all the traffic enters the state of Nebraska at Nebraska City--is in dire need of an overpass there. So the state Highway 2 and Highway 75 interchange, which carries over 10,000 vehicles daily and has seen individuals lose their lives in accidents at that intersection...and Nebraska City has committed to \$1.4 million of that state project; that's what we had to pony up to get that state project to move. This is \$3 million in future debt. This will push Nebraska City to the top of the state-allowable property tax limits. Nebraska City has a swimming pool bathhouse, just the bathhouse, that was a WPA project built in the late 1930s, but the actual swimming pool was replaced in 1969 by the current swimming pool. Obviously, our bathhouse does not meet ADA requirements. Moreover, the pool doesn't hold water, and the plumbing is a "hold your breath and hope it works" type of system. This was Nebraska City's LB357 project for the 2012 general election; however, we needed to address the interlocal agreement requirement of LB357. Nebraska City went to other local government agencies and asked them to be partners with us in an interlocal agreement to build a new swimming pool. They all said "no" because they couldn't justify being a party to a swimming pool, which is correct. Therefore the leaders of Nebraska City went down the list of local projects to find a project that would be valuable to the community and to another governmental agency. Shortly thereafter, Nebraska City and Nebraska City school district entered into an interlocal agreement for the deployment of dark fiber, as allowed by State Statute 86-575, and the swimming pool. In late November the voters of Nebraska City voted not to pass LB357 sales tax increase to fund the swimming pool and the dark fiber optics project. From a local leader's standpoint it was unfortunate and disappointing that our LB357 ballot issue did not pass. But the citizens of Nebraska City were in control. At the end of the day, the citizens did their own cost/benefit analysis and decided that the projects were not worth the cost. Nebraska City is an excellent example of local control exercised by the city. Good news: LB357 had worked. LB357 is local control. And the sales tax is simply the vehicle for accomplishing projects that are approved by the citizens. Moreover, LB357 became law eight months ago; clearly, this is not enough time for the communities of the state of Nebraska to experience the benefits of this law. Let's give it more time to work for the communities across the state. I urge you not to support LB266 or any legislation that attempts to repeal LB357. Thank you. [LB266]

SENATOR HADLEY: Questions? Senator Schumacher. [LB266]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. [LB266]

JOE JOHNSON: You bet. [LB266]

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SENATOR SCHUMACHER: What's the budget of Nebraska City? How much money do you go through a year? [LB266]

JOE JOHNSON: We...roughly anywhere from seven to eight, depending on the year. [LB266]

SENATOR SCHUMACHER: \$7 million to \$8 million? [LB266]

JOE JOHNSON: Um-hum. [LB266]

SENATOR SCHUMACHER: And do you have an income distribution of your population, or...as to how many make less than \$25,000, how many over \$250,000, and kind of the distribution of the income earned there? [LB266]

JOE JOHNSON: I don't have those with me. And we have them. [LB266]

SENATOR SCHUMACHER: Do you have them? [LB266]

JOE JOHNSON: Yes. [LB266]

SENATOR SCHUMACHER: Okay. And have you taken that analysis the one step further and then indicated how that tax burden is distributed among that income distribution? [LB266]

JOE JOHNSON: We have not. [LB266]

SENATOR SCHUMACHER: You have not. Okay, thank you. [LB266]

JOE JOHNSON: Not a problem. [LB266]

SENATOR HADLEY: Further questions? Senator McCoy. [LB266]

SENATOR McCOY: Thank you, Chairman Hadley. And thank you, Mr. Johnson... [LB266]

JOE JOHNSON: You bet. [LB266]

SENATOR McCOY: ...for being here. If you had it to do over again, would you do anything different? [LB266]

JOE JOHNSON: Well, you know, the...LB357 didn't become law until July of last year. And we had to have our ballot question to the county by September 1. That's not a lot of time. And once we as a community said, okay, this is a ballot question--so that was

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before September 1--then we as community leaders, unless we were asked questions specifically about the ballot issue, we couldn't promote it any longer; there was no promoting from our end. So our hands were tied. But we heard from a lot of people that: Why did you put fiber optics with the swimming pool; we would have voted for the swimming pool if it hadn't been for the fiber optics. And we said simply: We needed an interlocal agreement; we needed some other partner in this project. So that hurt us. And then, you know, it's been mentioned that the hoops and hurdles that we have to jump through with LB357. There were a lot of people that came up to me after the election and said: I didn't see the swimming pool on the ballot. Because of the legal mumbo jumbo that was on there to get this onto ballot in that language, they didn't know what they were voting for. They, I mean, they didn't read it or didn't read down far enough or whatever the case was, but they just didn't understand it. And then there was a local group in opposition of where we were proposing to put the swimming pool, "not in my backyard" type of individuals. So there was a lot of reasons why this...why we believe this didn't pass. [LB266]

SENATOR McCOY: I guess, to tag along, though, on that, do you plan to do it again? [LB266]

JOE JOHNSON: Well, our swimming pool is held together by bubble tape and Band-Aids...or bubblegum and Band-Aids right now. So for example, last year the...and we don't have a zero-entry pool. We have diving boards; we don't have any other features, no water features of any type. And last year we couldn't put water in the baby pool, which is just this separate little body of water. We couldn't put water in there fast enough to keep it full. So when we left at night, when the employees left the swimming pool at night, they arrived the next morning, and the baby pool was bone dry. There was not a drop of water in it. We don't know where it's going. Table Creek is about 100 yards from it; we're suspecting that it's probably ending up in there. But we can't open the baby pool, just because we can't afford to keep putting water in it at that rate. So this summer when the pool opens, there will be no baby pool. So that means mothers and fathers are going to have to climb into a 4-foot pool and hold their children up, and they're probably going to get upset by that. But that's just the fact of the matter. And, to be honest, every year for the last five years we've held our breath on opening day: is that thing going to fire back up? And if it simply doesn't fire back up, then we don't have a swimming pool. [LB266]

SENATOR McCOY: I appreciate that. I guess I'll just repeat again, do you plan on bringing it again to your citizens to a vote? [LB266]

JOE JOHNSON: I don't...I don't know. The answer is, I don't know, because the mayor has appointed an additional, the second, swimming pool committee, and they're going through everything. But property tax is not an option, so there has to...I mean, either we're going to reduce services in some other department to pay for a bond for the

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swimming pool or we'll come back to this, if this is an option. Some other way. [LB266]

SENATOR McCOY: If I might ask you to elaborate, you say property tax is not an option because you're up to the lid or because you're choosing to not make it an option? [LB266]

JOE JOHNSON: No, we're at 38 cents per \$100 of valuation, and we have two bridge projects coming up. Now I don't know when those bridge projects will go, but I don't want to be in a situation, and I won't guide the city council into a situation that we don't have the money when those projects are ready to go. So the additional to get up to that 50-cent lid, we need to save that for those two projects. [LB266]

SENATOR McCOY: Thank you. [LB266]

SENATOR HADLEY: Senator Harr. [LB266]

SENATOR HARR: Thank you, Chairman Hadley. This swimming pool, do you have a new location planned, if you rebuild? Are you going to rebuild in the same location or a new location? [LB266]

JOE JOHNSON: That's currently up to the committee. [LB266]

SENATOR HARR: Okay. [LB266]

JOE JOHNSON: The idea is, because of the lack of parking, that it will be a new location. [LB266]

SENATOR HARR: Okay. And community support for a pool, you'd agree? [LB266]

JOE JOHNSON: Um-hum. Absolutely. [LB266]

SENATOR HARR: And how much would this new pool cost, approximately? [LB266]

JOE JOHNSON: Anywhere from \$3 million to \$4 million. [LB266]

SENATOR HARR: Three million to four million dollars. Do you think you could get the community to pay for up to a third of that pool? Private members of the community and foundations? [LB266]

JOE JOHNSON: Yes. [LB266]

SENATOR HARR: Okay. I have no further questions. [LB266]

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SENATOR HADLEY: Any other questions? Thank you for coming in. Appreciate it. Further opponents. [LB266]

STEVE HUBKA: Chairman Hadley and members of the Revenue Committee, my name is Steve Hubka; that's S-t-e-v-e H-u-b-k-a. I'm the finance director for the city of Lincoln. I'm here today in opposition of LB266, and I'd like to thank you for the opportunity to comment. And about four hours ago when you made the suggestion that it's okay to say that I agree with some others, I do agree with the comments that the opponents so far, particularly Lynn Rex, who covered a lot of ground with her testimony. But I'd just like to remind you once more that this bill was just passed last year; it took two years of legislative debate to get to this point. I think that we've just heard that there's been three cities that have enacted the additional half-cent; two have rejected it. So I think provisions of the bill in that regard are working quite well. One thing that hasn't had a whole lot said about it that I'd like to point out is that before this ever gets to the ballot, a 70 percent majority of the governing body need to approve it before it even goes to the ballot. And then, of course, there's the extensive ballot requirements that have been discussed already that need to go on there explaining exactly what the money is going to be used for, is the biggest one. But there's also provisions to encourage intergovernmental cooperation and efficiency as well. So this is not a blank check to communities, and it's a vote that would not easily be earned by any city government along the way. We appreciated the efforts and the hard work of all the senators involved that got this bill passed last year. And we do think that those safeguards that are in place are sufficient and working quite well. And as Lynn said, that we do not have any plans in Lincoln to ask for this additional half-cent at this time. We're in the first six months of our first biennial budget; there's no dollars in there that rely upon voter approval of this revenue to support. But after years of cutting budgets and declining revenues, and particularly our loss of state aid, which Lynn had...and there is definitely a different term for that, but we lost that a couple years ago, and we struggle to provide our services. This does provide an alternative to the property tax, which we all, I think, agree nobody particularly cares for in Nebraska. And this is one thing that gives us some flexibility in determining how to fund our government and also has the possibility of allowing voters to vote to release some of the pressure on property taxes. So we firmly believe that the flexibility that we have from LB357 is critical to our economic future, and we, therefore, ask that you not advance LB266. With that, I'd be happy to answer any questions. [LB266]

SENATOR HADLEY: Questions? Seeing none, thank you for bearing with us, sir. Thank you. [LB266]

STEVE HUBKA: Thank you. [LB266]

SENATOR HADLEY: Next opponent. [LB266]

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MARLENE JOHNSON: I guess it's no longer "Good afternoon," it's "Good evening," Senator Hadley and members of the Revenue Committee. My name is Marlene Johnson, M-a-r-l-e-n-e J-o-h-n-s-o-n. I'm the mayor of West Point, Nebraska, and I'm the president-elect of the League of Nebraska Municipalities. And, first of all, I want to thank those of you that were involved in LB357 last year and allowing that to pass and for all of the senators that voted to pass LB357 to allow our local voters the opportunity to decide whether the city or village should have an additional one-half cent sales tax, because that's, to me, is one of the most important things about that bill. I'm very much in favor of having my local constituents tell me what they want or what they don't want, and I listen to them very respectfully. So I respectfully but I very strongly oppose LB266. West Point has a 1.5 percent sales tax, but we were very, very late in coming to do that. And we did not start going after a...we started first with a 1 percent sales tax, and that only happened when the state aid was taken away from us and we no longer had that to fall back on. And at that point in time we instigated our first 1 percent sales tax to allow us to do some of the things...we needed a new fire truck; we needed a safe road to our school. And some other things: we needed a drainage situation in the park because our park was always filling up with water, not this year but previously, because it's the lowest spot in town, and so we had to put a pumping system in to drain our park so that we could use it. And so those were some of the things that we did with our first 1 percent sales tax. Last spring we then opted to ask for another 0.5 percent sales tax, which would allow us to do future and more infrastructure projects, things that we are going to have to do. We are in need of some new vehicles. We have some vehicles that are 20 years old, and we have some things that you can no longer get parts for. And we can't afford to buy them out of our general budget, and so we are going to use some of this sales tax. A quarter-percent of it is for local projects and local infrastructure, and the other quarter-percent we initiated an LB840 economic development program, because that's something that, too, is very, very important to communities: we have to have money for economic development. And so we instigated that, and we have our committee in place and are moving forward with trying to encourage businesses and bring some new businesses into our community and help our community to grow. So, as I said, we were very late in coming into the sales tax field, but it has been a tremendous help for West Point and has allowed us to improve our community in many, many ways. And it was unanimously supported both times when it went to the ballot. It was not a close call or anything; it was very unanimously supported by the citizens. And so that's why I think, at this point in time, I don't think that LB357 should be repealed at this point in time. You're doing a tax study, but I think until you know exactly what that tax study is going to show, I don't think we should be too hasty in repealing something that is there for communities to be able to use to enhance what we can do for our citizens. And, of course, it's the most positive local-control thing that you can have, because, as Nebraska City experienced, they go to the polls, they say no. I mean, this is, you know, this is how it works. We had them say no to us twice before we passed our first one. So it's...I just respectfully and strongly oppose LB266. And I thank you for your consideration of this request. And if anybody has any questions, I'd be happy to answer

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them. [LB266]

SENATOR HADLEY: Any questions? Thank you. [LB266]

MARLENE JOHNSON: If not, thank you very much. And sorry... [LB266]

SENATOR HADLEY: Well, thank you...thank you for... [LB266]

MARLENE JOHNSON: ...it got to be such a long day. [LB266]

SENATOR HADLEY: ...well, thank you for staying with us. Next opponent. [LB266]

JOE KOHOUT: (Exhibit 37) You just got five hours before...before you hit four-oh-five; no. Chairman Hadley, members of the Revenue Committee, Joe Kohout, K-o-h-o-u-t, appearing today on behalf of the United Cities of Sarpy County, a coalition of the four mayors of Gretna, La Vista, Papillion, and Springfield. I'm passing a letter around under signature of Mayor Kindig on behalf of the other three mayors expressing our opposition to this bill. And I couldn't add anything else to what has been said. So we agree with everything that's been said before. [LB266]

SENATOR HADLEY: Any questions for Mr. Kohout? Thank you. [LB266]

JOE KOHOUT: Thank you. [LB266]

SENATOR HADLEY: Any others in the opposition? Are there any in the neutral? Senator Chambers, would you like to close? [LB266]

SENATOR CHAMBERS: Mr. Chairman, members of the committee, this was a very interesting hearing. I'm glad I had the opportunity to sit in on it. What you saw were individuals representing cities, municipalities; not one was speaking on behalf of the people who will bear this tax. These things can be presented a certain way to the public so that it seems like it's a good thing for them. They know that the people never organize to oppose something like this. In Bellevue you have a level of education, you have former military people, you have those who are conscious of the impact that the sales tax can have, so they defeated it. When you are looking at an area--and these people know it--where the people are not going to be organized, they accept anything that is put upon them. So if this is presented and it's made to appear that it's a great thing because if you don't do this, something worse will happen, then they can get it done and they know it. But when you see what happened to Nebraska City, and despite all of the missteps and the failure, the people who run that city want to keep that possibility of cashing in on that pot of gold available, even though it's not likely they're going to achieve what it is they're looking for. But there are a few points that I'm going to touch on briefly. Mr. Bunger was very honest; they like the sales tax in his village

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because somebody else pays, not the citizens of the village. They're counting on other people to pay that burdensome tax. And for the record, the reason it is called "regressive"...my favorite metaphor is Little Orphan Annie and Daddy Warbucks. Little Orphan Annie pays the same rate of tax as Daddy Warbucks. I don't care how many cities and their lobbyists come here, I'm going to speak on behalf of people not just in Omaha but throughout this state who have things done to them and they don't even know where it came from or how. But when I go to stores, I have seen what you all probably never will see: old women counting pennies on the counter to see if they've got enough money. I'm not noble, but you know what I've done because I was embarrassed, I'd ask the clerk: How much does she owe? And they'd tell me. And I'd say: You remind me of my mother, who is no longer here; let me pay this. I've done that many times. The only reason I mention it now is because I live around poor people, and I see how damaging this is. And if those who want to lay this heavy burden on the people that I'm concerned about succeed, then I'm going to retaliate. Anything that the League of Municipalities brings I will remember that they said: We don't care about poor people, we want what we want; we're paid to do this, and we're going to do it. And I will fight for those I represent to the nth degree. And you know who the people are that I represent? My title is not "District 11 senator"; it is not "Omaha senator." It is "state senator." And I venture to say I get more mail from throughout this state than any other member of this Legislature saying how glad they are that I'm back; there are issues that now will be raised. They will bring me problems that they say their representative will not listen to; they make phone calls that are not returned. Anytime somebody calls my office or me and they leave their name and a number, I call. And not everybody has something to present that is easy to listen to or that you might can do anything about. But if you don't deal with people in this way, you don't know how pleased people are just to have somebody show them some respect and hear them out. And I don't have a lot of time, but I find time. This taxing authorization has got to be a part of the discussion about the review of the tax structure in this state. You are giving away a part of what may have to wind up being the solution by allowing this 0.5 percent local-option sales tax, giving it away. There was so much politicking on that bill. Omaha prostrated itself. Look at what's in that bill that Omaha had to put in. They would say anything. You know why Lincoln likes it? Because they were allowed to cut out an exception for what they wanted. I'm probably the only one who consistently speaks for people who have no voice. And that's why I don't get tired on the floor and why I will fight, I will be tenacious, I will be relentless, I will be unyielding, and I'll fight against all these assembled powerful groups who represent the municipalities. And I have not shown anything in terms of what I can do, but it will be shown. One person mentioned the two years of time it took to get that LB357 passed. He didn't call it what it is: political maneuvering, horse trading of the worst variety, people in some cities ashamed of the kind of way that their representatives were prostrating themselves for a half-cent. If they will do that for a half-cent, don't offer them something more. But if you give this half-cent away, it's gone. As for those three little entities that have already submitted this to a vote and gotten it passed, there's a term that they call "grandfathering"; if they're already there, let them

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stay there. But I think when you are taking a long-range view and you're considering the overall best interest of the state as a whole, these individual municipalities cannot be allowed to thwart what is in the best interest of the greatest number of the people. And that is my concern; that is my interest. I had thought that this idea of review of the state tax structure was good. I don't know how much support it has, but those of you who want it had best hope that you've got at least 33 people who feel the same way you do. What do I care about taking the rest of the session--it wouldn't take that long--but what do I care about taking that time to help people who need it? I see poor people every day. And you all obviously don't. It reminds me of something that a fellow who was...he was a part of a very rich family, and he was in the Senate. I wish I could think of the name of the family. It might come to me. But a senator was holding forth, and it was an issue that would have impacted on ordinary people, and he said: All of us know what it means to be poor. And this man from the wealthy family said: I'd like to correct the senator, not all of us. So not all of you have not only not been poor, you have not spent time around poor people, I mean living around poor people. And when you can do that day after day after day, you will understand what motivates me. I'm older than everybody sitting at that table, but I venture to say I have more energy than anybody around this table, and I can demonstrate it. And you know what I spend that energy on? Trying to help the people who I think need it and have no voice, have no friend, have no protector. It would be stupid for me to write as my title, "defender of the downtrodden," but I believe it. This may be hard to believe, there are large law firms in Omaha who offered me jobs and a six-figure salary just to go to work with them. I say, why are you going to give me that money? My name meant something. But they also know that I've got something in my head, and I understand the law. But I let all of them know, I'm not looking for a job. I've got a job. I've got a full-time job. So if money was what I wanted, I could get money almost instantaneously. I wouldn't have to drive a 1999 Honda with 497,000 miles on it. But I do these things by choice. So I'm not blaming anybody or whining to anybody about the choice that I freely made. None of the choices that I made can be blamed on anybody. Never did I have a gun put to my head with the injunction that I'd better do what I'm doing. It's by choice. Were it not by choice, I would have burned out a long time ago. But I'm not even close to burning out. And why is that? Because one thing that is true that a person said, whose name I won't mention, "The poor you shall have with you always." So my job will never be completed. Work will never be done. But I will work hard, I will work assiduously, and the enemies of the people that I represent are my enemies. And if that's the way they will have it, then that's the way it shall be. And, personally, I'm speaking personally, it makes me no difference how people react to anything that I say, because I'm going to do what I'm going to do anyway. And I'm going to do what I do because I feel what some philosopher called a moral imperative. And most people cannot talk about morality. But when I talk about it, it's not from the notion of self-righteousness, where I'm being judgmental, I'm right and you're wrong. It's the notion that there is a principle that governs me, and I must act in accord with it. So I don't care if everybody is on the opposite side from where I am. I don't care who gets angry; I don't care who gets

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offended. I wish it were not that way. We all would like to get through life with as little friction as possible, but we all know that's not the way things fall out. So we do the best we can with the hand that we were dealt. And I was dealt no aces, no kings, no queens, no jacks, no 10s, no 9s, no 8s, no 7s, no 6s, no 5s, no 4s--what do they call 3--no treys, maybe a 2, but mainly a 1. And when I live at the bottom of the barrel with the people who dwell at the bottom of the barrel, my outlook of life is far different from everybody else's. And I cannot and do not expect them to understand anything of what I'm saying, but they can understand my actions. And when it becomes essential that my actions run crosswise to theirs, then I'm the one for that job because I don't need help, I don't need approval, I don't need any of those things, I don't need a lot of company. But I have a lot of determination, and I believe in what I am doing, because it is what I must do, not because there's a heaven promised to me someplace or a hell that I fear going to. I don't even reach that level of contemplation. I'm looking at what is in front of my eyes every day. And it's impossible for me to look at people who are suffering and say, like some of the self-righteous people in the church that I was reared in but I outgrew, "There but for the grace of God go I." And that was one of the things that made me see religion differently. How can it be God's grace that I have something to eat and that one is starving? How can it be something I would thank God for, that I can feed my child but he can't feed his children? That's not the system of values that I accept. And I cannot change the world. But I can change my world. And my world consists of what's in me, what I see, and what I believe. If things are difficult, that's because I perceive them as being difficult; nothing outside of myself can affect me any more than I allow it to. So when I face reversals in a political setting, that means nothing to what's inside of me that's important. And for those of you who don't have what I have, let me give you something to think about. When I was running for reelection, I wouldn't campaign, I wouldn't ask for money; and people really wanted me back here, I mean in my community. They felt like I was their hope. I say, well, I only have one vote; you all have the votes. If you want me back, you're going to have to vote for me, and I'm not going to beg you. If you don't know me by now, you'll never know me. So I'm not going to make a last-minute push knocking on people's doors, shaking people's hands; either they know what I am and they like or they don't. So I would be pushed to the wall by some persistent people, and they'd say: But, Ernie, suppose you lose, anything is possible. I said: Right; so you want me to give you an answer in case I would lose. Let me present it to you in this fashion: If you went through a cancer ward where there are little children and you looked at those parents, utterly helpless, wishing that if there was some way they could take the place of that child in the bed and the child could be made whole, they would do it. Go to a cemetery where people are burying little bitty coffins and put the question to them: How important would it be to you, if you were in a political campaign and you lost? I would say that, to a person, they would say: I wish that the biggest thing confronting me was losing a political campaign for a political office. That is called prioritizing. I'm not angry at anybody here for whatever you do. We all conduct our affairs in the way we think we should. So if it seems best to you, for whatever reason...and you don't have to account to me, I'm not your father, I don't own you;

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although on the floor on occasion I may say I own you, and then you act as if I own you, but I know that I don't, and I wouldn't want to own you. But I will fight you, tooth and nail, and I will find what it is that you want, and I'll do what I can to deprive you of that. And if collectively this group wants to do a tax study and they need legislation to get it, then you need 33 votes. See, these people sitting out here, they can't vote on the floor of the Legislature; they can't stop anything, and maybe I can't stop it all, and maybe you'll roll right over me and get everything that you want. But I say, like that Beatles song, and I won't try to sing it, "It don't come easy; no, it don't come easy." And that's the way I will end my presentation here this afternoon. But if you have any questions to put to me, I would readily answer them. [LB266]

SENATOR HADLEY: Are there questions for Senator Chambers? [LB266]

SENATOR CHAMBERS: Thank you. [LB266]

SENATOR HADLEY: Seeing...thank you, Senator Chambers. We appreciate your gracing the Revenue Committee. [LB266]

SENATOR CHAMBERS: And in taking a page out of the book of my opponents, I would really appreciate it if you would advance this bill. [LB266]

SENATOR HADLEY: (Laughter) With that, I would ask that is there a motion to go into Executive Session? It's not going to be long. [LB266]

SENATOR McCOY: So moved. [LB266]

SENATOR HADLEY: Is there a second? [LB266]

SENATOR HANSEN: Yes, sir. [LB266]

SENATOR HADLEY: All in favor signify by saying aye. Opposed, same sign. [LB266]