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Revenue Committee
March 07, 2013

[LB90 LB96 LB346 LB502 LB606]

The Committee on Revenue met at 1:30 p.m. on Thursday, March 7, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB502, LB606, LB96, LB90, and LB346. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: None.

SENATOR HADLEY: Good afternoon. My name is Galen Hadley. I represent the 37th District from Kearney. To my left is Senator Schumacher from Columbus; to his left is Senator Pirsch from Omaha; and to his left will be Senator Sullivan from Cedar Rapids. Please do not be offended if senators are not here. We're introducing bills in other committees, so if someone isn't here or gets up and leaves, it's not that they don't like you, it's just that they're doing their other work. On my far right is Senator Burke Harr from Omaha. He's not here yet. Senator Janssen from Fremont, and then Senator McCoy from Omaha; Senator Hansen from North Platte; our committee counsel is Mary Jane Egr Edson, to my right; Bill Lock to my left is our research analyst; and Matt Rathje to my far left is our committee clerk. Oh, I'm sorry. Barb is here filling in. Thank you. Our pages are Evan and Nate, is that right? Good. Haven't changed. They really help us. Turn off cell phones or put on vibrate while in the hearing room. The sign-in sheets for testifiers are on the table by both doors and need to be completed by everyone wishing to testify. If you're 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 to the committee clerk. 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 will follow the agenda posted on the door. We might have to change a little because of some people having other bills but we will work on that. The introducer or 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. With that, we will start the agenda with LB502, which happens to be my bill so we will turn the committee over to Senator Schumacher.

SENATOR SCHUMACHER: Welcome, Senator Hadley, to your committee. (Laughter)

SENATOR HADLEY: Well, it's always nice to be here and see all these smiling faces, including Senator Hansen, so. My name is Galen Hadley. That's G-a-l-e-n H-a-d-l-e-y and I represent the 37th District which is Kearney and part of Buffalo County. I am here to introduce LB502. It's a change, a sales tax exemption for health clinics. We are in discussions right now with the Revenue Department on issuing some regulations on a

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bill that was passed last year. So all I can say is that this bill, if we need anything later we will amend the bill and visit with you later. But right now, it's very possible we will not need the bill. So with that, that would be my opening. [LB502]

SENATOR SCHUMACHER: Any questions for Senator Hadley? I just have one, Senator Hadley. The bill has no underlining in it. Does that mean that because it's all new, or...? [LB502]

SENATOR HADLEY: I think...didn't we underline two to one? [LB502]

SENATOR SCHUMACHER: Oh, oh, I see it now. Thank you. (Laughter) [LB502]

SENATOR HADLEY: And that is certainly not what we want, but we had to have some kind of change to have it put in there. [LB502]

SENATOR SCHUMACHER: Okay. Thank you, Senator Hadley. Any other questions for Senator Hadley? Seeing none. Proponents? Any opponents? Any neutrals? Senator Hadley, do you want to close? [LB502]

SENATOR HADLEY: I will waive. [LB502]

SENATOR SCHUMACHER: And he waives. I thought I was the only one that never had any supporters. [LB502]

SENATOR HADLEY: I wish some other senators would take that tack when they're doing their bills. (Laughter) I don't believe we have Senator...Senator Pirsch, did you say yours was a real quick bill? Is that right?

SENATOR PIRSCH: I did, yes.

SENATOR HADLEY: So we will, if that's all right, we'll change the order real quickly and go with LB606, Senator Pirsch's bill, which I believe is a quick bill.

SENATOR PIRSCH: Yes, and thank you, Chairman, for accommodating me. So, LB606 would create what's called the Nebraska Technology Entrepreneur Act. Under this act a qualified small business which is engaged in a high-technology field in which can document financial need will be eligible for a sales and use tax refund for depreciable business equipment purchases of up to \$5,000 per year. The total amount of sales and use tax refunds granted to all qualified small businesses in any year would not exceed \$300,000. So it's envisioned as a pilot program of sorts, and so that we had the ability to see how it's working at a smaller level before we would in future years approach this committee about a significant funding. But the underlying concept here is similar to that which we discussed for Angel Investment Tax Credit. Our...you know, the Battelle study,

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it identified with respect to entrepreneurialism in general and specifically within the high-technology sector, Nebraska does not fare well; and that is even compared to peer states, neighboring states, Kansas, Iowa, and whatnot. So the concept is now, not approaching it from the investor's side. The investment side would change what investment does, but rather from the actual would-be entrepreneur side to encourage that individual who is, you know, thinking about starting a technology-related company who's maybe working during the day and kind of tooling around with an idea of having a startup, or in various stages of an early startup, and trying to take the sting out of that type of an activity that the state needs so desperately for individuals to start taking in the state, which is these technology startups. And so, to that end we would remove a limited portion of these...if they're out buying depreciable business equipment toward the creation of that business, that startup, this would take a little bit of the sting away to the extent that they would be...they could have their sales and use tax refunded up to a total amount of \$5,000 per startup per year. So that's the concept in a nutshell, and I'd open myself up to any questions if anybody had them. [LB606]

SENATOR HADLEY: Senator Pirsch, I appreciate your bringing the bill because I think any bill that we can look at that encourages entrepreneurship in Nebraska is worthy of discussion and I very much appreciate your bringing the bill. Are there any questions for Senator Pirsch? Seeing none, thank you, Senator Pirsch. [LB606]

SENATOR PIRSCH: Thank you. [LB606]

SENATOR HADLEY: The first proponent. We'll need you to fill out a form. The page will get the form. That can be done after your testimony. Just make sure after your testimony. If you could give us your name and spell it for us and... [LB606]

RANDALL JONES: (Exhibit 1) I'm Dr. Randall W. Jones. I'm from Omaha. R-a-n-d-a-l-l Jones. (Laugh) Probably don't need help with that one. I come from Omaha. I am a small businessman and entrepreneur. I wish you had this in front of you, so I'll give you a quick rundown of my background. I am a Nebraska native. U.S. Air Force veteran. I went to university at Texas A&M University because Nebraska didn't have the curriculum that I needed. It was in biomedical engineering and then Ph.D. in electrical engineering. I moved back to the state after some industrial experience in Milwaukee and started a business here. When I first moved back to the state I want to tell you, frankly, it was a dinosaur. We are so far behind technologically compared to most other states that I have lived, had the pleasure of living in both the military and during and after my college education, that I want to be a proponent to try and make this state come up to the level of those that are already there. And I can name some of Cleveland, Wisconsin, obviously California, North Carolina--MRI hubs. And my company is an MRI developer and manufacturer. And I have to say then since I've been here, the state has turned around significantly and I applaud all of the efforts from the people that have introduced those bills that have created some Department of Economic Development,

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Advantage Act, funds available for training offsets, for research and development, and just for jobs creation and such. And my company has benefited from those and I thank the Legislature for those. So this is just another opportunity as Senator Pirsch has introduced that we can become more competitive. We can offset the risk associated with starting up a new small business or a high-tech business. And we need those. Frankly, the only reason that I moved back here is because of my native ties and because of my family. But from a business perspective it was not an attractive environment to be in. It's much, much better but there is still has to be a need to stay in this state. And we also have to prevent the brain drain that we have from this state, that the brightest students don't stick around. They go to those states that offer high-tech jobs. So these are all things that I'm concerned with. At the public education level, I'm trying to involve myself now that my company is off the ground and started, well-positioned. You'd see in your fact sheet that the company is only about five years old. We just about broke \$2 million in revenue last year. We're on a 70 percent growth rate and I've created 20 jobs from an investment of roughly \$700,000 in equipment. So the example that we're talking about for Senator Pirsch is, that \$700,000 worth of equipment cost me \$35,000 worth in sales and use taxes. That's a discouraging aspect alone. That's one job. But that is just the start. That's the tip of the iceberg because that same \$700,000 investment created 20 jobs. I needed those pieces of equipment for supporting those 20 new jobs. So those 20 new staff members that I have are now out spending their money in our economy, buying homes, renting, cars, groceries, you name it, not to mention the state taxes. They've already got their \$35,000 back in just the state employment tax for those individuals. So in one year the state of Nebraska is going to get back everything that I took the risk to invest, everything back in one year. And, of course, if we kept the laws the way it is, then that equipment would depreciate away in just a few years and the state would get nothing further from that equipment. Yet, if you translate it to jobs created and the revenues from those new employees, the state is going to continue an annuity that is a growing annuity as those employees are promoted, get more money, and pay more taxes. So that's my argument. The only comment that I have to Senator Pirsch is, in for a penny, in for a pound. That 5 percent isn't going to help me, but it's going to help a new startup and it's a great start because we have to start with the people that are going to take the initial risk and get a company going. But then when you want to retain my company after it's grown three- or fourfold in the next couple of years, you're going to have to be more competitive than \$5,000. Thank you, people. [LB606]

SENATOR HADLEY: Thank you, Dr. Jones. Are there questions for Dr. Jones? Senator Schumacher. [LB606]

SENATOR SCHUMACHER: Thank you, Senator Hadley. I noticed that we were kind of picking winners in categories of small businesses that might be eligible for this. They're talking in terms of agricultural processing, renewable energy. And if I go through that list, there's the area of financial services, the area of moving and organizing capital are

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omitted from that list. Is there any reason that we don't let any small business just qualify that we have to say you've got to be in these categories? [LB606]

RANDALL JONES: Well, I'm not sure of the senator's initial intentions, but answering from my own opinion, the startup capital requirements when you're in the high-tech industry is that you have to buy high-tech equipment. And moving money around or shipping widgets back and forth is not a hefty investment. My barriers of entry to get into the medical device industry are and were significant. We are ISO 13485, ISO 9001 and regulated by the Food and Drug Administration. And I have had the FDA in the basement of my house auditing my home and all of the records that we were using in developing new medical devices. And that is a tremendous risk because had that not gone well, they have the authority to lock the door to keep me from conducting further business. That's significant business risk. I don't think I know of another industry that has those levels of and barriers of entry. So if you want medical devices, if you want companies to be here truly in that high-tech arena, you have to try and mitigate that risk as much as possible. That's where we're different from moving materials and money. [LB606]

SENATOR SCHUMACHER: But if you had a proper mechanism for capital organization... [LB606]

RANDALL JONES: Yes, sir. [LB606]

SENATOR SCHUMACHER: ...then \$5,000 in sales tax savings is peanuts. [LB606]

RANDALL JONES: Yeah. I would agree with that. [LB606]

SENATOR SCHUMACHER: So hand in hand with these type of new tech deals is the ability to organize capital. And if those folks have some sales tax, or maybe we should look at income tax breaks, maybe they would be there to organize this vast amount of capital we're sitting on so we wouldn't have to worry about a measly \$5,000 sales tax. [LB606]

RANDALL JONES: Senator, and I would side with you on that. I wouldn't exclude them from this bill. [LB606]

SENATOR SCHUMACHER: Okay. Thank you. [LB606]

SENATOR HADLEY: Other questions? Dr. Jones, did you say that you were able to take advantage of some of the Advantage...? [LB606]

RANDALL JONES: Yes, I have. [LB606]

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SENATOR HADLEY: Okay. And was it a successful experience working...? [LB606]

RANDALL JONES: Yes. And again, these programs were so new that I was unaware of them. I had already been in startup mode for about four years and then I got a wonderful visit from an entourage from the DED. And they started spelling out all these opportunities and my company fit perfectly for every one of them. It was wonderful. It was research and development. I have ten United States patents and I have two pending. You think we do some research and development there? I have three Ph.D's on staff, several master's degrees, and a lot of other engineers. That's what we do. So getting an R&D break was a wonderful shot in the arm, a \$50,000 little research grant. We've taken advantage of the Nebraska Advantage Act for the Angel Investor program where they had matching funds up to \$500,000 for that private investor. So I found the private investor; Nebraska came in and matched that. We've also had training grant refunds, basically, where a certain percentage like up to 5 percent or so of that employee's annual salary is rebated to you as a training offset. Because frankly, I couldn't hire a single employee in the state of Nebraska because they weren't qualified to work for my company. And so everyone that I hire, regardless of high school, tech school, or University of Nebraska-Lincoln or Omaha, has to be brought in and trained by myself and my other advanced degree people in the specific field that we're training them. So it's a wonderful offset in that risk to help us create jobs. [LB606]

SENATOR HADLEY: Senator Schumacher. [LB606]

SENATOR SCHUMACHER: Just one follow-up. And again, in the definition of these qualifying businesses. Let's pretend that you had somebody who was building computers and writing specialized programs for those particular computers. And they wouldn't be outside of their initial unit that they were playing with themselves, they wouldn't be paying any sales tax. But they wouldn't be existing unless they had a specialized business computer buyer out there in society to buy their toys that they just got done making. Is there any reason that we shouldn't extend this sales tax credit to the buyer of those devices? Because they don't have sales tax to pay, very much of, but their customer does. And so by giving their customer the sales tax break, we're encouraging them to buy from the new entrepreneur who is making the computers and programming the computers, something like that. Any problem with that approach? [LB606]

RANDALL JONES: If you would restrict that only to the state of Nebraska I think it would be zero benefit to myself, just speaking for myself. My customers are, in fact, United States-wide and now becoming worldwide and there's only so many MRI units in the world and certainly in the state of Nebraska. So my customers are limited in my home state to where it wouldn't be necessarily good for me but certainly another high-tech company that was selling something that was useful more for the general public, there could be some advantage to that, certainly. [LB606]

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SENATOR SCHUMACHER: If they're making computers that weighed beef in packing plants or something. [LB606]

RANDALL JONES: Right. And another...along that same vein, my particular small industry of medical devices is being penalized by our federal government as of January 1. We get to pay 2.3 percent excise tax on medical devices and that's off the top line. That's not off of profit, that's off of gross sales. If Nebraska offset that 2.3 percent somehow, you would have a wonderful winning formula right there to say, let's turn this around and bring those companies in here. [LB606]

SENATOR SCHUMACHER: Thank you. [LB606]

SENATOR HADLEY: Thank you, Dr. Jones. Any other questions? Senator Sullivan. [LB606]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you for your comments. To follow up on a couple of things not directly related to this bill, but from some things you've said, you indicated you probably wouldn't have your business located here if it weren't for family ties, that this has not been a very friendly state. However, you're growing your staff, and so I'd be interested to know, first of all, why it isn't an attractive state for you, and secondly, where are your pool of growing employees coming from? [LB606]

RANDALL JONES: Good questions, all. Well, let me further qualify. When I first moved here and it was over ten years ago, it was not. It has continuously improved and then just in the last three years exponentially improved. So now, I would rank it certainly in the top ten in terms of a lot of the tax advantages and development grants that this administration has put into place. So I say that, starting back then, it was not a good choice. Now, it's much, much better. Is it still as good as some of the others? No, but we're headed in the right direction. And secondly, the employment pool. I'm going to say at least one-third of them I am recruiting from out of the state. In fact, every Ph.D. and every master's candidate that I have hired has been from out of the state or out of the country. I've sponsored three H-1B visas to bring in the talent that I need. [LB606]

SENATOR SULLIVAN: Thank you. [LB606]

SENATOR HADLEY: Okay, thank you, Dr. Jones. Appreciate it very much. [LB606]

RANDALL JONES: Thank you, Senators. You bet. My pleasure. [LB606]

SENATOR HADLEY: Any further proponents? Opponents? Neutral? Senator Pirsch, would you like to close? [LB606]

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SENATOR PIRSCH: Just briefly. Well, I appreciate the questions that the committee asked. And one of the...I guess, topics that was brought up is the size. This is intentionally a scaled down, as I think most measures should be as we're kind of putting together a pilot program to...from which we can measure effectiveness and determine if we were to roll this out on a larger scale, does this actually pan out the way that we expect to. Again, we have the objective, background, research by the Battelle that identifies this as a sorely needed area. So, objectively, this has been...when we spend I think a half a million dollars for that study a couple of years ago to identify in an area that if the state is going to compete in five, ten, twenty years from now, what types of jobs are going to be the high-paying good jobs for the state of Nebraska, and that is what they identified as along these lines; and I thank Dr. Jones for testifying about his company and his needs. I think it is fairly reflective of the type of jobs that would be brought about. Why this particular definition of high technology? Because we have a great certainty that these type of jobs will be high paying and does meet that area that was identified in the Battelle study. Obviously, if it's this committee's prerogative and purview to determine if there's certain areas that we would like to include as well, that would meet those...or be similar to those, and actually I think there's a residual clause in...this language was borrowed from the Angel Investment Tax Credit so it's not new. But I think that there is language in there that, on line 23 of page 2, that does talk about "and other similar fields," and so that gives the department some leeway and I think looking at other types of similar high paying jobs for Nebraskans for the future. In closing, I think that it's clear that this objectively is an area where Nebraska has to be moving in and that we are sorely lacking; that this would incentivize entrepreneurs to act in this field of high-paying jobs. So with that, I just open myself up to any questions. [LB606]

SENATOR HADLEY: Senator Pirsch, we did receive a couple of letters from the State Chamber and the Department of Revenue, and I hope you would take a look at those. I think they give you some ideas of improving the bills to do that, so. [LB606]

SENATOR PIRSCH: Certainly. I would just add that I am extremely open and flexible to any suggestions that anyone might have that make sense, so. [LB606]

SENATOR HADLEY: Okay. Questions for Senator Pirsch? Thank you, Senator Pirsch. [LB606]

SENATOR PIRSCH: Thank you. [LB606]

SENATOR HADLEY: We appreciate that very much. [LB606]

SENATOR PIRSCH: Yep. [LB606]

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SENATOR HADLEY: I think we've been joined by Senator Dubas. If you would like to come up and join us... [LB96]

SENATOR DUBAS: Is that so they can't hear me? [LB96]

SENATOR HADLEY: LB96. I should give the same talk that Senator Dubas gives in Transportation; it's really good: Don't play with the microphone. (Laughter) The transcribers just go nuts when you play with the microphone. Senator Dubas, welcome to the Revenue Committee. [LB96]

SENATOR DUBAS: Thank you very much, Senator Hadley. Members of the Revenue Committee, my name is Senator Annette Dubas, A-n-n-e-t-t-e D-u-b-a-s. And I represent Legislative District 34. Some of us just don't take "no" for an answer. And so I am back with my bill dealing with a sales tax exemption on farm repairs and parts. LB96: I understand that this bill as well as many of the others that have been introduced this year will likely not advance because of the extensive study that your committee will commission, ensuing after the legislative session. I am in full support of that study because we truly do need to take a big-picture look at our tax policy. We need to look at property taxes and sales taxes and income taxes, our incentive programs, and the number of exemptions that have been provided over the years. We need to justify--to ourselves, as the budget-setting authority for the state, as well as to our constituents, who provide the financial resources to support state services--why we have whatever policy we choose to have in place. But currently Nebraska is one of eight states that still charges sales tax on ag repairs. All of our neighboring states except for Wyoming are tax exempt. So that puts all of our equipment dealers, and especially those on the borders, at a very distinct competitive disadvantage. Nebraska's pace of job losses in the farm equipment business was more than three times that of our border states. Our farm equipment dealers along the border lost 16.3 percent of their jobs, compared to 5.8 percent of those dealers from the interior of our state. All of the farm equipment dealers in Brown, Furnas, Dixon, and Johnson counties no longer exist. We are always looking for ways to create a competitive business climate. This bill will give those businesses that support the number 1 industry in our state that competitive advantage that they need. For those of you who have not seen this report, "The Economic Impact of Exempting Farm Repair and Replacement Parts from Nebraska Sales Taxes," done by Goss and Associates, I can provide you either a hard copy or an e-mail copy, should you want to see it. But the data in this report is very compelling as to what is happening to our implement dealers and especially those along the borders. We speak passionately through the course of our debates about the importance of job creation and how to support our rural communities and find opportunities to keep young people at home. This bill can help us attain all of those goals. We have community colleges right now that are training their students to repair farm equipment or to work in parts departments in those equipment dealerships. Equipment companies are providing scholarships to these students, who more often than not graduate and walk right into a

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great-paying job with a good future. If we had maintained our 1998 share of the region's equipment dealers employment, we would have employed over 3,900 workers in 2009. Instead, we show a loss of 283 employees, which computes to over \$5 million in lost wages. Agriculture and the ag-related business field is highly competitive. The profit margins are slim even when prices are good. Inputs are climbing at a rapid rate. So shopping around to save dollars is a critical component to running a profitable farm and ranch. It is not out of line for a producer to travel additional miles to avoid the higher prices as a result of our sales tax, because when we go for repairs, we're not talking...typically not talking a \$5 or \$10 or \$20 or even a \$50 repair. You're talking about repairs that are in the hundreds up to the thousands of dollars. So those are significant sales tax dollars that, you know, it's worth traveling a little bit out of their way to save money. And it's not just the loss of the initial sale that is felt. The sales of new and used equipment, which are big-ticket items amounting to hundreds of thousands of dollars, are outsourced too, because we typically create a relationship with those dealerships that we do business with. And so if I'm going to go somewhere else to get my parts, I'm going to start to develop a relationship with that particular equipment dealer. And likely if I'm ready to buy a new or even a used piece of equipment, I'll probably go back to where I'm doing my business on a regular basis. There's also a multiplier effect: dollars spent with implement dealers ripple out across the local and state economy. My job when I'm home is usually gofer; that means that I run errands. I often am going for parts or whatever is needed at the time. And so if I'm...and I do have to travel, you know, to other communities close to home, but, you know, I'm talking 40-50 miles, sometimes a little bit farther. So if I'm going to make the trip, I'll probably stop and buy some groceries, I'll run some other errands. I'm going to spend my dollars...you know, I'm going to make my time and my trip count. So not only now...if I'm going elsewhere to save some sales tax dollars, that's probably where I'm going to buy those other things as well. To further illustrate the challenges to keep these businesses viable and profitable, we are seeing more dealerships across our state being bought by out-of-state companies. Over the past 24 months, Titan Machinery, a publicly traded company based in Fargo, North Dakota, has purchased 10 Case IH or New Holland dealerships in Nebraska. Now those dealerships are still in existence, but they are no longer locally owned, as they have been in the past. Over the past 12 months Grossenburg Implement, a private company based in Winner, South Dakota, has purchased a dealership in northeast Nebraska that has locations in three communities that are close to the border. A&M Green Power, based in Glenwood, Iowa, purchased a John Deere location in Plattsmouth, closed it, and built a new facility and corporate headquarters near Glenwood, Iowa. So, you know, not all of that is directly related to the fact that we have sales tax on these parts. But it is an indication of, again, that highly competitive nature and the challenges that our locally owned implement dealerships are having. And in order for them to keep their doors open, you know, they're having to turn to these types of resources in order to keep the businesses going. And if you have out-of-state companies buying these businesses, a lot of our dollars are going out of state; and no longer do these local dealerships have much, if any,

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decisions...the ability to impact decisions about how their business will operate in the future. Of course, our focus over the next few months will be on the big-picture tax structure of our state. We'll hear from many who will make their case for or against a particular tax policy. Looking at the number of exemptions we have implemented over the years will no doubt be a part of that examination. I do appreciate your thoughtful approach. I believe the information that I can provide to support the need for this particular exemption is compelling, and I will continue to make my case for this issue. If we are going to grant exemptions, there should be solid rationale to support that decision. I firmly believe I can provide that rationale for this committee to support this particular exemption. I believe this bill will provide a positive net result to our budget and much-needed jobs. I look forward to the study that will take place over the interim and, if provided the opportunity, will bring this bill or at least the issues that this bill addresses before the study group. I want to thank you in advance for all the hard work and commitment that lies ahead of you so that you'll be able to provide to the full Legislature a detailed accounting of where we are at with our tax policy and what may be the best direction to go in the future. So I thank you, and I will try to answer any questions you may have. [LB96]

SENATOR HADLEY: Thank you, Senator Dubas. Are there...Senator Sullivan. [LB96]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Dubas. As you said, we are going to have to reach some decisions in this whole process, and you've outlined rationale for this particular type of exemption. But do you have any thoughts on, as we step back and look at all the rationales that will be brought to us, what sort of thought process, in terms of...how do you decide which exemption is more important than the other? [LB96]

SENATOR DUBAS: That's going to be challenging, because I think the vast majority of the exemptions probably do have some very solid rationale; they were put in place because they were trying to address a particular concern or benefit a particular industry, helping them remain competitive. But I think the things, as I look through this study and I've worked on this issue...if we put this exemption in place, what will it do for those bordering implement dealers? The jobs that it will be able to...I think we need to look at our jobs connected to that exemption, you know, stimulating the economy. You know, yes, we're going to lose revenue from the exemption, but how will we recapture that revenue and, hopefully, more? I think those are probably at the top of the list of what we need to be looking at. It's, you know, there's give and take on all those things, but if you're giving away more than you're bringing in, there's probably not...that's probably not a good thing to be doing. There's got to be that cost-benefit analysis and looking at those things. But, you know, a lot of people will look at this bill and say, well, it's another break for the farmers. And I've never looked at this bill from that respect. To me, this is about an industry in our state that supports the number 1 industry in our state. And as...if we lose these implement dealers or cause them to have to do business in a

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different way, that's a blow to that number 1 industry in the state. And it's...as I said, we've got community colleges that have courses where they're putting these kids out who can walk into really good jobs with benefits that will keep them in our small communities. To me, that's something, I think, that should be looked at, too, coming from a rural perspective, is how does this benefit those rural communities? So, you know, we're all going to have to make our case, and then we're all going to have to ultimately decide how that prioritization should look. [LB96]

SENATOR SULLIVAN: Thank you. [LB96]

SENATOR HADLEY: Senator Schumacher. [LB96]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Senator Dubas, for bringing this bill. You mentioned the multiplier effect. Do you recall what that multiplier was? [LB96]

SENATOR DUBAS: I don't, right off the top of my head, but I know it's in here. I can certainly--I probably have it highlighted in here--I could find it. [LB96]

SENATOR SCHUMACHER: And that probably would be true for any economic activity where our people cross a border to engage in a good or service purchase. [LB96]

SENATOR DUBAS: Absolutely. It kind of goes back to the question that Senator Sullivan asked about, you know, what are you generating? What are you getting for what are you giving? [LB96]

SENATOR SCHUMACHER: Thank you. [LB96]

SENATOR HADLEY: Further questions for Senator Dubas? Senator Hansen. [LB96]

SENATOR HANSEN: I have one. I'm a gofer too, so...my main job when I'm home, too, so...let me give you an example, and tell me where, if any of these, sales tax should be, you know, collected, I guess. The steel manufacturer that buys raw ore and makes steel, sells that to a parts maker, should that be taxed? I mean, to the steel manufacturer, that's an end product. [LB96]

SENATOR DUBAS: It's an...but the steel is an input for their product, right? [LB96]

SENATOR HANSEN: Correct. [LB96]

SENATOR DUBAS: Is that what you're asking me? [LB96]

SENATOR HANSEN: Correct. [LB96]

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SENATOR DUBAS: So typically we don't tax inputs, because you're going to get a tax on the final product. [LB96]

SENATOR HANSEN: And then that parts is sold to a distributor, who in turn sells to an equipment dealer, who in turn sells that part to a farmer, who in turn puts it on a piece of machinery that cuts hay, and which in turn feeds the cattle that raises the beef. So where should the sales tax be put? [LB96]

SENATOR DUBAS: Typically on the end product. [LB96]

SENATOR HANSEN: On the food. [LB96]

SENATOR DUBAS: But that would be food. And we don't want to tax food...typically don't want to tax food. So how do you differ...where's...I'm going to come back at you with the question, I guess, that we're all going to have to ask: you know, how do you differentiate what is an end product, what is an input; where do you draw that line between an input and an end product? You know, I would consider buying repairs and parts as an input to my business. [LB96]

SENATOR HANSEN: Certainly. Certainly is an input, especially repair parts on old machinery, is an input. [LB96]

SENATOR DUBAS: And I would consider the end product the piece of machinery that I'm buying. That's the...the part is a part of that bigger piece of machinery. So, you know, paying sales tax on equipment, we have an exemption on that as well, because that is considered what we use as an input for our... [LB96]

SENATOR HANSEN: Well, it's...you have an exemption for it, but you also pay personal property tax. [LB96]

SENATOR DUBAS: Right, we are paying... [LB96]

SENATOR HANSEN: So you don't...I mean... [LB96]

SENATOR DUBAS: Exactly. [LB96]

SENATOR HANSEN: ...in lieu of the sales tax... [LB96]

SENATOR DUBAS: So it's not... [LB96]

SENATOR HANSEN: ...so... [LB96]

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SENATOR DUBAS: Yeah, absolutely, we are paying a tax on it. [LB96]

SENATOR HANSEN: There's a lot of distributors...a lot of changes in that product from start to finish. [LB96]

SENATOR DUBAS: Um-hum. [LB96]

SENATOR HANSEN: And where we pick to choose to collect the sales tax is at question here. And I really question whether we should do it at the repair part, too. So thank you. [LB96]

SENATOR DUBAS: Thank you. [LB96]

SENATOR HANSEN: Thank you for bringing the bill. [LB96]

SENATOR HADLEY: Further questions? Thank you, Senator Dubas. Could I see a show of hands of how many people would like to testify on this bill, either proponents, opponents, or neutral? One, two, three, four. I will not use the light system; but if you could be reasonable in your testimony, we'd appreciate it. First proponent. [LB96]

LARRY STAUFFER: (Exhibit 2) My name is Larry Stauffer, Humboldt, Nebraska. I spell my name S-t-a-u-f-f-e-r. I am a Case IH dealer, and I do sit along the border. And in your handout, I basically got two sheets--and I'm going to try and keep this pretty simple and quick--but there's two sheets in front of you. The first sheet depicts back in the '70s actually how many dealers were in our two counties in Nebraska, as opposed to how many dealerships were across the line. And we're just one small part down there. Well, if you look, by my figures there, we had nine dealerships in the two counties. And if you look below there, we've got it listed out, there was nine dealerships in Kansas. Let's fast-forward that, move it to the next page, and you'll see that, at current status, there are three dealerships left. I want to say, three dealerships left in the two counties where we're at. And if you look across the line, they went from nine dealerships; they're up to ten. We got a problem. We've got some highways that are pretty easily accessed to going down to these local towns, and our customers are going down there. And like Senator Dubas says, they're not going down there just to buy parts, they're going down there to buy gas, food, and all the above. I've kind of got some figures there. Are they exact figures? No. Are they pretty close? I'd say yes. But if you'd take a look, you know, the average dealership at \$10 million worth of revenue, you know, what we're generating in Nebraska, as opposed to what they're generating across the line; that's a lot of money. And when you take the difference of that between the last 20 years, it gets into an exorbitant amount of money. I am here in, you know, support of LB96. I've been in business at the local dealership since '79, and we've been fighting this for a long time. And I just hope that one of these days our state can at least put us on an equal, level playing field. I don't want anything more than that; I just want to be equal with my peers

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and be able to survive. With that, I want to thank Senator Dubas for bringing this bill forward; and, with that, if you've got any questions I'll be happy to try and answer them. [LB96]

SENATOR HADLEY: Are there questions? Senator Harr. [LB96]

SENATOR HARR: Thank you. I'm going to play with the microphone. Sorry. So Senator Dubas stated that a lot of our implement dealers are having problems. Would you sell your implement dealer for the same price as it was worth in 2005? [LB96]

LARRY STAUFFER: Absolutely not. [LB96]

SENATOR HARR: Yeah. A matter of fact, you've had some really good years the last couple years, haven't you? [LB96]

LARRY STAUFFER: Absolutely, we have. [LB96]

SENATOR HARR: Okay. And you'd agree with me there are fewer farmers today than there were in the 1970s? [LB96]

LARRY STAUFFER: That's correct. [LB96]

SENATOR HARR: Okay, so there are fewer, probably, implements as well, then. [LB96]

LARRY STAUFFER: That's correct. [LB96]

SENATOR HARR: Okay. So we had LB405 and LB406; I'm sure you were well aware of those. [LB96]

LARRY STAUFFER: Was I ever. (Laughter) [LB96]

SENATOR HARR: That would have had a little bigger effect. [LB96]

LARRY STAUFFER: That put a little sweat on me. [LB96]

SENATOR HARR: Yeah. So...and we fought...we used to tax implements, correct? [LB96]

LARRY STAUFFER: Yes, we did. [LB96]

SENATOR HARR: Even in the '70s we did, when we had all of these. And now we don't, and we have less implement dealers. And I guess my question is, to follow Senator Hansen's: Where do we draw the line? I mean, we try to help, but at some point

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we've got to balance our checkbooks. [LB96]

LARRY STAUFFER: I absolutely agree with you, Senator Harr; it's a hard decision; it very much is. And I, you know, I'm just a local dealer down there... [LB96]

SENATOR HARR: Yeah... [LB96]

LARRY STAUFFER: ...that's trying to survive. [LB96]

SENATOR HARR: ...and I definitely sympathize with you on the border, because it is difficult. [LB96]

LARRY STAUFFER: It's very difficult. [LB96]

SENATOR HARR: And we want you to stay in business, obviously. But it's just trying to figure out...you know, it's similar to what Senator Sullivan asked Senator Dubas: How do we determine what the policy is? And maybe a layman can provide some wisdom, pearls of wisdom, for us. [LB96]

LARRY STAUFFER: Well, the only thing I can think of is, you know, you have to sometimes look at things as an investment. You know, when you're putting this money out, are we going to invest the state's money wisely by doing this? And I'd say yes. I'd say that by giving some exemptions maybe we can bring some of these jobs back across the line where they need to be, where we can start paying income tax, these people, because, you know, every one of these dealerships that have lost, there's 15 employees per dealership, you know, that you lose. And it's going to be hard getting them back, very hard to get them back; and once they're lost, it's hard to get them back. So I guess I'm looking at it from the point we need to reinvest in Nebraska, and this is one way to do it. [LB96]

SENATOR HARR: Okay. Thank you. [LB96]

LARRY STAUFFER: I mean, when you look at it, you always want to put your money where you're going to get a return on it, and I would hope to think this would be one of the areas. [LB96]

SENATOR HADLEY: Other questions? Senator...I'm sorry. Senator Hansen. [LB96]

SENATOR HANSEN: Thank you. Do you think you could say that the sales tax collection in Nebraska is entirely due to this decrease in the number of dealerships in Nebraska and the increase in dealerships in Kansas? Because, I mean, this is pretty stark reality right here. Something changed. [LB96]

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LARRY STAUFFER: No, I can't honestly say that that's 100 percent of the reason that there's more dealers down there. But I can say it's a big part of it. I personally know...you know, I've got customers down in the Falls City area; you can see where Falls City was probably hit as hard as any of the places. And there's a highway, and that highway leads you straight down to Hiawatha. And I'm going to tell you, if there's a \$500 bill on the floor, these farmers are going to pick it up. And all they've got to do is drive 10 miles to get it. And our repair bills today, we're not talking about, you know, \$1,000 repair bills; we're talking about \$15,000-\$30,000 repair bills on some of these high-priced combines. And it really adds up. [LB96]

SENATOR HANSEN: Has the size of the dealerships in Nebraska grown considerably, or... [LB96]

LARRY STAUFFER: Oh, I think they've grown. [LB96]

SENATOR HANSEN: ...are they still...on the second page, you have each one of those approximately worth \$10 million. [LB96]

LARRY STAUFFER: I would say the dealerships across the line are growing faster or better, larger, than what we are in Nebraska. And by, you know, Senator Dubas' own statement, we've got dealerships, you know, outside of the state that are starting to come in and buy us out. And it's...you sit there and say, well, why is that happening? Well, guess what, they got our money; I mean, you know, they're getting a lot of the money that's coming from the Nebraska farmers, down there. [LB96]

SENATOR HANSEN: Thank you. [LB96]

SENATOR HADLEY: Any questions? Senator Schumacher. [LB96]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. What percentage of the money that's leapt across the border, in this case, is going for labor, and what percentage parts, roughly? [LB96]

LARRY STAUFFER: Right now, on an average \$30,000 combine repair bill, half of it is labor and half of it is repair parts. [LB96]

SENATOR SCHUMACHER: Okay. Now, right now Nebraska has a use tax, and they're supposed to, and I underline "supposed to," "supposed to" in bold letters, okay, pay, when they bring that part across the border, back in, they're supposed to pay for a use tax on that particular part. And the Department of Revenue is supposed to be auditing such things. Have you seen any audits of use tax, or do they do what they're supposed to do? [LB96]

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LARRY STAUFFER: No. [LB96]

SENATOR SCHUMACHER: Thank you. [LB96]

SENATOR HADLEY: Mr. Stauffer, just, I guess, for the whole committee, right now, if you buy a combine, let's say, you do not pay sales tax on it in Nebraska, is that...? [LB96]

LARRY STAUFFER: That's correct. [LB96]

SENATOR HADLEY: And it goes on your personal property tax rolls, and you pay a tax on that, and it's depreciated... [LB96]

LARRY STAUFFER: That's correct. [LB96]

SENATOR HADLEY: ...over a period of time. Is that correct? [LB96]

LARRY STAUFFER: That's correct. [LB96]

SENATOR HADLEY: Is that fairly consistent with the other states around us? Do they pay sales tax on that original piece of equipment? [LB96]

LARRY STAUFFER: Senator, I really couldn't answer that question... [LB96]

SENATOR HADLEY: Okay. [LB96]

LARRY STAUFFER: ...I'm sorry. [LB96]

SENATOR HADLEY: I just wondered whether... [LB96]

LARRY STAUFFER: I don't know whether they do or not. I talked to a bunch of them, and, you know, they...the different states have different ways of collecting their revenue, and I can't answer that question... [LB96]

SENATOR HADLEY: Okay. Okay. [LB96]

LARRY STAUFFER: ...I apologize. [LB96]

SENATOR HADLEY: Thank you, Mr. Stauffer. Any other questions? Seeing none, thank you. We appreciate your coming up to visit with us. And I... [LB96]

LARRY STAUFFER: Well, thank you for listening to me. [LB96]

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SENATOR HADLEY: ...I would tell you that, being on this committee for the fifth year now, I think we certainly understand that there is a concern. So... [LB96]

LARRY STAUFFER: You know, and I know you guys know that, and I know it's a hard thing to appropriate this money, with, you know, with what's going on. And I just hope you'll keep us in your consideration when you do that. [LB96]

SENATOR HADLEY: We wish we could turn back the clock to the days when we didn't do it... [LB96]

LARRY STAUFFER: Oh, I know. [LB96]

SENATOR HADLEY: ...and tell the people, when they changed it, that... [LB96]

LARRY STAUFFER: Don't do it. [LB96]

SENATOR HADLEY: ...it caused us problems later on. Thank you, Mr. Stauffer. [LB96]

LARRY STAUFFER: Thank you, Senator. [LB96]

SENATOR HADLEY: Next proponent. [LB96]

MARK OTHMER: (Exhibit 3) Good afternoon. My name is Mark Othmer, M-a-r-k O-t-h-m-e-r. I am the Nebraska field director for Iowa-Nebraska Equipment Dealers Association. And we certainly want to thank the Revenue Committee for allowing me to testify today in favor of LB96. First of all, I almost don't have anything left to say because Senator Dubas did such a great job of outlining the issue. As far as the handouts that are coming out, one of those is a letter from Andrew Goodman, who is our CEO and president of the Iowa-Nebraska Equipment Dealers Association. If you get to reading through some of that, you'll notice that maybe it's kind of familiar to you. And that would be because it's nearly the exact same testimony that he gave in opposition to LB405. Obviously, we feel that all of the testimony of LB405 pretty well proved exactly what we've been trying to say for the last 12 years, that taxing inputs is not the right thing to do. And if we're not in lockstep--I won't say lockstep--but if we're not in a similar position as we are with our neighboring states around us, we're going to have significant border-bleeding. And both of those issues, I think, are happening at a rapid pace. Rather than me going through things that the senator already talked about, I guess I just jotted a few notes here while some of you were asking questions. One of the things, I guess, I would hope everybody understands is that the farm customer is very, very mobile, and the industry is fighting over that customer's dollar. And one of the things that I learned in the farm equipment business when I was a 20-year-old, not that long ago, was that it's much easier to maintain a customer than it is to go out and find a new customer. Unfortunately, I really believe, with our tax code at this point, we're giving our

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competitors across the line that advantage of making that first step of gaining a new customer. We're giving them a reason for our customers to go see them. And once you start establishing that relationship, it becomes harder and harder for us to maintain them and easier and easier for them to steal them away from us. Another issue, the tax on...where do we draw the line on food or the inputs on food? The only thing that I'll say to that is, if you're taxing the repair parts, eventually that tax is ending up in the price of food. So you are taxing food, you just...it's a hidden tax. And if we tax more of the inputs, obviously the price of food is going to go up, any way you look at it. To the audit issue, boy, I wish the Department of Revenue could go audit dealers outside the state of Nebraska, but I don't think they do. I'm not aware of them ever auditing an Iowa dealership, which I would become aware of because we represent both states. They have done some things recently of trying to determine whether there is some cross-line purchases going on, but they've done nothing that I'm aware of to try to audit it or stop it. I'd just like to probably finish up and say, you know, we've been after this...the easiest way for me to understand how long we've been working on this: we're on our third senator from District 1 in southeast Nebraska. We started with Senator Floyd Vrtiska, was the first one who introduced the bill for us; Senator Lavon Heidemann worked on the issue for us for several years; and, obviously, Senator Dubas now, in a different district, has picked up the mantle for us now. Over that time frame we've been asked, more than once, or said, you know: You guys have got to get us more information; or maybe the revenue picture of the state is not the right time to try to do any exemptions; or, you know, it's just not the right time. And we've always said: Okay, we understand; we'll step back; if we don't want to introduce a bill this year, we won't introduce a bill. You know, my members are kind of going: Okay, when is the right time? And I'm not sure when that right time is. Obviously, there's going to be some hard-core discussions on taxes over the summer. I certainly hope that we get to participate in that process and certainly are willing. With that, I would still ask that you move LB96 out of this committee on to the full floor, and that would be the end of my testimony. I would certainly try to answer any questions, if there are any. [LB96]

SENATOR HADLEY: Are there questions? Senator Sullivan. [LB96]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Mr. Othmer. Senator Dubas, in her opening remarks, mentioned that I think it was a company in Fargo that had purchased ten dealerships. Were these ten dealerships sort of cherry-picked, or they were all under one ownership? And also, what's the future of them? Do you expect them to stay in Nebraska or leave? [LB96]

MARK OTHMER: Well, I'll describe it this way. If you draw a line, north-south, through Grand Island, Nebraska, west of that line, all Case IH dealerships, except for three, are owned by Titan Equipment. That was several different single-, multiple-location dealerships--some were single, some were multiple--that they've purchased, all within probably the last 24 months. They do have some east of that line also. So how do I see

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the industry heading? I see that trend continuing to larger conglomerates, so to speak. We used to have single locations that did ten million dollars' worth of business; now we have multiple-location dealerships that are doing hundreds of millions of dollars' worth of business. So it is a changing...it's a real changing dynamic right now. [LB96]

SENATOR SULLIVAN: Along with that, is there any Internet sales going on with repairs? [LB96]

MARK OTHMER: Can we tax Internet sales, too, please? (Laugh) Yes. The answer to that is yes. Easiest way for me to describe it is, go to Husker Harvest Days and find out how many out-of-state parts companies or any kind of other company that sells inputs to agriculture are at Husker Harvest Days. Lots of them. And they're not collecting any sales tax. [LB96]

SENATOR SULLIVAN: Right. Thank you. [LB96]

SENATOR HADLEY: Senator Schumacher. [LB96]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. I remember when I was growing up you had International Harvester and you had Case; and Case was the orange little tractor, and International Harvester was red. Now Case IH, is that owned by an Italian company? [LB96]

MARK OTHMER: That's correct; I believe it's Fiat. [LB96]

SENATOR SCHUMACHER: Okay. The world has changed, hasn't it? [LB96]

MARK OTHMER: Yes, it has. [LB96]

SENATOR SCHUMACHER: With reference to the auditing of businesses, now when a Nebraska farmer goes across and has his equipment fixed over in Kansas and brings back a receipt for \$15,000 in parts that he bought that he's supposed to pay the use tax on, and he puts that on his income tax under "Repairs" on his Schedule F for his 1040, and he takes a deduction then against his Nebraska income taxes, that's something that's auditable by the Department of Revenue, isn't it? [LB96]

MARK OTHMER: I can't answer that for sure; I don't know what their procedures are. But I would guess that it was. [LB96]

SENATOR SCHUMACHER: Right, so...because he's not going to forgo the deduction for the repair. So it would really have a chilling effect on purchasing in Kansas if the Department of Revenue selected audits along the state line, of farmers' repairs. [LB96]

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MARK OTHMER: I would agree with that, but I would throw a caveat into that, and what's their rate of return on that audit? If they send someone to audit one farmer's books, and they come up with one \$15,000 repair bill of parts that they did not pay sales tax: \$750, I think that's the right number, in my head, real quick. So can the Department of Revenue, do they have the resources to be able to do those audits, for \$750? I'm afraid that they don't. I think that's why they tend to audit dealerships, because the rate of return, of the investment of their audit, is much higher when they go to a dealership, because the dealership is collecting the sales tax for the... [LB96]

SENATOR SCHUMACHER: But if the word got out from that farmer that they just got clipped for the \$750 plus a whole bunch of penalties and interest, that word spreads a little bit. I'm just trying to...because we do have that use tax in place. The other thing...let's just suppose...the core of this problem, the core of a lot of the problems that we're facing, is states trying to beat the other state out of something, across the border. And if you can suck money out using this vehicle or that vehicle, wow, it's fair game. To the extent we aren't or can't talk to the Kansas legislature and say, you know, let's call off the dogs, suppose we wanted to play dirty, what could we do to help you to just put those Kansas dealerships under? What tax breaks, what incentives? What could we do to just say, okay, we want to play thermonuclear war over farm equipment? Let's do 'er. [LB96]

MARK OTHMER: I got to tell you that I don't have a good answer for that, because I have never even considered that, Senator; I'm sorry. I...that's out of my thought process, I guess. [LB96]

SENATOR SCHUMACHER: Okay, thank you. [LB96]

SENATOR HADLEY: I have a quick question since you represent the Iowa-Nebraska...right? Can we just do a few comparisons? You're buying a combine in Iowa, versus buying a combine in Nebraska. How is that original sale of that new combine taxed in Iowa? [LB96]

MARK OTHMER: There is no sales tax on the machine. [LB96]

SENATOR HADLEY: Do they have to put it on a personal property...? [LB96]

MARK OTHMER: Well, I'm assuming it's a Nebraska customer; is that a correct assumption? [LB96]

SENATOR HADLEY: No, I...an Iowa customer. [LB96]

MARK OTHMER: Okay. [LB96]

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SENATOR HADLEY: An Iowa customer buying something in... [LB96]

MARK OTHMER: Yep. They, obviously, do have personal property taxes in Iowa. Their rates are not nearly as high as ours; I don't know what their exact rates are, but I know that they are lower than ours. So if they want to have the IRS expense deduction for the investment, why, yes, they're going to have to put it on the Schedule F, personal property tax, on their IRS return, just like Nebraska... [LB96]

SENATOR HADLEY: So, basically, would you say that the taxation of the initial purchase is, if we forget about the difference in the tax rate, would be treated essentially the same between Iowa and Nebraska? [LB96]

MARK OTHMER: Yes, sir. [LB96]

SENATOR HADLEY: Okay. So now we get to a repair. And what we're saying is that Iowa does not charge a sales tax on a repair part. Is that correct? [LB96]

MARK OTHMER: They do not tax on parts. [LB96]

SENATOR HADLEY: On parts. Okay. [LB96]

MARK OTHMER: And I'm expecting the rest of the question now, because... [LB96]

SENATOR HADLEY: Okay, how about the labor on the...? [LB96]

MARK OTHMER: They do tax labor. [LB96]

SENATOR HADLEY: They do tax labor. [LB96]

MARK OTHMER: Yes, sir. [LB96]

SENATOR HADLEY: And we just heard earlier that it was about a 50/50 shot, would it help the dealers in Nebraska if we did away with the tax on parts and started taxing labor on...? [LB96]

MARK OTHMER: It's a tough one for me to answer because, obviously, I would like to, you know, talk to a whole lot of dealers before that, before I answered that question. [LB96]

SENATOR HADLEY: Okay. [LB96]

MARK OTHMER: But I... [LB96]

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SENATOR HADLEY: Yeah, I guess... [LB96]

MARK OTHMER: Theoretically speaking, from my point of view, just thinking outside the box, not knowing what dealers would say, that puts us on a level playing field with Iowa and I feel a lot better about that. [LB96]

SENATOR HADLEY: Well, and I guess that's my major point, is... [LB96]

MARK OTHMER: Sure. [LB96]

SENATOR HADLEY: ...when we look at the states around us, I'm very much in favor of a level... [LB96]

MARK OTHMER: Um-hum. [LB96]

SENATOR HADLEY: ...playing field. And that was the genesis of my first question... [LB96]

MARK OTHMER: Certainly. [LB96]

SENATOR HADLEY: ...about whether or not the transaction... [LB96]

MARK OTHMER: Yep. [LB96]

SENATOR HADLEY: ...of the new one was treated relatively the same. [LB96]

MARK OTHMER: Yeah. [LB96]

SENATOR HADLEY: And it would be interesting, I guess, just to know, the surrounding states, how they do do labor, versus other...and you don't have to answer that. [LB96]

MARK OTHMER: Well, I can give you a partial answer to it. [LB96]

SENATOR HADLEY: Okay. [LB96]

MARK OTHMER: Kansas does not tax any agricultural repair labor; Iowa, obviously, does; Missouri does not; I don't believe South Dakota does... [LB96]

SENATOR HADLEY: Okay. [LB96]

MARK OTHMER: ...tax any...so... [LB96]

SENATOR HADLEY: Where it could really run into it, though, was where a farmer went

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over and purchased the repair part and took it home and put it on, themselves, or did the work themselves. Wouldn't that be... [LB96]

MARK OTHMER: Absolutely. [LB96]

SENATOR HADLEY: That would be... [LB96]

MARK OTHMER: And that happens more and more all the time. [LB96]

SENATOR HADLEY: Sure. And I understand, because farmers are under the same gun as the rest of us in trying to hold down costs. [LB96]

MARK OTHMER: Yep. [LB96]

SENATOR HADLEY: Okay, thank you. I just was... [LB96]

MARK OTHMER: Yep. [LB96]

SENATOR HADLEY: ...curious. Okay, thank you. Any other questions? Thank you. [LB96]

MARK OTHMER: Um-hum. [LB96]

SENATOR HADLEY: Further proponents. [LB96]

PETE McClymont: Chairman Hadley, members of the Revenue Committee, for the record, my name is Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm vice president of legislative affairs for the Nebraska Cattlemen. We want to thank Senator Dubas for bringing this back, as well as the other ten cosponsors. We have many members that are equipment dealers that are supporting members of the Nebraska Cattlemen, and so this is our effort, through our board's action, to support LB96. I don't want to be redundant to anything that Senator Dubas and Mr. Stauffer and Mr. Othmer has made, but I would say that one of the things that I appreciate that's come out of the LB405 and LB406 process is this committee's willingness to look at things, going forward. And I think one thing that's important, different than previous testimony, is that one of the benefits of sales tax exemptions, as this committee knows better than anybody, is you can incentivize and reward people in this state in certain industries. And so I think one of the fallacies of looking at rankings is that one assumes that all states are equal. That's obviously not true...demographics, geography, numerous things. And so I think in looking at LB96, you know, what this means in the continued effort, as Senator Dubas has brought forward, is that in your examination of this in the interim, you know, as we look at agriculture and the border-bleed that's been referenced, I think this is worthy of some thought. And, with that, I will conclude my testimony and answer any questions, if

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you have any. [LB96]

SENATOR HADLEY: Questions for Mr. McClymont? [LB96]

PETE McClymont: Thank you. [LB96]

SENATOR HADLEY: Thank you, Mr. McClymont. Next proponent. I don't want to get confused when we switch from proponents to opponents; you'll have to bear with me here in a minute. (Laughter) [LB96]

JESSICA KOLTERMAN: (Exhibit 4) Senator Hadley, members of the Revenue Committee, for the record, my name is Jessica Kolterman, K-o-l-t-e-r-m-a-n. I am the director of state governmental relations for Farm Bureau; I come before you today on their behalf. We are in support of the legislation; you have a letter coming around that outlines the specifics. I'm not going to repeat things that you've already heard. The only thing I might mention is, Senator Hadley, you did ask about other states. I can't speak to all other states, but I remember doing research for the LB405 and LB406. South Dakota, for example, does tax, but they do not then have the personal property tax on top. So you have one or the other. But I can...certainly we can get you the information on the other states. Also, just for your fun, pleasure reading over the weekend or whenever you choose, when I was researching for LB405, I went back and looked at Farm Bureau's testimony when these bills were originally discussed, when we started talking about sales tax and sales tax exemptions. And at that time Farm Bureau did request that this be included, and it was mentioned specifically and introduced as an amendment, and I believe it was 1967. So if you go back and read the transcripts, which are available, you'll see some of the same things we're outlining today are things we outlined many years ago. So with that I'll close, if you have any questions. [LB96]

SENATOR HADLEY: Are there questions for Ms. Kolterman? I just have a quick one. So in the history of repair parts, there was a time they were taxed, then they became exempt, and now they're taxed again, is that a fair statement, or...? [LB96]

JESSICA KOLTERMAN: As I understand it. But I can't speak to it definitively. [LB96]

SENATOR HADLEY: Okay. I was just curious. I would guess the state got in a pinch for money at some time or other and decided that the repair parts... [LB96]

JESSICA KOLTERMAN: I think, you know, our position is, we know you're looking at all these things; as we move forward, if you just would include this as part of those discussions and one of the things to consider, I think the industry would appreciate it. [LB96]

SENATOR HADLEY: Thank you. [LB96]

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JESSICA KOLTERMAN: Yes. [LB96]

SENATOR HADLEY: Thank you, Ms. Kolterman. [LB96]

JESSICA KOLTERMAN: Thanks. [LB96]

SENATOR HADLEY: Further proponents. [LB96]

JOHN HANSEN: Mr. Chairman, members of the committee, for the record, my name is John K. Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and also am their lobbyist. We are in support of this bill, and we have been in support of similar bills since Shep's mother was a pup. And our guys are fairly clear on this. They do go over the border, and they do buy parts. And they don't feel particularly good about it; they would rather do this at home. But when they are pinched and money is an issue and parts are as expensive as they are today, it's a pretty significant item, and so it justifies a trip. And so as you look at the amount of border-bleeding that exists, our tax policy puts our Nebraska equipment dealers at a competitive disadvantage. And one of the ways to measure a particular tax policy is to see whether or not it distorts fundamental economic activity. And this tax is significant enough that it meets that criteria. And so we are in support of this and that if you go forward with the study, it ought to be included. But if you want to surprise us and just pass it before, we'd be good with that. [LB96]

SENATOR HADLEY: Okay. Questions for Senator...Mr. Hansen? I was thinking "Senator Hansen," but I got it right. Thank you so much, John; we appreciate it. [LB96]

JOHN HANSEN: There's lots of Hansens; we're...it's very confusing. [LB96]

SENATOR HADLEY: Okay. Thank you. [LB96]

JOHN HANSEN: Thank you. [LB96]

SENATOR HADLEY: Further proponents? Opponents? Neutral? Senator Dubas, you're welcome to close. [LB96]

SENATOR DUBAS: Thank you, Senator Hadley and committee members. I'd like to thank everybody who came forward to testify today. I could have easily had a very long line of testifiers coming in to talk to you about this today because this is such an important issue to them, and they have been coming to the table for a long time asking for that issue to be recognized. And if I don't leave you with any other point, this is the one I want to make. This, on the surface, appears to be something that will benefit farmers; I'm not going to say that it won't benefit farmers, because it will. But that's not

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the driving force behind my introduction of this bill multiple times. This is about a very important support service in the state of Nebraska for the number 1 industry in our state, and that is agriculture. And if we start to lose those...well, we are losing those businesses. If we continue down that same road, either through the consolidation or the other companies coming in and buying them, or just the outright losing of these businesses, it will not help our number 1 industry; it will bring additional challenges for us to keep that industry going strong. And certainly it has changed over the generations. And we recognize that things are bigger, and machinery is bigger, and there's less of it, but there...less machinery. But there will never be less repairs. There are always repairs, no matter what. And those repairs become more costly all the time. My information tells me that parts have always been taxed; there was never a time when they weren't taxed. And as a farmer, I don't have a choice if I need a repair part. I may have a choice if I do that work myself or I hire someone else to do it. So if we would put a tax on the labor, versus a tax on the part, there's going to be some discretion there amongst the farmers; many farmers know how to do their own repairs, or they have people that they hire within their own farming operation. We sent our son to diesel mechanic school so he could take care of our machinery for us. So, again, I want to leave you with the point that this is a bill to help support an industry, keep it viable, provide opportunities for young people to walk into really good jobs that will continue to support agriculture across the state, again, recognizing the position you're in and everything that you have to look at. But I hope to have the opportunity to make my point again with you, and I appreciate your consideration. [LB96]

SENATOR SCHUMACHER: Are there questions for Senator Dubas? Senator Schumacher. [LB96]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Senator Dubas. To the extent this is a support industry that we want to try to foster and preserve and not something to necessarily direct benefit to the individual farmer, isn't the individual farmer voting with his or her feet when they say: We don't want the support industry close to home; we'll drive down the road 20 miles; and it isn't worth the \$500 or whatever in sales tax for us to have the support industry here. Aren't they telling us they don't need the industry here, by doing that? [LB96]

SENATOR DUBAS: I don't think they're telling us that at all. I think it comes down to a business decision. And when you're operating on the narrow profit margins that farmers and ranchers operate under, sometimes we have to make those decisions. As John Hansen said, they aren't happy about doing it, but, you know, when it comes down to making that bottom line work to the best of our ability...you know, right now prices are good, so maybe they won't make that decision so much, to go across the border. But prices won't always be where they're at right now. And when those prices drop back down but our inputs continue to go up, you know, it's a business decision. And I know, my family, we try very, very hard to shop locally and support our local businesses,

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because we want our small towns and businesses to stay strong. But there also comes that time that sometimes we just have to make a decision to go elsewhere because it determines whether we stay in business. So I know that, you know, you would hope that the farmers and ranchers across the state would support their local industry, but, you know, sometimes when it comes down to keeping the wheels turning and the doors open, those are decisions you have to make. [LB96]

SENATOR SCHUMACHER: Thank you. [LB96]

SENATOR HADLEY: Senator Dubas, I guess a question I was thinking about, you know, we are looking at surrounding states, and I think Senator Hansen asked some great questions about, when you do have inputs, at what point do you or do you not tax? And as a general rule, we've always talked about the ultimate sale being the place that we want to tax, so that we don't pyramid taxes. And, of course, that's complicated in Nebraska because we don't tax food. So that means, basically, that the entire process does not have a sales tax on it. How does this work, because I do know that South Dakota taxes food, and Kansas, I believe, has a limited--it's a lower rate--but also taxes food. So two of the border states are taxing the end product, so...which...you could make an argument not to tax along the way because you are taxing the end product. We can't make that argument in Nebraska, can we? [LB96]

SENATOR DUBAS: No. [LB96]

SENATOR HADLEY: Because we aren't... [LB96]

SENATOR DUBAS: No, we aren't taxing that supposed end product of agriculture. That's right. [LB96]

SENATOR HADLEY: Okay. And I know there--I don't want to have Senator Chambers' ire already on me--but I know there are a lot of reasons not to tax food. But this is a consequence of not taxing food, that the entire chain... [LB96]

SENATOR DUBAS: It's again going back to that: what's the input, and how far does that input go into the process? And that's what we get paid the big dollars for, to make those decisions. (Laugh) [LB96]

SENATOR HADLEY: And just one other thing: and I think this committee has really...does agree that the pyramiding of taxes is not something that we want to get involved in in Nebraska, nor should we get involved in Nebraska. So thank you, Senator Dubas. [LB96]

SENATOR DUBAS: Well, thank you. And thank you for the work that you will be "taking under" for us. [LB96]

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SENATOR HADLEY: Thank you. [LB96]

SENATOR DUBAS: Thank you. [LB96]

SENATOR HADLEY: Appreciate it. Senator Haar, the real Senator Haar, if you'd please come up. (Laughter) [LB96]

SENATOR HAAR: This is the German Senator. (Laughter) [LB90]

SENATOR HADLEY: This is the German Senator Haar, huh? [LB90]

SENATOR HAAR: And the other Harr has a much longer story of how they got here, so we won't go into that. (Laughter) I understand I can open as long as I want, but I'm going to cut this short. (Laugh) [LB90]

SENATOR HADLEY: Okay. [LB90]

SENATOR HAAR: I have a friend who just put a bunch of solar panels on his roof and what's kind of neat is to watch his electric meter because at times it runs backwards. When his solar panels are putting out more electricity than what he's using, the meter runs backwards. And really that's the whole point of net metering. Well, LB436 was passed in 2009 so that net metering is available across the state in every public power district. Sometimes you don't have, apparently, exactly the right language in it to get across the intent. But to give you an example of the way the Department of Revenue has translated what we passed, if you're taking two units of electricity off the grid and you're putting one back, right now you have to pay sales tax on the two units you're taking off the grid. Kind of the problem with that, if you really want to measure that accurately, you need two meters. You need one going in and one going out. And that wasn't the intent of the 2009 bill. Really it was that if you're taking in two units and you're putting one back, that you pay for the one unit you're taking off the grid and that's the part you pay sales tax on, not the whole two units you're getting off the grid. So again the intent was net metering. You pay the electric company for that one unit, net unit you're taking off the grid, you pay the electric company sales tax on that one unit you're taking off the grid. That was the intent. That's not the way the Department of Revenue interpreted it and I think this bill would clarify that. As you notice, the fiscal note is relatively small. And frankly, the hassle of putting on two meters versus one meter would far outweigh this fiscal note. Because again, with one meter it runs forward when you're taking it off the grid, it runs backwards when you're putting it onto the grid, and it's only when it's running forward that you pay for the electric company and you pay the sales tax. Last year, I know there was a bill. I'm not sure why it didn't get out of committee but it was supported by the REA, as I believe they're coming in neutral this year. But when you look at the cost benefit and the intent, really, people that are doing

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net metering should just be paying sales tax on the net electricity they're taking from the grid. [LB90]

SENATOR HADLEY: Questions for Senator Haar? Senator Schumacher. [LB90]

SENATOR SCHUMACHER: Thank you, Senator Hadley. What's the rationale behind not using the bottom line but saying, we can count it this way and not count it that way? Is there a reason other than money? That money isn't very much, apparently. [LB90]

SENATOR HAAR: I don't know why they've interpreted it that way. But certainly, it complicates the issue, and it again was not the intent. I'm not sure if anybody from the Department of Revenue will be here but that would be a question to ask them. [LB90]

SENATOR SCHUMACHER: So, basically, all you're saying is they should pay on the net amount of electricity rather than the flows back and forth? [LB90]

SENATOR HAAR: Net metering. Yeah. [LB90]

SENATOR SCHUMACHER: And if it went back and forth 50 times and the net was zero, they'd pay on the amount they took one direction but not get credit on the amount they went the other direction. [LB90]

SENATOR HAAR: Right. The kind of unusual situation would be is if with my solar panels I take three units off the grid and I put three units back on, right now I'd still be charged...my electric bill would be zero but I'd be charged sales tax on those three units I took off the grid. And then I need two meters to accurately assess that. [LB90]

SENATOR SCHUMACHER: Thank you, Senator. [LB90]

SENATOR HADLEY: Senator Haar, I guess I...I run the risk of Hadley v. Hadley because I can't remember what I...how I voted three or four years ago or whatever I did. (Laughter) So I run that risk at this point in time. [LB90]

SENATOR HAAR: You voted for the intent I was talking about. [LB90]

SENATOR HADLEY: Okay. I understand the intent, but there are some people who believe there are two transactions going on: one, the buying of electricity as a transaction; and the sale of the transaction...or the sale of electricity as another transaction. And I think as a general philosophy of business, we don't generally net buying activities with selling activities. I'm not saying that's right, but I'm just saying I think that's the stance the Revenue Department might have taken that there are actually two different transactions. [LB90]

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SENATOR HAAR: Yeah. And sometimes, you know, they look at it one way and... [LB90]

SENATOR HADLEY: And I understand that, but... [LB90]

SENATOR HAAR: ...and I can't say how many states do it that way, but my best guess is that almost all states have net metering now and almost all states would say, net. [LB90]

SENATOR HADLEY: Yeah, and you know, the monetary amount is small enough that we certainly wouldn't want somebody having to put up a completely separate metering system to take into account when they're selling it versus another metering system when they're taking it off the grid themselves, so. [LB90]

SENATOR HAAR: And I have a neighbor now who has put up solar panels. I'm jealous, but he has only one meter as far as I can figure so there must be some algorithm that then has to be applied to figure, you know. Yeah, it gets really complicated for a small amount. [LB90]

SENATOR HADLEY: Senator Schumacher. [LB90]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just one follow-up. Instead of buying off the grid and selling back to the grid, isn't it a lot more like taking what you produce, storing it on the grid, and then collecting it back off the grid? So you're not buying and selling, you're storing and retrieving. [LB90]

SENATOR HAAR: Yeah, that's...I think of the grid as a battery in that case, yeah. [LB90]

SENATOR SCHUMACHER: Well, it's almost what it looks like. Thank you. [LB90]

SENATOR HADLEY: Thank you, Senator Haar. [LB90]

SENATOR HAAR: Thank you. [LB90]

SENATOR HADLEY: You were lucky to get by not being Haar v. Harr. (Laughter) Proponents. [LB90]

RICHARD NELSON: Chairman, members of the committee, my name is Rick Nelson, R-i-c-k N-e-l-s-o-n. I'm the general manager of Custer Public Power in Broken Bow, Nebraska. I'm going to have some examples for you here in a little bit. I want to talk a little bit about LB436. I appreciate Senator Haar's efforts to pass legislation because it gave us a framework to work with on net metering. Specifically, in that bill, there were different ways that we could meter electricity and the generation. One way that was

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spelled out was a bidirectional single meter. Another way was using electronic meters and being able to program them. When the Department of Revenue came out with this, with taxing the gross instead of just the net, now that forced Custer into using a two-meter system. We do have advanced meters. They are programmable, but the problem is once I program I can only communicate one value back to the office. So, therefore, I can't bring in both values; in other words, the net and the gross. So that way...therefore, I need two meters at each location. Okay, we have two systems...I have to apologize, I'm a little nervous. I don't do this every day. We have two systems right now on our distribution system. One is a solar panel which is a 3.4kW unit. It is on a single-phase line and on that location we have two meters. That extra meter installation and programming cost us \$600. The administration that we have to do when we bring in the metering and put it through our spreadsheet, costs around \$100 each month for that installation. We also have a 25kW machine which is connected to a three-phase service. That means there's three transformers. At that location we have to have three meters to measure current and voltage. That installation cost around \$2,000. If we did not have to bring back the gross, we could get by with one meter. And again, the administration of that costs around \$100 each month to take care of it, once we get the meter readings back and plug them through and produce a bill. That's about what I wanted to convey to you. I don't see a whole lot more systems coming on, at least in my area. Some power districts might be doing it different. If they do have a single meter, it's probably because they're not communicating with it, either wirelessly or through the power line. With that, I would open it up to any questions you might have. [LB90]

SENATOR HADLEY: Any questions? Seeing none, thank you. Appreciate it. Thank you for coming in from Broken Bow. Further proponents. [LB90]

JOHN HANSEN: Chairman Hadley, members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am president of Nebraska Farmers Union and also their lobbyist. We are in strong support of this measure for a variety of reasons. We've worked on the net metering issue for, oh, easily over 15 years. And LB436 really did represent a negotiated agreement between the parties in conflict on what to do and how to go forward. And so we commend the rural electricians today for coming in and supporting this bill. But there wasn't anyone who was involved in this process or in this bill, any of the stakeholders, whoever thought that the way that the Revenue Department has interpreted the law would end up where we're at today. And so as a result of that, we're incurring a substantial amount of additional cost to all of the parties involved and that that cost and that trouble and that bother exceeds the value of the revenue. And so I commend Senator Haar for following through. The easy thing to do would be to say, well, you know, that boat sailed and not to worry about it. But it's important to follow through to make sure that things are done as they were intended. So we've been in support of past bills to do that and support this bill, but this is a good faith effort on our part to follow through and administer the bill the way it was intended. And sometimes we don't get the intent language right and we don't get things as clear as

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they should be, but when we don't, we need to at least try to keep faith with the intent and the intent is the better public policy. It's more efficient. It also is more fair to both the folks who have invested the money to build the renewable energy devices and it's also more fair to the folks who are providing services to them in the REAs. So for all of those reasons, we support this bill and encourage the Revenue Committee to bring it forward to General File. And with that, I would end my testimony and answer any questions if I could. [LB90]

SENATOR HADLEY: Senator Schumacher. [LB90]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just so I understand the way we've done other things. Let's say we have a farmer that has a corn field and some cows. And the farmer harvests the corn, takes it down to the local co-op or elevator and stores it. And then as his cows need food, goes and picks up the corn and brings it back to feed the cows. And you've got this ongoing transaction where...and I assume also that when he stores it, it's not in a bin just with his name on it but it's stored with other farmers' corn. How do we tax that? Do we tax the...when the farmer when he takes grain out and the farmer...or do we just basically call it even? [LB90]

JOHN HANSEN: Well, I'm not sure just which tax in particular would apply in the case of a grain elevator. [LB90]

SENATOR SCHUMACHER: But isn't this a lot like that? If the farmer's cows eat more than what he put in, he's got to buy it from the elevator and he would pay tax on whatever he bought from the...well, I guess agricultural inputs aren't taxed there, but if it were a normal situation he would pay tax on what the cows ate. So it seems like if this is just storing electricity in the great grain elevator on the wires, then it just should be the net figure. [LB90]

JOHN HANSEN: Well, it in this particular case, the logic in the case of net metering is clearly, because the amount of interactions that go back and forth all the time depending on whether you're up and running or whether the sun is out or whether the wind is up or all of those things, you're still using electricity from the grid, you're still paying the access charges, you're still doing all of those things. It gets down to the amount that you actually use and so you are...you're putting energy in, you're taking money out...or, you know, you're taking energy out. And, you know, in our case in this particular approach we're doing it at, I think, a fair rate going back and forth. And so, you know, from a public policy standpoint, I think it's a good policy to encourage more renewable, small renewable energy projects. And while this is not a big thing, it does add unnecessary cost to everyone involved in the process and becomes needlessly complicated and expensive relative to the amount of revenue. And you should never have a tax that costs you more money to collect it than you get in revenue. [LB90]

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SENATOR SCHUMACHER: Thank you. [LB90]

JOHN HANSEN: I don't think I did a very good job of answering... [LB90]

SENATOR SCHUMACHER: And I didn't do a very good job with the question. [LB90]

JOHN HANSEN: ...your cow and your grain question and I'm going to have to think about that. (Laughter) [LB90]

SENATOR HADLEY: Mr. Hansen, sometimes we worry about unintended consequences, you know, for a small person having a home and with a small solar generator and, you know, it isn't a lot of money. Do you see anything in the future that we could be setting a policy that later on we would say, why did we do this? This is really significant money now we're costing the state in potential tax revenues. [LB90]

JOHN HANSEN: Do I think that if we implement the law, net metering as it was intended, do I think it will cost us a lot of money on down the road? [LB90]

SENATOR HADLEY: Yeah, sometime down the road the concept of things that we may not even be thinking about now that suddenly come into play. [LB90]

JOHN HANSEN: Well, I would say based on the total amount of actual net metering that we've developed since this law was passed, we're certainly not in immediate risk of having that happen. (Laugh) The rate of net metering going forward has been very slow. And, you know, we as a state, I think as far as renewable energy goes, we want to do the things that are prudent to encourage more renewable energy and to reduce unnecessary burden and expense and complication where it's not needed. In this particular case, the interpretation of the Revenue Department imposes, in my opinion, a hardship on both the provider and the user. [LB90]

SENATOR HADLEY: Okay. I guess my last question, you know, I think net metering is very good. I would like to go to a no-metering on my house. (Laughter) Is there any potential way we could do that and I could just send them a check that I think I might have used during the month? [LB90]

JOHN HANSEN: Well, you know, you could use as a backup system, corn and feed, some of Senator Schumacher's corn, perhaps, out of that elevator. (Laughter) I'm not sure whether that would work or not, but. [LB90]

SENATOR HADLEY: Okay. That was a little bit of a facetious question. (Laughter) Thank you, Senator Hansen. Thank you. [LB90]

JOHN HANSEN: Well, it certainly wasn't less than an honest answer there. It was

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the....(Laughter). I'm still not doing his question justice, I know that. [LB90]

SENATOR HADLEY: Thank you. [LB90]

JOHN HANSEN: Thank the committee very much. I appreciate it. [LB90]

SENATOR HADLEY: Further proponents. Opponents? Neutral? [LB90]

KRISTEN GOTTSCHALK: Senator Hadley and members of the Revenue Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the government relations director and registered lobbyist for the Nebraska Rural Electric Association, and our official position on this bill is no position this year. My organization took no position, but I felt like I had something to offer in a little bit of the history of the legislation and we asked about the revenue ruling, and Senator Hadley you were pretty spot on when you said that we often see these things as a dual transaction. And as the Revenue Committee is aware, Nebraska is typically considered a gross revenue state and the ruling by the Revenue Department which was ruling 01-10-3 from 2010 basically said that sales tax is imposed on the gross energy delivered to the utility. So that's where the ruling came from is the basis of the gross revenues ruling. But I might, just to get a little bit at what Senator Schumacher was talking about and the cows and corn, when I've testified on this bill in the past, I've kind of used the Walmart example. And that's where I go to Walmart and I buy ten teacups, take them home. I find out my mom has given me five teacups, so now I only need five teacups from Walmart and I take them back. Now, under the ruling that I see here, if I return those teacups I get the cost of those teacups back but the state gets to keep my sales tax. That isn't how we do it in practice and it didn't seem appropriate to continue to do that with sales tax on the gross revenues of delivery of electricity. I would be happy to answer any questions you may have. [LB90]

SENATOR HADLEY: Senator Sullivan. [LB90]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Kristen. Mr. Nelson mentioned that they have two units in Custer Public Power and don't anticipate any more. Do you think that this will be a growing trend or not? [LB90]

KRISTEN GOTTSCHALK: A growing trend that we don't anticipate seeing more? No, actually, and it's going to depend on the system and locations. The cost of the renewable generation is very expensive and since the economy has been in a downturn, you don't anticipate seeing many of those things go in place. It's hard to justify the cost for the benefits and the payback on those. The economy turns around, the efficiencies of renewable energy increases, you could begin to see increases in that. I have some systems that have several units in place but they're all very, very small; very small units. [LB90]

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SENATOR SULLIVAN: Thank you. [LB90]

SENATOR HADLEY: Senator Schumacher. [LB90]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Now, when the customer gets the two units of electricity down, pays tax on two units of electricity, and puts one of them back into the system, and then that one that gets back in the system, it goes down the street a little ways and it goes to another customer and its tax is collected again. So there's really double tax on one of those little cars of electricity. [LB90]

KRISTEN GOTTSCHALK: Well, it's...that is a way to interpret it. I can see that interpretation. [LB90]

SENATOR SCHUMACHER: Thank you. [LB90]

KRISTEN GOTTSCHALK: Although we don't pay sales tax on the energy that we receive from the consumer because it's considered a wholesale transaction by the Department of Revenue. [LB90]

SENATOR SCHUMACHER: Ooh, well, let's write that down. (Laughter) [LB90]

SENATOR HAAR: Any other questions for Ms. Gottschalk? Thank you. [LB90]

KRISTEN GOTTSCHALK: Thank you. [LB90]

SENATOR HADLEY: Any other neutral? Senator Haar. I'm glad you're here to make a quick closing. (Laughter) [LB90]

SENATOR HAAR: I am. Well, I knew that John Hansen was going to talk today and I was waiting for him to do the colorful language, but now in my vocabulary is the great grain elevator of the wires. (Laughter) Thank you, Senator Schumacher, that will live on. I appreciate that. Well, I think we've described the problem. It's a lot more cost than it's worth. I hope some day we get to the problem where there's a lot of distributive generation and there the benefit will be, of course, that it will take a load off the grid. So, if and when we get to that point, we'll worry about that. Thank you so much. [LB90]

SENATOR HADLEY: Thank you, Senator Haar. Appreciate it. Any questions? Seeing none, thank you, Senator Haar, for coming in. [LB90]

SENATOR HAAR: Thank you. [LB90]

SENATOR HADLEY: Senator Kolowski, we appreciate...gee, this is the second time in

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a couple of weeks, isn't it, or...?

SENATOR KOLOWSKI: Yes, sir. Perfect timing.

SENATOR HADLEY: We're getting to be quite friends here with you now, huh? Well, we'll have to see if we can take care of that now. (Laughter)

SENATOR KOLOWSKI: I've heard that before. (Laughter)

SENATOR HADLEY: Welcome.

SENATOR KOLOWSKI: Thank you, sir. Ready, sir?

SENATOR HADLEY: Ready.

SENATOR KOLOWSKI: (Exhibits 5-7) Thank you. Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Senator Rick Kolowski and I represent...it's R-i-c-k K-o-l-o-w-s-k-i, and I represent District 31 in the Legislature. I introduce LB346 for two reasons: school security and local control. For each fiscal year, LB346 authorizes school districts by a two-thirds majority vote to levy up to 1 cent above the maximum level of \$1.05 for school security measures. The proceeds of the levy are to be placed in a separate school security fund and are excluded from General Fund operating expenses for the purpose of calculating state aid. Please turn your attention to the handout that is coming around that I've provided that will show you how much each school district could raise each fiscal year. The Millard Public Schools, for example, could raise over \$900,000 this year to put towards their much-needed school security improvements. And if you've been following the Millard Public Schools bond issue that's been in the paper the last couple of...in this last week, they have quite a bit on school security in their upcoming bond issue that could be helped by something like this. As an educator for over 40 years and the founding principal of Millard West High School, I know what kind of security it takes to run a school of over 2,000 students. We are talking the population of many towns in Nebraska with that number of individuals. The kind of measures we're thinking of and talking about are such things as door locks, pass cards or ID cards for doors, security cameras, school resource officers, school security personnel working for the district, radios, walkie-talkies, and items such as that. Not only have we had some of those ever since Columbine, but there are next-generation productions that come out as old equipment dies off and you have to replace and keep up with equipment that gets better and better over time. We need to provide our local school districts with the ability to make the security changes necessary to keep children, educators, and parents safe without taking money away from the students and the classroom. You'll hear similar support today from the Nebraska State Education Association, the Nebraska School Boards Association, the Nebraska Council of School Administrators, the Rural Community Schools Association, the National Rifle

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Association, and representatives of the Lincoln and Fremont Public Schools. I want to read part of the testimony from one supporter who could not be here today. His name is Andy Pope and he is the athletic director for Chadron High School and a survivor of a 1995 school shooting. Andy writes: What I find appealing is the wisdom within the bill to allow each school system the choice of deciding their individual needs. You'll hear more about Andy in a later testimony, and I would ask that his personal testimony and story be read into the record. This is an issue that affects rural and urban schools; and we need to give them, all those schools, the local control to deal with the many pressures from their communities to know that their students are in a safe and secure building. Nebraskans want their children protected and it is our job to do that. Thank you. [LB346]

SENATOR HADLEY: Are there questions for Senator Kolowski? [LB346]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Kolowski. Do you have a sense...and you mentioned it a little bit, but in the research leading up to this legislation have you gotten a sense of what additional things schools have already done in light of some of these circumstances that have happened across the nation? [LB346]

SENATOR KOLOWSKI: A little bit from talking to people and knowing situations across the state and associates within the school districts that I've kept up with. Ever since Columbine, Senator Sullivan, we made our first moves and a lot of things that took place since that time, especially in high schools and middle schools--especially in the high schools. We did a lot of different things primarily of a security personnel basis. A lot of the early models of cameras were pretty grainy, not very good, very difficult to manipulate or manage as far as trying to cover your territory on a large high school size, no matter what the size of your school would be. And those first-generation things were just not very good. But we more or less went with people control and a lot of that took place, and more steps were made to lock down certain doors, funnel traffic into certain areas where students could be observed and start the school day that particular way. We didn't get to the extent of other urban environments around the country of having metal detectors and the scanners or anything like that, that has happened in schools...of any schools I know of in the Midwest or in the Nebraska area. But everyone took it to the next level in those early days. And since that time, with Columbine...after the Columbine time, we had better generations of different tools that came out that we could use. But none of that is cheap and it all has to come out of something. And what you see...what you would see happening and we did see happening, of course, with the limited school budget, here's another item that is not cheap that gets placed upon your plate that you're using to help make your school secure and safe, and that takes away from something else. So how long do you put off the new boiler? Repairing roofs, gutters, landscaping issues, broken concrete, parking lots, all the way down the line there's reverberations. And so you have those kind of things that impact a district and impact a district's budget. If you're building a new school, you have the opportunity to put those things in as you're building it, which escalates the cost of your new building as

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you're putting those in and not retrofitting; especially all the wiring for cameras and all the things that you have to put in for a large facility to cover your outside exterior areas, parking lots, and as well as all of your internal cameras that you'd put up in different areas. So it's one of those generational things but it's also accumulative that you're always trying to catch up. The Millard bond issue, as I said, will have multi-millions of dollars' worth of security and safety issues. Why? We have old elementary schools, open concept elementary schools. If you bust into...get past the front doors on one of those schools, it's basically wide open. And what you're trying to do is put up enough walls, doors, locks on the doors, that like the Sandy Hook situation, the perpetrator shot through the door. We know that now. And at least that slowed him down to 911 being called. And the things that happened internally were horrible, but it was one classroom, not two or three classrooms of kids or four classrooms. Because it slowed down his entrance and wanting to do harm that particular day was horrible. [LB346]

SENATOR SULLIVAN: Now you mentioned...and I don't know that your legislation really defines exactly what safety measures you're including, but in your testimony you mentioned that it could aside from the equipment and the hard stuff... [LB346]

SENATOR KOLOWSKI: Yes. [LB346]

SENATOR SULLIVAN: ...that it could actually include people as well. Which means there would be an ongoing cost that conceivably that would be something that the board would have to then get approval for every single year. Is that correct? [LB346]

SENATOR KOLOWSKI: Correct. And if they do that on a yearly pattern or have enough money in that account that would be able to turn over on a yearly basis to pay the fees for security personnel, or depending on the relationship with the police department or sheriff's department, the time for the school resource officer to be in your building, which I would not want to be without in today's world--in a high school anywhere in Nebraska. [LB346]

SENATOR SULLIVAN: Thank you. [LB346]

SENATOR HADLEY: Senator Kolowski, I just have I guess a quick question. We have heard numerous bills, LB405, LB406, last week we heard more bills, and to an extent they've dealt with property taxes. And obviously the school systems are at the table, significantly, when we talk about property taxes. Is there any concern at all that this is the straw that's going to break the camel's back? That people are just going to say we're tired of constantly going to property tax owners to fund different things? [LB346]

SENATOR KOLOWSKI: Senator Hadley, I think you do...it's a very legitimate question and you do have to ask yourself that question about reaching that point. Some camels' backs are weaker in certain districts than others. The burden and the decision making

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by that board, the good thing I think about this law is that's their decision at their level. What we're asking here is no money from the Legislature but permission from the Legislature to have this tool in the toolbox that the district can open and use as they need it, if they need it. Not all schools need all these things. The example I gave about Millard with open concept schools, you've got to put in walls; you've got to put in doors. You've got to put in different configurations at the entrance of many of these schools to funnel anyone coming into that school, into the office, so that takes place so they don't get into the building by some other means. So there's a lot of retrofitting that would have to be done in some situations. But again, the good thing is, who knows that better than your local school board to take that to their parents and work that out on a local basis there. And they can do all the comparisons they want and present it to their parents, have discussions at board meetings. But the board would vote on that, not a vote of the people. The supermajority vote would be enough to take care of this. So it comes down to their managing their own world and their own environment and making the decisions from there; not someone from the outside saying you ought to have this kind of door or you ought to have this kind of entrance or. Let them...they know what is right on these things and what they need to do. And let them deal with their own community on those issues. And I don't think you'd find...with the prevalence of what's happened in our country, I don't think you'll find many places that wouldn't say we've got to at least get to a real solid level of knowing where we are on this issue. [LB346]

SENATOR HADLEY: I guess I asked that question because I'm thinking, you know, as a committee member we're faced with this bill and we don't act on it this year or we don't act on it next year, and then something terrible happens in a school district and somebody comes back and says, why didn't you give them the 1 cent? Or I see a local school board, a tremendous amount of pressure on a local school board, you know, if you don't ask for this and then something happens in your school, for whatever reason, it just seems to me if I'm a school board member and I have this tool, I almost have to use it because I can't take the chance that I say no and then something happens and somebody points the finger and says, if you would have done this...so that's. [LB346]

SENATOR KOLOWSKI: Yes, sir. Generally speaking, I don't think there's a school district in the state that doesn't have something that needs to be done to take security to the next level to make our schools as safe and secure as possible. And now there's Cadillac versions of that and there's good old Chevy versions of that, and you have to make those decisions as to what you want and what it takes. I know from personal experience of putting much of this into a building, it's not a cheap venture. It takes time, energy, coordination. If you have a larger district, you want to coordinate the kinds of things you have from repairs and removals and replacements and all that, and have a good contract with the people that take care of these things. All that's important. [LB346]

SENATOR HADLEY: I let Senator Harr and then we'll go to Senator Hansen and then Senator Schumacher. [LB346]

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SENATOR HARR: Thank you. And I'm a little concerned about the part where there's no real definition of school security measures. Are you working on an amendment to define what school security measures are? [LB346]

SENATOR KOLOWSKI: We have talked about that, Senator. And yes, we can do that. We didn't get specific. We wanted to see what the legs would be like on this particular proposal at this time. If we need more specificity, that's not impossible to do, because every district has a laundry list of what we can turn to and such as that but not limited to. We would probably write it in that particular way, because something might be discovered or built or designed and a product on the market that we didn't think about before, and all of sudden it's used in schools. [LB346]

SENATOR HARR: Well, let me ask you this, then. So my oldest daughter's school, it's an older school that you described, and traffic patterns have changed and now the main entrance is through the school library. [LB346]

SENATOR KOLOWSKI: Absolutely. [LB346]

SENATOR HARR: Would that qualify? And obviously, kids come through the school library and not to the main office. Moving the main office, that would qualify in your...under your definition? [LB346]

SENATOR KOLOWSKI: Brick and mortar can be part of that and it should be part of that because entrances are one of the...in some cases are some of the worst situations you're finding in schools. [LB346]

SENATOR HARR: What about blinds for a classroom so you can't see what's going... [LB346]

SENATOR KOLOWSKI: Can be. Absolutely. If you want to close it off, you should have blinds on your door. On any good, new building that's being built, they are part of the furniture and equipment, because you want to lock that door, close that blind, and get your kids in the far corner of a room. Our safety procedures all have that. [LB346]

SENATOR HARR: What about blinds on an exterior window though? [LB346]

SENATOR KOLOWSKI: On the exterior windows, yes. You'd want...and you'd have those as well. If you have a window. Not all classrooms have windows. But if you do have an exterior window where sunlight could come in or someone could look in, you want to have that as well. [LB346]

SENATOR HARR: I'm just trying to figure out where the limit is though. Because we can

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make almost anything a security issue. And so I'm concerned about making this overly broad so that every year it's just an automatic vote, and it gets back to Senator Hadley's concern... [LB346]

SENATOR KOLOWSKI: Yes, sir. [LB346]

SENATOR HARR: ...that we've now added one penny. [LB346]

SENATOR KOLOWSKI: Well, we can be prescriptive. That's not a problem to get those things, because it's very common knowledge as far as your laundry list of what you want to do in security. It would be up to that local district to decide what their laundry list would be like. And that's...again, a good part of this bill is local control; not here's your state-mandated laundry list, you can only pick from this. [LB346]

SENATOR HARR: So, in essence, what you're saying is we're abdicating...and maybe abdicating is a strong word. But as far as oversight, the oversight comes in the two-thirds vote... [LB346]

SENATOR KOLOWSKI: Yes, sir. [LB346]

SENATOR HARR: ...and the two-thirds vote then would be determined largely on we can decide that by election of those members. [LB346]

SENATOR KOLOWSKI: Yes. Right. You're responsible for and answering to your public at the local level. [LB346]

SENATOR HARR: I will quit asking questions if you promise Angelo will not come up. Otherwise, I have a couple more. [LB346]

SENATOR KOLOWSKI: I can't promise but I...we could negotiate that. [LB346]

SENATOR HARR: Okay. I will quit then. (Laughter) [LB346]

SENATOR HADLEY: Senator Hansen, I believe you had a question. [LB346]

SENATOR HANSEN: Yes, thank you. Senator Kolowski, you and I have talked briefly about this when you introduced the bill, and I really appreciate it, and I'll repeat some of the things I talked to you about that day. But these school kids aren't President Obama's kids and they aren't the Department of Homeland Security's kids. They're our kids. They're...each and every one of them is our kids in these school districts. I hate to pay property tax. I really do. I think we have a responsibility to keep those kids safe. And I have three granddaughters that are still in school, and I looked at the list of schools in Lincoln County, and it runs all the way from \$182,000 a year to \$17,000 a year in

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different school systems. We're not talking about any new schools in my district, so it's all rehabbing schools. Some are ten years older or less. You walk up to the front door and it's airy, it's light, it's bright, but it's not safe. [LB346]

SENATOR KOLOWSKI: That's right. [LB346]

SENATOR HANSEN: It's up to the school board to do that, to make those schools safe, to keep our kids safe. And I think that they ought to...you know, the 1 cent and it lists it there, the two-thirds, every vote every year is very important. It may only take five years to make the whole school secure--secure to the standards that they feel is right. And it may not be state standards and it may not be federal standards, but it's the standards that they feel comfortable with and will be responsible for. And I think that's great. The 1 percent, there's no long-lasting 1 percent vote, is there? I mean it's up to the school board. [LB346]

SENATOR KOLOWSKI: On a yearly basis. Yes, sir. You'd have to bring this up on a yearly basis. [LB346]

SENATOR HANSEN: Um-hum. It's on a yearly basis. [LB346]

SENATOR KOLOWSKI: Correct. [LB346]

SENATOR HANSEN: And it may take five or ten years for some schools. But do you really think that the schools will use that extra penny just for revenue, general revenue sources? [LB346]

SENATOR KOLOWSKI: Well, they shouldn't. [LB346]

SENATOR HANSEN: Don't they have to...would they have to justify the security measures that they put in? [LB346]

SENATOR KOLOWSKI: That would be the anticipation on my part that they would, depending on this laundry list of security realm of what they could buy, you put that on their shoulders and have them define it as to what their needs are for that particular school. [LB346]

SENATOR HANSEN: Would the list that Senator Harr was asking for, would that be just a starting point for schools? [LB346]

SENATOR KOLOWSKI: Yes, sir. [LB346]

SENATOR HANSEN: And whether they can afford to lock off some of those...to replace some of those glass doors with steel doors and lock them, and then the interior walls

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that you're talking about? [LB346]

SENATOR KOLOWSKI: Absolutely. [LB346]

SENATOR HANSEN: It's going to be an expensive thing for some of the schools in my district, because they are open and airy, and...but they're not necessarily safe. And we want to...you know, turn a light on. And this place would be more appealing if they'd turn some lights on in here. We have the blinds but we don't have the light, so it's kind of dark and dingy, but...and the schools needs to be bright but they also need to be safe. And I really appreciate you bringing this bill. [LB346]

SENATOR KOLOWSKI: Thank you, sir. Also keep in mind the regular operating budget on a yearly basis is another source that the district can go to as they build their budget on a yearly basis, depending on where their levy is and how much room they have to add something. And this would give them a penny beyond that. If they're up at the top of their...hitting the lid, this gives them a penny on top of that. So I am trying to keep it as open and flexible, and then those districts would have to decide those things themselves. Local control. [LB346]

SENATOR HANSEN: Thank you. [LB346]

SENATOR KOLOWSKI: Thank you, sir. [LB346]

SENATOR SCHUMACHER: Thank you. I just have one question. To the extent we have an obligation to have these additional security measures in place to protect our children, do we owe those security measures to the students in parochial schools also? [LB346]

SENATOR KOLOWSKI: As a society I would say, yes, we do. But that's up to their administration, their board of control to make those decisions. And if they need assistance on that, with the resource people that they don't have in their particular district, I would hope they would ask the public schools to assist them when they have much more experience perhaps doing some of these things than what happens in a parochial school or a private school. They may not have the additional personnel with this kind of knowledge. Now they could hire it, of course, and I have...there are people that do this full time, Senator. But, of course, we owe it to all students at every level, but we're in charge of the public schools and that's our main obligation. I wouldn't want any school to be neglected but we have our...by statute, our responsibilities, and they have chosen to be where they are. [LB346]

SENATOR SCHUMACHER: But we heard testimony the other day that we could not...we do not have the capacity to absorb the 38,000 kids that are there. So should we rather than do this particular mechanism, find out a way to subsidize the bulletproof

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class or whatever it takes in order to make all of our children safe in school? [LB346]

SENATOR KOLOWSKI: Ideally that would be nice, but reality is a dollar issue I'm sure that we'd have to look at. And I know you're asking that not to get onto a church/school issue or a debate or a back and forth on anything like that, but the issue is one that would have to be discussed in the community, and if they do something on their own that's up to that community but it's not something mandatory that we have. We have the responsibility for the public schools and that local board has it for their local school. [LB346]

SENATOR SCHUMACHER: You would probably feel pretty sick if a parochial got blown away just as if a public school got blown away. [LB346]

SENATOR KOLOWSKI: Terrible. It's a terrible situation if that would happen to anyone. [LB346]

SENATOR SCHUMACHER: Any other questions from the committee? Seeing none, any proponents? Welcome. [LB346]

RON JENSEN: Thank you, Chairman Schumacher and members of the Revenue Committee. My name is Ron Jensen, R-o-n J-e-n-s-e-n. I'm a registered lobbyist appearing before you this afternoon on behalf of the National Rifle Association in support of LB346. This is kind of unusual for me. I believe it's the first time I've ever testified for this client at any place other than the Judiciary Committee. Looking around, I think I may enjoy this more. We'll see. (Laughter) I'm pleased to come here this afternoon on behalf of the NRA and testify in support of this important piece of legislation. While the national discussion goes on about what we can do to prevent another one of these horrible school mass shootings, this is what we can do, and we can do this now and it has much greater promise of preventing this from ever happening again than any gun control or gun reduction or gun confiscation or whatever legislation that we might consider. Those things are all speculative if not conjectural in this extreme. We know this will work. And nobody ever goes and gets into the county jail and shoots the place up because they can't get in there. Now I understand we don't want our schools to be fortresses. And if I may say so, I spent the first three years of my professional life as a teacher. My parents were teachers. My daughter is a teacher, a reading specialist actually, down in Florida. My son-in-law is a middle school teacher down there. And my granddaughter Delaney, I know is the brightest middle school student in all of Florida. I don't want them to work and go to school in a fortress. And when Commissioner Breed says we want schools to be open and welcoming places, I get that. I understand that. Also we don't want to take off our shoes or submit to a pat down to get on an airplane, but we do that. We put up with that and other things that a decade ago or two ago we might have considered an assault on our civil liberties or our lifestyle, because the world has changed. I obviously am concerned about my family

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members who go into a middle school every day, about their safety, about their well-being. I don't want them to work and go to school in a jail. But the most important thing to me, and I think the most important thing to any parent or grandparent and to any of us citizens is that at the end of the day they're safe. If we can't do anything else for our children in school, if we can't teach a thing, we ought to be able to keep them safe. And so I think this is a very welcome initiative and am pleased to come here today on behalf of the NRA and support it. I'll try to answer any questions. [LB346]

SENATOR SCHUMACHER: Senator McCoy. [LB346]

SENATOR McCOY: Thank you, Vice Chairman Schumacher, and thank you, Mr. Jensen, for being here this afternoon. Obviously all of us are touched by the tragedy out in Sandy Hook and what that means for not only the state of Connecticut but the entire country. As a dad of four kids, so I'm near that age, your heart breaks for those families and for that community and that school. As you appear obviously on behalf of your client, the NRA, does this speak to the push by...nationally, by the NRA, to have law enforcement officers in schools? Is that...I'm trying to gauge the reason why you would be here on behalf of the NRA on this. Is that a natural extension of that national push with Wayne LaPierre and to...with law enforcement in schools? [LB346]

RON JENSEN: It is indeed. And Wayne doesn't know I'm here today, but it is entirely consistent with the NRA's position on this. To the alternative, if we wanted to keep schools as open and welcoming places is that as human beings we can design a system that will let anybody come in but we can sort through the people that we don't want to come in there with a firearm. And to me that begs credulity that we can design and implement a system in this country that can keep anybody who shouldn't have a gun from getting one. I think this is an alternative that we know will work. [LB346]

SENATOR McCOY: So you would see this measure as whether it's video surveillance, brick and mortar for school entrances, that this measure, LB346, could also pay for the...to have those law enforcement or retired law enforcement, whatever the case may be, to be present in schools across the state? [LB346]

RON JENSEN: Sure. I read it that way and I believe Senator Kolowski responded to a question on that in the affirmative that it could include personnel. [LB346]

SENATOR McCOY: And my final question would be, and I think this is one that...just as with any national organization, which has a lot of membership here across our state, I think obviously the National Rifle Association has a lot of members across the state, I believe, all of which are taxpayers. Have you had the chance to hear from any of your membership across the state as to this measure on what this may mean? I mean, we all care very much about security, but have you had a chance to gauge your membership and gauge your membership on what this would mean from a taxpayer's standpoint?

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[LB346]

RON JENSEN: No, and the way it's organized I wouldn't, okay? I report to a liaison person in Virginia and the NRA doesn't publish membership numbers and I don't know membership names. That's kind of compartmentalized. So I wouldn't have that kind of feedback. [LB346]

SENATOR McCOY: Do you know, has the National Rifle Association, since the Sandy Hook tragedy, do you know of any effort across the country to engage their membership, of which I'm one...I'm trying to remember in my mind if there's been anything that I've gotten in the way of e-mails or anything in the mail to kind of gauge what the interest of the membership is and what kind of measures could be undertaken to help secure schools from a tax standpoint, law enforcement of the schools? Because when we all heard that, I think the national reaction was, how are we going to go paying for that, for one? Even though that's an extremely vitally important effort, how are we going to go about doing that? Do you know, has the NRA sought to gain some perspective and opinions from membership across the country that you're aware of? [LB346]

RON JENSEN: Well, I'm a member too and I haven't received anything on it, so I'm with you. I'm guessing they have not. [LB346]

SENATOR McCOY: Okay. Thank you, Mr. Jensen. I appreciate it. [LB346]

RON JENSEN: Sure. [LB346]

SENATOR HADLEY: Any other questions for Mr. Jensen? Seeing none, thank you. [LB346]

RON JENSEN: Thank you very much. [LB346]

SENATOR HADLEY: Could I see a show of hands of how many people are going to testify on this bill today? I am going to use the light system if we could. That will mean 4 minutes a green light will come on, for a minute an amber light, and then a red light. We will not shut you off in mid sentence, but it's Thursday afternoon on a long weekend, so we'd appreciate your indulgence with us. Thank you, sir. [LB346]

ANGELO PASSARELLI: (Exhibit 8) Thank you. Thank you, Senator Hadley--I'm not going to say anything to Senator Harr (laugh)--and members of the Revenue Commitment. My name is Angelo Passarelli, A-n-g-e-l-o P-a-s-s-a-r-e-l-l-i. I'm an administrator with the Millard Public Schools and we are here in support of LB346, and we appreciate Senator Kolowski offering this legislation. On January 5, 2011, a seriously ill young man calmly walked into Millard South High School. He signed in. He

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asked to see the assistant principal who had suspended him for an act of vandalism that had happened over the Christmas break. He walked into her office and he closed the door. He shot her several times. He walked out. He shot the principal who was on his way to her office to help. He drove off, took his own life in a nearby park. Vicki Kaspar, the assistant principal, died a few hours later. Curtis Case, the principal, sustained serious wounds. The only word I can think to describe this event is "tragic." We have taken a position in our district that we will not discuss these events unless by doing so it will help us heal or to help us move forward. We're not interested in going back. With that said, we think this bill will help us move forward. We have implemented a number of security measures that increase our confidence that we are doing everything in our power to protect our students and staff, and that's all it does is increase the confidence. It doesn't guarantee anything. We have security resource officers in each of our high schools and our alternative high school. We have half of our middle schools have resource officers. We have adopted new procedures for students who have been suspended or expelled. We've hired a number of security consultants who have helped us update our practices and we review those practices every year. Senator Kolowski mentioned that we are in the middle of a bond issue that has a multimillion dollar security component that will be implemented in each of our facilities, including locking all doors after school starts and using video buzzer systems to gain entry from there on. It also includes systems for monitoring perimeter doors. Our schools are like most schools, were built in a time when security was not an issue. A typical high school of 2,400 students has anywhere from 40-50 outside doors. All of those present a security risk of some kind. We are modifying entrances and closing those open concept schools that were great ideas back in the '80s and '70s when they were built, when I taught. And then we're putting locks on classroom doors that can be accessed from inside the classroom, when they have to go outside with a key...try to find a key, go outside the classroom to lock the door. We will undoubtedly spend millions of dollars on building modifications. Security resource officers come to us at a cost. Each security resource officer costs our district about \$50,000 with a matching amount from the Omaha Police Department or from Douglas County. Middle school officers cost about \$35,000 with a matching amount again from the city or county. I testified in the Appropriations Committee on Monday that Millard is in the midst of a perfect storm. We have increasing numbers of students and declining revenues. We are a low spender. In fact, we're 244 out of 247. I'm not sure I like to brag about that. This means that dollars we spend on security for our staff and students come directly out of programs and teachers. We have reduced 60 positions in the past three years due to budget constraints, and the future doesn't look much better. Senators, we need that additional levy authority so that we can meet the security needs of our district. And I included a couple graphs there for your information. Thank you. [LB346]

SENATOR HADLEY: Are there questions for Mr. Passarelli? Senator Sullivan. [LB346]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Mr. Passarelli. I may

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have missed it, but what additional features are you going to be implementing with this bond issue that you're hoping to get passed? [LB346]

ANGELO PASSARELLI: We're looking at card readers that will swipe a card; security badges for our students, as well as we have them for our staff already; those kinds of things. But basically it's the basic ones. The lock sets. We found out the other day that to change a lock set on a typical door is about a \$250 expense. So there will be multiple ways to spend the money that this 1-cent levy would offer. We have a number of things, including a perimeter monitoring system, so all those doors, any of those doors is opened, a camera would view that door and somebody in the front office would know about it. So those are the kinds of things that we want to do, kind of integrating the systems that we have in place. And as Senator Kolowski said, the cameras are old. We have to refurbish those and get cameras that actually work and so you can see. [LB346]

SENATOR SULLIVAN: What about this relationship you have with the Omaha Police Department. That's sharing the expenses of staff, is that what you're doing? [LB346]

ANGELO PASSARELLI: Correct. We share those expenses. It started out as a full-fledged grant where they covered all the costs and now it's a 50-50 sharing of those costs. It's a good...hopefully it will continue, but again this would be one of the things we could use the additional levy authority for is the personnel costs associated with the security resource officers in our schools. [LB346]

SENATOR SULLIVAN: So many times in responding to these situations it's often said, well, we are treating a symptom and not the underlying problem. And I don't know all the details and you indicated you don't want to go back, but in this discussion going forward have you looked at the issue of mental health and dealing with these circumstances? [LB346]

ANGELO PASSARELLI: I totally agree with you, Senator. There are so many issues with our students that we need to address. This was a seriously ill young man. Like I said, he calmly walked into the school and it wasn't like he came in firing. He was a student that had been suspended. Well, it would not be unusual for that student to ask to see the assistant principal. And the way it happened probably any of the security measures we're talking about would not have stopped him unless there was a metal detector; that might have had some impact. And then just, like I've heard spoken about today, we don't want to turn our schools into lock-down facilities, but we want to make sure we're taking every reasonable step we can to make them safe for our students and for our staff. [LB346]

SENATOR SULLIVAN: Thank you. [LB346]

SENATOR HADLEY: Senator Pirsch. [LB346]

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SENATOR PIRSCH: And thank you, Mr. Passarelli. I appreciate your testimony here today. And you have three high schools in your Millard district, right? [LB346]

ANGELO PASSARELLI: Yes, and an alternative high school as well. [LB346]

SENATOR PIRSCH: And alternative high school. Right. And they're relatively big populations, right? What are the populations of Millard West, North, and South? [LB346]

ANGELO PASSARELLI: Yeah. North has about 2,400; 2,000 at South; and about 2,300 at Millard West. [LB346]

SENATOR PIRSCH: So some of the largest schools in the state. [LB346]

ANGELO PASSARELLI: So they're large high schools, some of the largest in the state. [LB346]

SENATOR PIRSCH: And one of them is in my district notwithstanding, you know, Senator Hansen's claim on the high school. But I did want to just ask you, with respect to some of your intended uses, card readers, security badges, and lock sets, in...so anybody who commits these types of acts, there's mental health issues, is it a...in utilizing the card reader, security badges, and lock sets that you were talking about, are those primarily designed against outside; in other words, nonschool-related, whether student, faculty, staff type of individuals? Or are these features for perhaps imbalanced students like the one that occurred? [LB346]

ANGELO PASSARELLI: I think for both. The example of the young man that had been suspended, his badge would have been, whatever, deprogrammed, so that it would not have allowed him to come in through a locked door. So there are things that we can do. Now we put...we don't have that ability now, so we put pictures of those students that are suspended at the front desk. We do have a security resource officer desk that sits right in the front entry of the building. But again, this was a student that we knew, recognized, and we brought him in. [LB346]

SENATOR PIRSCH: Yeah. Thank you. [LB346]

SENATOR HADLEY: Senator Schumacher. [LB346]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony today. Millard has a football team, doesn't it? [LB346]

ANGELO PASSARELLI: Oh yes, we do. [LB346]

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SENATOR SCHUMACHER: Okay. And when they play ball, is it inside of an enclosed stadium? [LB346]

ANGELO PASSARELLI: No. It... [LB346]

SENATOR SCHUMACHER: And it's open to the public. I mean, you can see it from a half mile, a mile away probably, if you're positioned right. [LB346]

ANGELO PASSARELLI: Correct. Friday night lights. [LB346]

SENATOR SCHUMACHER: What...in that setting, what's stopping somebody from ramming the crowd with an SUV or opening fire? [LB346]

ANGELO PASSARELLI: Yeah. Good point, Senator. There's probably nothing that stops that. [LB346]

SENATOR SCHUMACHER: And so do we have to build an enclosed stadium with guards at the door? [LB346]

ANGELO PASSARELLI: Yeah. And I would say no. I'd say we were going to take the reasonable steps we can. Like I said, we want to do what we think we can prevent, knowing that we can't prevent everything. [LB346]

SENATOR SCHUMACHER: You know, if we want to, we could say all football has got to be played behind a guarded stadium. Your school buses, are they armored? So any nut case... [LB346]

ANGELO PASSARELLI: They do have cameras. [LB346]

SENATOR SCHUMACHER: ...can riddle them with bullets at any time. [LB346]

ANGELO PASSARELLI: Correct. [LB346]

SENATOR SCHUMACHER: So to what extent are we doing here, exactly the kind of behavior when we're at the airports and we're going through taking our shoes off, everybody in line realizing that probably is not doing a nickel's worth of good, or they're taking our pocket knives to make us feel safe, when anybody probably realizes that's not doing much good at all. What of this, all this activity, is going to produce anything more than an illusion of safety if somebody wants to take out a group of kids? [LB346]

ANGELO PASSARELLI: I think Senator Kolowski alluded to the fact that sometimes we're buying seconds by that, having a locked door. Right now, our classrooms are so open, we ask them to huddle in the darkest corner of the room during a code red. And

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all of our schools were in code red that day. I talked to people who were on the opposite end of our district and they said it was the scariest moment of their life when they went into a code red and not knowing what that was. And that code red, they were in there for about 30 minutes before we released them and found out that the incident was isolated to one school. But they were huddled in an open classroom, no door, trying to calm the students that were in there. And the students, of course, were asking those kinds of questions. So I think a door provides a reasonable amount of security. It's not an unreasonable expense to go through. So I think those are things that we can do and that will offer more than just that appearance of safety. [LB346]

SENATOR SCHUMACHER: But we're costing somebody here conceivably \$17 million a year, and that isn't even covering the parochial school kids. And we are leaving all kinds of loopholes for anyone reasonably bright enough to get through, whether it's the football stadium or the unarmored school bus that is sitting waiting, packed full of kids, waiting for somebody to ram with a gas-laden vehicle. So at what point do we set a standard of care and what should that be? I mean, is it, you know, just what we feel and what we can emotionally stir up at a school board meeting that we've really got to have armored school buses? I mean, shouldn't we be setting that standard of care here rather than trying to let that kind of either fear or precaution or whatever...or gee, that school has got armored school buses, why doesn't our school have armored schools buses? Isn't that kind of our job here? [LB346]

ANGELO PASSARELLI: Well, I think we have a very reasonable elected, locally elected boards of education that can handle those kinds of questions, Senator. I would stand with their decision on that. They look for the safety of our kids and they look for the reasonableness of those kinds of approaches with our taxpayers as well. [LB346]

SENATOR SCHUMACHER: But in this committee we see it all the time, and this state is doing this and we've got to match it. This state is doing...so all of a sudden you have a very expensive race to precautions which it's really hard to say what is the efficacy of. And you know, at what point do we say, that's life? [LB346]

ANGELO PASSARELLI: Yeah. And I'm not sure I can answer your question, Senator. [LB346]

SENATOR SCHUMACHER: Thank you. [LB346]

SENATOR HADLEY: Senator McCoy. [LB346]

SENATOR McCOY: Thank you, Chairman Hadley. And thank you, Mr. Passarelli, for being here today. Is the Millard school district, are you at the levy lid right now? [LB346]

ANGELO PASSARELLI: Actually, Senator, we are not. We have about a penny and a

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half left on that levy lid. It is our intent that that will be added on this next year. We have been using our reserve that we have had in place, but we are at a point now where we don't...we can't use any more of our reserve. [LB346]

SENATOR McCOY: I see. And I noticed from your testimony that you had said we are in the middle of a bond issue that has a multimillion dollar security component. Is there...is the whole bond issue security? [LB346]

ANGELO PASSARELLI: No. It's \$80 million, and we could probably...it depends on who you get to put the numbers together. Well, what is security? Enclosing a classroom? Is that security or is that a renovation? It can be both. So I would say \$6 million is on security devices strictly and probably \$30 million in additional things like lighting in parking lots and enclosing classrooms and classroom lock sets and things like that. But it certainly has an educational component as well, and we will gain benefit from that. [LB346]

SENATOR McCOY: And so when you say in the last couple lines of your testimony, and we need the additional levy authority, you're saying you need that in addition to the penny and a half you have left? [LB346]

ANGELO PASSARELLI: Correct. Because we would like to move to security resource officers in all of our middle schools next year, and that expense alone would warrant those kinds of expenditures. [LB346]

SENATOR McCOY: Thank you. [LB346]

SENATOR HADLEY: Thank you. We appreciate your coming down to see us. [LB346]

ANGELO PASSARELLI: You bet. Thank you. [LB346]

SENATOR HADLEY: The next proponent. [LB346]

JON HABBEN: Good afternoon, Senator Hadley, members of the committee. My name is Jon, J-o-n, Habben, H-a-b-b-e-n, executive director of the Nebraska Rural Community Schools Association. I've served four schools in an administrative capacity, one of the smallest in the state to one of the largest in our organization, and all four of those schools had different issues that needed to be dealt with in order to be secure and safe. Those differences meant that the costs in each school were different and the impact on the spending side of the budget was different. And this bill allows that local decision to review those particular needs relative to that particular school district and, of course, relative to what the school board and the patrons believe they should have, and then to access that penny if they need to do so. If we're talking about our nonequalized school members, the budget authority may be an issue for them but the levy isn't. But if you're

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talking about our other members that either the general fund alone or maybe the general fund plus a couple cents on the building fund takes them to \$1.05, they would need that levy to be able to accomplish these things. In the four schools that I was in, in all four of them there were intruders that came into the buildings. The level of threat differed, of course, between each of the four. In a couple of circumstances they were students; in a couple of circumstances they were parents. But before we started going to the trouble of locking all the doors, they got in. We began to wise up just like everybody else has, and we started with the least costly safety security measures and moved forward. We had schools with movable classroom walls. We had schools, an older building, for example, where the door locks all would have had to have been replaced. In another building all the doors would have had to have been replaced. There are all kinds of these things that occur in a variety of ages of buildings across the state. But that local school board can assess that. They can bring in the specialist to make recommendations about what can be done here and there, how much it costs to do this and that, what type of effectiveness for the dollar, so to speak, might they gain. But the threat is there. No need to review all of that. It's obvious. The question is, are we going to allow that local school board to have a tool to be able to further deal with these issues and these needs, if they in turn need to do so? Questions about should...what about the buses, what about the football field, what about the gym on Saturday when the wrestling tournament is going on? Oh yeah, those are real. This talks about being able to deal with the school day, but we've got issues beyond that and we do worry about them. Thank you. [LB346]

SENATOR HADLEY: Are there questions? Senator Schumacher. [LB346]

SENATOR SCHUMACHER: Thank you, Senator Hadley. I expect you've dealt with attorneys for your school organization and you've sat in board-type meetings. At what point, if you asked the attorney, well, you know, should we put armor on our buses because the school district down the road has armor on their buses, what do you suppose that attorney is going to say? [LB346]

JON HABBEN: Well, those questions have come up, by the way. And what the attorneys tend to tell you is those are decisions that you need to make based upon what you believe you need to do. What the attorney will do is give you an example of how vulnerable you are if you do this and don't do that. When I'm talking about bringing in the specialists, I'm also talking about bringing in the people who are security specialists, not simply the school attorney. And a lot of times those security specialists, of course, they're selling equipment, but at the same time they can help you get to those conclusions that you need to get to or that you believe you need to get to. And you may change your mind. [LB346]

SENATOR SCHUMACHER: And the attorney or the insurance company that covers the school liability is going to refer to a thing called a standard of care. What is the standard

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of care? And to the extent some external force does not set that standard of care and everybody has got to feel around in the dark by themselves to figure out what it is, then suddenly the standard of care is in a ratchet motion, if somebody starts doing it, upward; and the roof goes off these expenses. [LB346]

JON HABBEN: I think the standard of care issue is a good point. The reason being is not all school boards are going to see it identically and their facilities aren't identical as far as putting solutions into place. But part of the standard of care is your own decision making and taking into account the experts that have come in to give you appropriate guidance. It's not just the standard of care of the neighbor. It's the standard of care that you can reach in your district, and it's not the same in every district. Some things are impractical to do and would not be included in the standard of care. Other things everybody...for example, when you start talking about making sure all exterior doors are locked, so you have to have good enough doors and door locks to be able to do that. That would fit a standard of care. But when you go to armoring a school bus, I doubt that that would fit simply because the cost factor of that circumstance is well beyond what school districts can accomplish. If you bought a school bus lately, they're 80 grand before you ever do anything like that, so. [LB346]

SENATOR SCHUMACHER: Thank you. [LB346]

SENATOR HADLEY: Senator Pirsch. [LB346]

SENATOR PIRSCH: And thank you. You have taken a look at the language, is that right, of the bill? The... [LB346]

JON HABBEN: Um-hum. [LB346]

SENATOR PIRSCH: So...and just getting back to kind of a comment of a previous testifier here today, so the language in line 11, it says, simply able to levy for school security measures. There might be certain times where there might be something, a wall I think was the illustration, that may be useful for, to some extent for security measures, may be useful for a renovation type of...given the, you know, the new use or need of the student. How do you...should there be a qualifying thing primarily for...in other words, some measures primarily for school security? Would that be a qualifying type of word that you think would be helpful so that it's not subject to subjectivity? [LB346]

JON HABBEN: Well, I think...and the question to Senator Kolowski was about defining the term "security measures" or creating a list or what does it mean. Yes, I think those are valid questions simply because you can...I can tell you, for example, that in the first school I was at we would have needed to build walls to have the appropriate security measures in place. The next question: Is that a general fund obligation, a special

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building fund obligation, or would it fit this obligation? And I think you can make a case for it being in any of those three categories. I think you have to go back and say my intent for building that wall is..., and I think you start with that point. And if you haven't built that wall until you get to a point of defining your security needs, I would hope that you could make a case that that wall be included in that 1-cent levy override to use that money for that purpose. [LB346]

SENATOR PIRSCH: Okay. [LB346]

SENATOR HADLEY: Just so I understand this, if I...if my quick calculations were right, we have about 74 districts that are under a dollar right now for their levy. [LB346]

JON HABBEN: Yes. [LB346]

SENATOR HADLEY: So effectively this would not...this legislation would not impact them; is that a fair statement? [LB346]

JON HABBEN: Well, on the exclusion from the budget it would. [LB346]

SENATOR HADLEY: It would. [LB346]

JON HABBEN: But on the exceeding the \$1.05, that penny, no, I don't see that it would have any effect on those. And right now we have 102 nonequalized schools; and one would assume that the additional penny would not be of help to them. But the budget exclusion...the issue of budget authority is very significant across all school districts, including nonequalized. That would certainly be of help to them. [LB346]

SENATOR HADLEY: Secondly, would you think that there should be some kind of mechanism for reporting either to the Legislature or the Department of Education that if there was...if there is an override...or you know, the two-thirds vote, and that we're going to use this money for security, that we get some idea of what happens? You know, what is this being used for throughout the state? [LB346]

JON HABBEN: District accountability for... [LB346]

SENATOR HADLEY: Yeah, district accountability. [LB346]

JON HABBEN: ...that board accessing that penny. It's hard to speak to what level of accountability. It may be just accountability to your own taxpayers. But I understand your point and I think accountability has to be built in somewhere. [LB346]

SENATOR HADLEY: Okay. Because I would agree that somehow it would be nice for the Legislature to know that if we do give this authority, that we get at least a

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10,000-foot view of what types of things districts are doing and why they're doing it.
[LB346]

JON HABBEN: Understand that. Yes. [LB346]

SENATOR HADLEY: Okay. Thank you. Any other questions? Thank you, Jon. [LB346]

JON HABBEN: Thank you. [LB346]

SENATOR HADLEY: Further proponents. [LB346]

CONNIE KNOCHE: (Exhibit 9) Senator Hadley and members of the Revenue Committee, my name is Connie Knoche. I'm the finance director for Lincoln Public Schools. C-o-n-n-i-e K-n-o-c-h-e. And I'd like to read for you into the record a letter from John Neal who is the assistant to the superintendent for governmental affairs. And as currently written, this bill would provide the authority to local school boards duly elected by the citizens that they represent following a two-thirds majority vote to raise the local levy above the statutory limit up to 1 cent for the sole purpose of providing funding for security measures necessary to protect students and staff. We see three benefits to this bill becoming law. (1) It meets the need with additional funding that a dozen years ago no one projected to be an educational expense. This bill would finally provide a funding stream that recognizes it as a new and a unique expense for schools that if not provided for with a funding stream like the one provided in LB346, would continue to pull support and funding away from learning. (2) It puts the decision to access this authority in the hands of the duly elected representatives of the community whose purpose is to weigh the cost and the benefits accessing this funding stream for the entire community. The board is the right accountable body to ensure that this funding is accessed only when a specific security improvement is needed and not add this funding permanently. And (3), finally and most importantly, the bill is focused on improved security measures but it does not require that it be spent on a specific security program to the exclusion of others. This flexibility is critical in providing efficient and effective use of this funding. For instance, one school board may analyze their school's needs and access the required funding for school resource officers. Another school district board of education might already have a plan for school resource officers but sees a need for security cameras. Another school district board of education might not have school resource officers but has analyzed their security needs and determined that providing a safe, secure place and activities for students after school and at school is the best way to ensure student safety. All of these could be supported. All of these could lead to safer and more secure students, and all of these allow a greater opportunity for students to focus on learning as others provide for their safety. Lincoln Public Schools supports LB346 because it puts into the hands of the locally accountable board the authority when needed to better provide for the security of students and staff without impacting the funding that should be focused on student learning. And we work closely with the city of Lincoln. We have a

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good working relationship with them, with the school resource officers. And I have a letter for you from the city of Lincoln, from Tom Casady, the director of public safety; and they are also in support of LB346. [LB346]

SENATOR HADLEY: Thank you, Connie. Are there questions for Ms. Knoche? Seeing none, thank you for coming down. We appreciate it. [LB346]

CONNIE KNOCHE: Okay. Thank you. [LB346]

SENATOR HADLEY: Next proponent. [LB346]

RUSS UHING: My name is Russ Uhing and I am also from Lincoln Public Schools. Connie had talked about some of the fundamentals of the bill and I want to talk a little bit about the student side of things. My first name is Russ, R-u-s-s, the last name is Uhing, U-h-i-n-g, and I'm the director of student services for Lincoln Public Schools. And one of the things that our office oversees is the implementation of safety and security procedures in Lincoln Public Schools. At LPS, our main mission calls for providing the highest quality of education for all of our students, giving our young people hope and opportunity for the future. We're committed to teaching and learning and meeting our community's high expectations for student achievement and accomplishment. But we also know that students will only find success when they attend school in an inviting, supportive, and safe place, in classrooms that enhance a student's physical and emotional well-being. Imagine that you are at your workplace and you are in an environment that you feel unsafe in. I'm not sure that any of us would be very productive and many times we probably wouldn't even bother to show up because we would be concerned about our physical safety. Now imagine an 11-year-old child being in a classroom and not feeling completely safe. Our students cannot accomplish their own serious work, the work of learning, unless we fulfill the basics for them, ensuring they are comfortable and secure. Safety and security do make a difference in the way our children are educated. Now, rest assured, we believe we have done much to ensure safe schools in Lincoln Public Schools; but, in fact, after the events of Sandy Hook, we have had many calls from parents and community members. We visited many PTOs, and various community groups invited us to talk and share with them what we do to help keep our students safe. We welcomed those calls and we certainly understood them. The safety of their children is a parent's greatest concern, and if you talk to our building administrators they will tell you that one of the things that will keep them awake at night is a concern about their children's safety. So we are responding appropriately with a serious review of all of our security plans and procedures, as well as an in-depth review of our facilities. As a result, we believe some serious renovations in our schools would serve the best interests of our students' needs. As was mentioned earlier, until recently schools were basically built and designed for instruction, not safety. We need to ensure all children in our school district have the opportunities to thrive in safe, healthy, and safe classrooms. This bill would allow school districts to provide students with the best

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environment possible for learning, for a path to high school graduation, career, and college success. I appreciate the opportunity to visit with you and would be willing to answer any questions in regards to Lincoln Public Schools and our security. [LB346]

SENATOR HADLEY: Any questions? Senator Schumacher. [LB346]

SENATOR SCHUMACHER: Thank you, Senator Hadley, and thank you for your testimony. Is the probability today any different from five years ago of some nut doing mayhem? [LB346]

RUSS UHING: I'm not sure that I can speak to the probability of it, but I do think that we continue to look at updating and improving our security systems. And I guess if there is a benefit of things that happened from Columbine or Sandy Hook is that best practices is learned and, you know, schools try to develop a better system of safety. So as far as the probability to your...you know, to answer your question of probability, I would say that it's probably no different today than it was before, but we do try to implement systems to help prevent it and limit the instances. [LB346]

SENATOR SCHUMACHER: Thank you. [LB346]

SENATOR HADLEY: Thank you, sir. We appreciate your coming. Next proponent. [LB346]

JOHN BONAIUTO: Senator Hadley, members of the committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, representing the Nebraska Council of School Administrators and the Nebraska Association of School Boards. And we appear in support of this bill. And Senator Hadley and I had a discussion about this issue before session actually started; and, to our surprise, Senator Kolowski was already thinking about it and introduced a bill along the lines that the two associations were thinking. And one of the things that our groups struggle with is one of the questions Senator Hadley asked, is going to your taxpayers and asking them if you can raise their taxes to do things in the district; and we take that very seriously and are very cautious about that, so. I think I will confine my comments to the bill and maybe how to operate within what the bill is suggesting. It would be nice to have some definition, but an open definition, because there are things that may come up that would make perfect sense but if the safety measures are defined too narrowly it might not be able to get done, and so I'll touch on that in a moment. But narrow use makes perfect sense. And it's a sliding levy. It doesn't have to be a penny. If a district's needs are not that great, it could be less. And then the question might be, how long do you levy for? And again, I think as we look at those types of questions, we might all of a sudden be talking about a plan, and having a plan that talks about this is going to require us to levy for a year or two years or three years and then a report of our progress on the plan or some type of a review. There are those ongoing expenses. And as you heard, there will be some one-time expenses, and you might not have to revisit

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the one-time expenses for a number of years. But if you're talking about a resource officer and doing some sharing, that could be an ongoing thing; but then having a mechanism to review that and carry it forward. I'm sure that the idea here isn't to allow a district to levy and to develop a fund and carry a balance. It's to do a specific thing and then once that's completed that levy should go away until possibly it needs to be revisited. So I think there are a number of things that could be done for accountability that would be workable and manageable. But we support the local control and allowing administrators and boards to work with this. So thank you very much. [LB346]

SENATOR HADLEY: Questions for Dr. Bonaiuto? Dr. Bonaiuto, would you envision that if you were a prudent board member that you would use part of this, assuming you did pass the chance for an additional levy, part of it to hire a consultant to be sure that you're getting the correct advice on security issues? [LB346]

JOHN BONAIUTO: Absolutely. Yeah, I think that would be something that should be done because we're not experts in this area and there's so much out there that I think the School Administrators Association and the School Boards Association, without question, could assist their districts in finding reputable people that would be able to advise administrators and boards about what good practices would be. And when we talk about facilities and how different they are, I think it would be just really important for someone to look at the facility and say, you know, here are the things that you should do; here's the most important, and here a list and here are the things, and maybe order of importance that might be done. And that would give a board some sense of direction. I also--and I had this in my notes--think that you could require a special hearing to have a board...the two-thirds or supermajority is a great idea and...but I think you also want to have the community come in and talk to the community. I know that parents, after the Sandy Hook thing, you know, they just are concerned. And so you need that discussion. And we're not talking about arming teachers or administrators or any of those types of things. But there are things that we...years ago, when the levies went into effect, we never had a discussion about this. I know in the mid-'90s when we talked about the general fund and doing away with the building fund, we talked about, gosh, maintenance; and we were talking about boilers and other things, roofs. But we didn't talk about how do you secure your facility. [LB346]

SENATOR HADLEY: I guess the last thing I would ask or make a comment on is, you know, I really do want to protect the school boards and the administrators also in case something were to happen that, you know, that they have some protection against angry parents or whoever it might be that, quote, we didn't do enough or didn't do the right thing or didn't ask for the levy, so I just think that's something that, you know, has to be a part of the mix for individual school boards to look at when they're looking at these kinds of situations. [LB346]

JOHN BONAIUTO: Couldn't agree with you more, Senator Hadley, that it is important.

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And as I listen to Millard and what's happening in other areas of the state, I think it's important to share this kind of insight that they're getting from the people they're working with so that boards and administrators are feeling that they're doing the right things and they're not ignoring what needs to be done. Interestingly enough, and I know it's late, I was listening to a news show yesterday morning and it was a community out east and struggling for funds. And the local police department was assigning the patrolmen to schools, and that's where the patrolmen would go and do their paperwork. And they would be in the school and, you know, they would still be on call, but their presence would be there and they, you know, would be a positive presence. But I think communities are thinking about creative ways to have a security presence. [LB346]

SENATOR HADLEY: Mr. Bonaiuto, you don't think any of those funds would be available for me to keep the Revenue Committee from storming my office here in the Capitol, would it? [LB346]

JOHN BONAIUTO: (Laugh) You know, there may...that electric door; but, Senator, I thought that's why you officed in a safe. [LB346]

SENATOR HADLEY: Well, it is. [LB346]

JOHN BONAIUTO: Does that... [LB346]

SENATOR HADLEY: I don't have a big enough door yet. So thank you, Dr. Bonaiuto. [LB346]

JOHN BONAIUTO: Thank you, Senator. [LB346]

SENATOR HADLEY: Next proponent. Yes, sir. [LB346]

STEPHEN SEXTON: (Exhibit 10) Honorable Senator Hadley and members of the Revenue Committee, good afternoon. My name is Stephen Sexton, S-t-e-p-h-e-n S-e-x-t-o-n. I live in Fremont, Nebraska, where I've served as superintendent for the past 16 years. I'd first like to express my gratitude and appreciation for the opportunity to be here this afternoon to support LB346 and address with you what I consider to be a paramount issue relative to the safety, health, and welfare of security of children and adults associated with public schools. Having served nearly 50 years as an educator in a number of schools in a number of states, I've seen quite a few changes in education and the issues that surround it. As a result of those, I recognize that safety and security have become the center of attention, given events of the past few decades, and particularly those of recent months. The issue of school security in my view is a broad matter and it goes far beyond the issue of active shooter incidents, but also includes maintaining control, I believe, and keeping out of the educational environment those individuals who should not be there. Tragic events of many different kinds have

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occurred in schools; and while these events may not necessarily be common, the nature of the school, which has been alluded to this afternoon, which was originally intended to be an open, inviting environment, can provide easy access to those intent on doing harm. The importance of safety of children and adults working in our schools really is nothing new. I think that concern has been around ever since probably schools were created, although it wasn't at the forefront. What I believe is new...and the frequency of events, is the fact that such occurrences are communicated more quickly, more broadly than ever before and in more depth because of advances in communications and I believe the apparent presence of violence in society and a desire of certain individuals to do harm for others. Education is no real stranger to violence, which ranges, frankly, from assault to an example of the school bombing in Bath, Michigan, in 1927 that claimed the lives of over 35 children, 6 adults; and the shootings in Jonesboro, Arkansas; Littleton, Colorado; Nebraska; and Newtown, Connecticut. I was superintendent of schools in Chadron, Nebraska, when early one February morning in 1995 a young teacher by the name of Andy Pope was just beginning his class on a lower level of Chadron Middle School. It was at that time the 7th grade student approached the entrance to the classroom and shot him. It truly was because of a large number of fortuitous events that this was not a much greater tragedy. Now this was a long time ago and I'm depending on memory which becomes frail, more frail each day I'm afraid, but as I recollect, the reports were that had the entry been a half an inch either way Andy Pope wouldn't be the athletic director of Chadron Public Schools. At any rate, while there are no guarantees and no school is immune to hostility and bloodshed, some precautions such as those regarding entrances, as has been alluded to, surveillance, vigilance, and processes can reduce the attractiveness of schools as a target. I've had members of law enforcement express to me their concern generally that schools are considered to be a soft target, largely because of their nature. I believe based on my own experience that lack of resources is a major obstacle challenging the schools. While LB346 can by no means be a complete solution, it at least would provide a means to access funding from boards of education to address some of the issues without utilizing resources that need to be spent on the many dimensions of educating children. I'd like to thank you for the opportunity to address the committee and share with you a perspective of the superintendent who's been an administrator in several districts that have seen their share of tragedies. Thank you for the opportunity to be here. [LB346]

SENATOR HADLEY: Mr. Sexton, I believe you're retiring, isn't that correct? [LB346]

STEPHEN SEXTON: That's what they tell me, sir, at the end of next year. [LB346]

SENATOR HADLEY: Well, I just wanted to go on record thanking you for all your service to the public education in Nebraska. And I know that education in Nebraska is a better place because of all the years of your service. So I wanted to specifically thank you for that. [LB346]

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STEPHEN SEXTON: Those are kind words. Thank you, Senator. [LB346]

SENATOR HADLEY: Senator Janssen. [LB346]

SENATOR JANSSEN: Thank you, Chairman Hadley. It's interesting reading this article, I think you handed this out, that says, and this is a quote from the school teacher in Chadron, by the way, he said: If I had asked all the staff to put together a list, this kid would never have made anyone's list, and there's a lot of teachers with a lot more experience than me. He described Shane as a quiet student who participated in class. It's kind of scary; there were no signs that this kid was in trouble. That is kind of scary actually. [LB346]

STEPHEN SEXTON: Absolutely. [LB346]

SENATOR JANSSEN: That's more of a comment. And I would echo what Senator Hadley said about your service obviously to the school district in Fremont. And I know you're having a worthy replacement that's coming in. I'm looking forward to that, and hopefully he brings his daughter to play basketball at Fremont High School as well. (Laughter) [LB346]

STEPHEN SEXTON: I've been asked if we recruited her or recruited him, but she comes as part of the package I understand. [LB346]

SENATOR JANSSEN: Thank you. That would be great. [LB346]

SENATOR HADLEY: Thank you, Superintendent Sexton. Thank you, we appreciate. Next proponent. [LB346]

LARRY SCHERER: (Exhibit 11) Good afternoon, Senator Hadley, members of the Revenue Committee. My name is Larry Scherer. I'm here today on behalf of the Nebraska State Education Association to support LB346. And we thank Senator Kolowski for bringing this bill in. It basically does two things. One is it allows additional levy authority specifically for school security; and, two, it allows an exemption from the budget lid. One of the handouts that you're getting has a ranking of school districts by their levy under the lid, and there are about 67 that are either at the lid or within a penny, and those could all benefit by having the extra penny. So they're not all rural; they're not all urban. On the rural side of it, I think Mr. Habben mentioned that it's probably the budget lid part of it that's more important. And last year the budget lid was a half percent for I think about 200 schools. And this year I think it's proposed to be 1.5 percent, which obviously is fairly low. And they could really use it in situations where they need to make these improvements for security. In addition, having the spending authority, the levy authority, they also need the ability to spend the money. So those two

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things go hand in hand. From NSEA's perspective, the safety and lives of students, teachers, administrators, school cooks, bus driver, secretaries, professionals, paraprofessionals, as well as members of the public who are visiting, are of paramount importance. Currently, in the levy cap statute, there are exemptions for groundwater management for an additional cent and also some authority for community colleges to levy money for retiring bonds for facilities. Not minimizing these at all, it seems that the safety and security of students and our staff in the schools are at least as important. One of the issues raised in the fiscal note was whether this could possibly lower state aid and the issue of what about schools that have already been doing school security. And I think that could be worked out and needs to be worked out so that that doesn't happen and either to reduce state aid or increase it. It's meant to be revenue neutral I think as much as possible. Just a couple other comments, that's basically my testimony. But teachers don't want to be put in the authority...in the position of competing for resources with something as important as school security. And sometimes that happens when you're negotiating. And that's one reason we support this. Another issue I think Senator Sullivan brought up was what things can be done in addition? And some of the softer things: counseling. Counselors are overburdened in schools, there's not enough of them, recognizing when a student has a problem and dealing with it. And sometimes mediation, victim offender, a lot of students feel like they're victims. Whether they are or not is possibly questionable. And dealing with violence--as a society we're so desensitized to violence that it's not real and perhaps there needs to be some component of sensitizing students to violence again so that they recognize it for what it is. The definition question--I think that we would agree there needs to be some definition of school security, probably a broad one. I think the aspect of technical assistance should be included in that to get a good handle on it. Perhaps the state should have some priority list of the things that are good investments for schools, but then allow schools to choose from those. Also as an accountability measure, currently under the lid law, the budget lid, there is a report done on the things that are exempted from the budget lid and this would be added to that. And you could receive that, Senator Hadley. The annual school finance report would have a particular section on this because there's another fund created for this. And through that mechanism perhaps a report from the Department of Education could be made to the Legislature. The private schools issue was brought up, and certainly a student, a life, no matter where it's at, is the same value. The fact is private schools aren't under a levy cap, and there is a financing authority actually created by the state for bonding that could be used by those private schools to address security issues. So it's a rare day when we're on the same side as not only the school administrators, the school boards, and rural schools but also the NRA. And so we think there must be something to this bill and hope you amend it as needed and put it out for debate. Thank you. [LB346]

SENATOR HADLEY: Larry, would you say and spell your name just so the transcribers can... [LB346]

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LARRY SCHERER: Yes. It's L-a-r-r-y S-c-h-e-r-e-r. [LB346]

SENATOR HADLEY: Thank you, Larry. Any questions? Thank you. We appreciate your coming in. [LB346]

LARRY SCHERER: Thank you. [LB346]

SENATOR HADLEY: Next proponent. [LB346]

JOHN LINDSAY: Senator Hadley, members of the committee, for the record my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of OPS. I'm just going to summarize this rather than going through it because of the hour. Agree with many of the proponents prior to this about the need. I would add that I think most administrators in the state right now would think every day about the safety and security of the kids under their watch. So it's not...I don't think it's a question of bringing security forward because of recent tragedies. I think it's more likely that this could allow some security plans to be accelerated because the funding would be there. OPS right now takes pride in providing a safe, secure learning environment through things as security personnel; identification badges for staff, for visitors, for students; visitor sign-in processes at each entry, monitored; training; and other measures that we come up with. The types of things that we would envision should the board choose to do so might include...or some examples might include remote card access systems, building entries with video and controlled release systems, security cameras with monitoring, classroom door lock and frame replacements, and remote video and door release access systems to control multiple entry points to a building, as you heard from a prior testifier, at least at some of the larger school districts, very large buildings with multiple access points which would need to be monitored. With that, I'd be happy to answer any questions and urge the advancement of the bill. [LB346]

SENATOR HADLEY: Any questions for Mr. Lindsay? Thank you, Mr. Lindsay. Next proponent. [LB346]

JOE KOHOUT: Chairman Hadley, members of the Revenue Committee, Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of Ralston Public Schools. I'm not going to go through my entire testimony. To give you a snapshot, Ralston serves about 3,000 students in six elementary buildings, a middle school, a high school, and an alternative high school. We currently levy...we maximize our whole levy, \$1.05, for operations. This additional...we don't have a building fund. This additional penny would garner us about \$150,000. When I asked the assistant superintendent what does that mean for us, he indicated that they had already bid out some security items that they desire. Only their high school has cameras. They had bid cameras for all schools, primary and secondary, cameras; controlled access; swipe cards and they had bid that. It would generate...that would cost the district about \$250,000. So we're looking at two

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years of levy roughly. Obviously, some additional costs may be needed ongoing to maintain. But one of the issues that also came up was the age of our buildings. A lot of the buildings that we have are 40...some of our buildings are 40 to 50 years old at a time when someone mentioned before the popularity of the open classroom. So we would be...Ralston was very interested in that part of it that could also be utilized for that purpose as well to close in some of those classrooms, depending upon what ultimately may come back from a recommendation that may come. So with that, I'll try to answer any questions you might have. [LB346]

SENATOR HADLEY: Seeing none, thank you. [LB346]

JOE KOHOUT: Thank you. [LB346]

SENATOR HADLEY: Further proponents. Opponents? Neutral? Senator, we're ready for your quick close. [LB346]

SENATOR KOLOWSKI: Chairman Hadley, thank you very much. Members of the committee, appreciate that and appreciate all the testimony that was given this afternoon. I did want to just conclude by tying all this back to again the affordability of trying to get some of the things done that we need done in schools for safety and security becomes a major issue, but it's not the only issue. What we do and could free up with this kind of levy money can turn us also back to our regular budget, if this was out of the budget, to deal with issues in the culture and climate of the building. And I do want to come back to that and just conclude with that because it's a very important piece. Because when you're looking at the entire structure of the school and what's going on, I think we need to ask ourselves those questions. Senator Schumacher's questions were right on target because you could escalate those things where you would be so scared you wouldn't want to get out of bed in the morning. And, you know, I'm with you on that and I understand that. I know when I had responsibilities for a football game at Buell Stadium in Millard, 8,000 to 10,000 people were there, but I had 6 cops with me that night and probably 6 squad cars as well. There's a lot different feel when you have that much security around you and the things that you're able to do. I think this mental health issue is extremely important, as was brought up. The guidance programs were also mentioned. Having the kind of antibullying programs in your school, all about working with those students so they adhere to your...buy into, adhere to, and replicate your culture and climate toward positive things. And no matter what the size of your school, there are things we can do and do do in secondary schools to make them a pleasant environment and one that kids would want to go to every day and hopefully with a minimum amount of fortress mentality, but having a good sense of anticipating a lot of things. I know from my own experiences--last two comments--my own experiences, we had more things cut off at the pass by students turning things in to teachers that would grab a kid out of class because they were on the verge of doing something. And that has happened many, many times during my tenure as a high

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school principal because they didn't want to see that one student go off the edge or endanger the school for the rest of the students that were there. I think that speaks highly of the kind of culture, climate that you try to set up that the students are looking out for one another because they know certain things happen and kids do have bad days and things happen in their lives. The last thing, I think this is probably going to turn into my priority bill. I think it's got great potential. Whatever we need to work out we can work out. And every superintendent and every principal I've talked to since the idea...inception of this idea have been extremely positive about this and they look forward to the opportunity to make their schools safer. But also we need to take it beyond that, as I said, to a larger picture of the culture and climate and what we might be able to do to enhance the school environment for every student. Thank you very much. [LB346]

SENATOR HADLEY: Questions? Senator Schumacher. [LB346]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Senator Kolowski, for introducing and calling this issue to our attention. One of the mixes that we've got to deal with is property tax, sales tax, income tax. We've had farmers in complaining that they don't have many kids but they're footing the bills for the urban population in the district that they are. Why the mechanism of property tax to meet this need rather than an income tax or a sales tax assessment? [LB346]

SENATOR KOLOWSKI: Well, it's one of the tools we do have and it's one we do use at the current time rather than get into a whole tax policy lecture or continue on in that direction. It's what's prevalent. It's what we can get to and what we can do and it's tied to the local decision making by that particular board to make their decisions at the local level to deal with their own situations, analyze it, and find out what they need to do and how they can get that done. [LB346]

SENATOR SCHUMACHER: But the farmers don't have any extra votes when they're voting for that board. The votes are in the urban area and they've been in here really, really complaining that how come all these new expenses get laid on their lap or the big share of them. [LB346]

SENATOR KOLOWSKI: Well, sir, in Millard we don't have many farmers so. [LB346]

SENATOR SCHUMACHER: You don't have that issue, but there's a big chunk of the state that that's the case. [LB346]

SENATOR KOLOWSKI: Well, yes, if you're taking the bigger picture. But I'm talking about whatever the local school district is and however it's made up--small towns, cities, medium size, large, whatever it might be--that's their prerogative. And think that's part of the beauty of this, it does go back to the local control decision making by that board,

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accountability to their parents, their taxpayers, and to decide if they want to do this or not to do this. [LB346]

SENATOR SCHUMACHER: Thank you, Senator. [LB346]

SENATOR KOLOWSKI: Thank you. [LB346]

SENATOR HADLEY: Thank you, Senator Kolowski. And with that, the hearings are over. [LB346]

SENATOR KOLOWSKI: Thank you, Senator. [LB346]

SENATOR HADLEY: Just remember, just two more weeks of hearings. I'll leave you with that. [LB346]