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Revenue Committee
March 15, 2013

[LB175 LB282 LB447 LB516]

The Committee on Revenue met at 1:30 p.m. on Friday, March 15, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB282, LB175, LB447, and LB516. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Pete Pirsch; and Kate Sullivan. Senators absent: Beau McCoy.

SENATOR HADLEY: I apologize, but we probably need just a couple more, they're on their way. What I will do is I will get the preliminaries done and then...and part of the reason is that we have senators still introducing bills and so senators on this committee may be introducing bills in other committees. So, please don't feel offended if someone gets up in the middle of your testimony and walks out or comes back in. It's very well that they're testifying someplace else. My name is Galen Hadley and I represent the 37th District which is Kearney and Buffalo County. And this is the Revenue Committee. As they say on a plane, if you're not here for a Revenue bill, you can get up now and go find the correct room; how's that. When they get here we'll have Senator Paul Schumacher from Columbus. Then...and Senator Pete Pirsch is here introducing the bill. And Senator Kate Sullivan will be here from Cedar Rapids. Burke Harr will be here, Senator Burke Harr from Omaha; Senator Charlie Janssen from Fremont; Senator Beau McCoy from Omaha; and we have the lucky Irishman, Senator "O'Hansen" from North Platte here. (Laughter) And our committee counsel is Mary Jane Egr Edson to my right; Bill Lock is the research analyst; Matt Rathje is our committee clerk on the far left. Please turn off your cell phones or put them on vibrate while in the hearing rooms. The sign-in sheets for testifiers are on the door and they look like this. I appreciate it if you would fill one out if you wish to testify and hand it to the clerk when you come up. We transcribe the entire hearings and this helps us make sure we get the right list of who testifies, who they're representing, and such as that, so I'd appreciate that. 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 at the door. 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 10 copies for the committee and staff. If you only have the original, we will make copies. Give the handouts to the page to circulate to the committee. We have two great pages, they're over to the left: Nathan Funk from Norfolk and Evan Schmeits from Columbus. The pages are university students who take time out from their busy studies to come down and help us and do a really great outstanding job. And just to let you know, if you have relatives, sons, daughters going to the university in the state, that's a great experience for young people to come down and

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spend a session as a page at the Legislature. Some of it is pretty and some of it isn't. (Laughter) Senator Sullivan has joined us. With us, Senator Pirsch, if you would open on LB282. Thank you.

SENATOR PIRSCH: (Exhibits 1-4.) Thank you. Members of the Revenue Committee, I'm state Senator Pete Pirsch, for the record, P-i-r-s-c-h. I represent Legislative District 4 and I am the sponsor of LB282. And I'll be brief, I know there is a number of testifiers here after me. But historically, a tax on washing and waxing motor vehicles was enacted in 2002 during the budgetary crisis. We had a bad negative cycle economically going on in this state and the Legislature was searching for monies to fill the gap. And so a short-term, temporary tax was proposed and placed on washing and waxing motor vehicles at that time. And now 11 years later, LB282 proposes to uphold the promise that it was a short-term tax. It would also place sales and use tax on coin-operated machines used to clean and wash motor vehicles in parity with the tax on machines used for other laundering and cleaning. LB282 introduces topics that are, I think, very pertinent in light of the fact that we have been discussing overarching tax policy this year on this committee. And so I know there...those are a couple of the issues that will be addressed by the testifiers and also talk about the effects that this would have on other issues such as water conservation. And I thank you. [LB282]

SENATOR HADLEY: Okay, thank you. Are there questions for Senator Pirsch? Senator Pirsch, I commend you for bringing the bill because this is an example that I have used for inconsistencies in our tax policy that we need to look at. [LB282]

SENATOR PIRSCH: Thank you. [LB282]

SENATOR HADLEY: Thank you. We are going to use the light system today. You'll notice in front of you there is a bank of lights. There is a green light, an amber light, and a red light. And we're going to use those. And when the green light...when you start your testimony, we will give you four minutes on the green light to testify. And then the amber light will come on and we'll give you approximately a minute. Or if you're in the middle of a sentence, we're certainly not going to...or a thought, we're not going to cut you off, but when the amber light goes off, you might want to make sure that you're getting close to the ending of your testimony. With that we'll start with the first proponent. [LB282]

PETER ZEKAUSKAS: I'm Peter Zekauskas, last name is spelled Z-e-k-a-u-s-k-a-s. And I just have a few handouts. [LB282]

SENATOR HADLEY: Okay, that would be fine. The pages will come and...he has some handouts. [LB282]

PETER ZEKAUSKAS: And here's my registration sheet. [LB282]

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SENATOR HADLEY: Okay, and the registration sheet you can give to Mr. Rathje. Thank you for coming down today. [LB282]

PETER ZEKAUSKAS: Thank you. I'm going to talk fast. [LB282]

SENATOR HADLEY: Okay, that's...we always...that's a good example as we get started; now pay attention, okay? [LB282]

PETER ZEKAUSKAS: I'm going...I know I'm going to get a ticket for running this light here, so...so here we go. [LB282]

SENATOR HADLEY: Okay, go right ahead. [LB282]

PETER ZEKAUSKAS: (Exhibit 5) Although not obvious, I come from a family of farmers. My grandfather had a farm in Pennsylvania; another arm of the family had a farm in, believe it or not, Sargent, Nebraska; another had a farm in New York State. I graduated from Cornell majoring in agriculture. My favorite class was pomology, study of apple growing where I received the only A-plus I ever earned. Forty years ago my father took our family to his sister's fruit farm on Long Island. We spent many summer weekends working on the farm for about ten years. It is there that I learned about groundwater and the need to protect it. The aquifer on Long Island is about 6 to 10 feet below the surface of the soil. Long Island's hydrology is not kind to pollution, soil is sandy and water is not far away. I learned to appreciate how important a resource water is. And isn't it ironic that I settled in a farming state that sits on one of the largest underground aquifers anywhere? Fifteen years ago I worked in the vehicle washing industry in Germany wishing to learn from some of the best in the world. It is there that I learned how a society can be so careful environmentally. It is against the law to wash your vehicle in your driveway in Germany. Home washing is bad for the environment because chemicals and untreated waste water...(showed a gallon jug of dirty water) right out of my car wash pit this morning, fresh, flow directly into soils, streams, rivers, and finally the aquifer. Additionally, studies have shown home washing to consume two to four times as much water as at a commercial facility. Commercial vehicle washing is therefore a critical component to protecting our water supply and the environment. As the Revenue Committee decides whether to support this bill, I urge each member to consider that the vehicle washing industry is an important component of protecting our state's great water resource. We conserve by metering to a minimum, many of us recycle increasing amounts, and finally most municipalities require us to put our effluent into sanitary sewers and be treated before released back into the environment. We can also draw a parallel to other green industries. Vehicle washing, because of its natural environmental friendliness, may want to be viewed as a valuable asset that we wish to give particular thought and extra strong support to. Ten years ago, a sales tax was imposed on the vehicle-cleaning consumer during an economic downturn. This consumer was doing a favor to help cover the shortfall. It was promised that the tax

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would be removed when times got better. Fast forward to today. Net receipts are currently \$89 million ahead just eight months into the fiscal year. If we try to explain away this positive news with December asset sales related to fiscal cliff or high grain prices, we can cut the positive variance in half. That is still an undeniable indicator of improving economic health. Therefore, I think we can agree times are better. The tax is regressive. We know that like all sales taxes, it impacts lower wage earners more than higher wage earners. If there's any tax reduction that we can all feel good about, it is the elimination of a tax that impacts lower income people. The fiscal note attached to this bill is \$1.8 million to \$2.3 million. Fortunately, this is tiny relative to total collections or to the positive variance that is developing. The vehicle washing consumers, every individual or business that drives a vehicle, this means the benefit will flow to one of the widest cross-sections of the population. This is important. It is a way to give a very small part of the developing surplus back, not to a specific industry, but to almost all Nebraskans. A vehicle for the consumer represents the second largest asset owned in many cases behind a personal residence. We all know that a vehicle maintained in good condition retains as much or a much higher value than otherwise. The professional vehicle cleaning industry indirectly helps Nebraskans keep more of their money in their pocket. There is also a safety component to this industry. This winter there was a reasonable amount of sand and salt used to keep streets safe. Vehicle windows became partially opaque. Customers often come to us when it is too cold to wash at home and they say they can't see through their windows any longer. Beyond the normal vehicle consumer who is harmed by this tax, the truck wash industry that serves long-haul truckers is at a competitive disadvantage. Truckers may transport their purchase of this service to another state. That directly hurts this industry. With truck wash prices approximately \$60 and higher, elimination of the sales tax will directly cause truck cleaning cycles to migrate into Nebraska also giving truckers extra incentive to stop, refuel, eat, and possibly stay overnight. This puts more money into the truck washing and related other parallel businesses. If we could easily do so, wouldn't we want to help this Nebraska industry? The vehicle cleaning industry is small business almost without exception. McDonald's tried, but failed; Quik Trip tried but failed. Over the last 15 years, Consolidators have tried, but inevitably have lost control and gone under. Recent economics have put record bankruptcies into our industry. An operating full-service car wash in Omaha on the verge of going bankrupt just sold last week for land value. The reason that success is fleeting is that our business is massively difficult. It is normally a seven-day-a-week operation where maintenance can only be done at night. On an annual basis, margins are not large enough to simply hire others to maintain and fix things. The weather, like in farming, whipsaws demand, sometimes making it disappear for months out of the year. The survivors are mostly people who can manage the constant deep troughs, are mechanical, and sacrifice much by working six to seven days per week with the hope of a decent livelihood and retirement. Finally, last year about a dozen Nebraska car wash businesses took an unofficial petition asking customers if they would support repeal of the vehicle cleaning tax. We received more than 16,000 signatures. The people spoke. This is a measure of the groundswell

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supporting repeal. I have the original petitions which I'm providing to the Legislature today, although not 12 copies. (Laughter) I am thinking that there may be those in the Legislature who might say that while the cause is noble, it would be better to wait and reconsider during a comprehensive review of tax policy. Fortunately, the amount is so relatively small that it would be barely noticed at the Department of Revenue, yet it will be huge for a wide selection of Nebraskans and the vehicle cleaning industry. I would like to say to those legislators that this is an opportunity to give a tiny bit of a developing surplus back to the people of Nebraska right now who then will automatically help this industry by visiting more often and help the environment by washing less at home. It would seem that this would be good public policy that fortunately has a relatively small fiscal impact. The Legislature will be lauded and credited with giving something no matter how modest back to the people. Why would we want to wait? Thank you for caring about our industry, our consumers, and the environment. [LB282]

SENATOR HADLEY: Are there questions? Seeing none, thank you, sir. We appreciate very much your coming down to visit us. [LB282]

PETER ZEKAUSKAS: You're welcome. Thank you. [LB282]

SENATOR HADLEY: And you can leave the petitions there and we'll get those. [LB282]

PETER ZEKAUSKAS: Okay. [LB282]

SENATOR HADLEY: Thank you. The next proponent. [LB282]

EDWARD POWERS: (Exhibits 6 and 7) I also have some handouts. Chairman Hadley and members of the Revenue Committee, my name is Edward Powers, my last name is spelled P-o-w-e-r-s. I'm here today to testify in support of LB282. I'm a first-year medical student at the University of Nebraska and I grew up in Omaha in the Dundee area. I attended Creighton Prep and then Marquette University for my undergraduate education. Last fall my father was a candidate in the Natural Resources District race where I became aware of the issues pertinent to the board, particularly the significance of environmental issues such as clean water within our state. As an undergraduate student in Milwaukee, Lake Michigan was on my doorstep. Milwaukee, like many of the Great Lake cities, has done the right thing and enacted clean water policies to revive the Great Lakes. While we can't look out over the plains of Nebraska and see our great lake, the Ogallala Aquifer, we still have the same responsibility to preserve it. I'm the next generation and I want to do the right thing. I want to help to lead my generation on this issue in a positive manner. I see LB282 as an insightful step in the right direction and I'm appreciative of Senator Pirsch and my representative, Senator Harr, of bringing this bill and the issues to the public forum. As a kid growing up, my dad was always on my back to help out around the house and one of my jobs was always to clean the family car in the driveway. If I only knew then what I know now I would have had a nice

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excuse to get out of it. Now that I have my own car and all the maintenance responsibilities associated with it, my limited budget as a student forces me to economize my car maintenance. While I would like to spend less and wash my car in my driveway, I realize that this is counterproductive to our clean water policies. I'm one of the 50 percent that Senator Pirsch referred to that would be induced to use a commercial car wash with lower costs. I appreciate what you're doing here today to help me and my generation conserve and keep our water clean. I appreciate your consideration on this matter and urge you to do the right thing in voting this bill out of committee. Thank you. [LB282]

SENATOR HADLEY: Are there questions? Yes, Senator Harr. [LB282]

SENATOR HARR: Thank you. And less a comment...or a question and then a comment. First of all, sorry about your grandmother. Thank you for the kind words, and so therefore I will apologize for what happened to your Marquette Warriors last night by the Irish. (Laughter) I understand. And I will also apologize for those jerseys. [LB282]

EDWARD POWERS: Yeah, those jerseys were... [LB282]

SENATOR HARR: Awful. [LB282]

SENATOR HADLEY: I just have...I have one quick...did you say you're a freshman at the University of Nebraska Medical School? [LB282]

EDWARD POWERS: Yes. [LB282]

SENATOR HADLEY: I had a couple bites taken out of me this morning on the floor. (Laughter) Can you...is there anything you can do to help me out on that? [LB282]

EDWARD POWERS: Well, we just had a test this morning over hormones so...(laughter). [LB282]

SENATOR HADLEY: Well, I don't think it was hormones that they were biting on this morning. (Laughter) Thank you so much. [LB282]

EDWARD POWERS: Thank you. [LB282]

SENATOR HADLEY: Appreciate it. Next proponent. Welcome, Rusty. [LB282]

RUSTY NICHOLS: How are you? [LB282]

SENATOR HADLEY: Good. [LB282]

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RUSTY NICHOLS: (Exhibit 8) Okay. Chairman Hadley, members of the Revenue Committee, hi, my name is Rusty Nichols, I live in Kearney, and it's N-i-c-h-o-l-s. My wife and I have owned and operated a Super Shine Auto Care since 1985. I was hesitant to come today because I'm not very good in front of a lot people, so please bear with me. I'm here to testify in support of LB282. I believe in this effort and want to show my kids and my employees that instead of just complaining about taxes and regulations, you can hopefully make a difference by voicing your opinion. The tax on the car cleaning service was enacted in 2002, and to my understanding was to be temporary. We're a small business with 30 employees. Because car washing is a service, our biggest expense is labor which I believe shouldn't be subject to sales tax. Something barbers, lawyers, landscapers, and auto repairman are not. One of my concerns as we try to provide top-notch service by having many employees to clean the cars, the more expenses we have to pass onto the customers, the fewer customers come in, which in turn means we need less employees. As you can see, this can be a vicious cycle. For the last 11 years, we have not only been charging our customers sales tax on labor, but also been paying sales tax on all of our input supplies such as utilities, chemicals, repairs, equipment purchases, and other expenses. This is double taxation. Please fulfill the promise that the Nebraska Legislature made to Nebraskans 11 years ago and repeal this tax. I appreciate your time and consideration and urge your support for this bill. Thanks. [LB282]

SENATOR HADLEY: Are there questions for Mr. Nichols? I will guarantee he does a great job at his car wash because I'm one of his customers. Thank you for coming in, Rusty. [LB282]

RUSTY NICHOLS: Thank you. Appreciate your time. [LB282]

SENATOR HADLEY: Next proponent. Welcome. [LB282]

JERRY YOSHIDA: How are you? [LB282]

SENATOR HADLEY: Good. [LB282]

JERRY YOSHIDA: (Exhibit 9) My name is Jerry Yoshida. My wife and I own and operate Yoshida Detailing in North Platte. And for nearly 20 years... [LB282]

SENATOR HADLEY: Would you spell your name. [LB282]

JERRY YOSHIDA: Sure. Y-o-s-h-i-d-a. [LB282]

SENATOR HADLEY: Thank you. [LB282]

JERRY YOSHIDA: Not one you hear everyday. For nearly 20 years we've provided a

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service. And that service consists of an extreme cleaning of vehicles, top to bottom, inside and out, wash, wax, shampoo. It's a very detailed cleaning. It's a lot of Q-tip work, you know, cleaning cracks and crevices, vents--time consuming. And I pay tax on all my cleaning supplies, on the equipment I use, and most all of my costs of doing business expenses. And now as prices of cars are on the rise and the general cost of living is going up, more and more people are opting to drive their vehicles longer rather than buy a new one. Auto detailing has become a valuable service to many people on tight budgets and fixed incomes. When the tax on auto detailing and car washing was enacted in 2002, it was supposed to be a temporary tax, just a couple of years to get through the budget crisis and then lifted. Now 10 years later, I believe that my business and all Nebraska car washes and detailing shops have gone above and beyond what was initially asked of us. We accepted the responsibility of helping out our state at the time. The tax that I'm forced to add to the cost of my service is a financial burden to my customers. As they, like all of us, you know, they understand and appreciate the value of a dollar. And adding 7 percent to the cost of a detail for their minivan, it hurts them. And there are a lot of places that 7 percent could go for these families. So I'm asking you, not only for myself and my small business, but on behalf of my customers, to please support LB282 and repeal this tax. Thanks for listening. [LB282]

SENATOR HADLEY: Thank you for coming in from North Platte. [LB282]

JERRY YOSHIDA: No problem. [LB282]

SENATOR HADLEY: Are there questions? Do you ever...do you feel you're represented well from North Platte by your representative? (Laughter) Well, I shouldn't ask that. [LB282]

JERRY YOSHIDA: We're going to find out. (Laughter) [LB282]

SENATOR HADLEY: Okay. Thank you. Thank you. Next proponent. Welcome. [LB282]

MIKE PRINE: (Exhibit 10) Welcome. Hello, my name is Mike Prine, P-r-i-n-e. I am an owner of three tunnel car washes, Symphony of Suds in the Omaha area, one of which is in Senator Harr's district. And I want to thank him for cosponsoring this legislation. I've been working in this industry for 30 years now. During all these years I've made sure that all my car washes recycle at least 50 to 60 percent of their used water. For instance, it takes a hundred...to make a hundred gallons of purified water that we rinse our cars with, you waste 200 gallons which would go down the drain which I've developed a system to catch that water and recycle it back on my cars, which then I recycle that again to wash the underside. By using new technology as they're available to me, I'm able to keep my business environmentally friendly without requirements from the government. Being a green business is an expensive proposition in any industry, and taxes on my small business further deter me from spending money on

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improvements. Commercial car washes are already an environmentally and friendly choice. In an industry in which small business owners are, a vast majority, attaching a sales tax to car wash hinders growth among the industry. Although the money is small in comparison to the state budget, the amount is huge to each individual owner; money that could be spent in improving and expanding a green industry. My wife and I work seven days a week and try...well, weather permitting...and try our best to keep our employees fairly compensated. But with a sluggish economy and high taxes, that has been harder to accomplish. LB282 would help small business owners like my wife and I stay afloat, and as well, save Nebraska consumers time and money. Please do the right thing and pass the LB282. Thank you. [LB282]

SENATOR HADLEY: Thank you for coming down. Are there questions? Seeing none, thank you, sir. Next proponent. Welcome, sir. [LB282]

CHRIS HAMEL: Welcome. How are you doing? [LB282]

SENATOR HADLEY: Good. If you would state your name and spell it for us. [LB282]

CHRIS HAMEL: My name is Chris Hamel. I represent Hamel Manufacturing, H-a-m-e-l, and we are Nebraska's only car wash manufacturer. Our family business is 42 years old. We employ 20 people in west Omaha. The reason I'm down here today is to support my customers, Pete, and everyone else. We deal with...we have a distributor list of just in the United States of 600 distributors alone; in addition, another 200 distributors that we have on a global scale. So we're looking at the entire car...we're one of the only people that are looking at the entire car washing industry down the barrel of a gun. For the last 10 to 15 years, the car wash has been on a global recession to a point to where it is suffocating all the owner/operators and users from Nebraska, all across the East Coast, West Coast, you name it, we're...they're being hit with so many laws that they cannot breathe. And the margin of survival is coming down to pennies. The tax bill to pass LB282 would allow...it would release that blanket of suffocation that so many people here locally have. Don't look at it as a repeal of a tax bill, look at it as job stimulation, because those people, it comes down to the dollars. If they're being double taxed, that lowers their revenue; less capital to operate. Less capital to operate means less spending; less spending means less jobs. As a manufacturer, we have to look at, do we have to survive or do we have to lay off employees? Us, as a manufacturer, Hamel Manufacturing, has looked outside of the car wash industry to service people like local companies here in Omaha: Lozier, Airlite Plastics, Lenco, Rotella Bakery, Skinner Bakery, those are manufacturing jobs that we've been able to pick up outside of the car wash industry because of the suffocation that we're all seeing. Do not consider this a removal of a tax bill, but a microscopic view of job stimulation in your backyard. Be able to do something about it. Please pass LB282. [LB282]

SENATOR HADLEY: Questions? Yes, Senator Hansen. [LB282]

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SENATOR HANSEN: Got one quick one. Does your manufacturing company also do anything with the recycling process too then, (inaudible) a lot of recycling? [LB282]

CHRIS HAMEL: Yeah, actually we deal with injection molding and punch press work. And 100 percent of our plastic that we generate is internally used; we don't offshoot anything. We very rarely throw stuff away. [LB282]

SENATOR HANSEN: But I mean, for the products you produce for the car washes themselves, is any of it in the recycling part of the car wash? (Inaudible) [LB282]

CHRIS HAMEL: No, a lot of our parts are like the internal components that keep their car washing going. So when you go down a conveyor car wash and you actually move your car down the conveyor, we make the roller assemblies that move your car wash. Essentially, what we're selling is bottle caps and razor blades to the car wash industry. If people are washing cars, you're going to keep people employed in your backyard on a global scale. [LB282]

SENATOR HANSEN: Okay, thank you. [LB282]

SENATOR HADLEY: Thank you. Appreciate you coming down. [LB282]

CHRIS HAMEL: Thank you. Yep. [LB282]

SENATOR HADLEY: Any other proponents? Please come up. Welcome. If you'd give us your name and spell it for us. [LB282]

PAT SHANNON: My name is Pat Shannon, S-h-a-n-n-o-n, and I represent the Heartland Car Wash Association, an association that represents car wash owners across eight states. I am the Nebraska representative to the board of directors of the Car Wash Association. Okay. In the interest of brevity, we do have a statement prepared from the Car Wash Association, and rather than reading this into the record, I think most of the points have been covered already so I'll let it just be entered into the record. [LB282]

SENATOR HADLEY: I guess I have a question. You say...you mentioned eight states. [LB282]

PAT SHANNON: Yes, sir. [LB282]

SENATOR HADLEY: Is Nebraska consistent with those other states? Do we do things differently? How do we stack up in the car wash industry from a taxation standpoint? [LB282]

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PAT SHANNON: Two states in our eight imposed a tax about the same time, double taxing car washes, as an extreme measure to generate revenue. Our association was active in helping Iowa repeal that last year. So Iowa kept their promise and relieved the burden from us last year. And we're just asking Nebraska to keep their promise and do the same for us this year. And then you'll be even with the rest of the states. [LB282]

SENATOR HADLEY: Okay. So it's basically not...the repeal is not inconsistent with what other states do at this point. [LB282]

PAT SHANNON: Right. You're just the last state to repeal. [LB282]

SENATOR HADLEY: We've been the last state in a lot of things. Thank you for coming in; we appreciate it. [LB282]

PAT SHANNON: I'm also representing myself as an owner of a car wash. I believe I'm the only self-serve car wash owner here today. Okay. So I represent a different segment. We're kind of the bottom level of the car wash industry. Okay. We're the guys where you pull in and you put two dollars in quarters in, and the machine starts, okay. The self-serve industry has been especially hit hard by this tax, by the downturn in the economy, by everything else that's going on in the world here today. And people come in and put eight quarters in and my machine kicks on, that's two dollars, okay. So that's all we have to work with. So these taxes hit us especially hard, okay. That's why today not only is manufacturing being impacted by this tax and the reduction in people's ability to buy, so are banks. In our association, right now, Nebraska is leading as far as states that have the most bankruptcies of car washes and it's mostly in the self-serve industry. They're going under. There just isn't enough profit there to sustain the car wash, pay the bills, have any kind of profitability and make a payment to a bank. And so the banking industry is being saddled with all of these car washes that are failing. You can't get a car wash loan to save your soul in the state of Nebraska here today just because of how bad the industry as a whole is. And so we're coming to you today, we're saying we've been good soldiers, we did our part, we shouldered the burden you asked us to shoulder. And, you know, we're just saying that it's time to keep a promise for the good of everybody. And it's banking, it's manufacturing, it's the consumers, and I think you'll look good when you keep your word. Thank you, sir. [LB282]

SENATOR HADLEY: Thank you, sir. We appreciate you coming down. Questions? Seeing none, thank you. [LB282]

PAT SHANNON: Okay. [LB282]

SENATOR HADLEY: Any other proponents? [LB282]

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MARK WHITEHEAD: Chairman Hadley, members of the Revenue Committee, again, my name is Mark Whitehead; it's spelled just like it sounds, W-h-i-t-e-h-e-a-d. I represent the...I'm the president of the Nebraska Petroleum Marketers and Convenience Store Association. I've also got a convenience store chain here in the city of Lincoln as well that has about eight or nine car washes that we deal with here, mostly just the rollover type, but we do have a tunnel as well. The environmental portion that Pete brought up earlier resonated well with me. I won't repeat a great deal of that as well, but as someone who served on the Environmental Quality Council for the last 12 years, that resonates with me as well. Water quality in the state of Nebraska is extremely important, and I think the industry does an incredible job of helping that as a resource. One of the things that was alluded to by the last testifier is also emblematic of our industry in that we cannot...for the members of our state association, we cannot pass on a sales tax directly just because of the simple way that we market our product. It was alluded earlier that on a coin operated, the quarters go straight in, you don't put in a fractional amount for that additional sales tax. When you go into a convenience store and it asks you for a...whether or not you want a car wash, it's rounded off in even dollars. Likewise when you go in, everything is priced to the nice, round, even dollars. So we are not allowed, just by virtue of marketing to be able to pass on the incremental sales tax revenue. So that's...it maybe becomes a matter of semantics one way or the other; either you can explain it on one side that the industry eats that sales tax, or, in fact, if it does get passed on, it gets passed on in a dollar increment; so whether or not the market will demand it or not, one way or the other. But it's been an incredibly intrusive sales tax. So obviously, the slant I would take is that we're eating it. But then cynically, on the other side, people would say just exactly the opposite. I won't be redundant. I'd be glad to pause now and ask for any kind of questions you might have. [LB282]

SENATOR HADLEY: Are there questions for Mr. Whitehead? Seeing thank...none, thank you, Mr. Whitehead. [LB282]

MARK WHITEHEAD: It's easier for you to say. (Laughter) [LB282]

SENATOR HADLEY: Yeah. Long day. Next proponent. [LB282]

KATHY SIEFKEN: Chairman Hadley and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association, here in support of this bill. We thank Senator Pirsch for bringing the bill. And our reasons for supporting it are as stated by prior testimony. If you have any questions, I'd be happy to try to answer them. [LB282]

SENATOR HADLEY: Any questions? Seeing none, thank you. [LB282]

KATHY SIEFKEN: Thank you. [LB282]

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SENATOR HADLEY: Further proponents? [LB282]

BILL ALFORD: My name is Bill Alford. I've been in the car wash business in Omaha since 1961. And I made a... [LB282]

SENATOR HADLEY: Would you spell your last name for us? [LB282]

BILL ALFORD: A-l-f-o-r-d. [LB282]

SENATOR HADLEY: Okay, okay, thank you, Mr. Alford. [LB282]

BILL ALFORD: I made a sincere objection when you passed this tax on the car wash being selective: not all services are being taxed, why the car wash business was selected, also with an understanding that it is temporary. And so my appeal is, keep your promise and make it temporary and end it this year. Thank you. [LB282]

SENATOR HADLEY: Thank you, Mr. Alford. Any questions for Mr. Alford? Seeing none, thank you for coming down, sir, thank you. [LB282]

BILL ALFORD: Somebody should ask me how I made it this long. (Laughter) [LB282]

SENATOR HADLEY: Well, you look younger than I do, so. Any other proponents? Seeing none, are there any opponents? Neutral? Senator Pirsch... [LB282]

SENATOR PIRSCH: I think I'll waive, yes. [LB282]

SENATOR HADLEY: Senator Pirsch waives closing. With that, that ends LB282. I really appreciate the people that came down to testify. We always like it when people come down...citizens come down and tell us the concerns they have with their government, so thank you very much. The next one is Senator Smith, LB175. You certainly know how to clear them out, Senator Smith. [LB282]

SENATOR SMITH: There you go, there you go, not the first time. Good afternoon, Senator Hadley and members of the Revenue Committee. For the record my name is Jim Smith, that's J-i-m S-m-i-t-h and I represent the 14th Legislative District in Sarpy County. I'm here today to introduce LB175. There's a good chance that this will be the easiest bill you hear this session and I'm not just saying that and I know that you welcome that news as well. Very simply, LB175 would require that the Chairperson of the Revenue Committee is one of the legislative members appointed to represent Nebraska under the streamlined sales and use tax agreement. As you know, Nebraska is 1 of 24 states participating in the streamlined sales and use tax agreement. The purpose of this collaboration is to assist states in developing and administering a more

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uniform sales and use tax system and to equalize and simplify the collection of taxes between remote and local businesses. I was one of the legislative members of the streamlined sales and use tax committee from 2011 through 2012. And I had the opportunity to attend a governing board meeting of the member states last year. It became very clear to me while the Tax Commissioner for Nebraska is required to be a state representative, the Legislature also needs a representative with direct ties to our tax policy. While Senator Hadley is currently a member, as is Senator Harr, there is nothing that requires a Revenue Committee member to serve. There are three positions for Nebraska on the streamlined sales and use tax agreement committee; again, with the Tax Commissioner being one of those three. The Legislative Executive Board Chair sends out a notice asking for any interested senator to serve and those that respond are considered for appointment to the remaining two positions. LB175 requires that at least one of the legislative positions be represented by the Revenue Committee and that that person be the Revenue Committee Chair. So thank you very much for your time and I ask that you advance LB175. [LB175]

SENATOR HADLEY: Questions for Senator Smith? Yes, Senator Schumacher. [LB175]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Senator Smith, were you on the legislative floor this morning? [LB175]

SENATOR SMITH: I was. [LB175]

SENATOR SCHUMACHER: And you still want the Chairman of the Revenue Committee to represent? (Laughter) [LB175]

SENATOR SMITH: I think he did a fine job representing the Revenue Committee on the floor. [LB175]

SENATOR HADLEY: Senator Smith, I like this idea of his or her designee. (Laughter) Thank you, I think it's a very good...I seriously do believe it's very appropriate because that's something this committee does deal with. Any questions for Senator Smith? Seeing none...yes, Senator Harr. [LB175]

SENATOR HARR: Where did you get to go on your trip? [LB175]

SENATOR SMITH: I believe that was Salt Lake City, Utah. [LB175]

SENATOR HARR: Okay. Not Hawaii? [LB175]

SENATOR SMITH: No, maybe that's next year. [LB175]

SENATOR HADLEY: Oh, yeah. [LB175]

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SENATOR HARR: It's Minnesota. [LB175]

SENATOR HADLEY: I wish. Minneapolis, I think, isn't it? Fargo. (Laughter) Thank you, Senator Smith. Any proponents? Opponents? Neutral? You waive? Thank you. Those...did you pay attention to that, didn't you, on how that bill went? (Laughter) Okay. Next, Senator Avery. He isn't here? Well, we'll stand easy for just a quick second. [LB175]

BREAK

SENATOR HADLEY: (Recorder malfunction) on LB447. Is there any other...? (Laughter) Oh, Senator Avery, come and join us. [LB447]

SENATOR AVERY: Sorry to keep you waiting, but I was watching it on TV and I thought Smith would go a little longer. [LB447]

SENATOR HADLEY: It's a good example. [LB447]

SENATOR AVERY: Yes, it is. [LB447]

SENATOR HADLEY: Senator Avery, welcome to the Revenue Committee. [LB447]

SENATOR AVERY: (Exhibit 12) Thank you. For the record, my name is Bill Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in the heart of Lincoln. This is not a new bill for you fellows; you've seen it before. But you'll like it better today. This is...LB447 is a bill designed to end the practice of providing state subsidies of more than \$11 million a year to the sugar-sweetened beverage industry. The bill amends the tax code to explicitly exclude soft drinks from the list of food and food ingredients that are exempted from sales and use taxes. Soft drinks are defined in the bill as "nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or 100 percent vegetable or fruit juice." I noticed in the fiscal note that the fiscal analysts discovered that this definition is inconsistent with the standard definition in the streamlined tax definition. What is that, streamlined tax...? [LB447]

SENATOR HADLEY: Sales tax? [LB447]

SENATOR AVERY: Yeah. So I have an amendment here that you might want to look at that does change the definition to say, "50 percent vegetable or fruit juice." And therefore it is now consistent with the recommended definition of the streamlined tax definition. All right, now, if we end this state subsidy, this bill would generate substantial new revenue. It creates...the bill would suggest ways this revenue could be used to

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promote public health. It would create the Nebraska Healthy Kids Fund, which would be an umbrella fund that would distribute two-thirds of the funds, starting first with \$500,000 going to the University of Nebraska at Kearney Student Health Initiative Fund. You may be aware that UNK has a world...well, at least a nationally recognized program on child obesity that has been very successful. They would be in charge of developing and maintaining a statewide database for the collection of statistics relating to student health and fitness. And the reason, of course, that UNK is chosen is that they know what they're doing, and they've done a good job with it in the past. Without adequate data we don't even know the size of the problem of child obesity. There will be people who will testify after me who will be able to tell you a lot about that, but even at that we are painfully aware of the lack of data. And good policy starts first with good data. The remainder of the money in the Healthy Kids Fund would be allocated to the Departments of Education and Health and Human Services for distribution to school districts and county health departments to participate in the UNK-led database program and promote wellness and anti-obesity public awareness campaigns. I spoke with the Chairperson of Health and Human Services, Senator Kathy Campbell, and we thought that it would be a good idea to put some of the saved revenue, some of the \$11 million, into an evidence-based-practice grant fund. This fund would be administered by HHS at the direction of a new eight-member committee comprised of agency and commission experts in child behavioral health. The committee would distribute grants to help communities implement programs and formulate best practices that address the mental and behavioral health issues of our children. Essentially, if we are committed to the total well-being of our kids, we cannot ignore behavioral health issues. And there's no money for it currently. LB447 would bring Nebraska in line with 35 other states that do not classify sugar-sweetened beverages as a tax-exempt food item. In fact, our neighbors South Dakota, Iowa, Colorado, and Kansas all tax beverages; and they include in this, of course, all beverages that have no nutritional value. And it mystifies me as to why the state of Nebraska has decided to exempt this. At least 9 new states have joined this list of 35 just this year, or...the Texas legislature, Hawaii have introduced measures to end subsidies and to add excise taxes to the soda industry. Even Mississippi, believe it or not, even Mississippi has gotten it right here, and we haven't. I want to be clear that I am not trying to tell parents what their kids can drink and what their kids cannot. I am not promoting the "nanny state," as I have been accused of. The sugar-sweetened-beverage industry, if you look at it carefully, is a bit confusing, particularly the way we tax it in Nebraska. You go to a local joint and you buy a burger and a Coke, you pay a tax on it. You go to a vending machine and you buy a Coke or any sugar-sweetened beverage, you pay a tax on it. You pour yourself a drink from the fountain at a Quik Mart, and it's taxed. I noticed that Mark Whitehead was just here, and he has these soda fountains in his convenience stores. It's taxed. But you go buy a six-pack of Coke in the same place; it's not taxed. Go figure. Doesn't make sense to me. So it's only when you purchase a sealed can or bottle of sugar-sweetened beverage from the grocery or convenience store where they are not taxed. Nobody can explain to me why. If we were to reframe the question--instead of asking you, should we end the

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tax exemption?--reframe the question and ask it this way. Let's assume we already tax sugar-sweetened beverages and the question was: Should we exempt them? You wouldn't get a single positive vote on this panel. You wouldn't get a single positive vote on this panel to exempt sugar-sweetened beverages if we already taxed it. We know that sugar-sweetened beverages contribute to obesity among children in particular. This is a tax loophole that subsidizes an industry that contributes to obesity. Obesity is related to all kinds of other disease--type II diabetes, high cholesterol, high blood pressure--among children. Just...again, it mystifies me. We cannot ignore the fact that child obesity is a staggering epidemic nationwide. One-third of Nebraska's children are overweight or obese. Obesity is empirically linked to all kinds of diseases, chronic diseases that are now showing up in our children. We have already seen, too, that there is a...and some testimony will be presented later that there is a link between the wellness of the child and performance in the classroom. Test scores are highly correlated with obesity, and in a negative manner. In fact, in 2009 Gallup Poll reports that obesity-related costs to the American taxpayer is \$50 million per 100,000 residents. That's \$900 million in associated future healthcare costs to the state of Nebraska. I mean, it makes economic sense. And you're going to hear arguments, however, probably from the grocery industry, that this implementation is just too difficult, and we just can't program the computers to make it work. Bunk. That's bunk. It's a bogus argument. They do it for all kinds of other items that they sell. Other states do it; they aren't smarter than we are. Hy-Vee has stores in Iowa; they do it in Iowa. And they have stores in Nebraska. And the people who run the stores in Nebraska can't do it, but the ones in Iowa can? Nah, that doesn't fly. You're also going to hear arguments that...well, it's called "border bleed": people are going to run over to Wyoming to buy their beverages to save 7 cents or 5.5. I want to see...I'd like to see a picture of the family that does that, I really would. I don't think that will happen. And, by the way, they'd have to go to Wyoming because that's the only tax-free neighbor we have. You're going to hear that it's bad policy. In fact, Nebraska has already been chosen to single out the industry for special and inconsistent tax policy. It is bad policy. We need to be consistent; if it's worth exempting in the grocery stores, then it's worth exempting everywhere. It is similar to tobacco, it's similar to alcohol: it contributes to bad health; it ought to be taxed. And that's, to me, a pretty simple argument. I think that we need to call attention to the fiscal note; this is our favorite part about being in the Legislature, isn't it? I would point out that last year, same bill, same definitions, had a fiscal note that is so different from the fiscal note that we have today. The fiscal note today, you could weigh it; it probably weighs about a half a pound, seven or eight pages. Two or three pages last year, and projected a revenue increase of about \$11 million. This one has things in it that were not even...didn't appear anywhere in the fiscal note last year. The streamlined sales and use tax agreement definition, that was not mentioned last year. Now it's a big issue, in this fiscal note. And they claim that's going to cause problems and probably would result in Nebraska being held "out of compliance" with this streamlined agreement and jeopardize current sales tax collections under "streamlined." Well, what about the other 35 states that tax it? So are they out of compliance? I think

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you need to ask some questions about that. Another new addition to the fiscal note is an over \$5,400,000 impact to--a loss, now--to the state of Nebraska. Where did that number come from? You...it generates money, but somehow it's going to be a \$5,404,000 loss. What I think they're doing here is they're assuming that the definition under the streamlined agreement would mean that we're out of compliance and so we lose all the sales tax receipts we have under that agreement, and that comes to nearly \$5.5 million; I think that's maybe what they're arguing. Another point is the addition of a new piece in the fiscal note about the impact this legislation would have on SNAP purchases, that somehow SNAP purchases would have to be exempted and we'd have to continue to not charge a sales tax on soda and sugar-sweetened beverages under the SNAP program; or we would then come out of compliance...fall out of compliance with the federal SNAP program, and the result would be that we'd lose all that assistance for people who need help with food. Where did all this stuff come from? I am mystified, totally mystified by it. It's about an 8-page fiscal note. If you enjoy reading fiscal notes, have at it. This fiscal note also mentions 18 local health departments. But go to the Web site; we have 24, not 18. So that's messed up. Anyway, I know our Fiscal Office has a hard job to do, and they have to depend upon agencies. I'm not arguing against the Fiscal Office, but the agencies sometimes drive me around the bend. So that amendment I have given you there would change the definition to make it consistent with the streamlined agreement, and it also has some language that the Treasurer asked us to put in, technical language that does not change the substance of the bill. With that I'll shut up and you can ask me any questions you might want. [LB447]

SENATOR HADLEY: Senator Avery, welcome to my world on fiscal notes. [LB447]

SENATOR AVERY: (Laugh) [LB447]

SENATOR HADLEY: I will give you a one-minute explanation. [LB447]

SENATOR AVERY: All right. [LB447]

SENATOR HADLEY: You have \$5,404,000 as a negative to the General Fund. I think the reason for that is we assume that that money could be put in the General Fund and used for anything else in the state; and when you designate it for something else, it shows up as a negative in the general funds, because I have two bills that are exactly the same that end up with a negative fiscal note because the money theoretically...you know, we could tax soda pop, and we could just dump it in the General Fund to be used for general operations of the state. And once you start saying where it's going to go, it shows up as a negative. That's as much as I can say. [LB447]

SENATOR AVERY: Well, I should have mentioned now, and I meant to mention, that this committee, I am confident, is probably not too interested in tackling, piecemeal, tax exemptions, and the bill you just heard first is the good example of that. But the

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commission that we debated on the floor today, I think, would want to look at something like this, because one of the tasks that they will be charged with is finding things that don't make sense in our tax code. That's what Senator Schumacher's objective is, I think. [LB447]

SENATOR HADLEY: Thank you, Senator... [LB447]

SENATOR AVERY: I mean, he's got a good mind, and he looks for things that don't make sense and tries to change them. [LB447]

SENATOR HADLEY: Well, the Governor called him the smartest, richest man on this committee, and he has done nothing to disprove that. (Laughter) Senator Harr. [LB447]

SENATOR HARR: Until I win the lottery this weekend. Then I'll be the smartest. This fiscal note, I'm looking at it and I'm trying to make sense of it too. And let me ask you if this makes sense. We currently collect tax on soda pop if it's in a C-store, correct? And so... [LB447]

SENATOR AVERY: Yeah, well, it depends. [LB447]

SENATOR HARR: It depends... [LB447]

SENATOR AVERY: It depends on whether you get it out of the... [LB447]

SENATOR HARR: ...but if it's out of a fountain. [LB447]

SENATOR AVERY: Yeah. [LB447]

SENATOR HARR: And if it's out of a pop machine, we collect a sales tax on it. [LB447]

SENATOR AVERY: Right. Right. [LB447]

SENATOR HARR: And so now what this bill does is it doesn't delineate, or differentiate, I should say, between pop in a vending machine and pop in a six-pack. [LB447]

SENATOR AVERY: Right. [LB447]

SENATOR HARR: So I think what it's trying to say is, because it's all pop sales tax...70 percent and 30 percent, that's where that negative comes from, because we're already collecting...I bet you're already collecting \$5.4 million in sales tax on soda now... [LB447]

SENATOR AVERY: That could be. [LB447]

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SENATOR HARR: ...through...that's how I read that. I'm not sure if that's right on not, but that's how I'd read this. [LB447]

SENATOR AVERY: It could be. But it might also be that they're assuming that we would fall out of compliance with the streamlined agreement. [LB447]

SENATOR HARR: And maybe that's part of it too. [LB447]

SENATOR AVERY: Yeah. [LB447]

SENATOR HARR: And then, I guess...you were on the floor this morning, and Appropriations doesn't like it when we try to play their part. So I guess my question is, why would we... [LB447]

_____: Run that by again. [LB447]

SENATOR HARR: ...(laugh)...if we're going to collect new sales tax, right, get rid of an exemption, why wouldn't we just put that in the General Fund? Why are we delineating where that money needs to go? [LB447]

SENATOR AVERY: I'm giving you some ideas on how you might use the additional revenue for worthy programs. And, really... [LB447]

SENATOR HARR: And the Appropriations Committee would tell you that's their job... [LB447]

SENATOR AVERY: I'm sure they would. [LB447]

SENATOR HARR: ...or so they did on the floor this morning. [LB447]

SENATOR AVERY: Yes. [LB447]

SENATOR HARR: So...but, thank you; I appreciate it. [LB447]

SENATOR HADLEY: Any other questions? Senator Sullivan. [LB447]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Avery. Maybe someone from...will someone from UNK be here, do you know? [LB447]

SENATOR AVERY: I think so. [LB447]

SENATOR SULLIVAN: Okay, I'll... [LB447]

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SENATOR AVERY: I am reluctant to recruit people to come in and support bills, because I've been there where you guys are and when it comes 5:00 and 6:00 and 7:00, you know, you're really quite ready to leave. And... [LB447]

SENATOR SULLIVAN: Yeah, I was just a little curious about... [LB447]

SENATOR AVERY: ...we know about this, don't we... [LB447]

SENATOR SULLIVAN: Yes, we do. We do. [LB447]

SENATOR AVERY: ...in Education? [LB447]

SENATOR SULLIVAN: I was just a little...more curious about finding out more about the obesity program that... [LB447]

SENATOR AVERY: It is a very, very model program that has led to a 15 percent reduction in obesity in the Kearney schools. [LB447]

SENATOR SULLIVAN: Can you tell us...okay, so that's, I mean, okay. And then... [LB447]

SENATOR HADLEY: Yeah, Kate, an absolutely great person from UNK is here... [LB447]

SENATOR SULLIVAN: Okay, perfect. [LB447]

SENATOR HADLEY: ...I know for sure. [LB447]

SENATOR AVERY: And I did not include this because there happens to be someone on this committee who has an affiliation with UNK. [LB447]

SENATOR SULLIVAN: Okay. Okay. [LB447]

SENATOR AVERY: And that's not the reason for this. (Laugh) [LB447]

SENATOR SULLIVAN: And then, did I understand you correctly that all the states around us do tax... [LB447]

SENATOR AVERY: Except Wyoming. [LB447]

SENATOR SULLIVAN: Except Wyoming. Okay, thank you. [LB447]

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SENATOR AVERY: They tax coal. [LB447]

SENATOR HADLEY: Senator Schumacher. [LB447]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for presenting this, Senator Avery. Last couple days we heard testimony from the school people that said they need to have some property tax elbow room given to them so that they can make better security for the kids so that the kids aren't the victims of some random violence. How married are you to having this going to a obesity program rather than to school security? [LB447]

SENATOR AVERY: Well, I actually...I think that since this is a health issue, it ought to go to a health-related activity and spending. Security, though, is an important priority. I don't know how much money you're talking about there. But you have very creative people on this committee; I'm sure you can work it out. [LB447]

SENATOR SCHUMACHER: Thank you. [LB447]

SENATOR HADLEY: Senator Hansen. [LB447]

SENATOR HANSEN: Thank you. Senator Avery, it's going to be a long hearing, I got a feeling, and you sound a little raspy from last night, and I didn't know if you needed a...(laughter)...short pull on my jug. [LB447]

SENATOR AVERY: I knew it would be you. [LB447]

SENATOR HADLEY: Don't feel bad, Senator Avery; they accused me of leaving the other day in the antismoking bill to go out and have a cigarette. So don't...(laugh). Thank you, Senator Avery. We appreciate your bringing the bill to us, and we look forward to hearing about programs and both proponents and opponents to the bill. Thank you. [LB447]

SENATOR AVERY: And I have nothing else to do this afternoon. I'm going to stay. [LB447]

SENATOR HADLEY: Good. Well, I hope you learn something for your committee. (Laughter) First proponent. Welcome. [LB447]

JOHN SKRETTA: (Exhibit 13) Thank you. Sign-in sheet and... [LB447]

SENATOR HADLEY: Right over here. [LB447]

JOHN SKRETTA: ...handouts. Sign-in sheet. Handouts. Thank you. Hi. Good afternoon.

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My name is Dr. John Skretta; that is J-o-h-n S-k-r-e-t-t-a. And I am the superintendent of the Norris School District. And I would also say I'm, you know, reluctant to even sit down here because I know from the preceding discussion that if I tell you where I think the money ought to go, you might tell me where to go. So it's understood coming in but I want to talk to you about how I think some of these resources could help schools across the state of Nebraska. I'm here in proponent capacity for Senator Avery's LB447, and I want to thank him for submitting that and taking another run at it. Here on the Revenue Committee I can only intuit the challenges you face daily in terms of sifting through the various proposals you receive to use the state's limited resources. As a school superintendent of a district that strives for high achievement while working hard to control costs, I empathize with the dilemmas you face when considering the coinage. So I'm here today to share with you some of what we believe becomes possible, probable, and attainable for school districts in Nebraska if LB447 is adopted. LB447 grabs its gusto by making a prudent public health decision in order to provide resources that are needed for combating the public health epidemic of childhood obesity. Coordinated school health initiatives have a practical impact in increasing the culture and the climate of schools, encouraging fitness for a lifetime, and correlating--and this is most important--to improved academic outcomes. And all that is why our State Board of Education, several years ago now, adopted a coordinated school health policy. Unfortunately, heretofore there have been no commensurate resources attached to that to help out with instituting what the coordinated school health policy, quote, strongly encourages. So what I want to emphasize with you today is that the facts are that schools that wish to integrate physical activity routines in their classrooms must provide sustained professional development in order to coach teachers to use effective strategies that work and that are easy to institute. And resources are required for that professional development. Schools that wish to institute fitness testing--and there's a photo referencing that in the handout--in order to quantify student achievement in that key area and assist young people in developing meaningful personal fitness goals need resources to acquire the testing program, the software, and to get our teachers trained up on how to effectively administer it. Schools that strive to institute best practices in nutrition services must build their knowledge and expertise in order to realize the lofty goals that are incorporated in the school lunch program reauthorization and the attendant regulations. Our nutrition services personnel need the training in how to reconceptualize, in a pretty radical way, school lunches so that they're nutritious and delicious and chosen by the students. PE teachers in our state who want to modify physical education curriculum from a team sports, competitive concept to something that's more participatory and inclusive need training and support in how to do that. So for these and many other reasons, I encourage you to give LB447 your careful consideration. And, for what it's worth, in conclusion, I just want to add that I personally don't think that lifting the tax-free status of soda pop would do much to deter the dedicated consumer or even, for that matter, the impulse buyer. I can assure you that I would still make my ritualistic visits to Rocket Fizz stores in Lincoln in order to acquire the pure-cane Dr. Pepper straight out of Texas. And I'm pretty sure other cola

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connoisseurs would do much the same, the only variation being that which reflects the particular preferences of their palate. Thanks again for listening today. And I'd be happy to take any questions from you about what we're doing at Norris. [LB447]

SENATOR HADLEY: Are there questions for Dr. Skretta? [LB447]

SENATOR SULLIVAN: Thank you, Senator Hadley. [LB447]

SENATOR HADLEY: Senator Sullivan, yes. [LB447]

SENATOR SULLIVAN: Thank you, Doctor. And, you know, your last comment just kind of strikes at the core of kind of what I'm struggling with this. Where's the problem? Is it all the things that you are identifying in terms of your wellness programs? Or is it the consumption of soda pop? And which takes priority? And are we ever going to make some inroads in--or do we need to--cutting down the consumption of soda pop? [LB447]

JOHN SKRETTA: I think cutting down the consumption of soda pop is a desirable aim, in that we want our young people to be wise consumers, and we want them to be knowledgeable and aware of the choices that they're making, so that I guess what I'd say is, I don't think the occasional indulgence is really the root of the problem with childhood obesity. I think overconsumption is the root of the problem. And controlled consumption and some of the things that the American Beverage Association has done in terms of voluntary compliance with schools and school vending has helped the situation. It's actually drastically reduced soda consumption in schools. My intent isn't really to combat soda consumption so much as to help work to institute proactively good educational practices that can help young people lead active and healthy lifestyles, so that they know what they're choosing and they're aware of what they're doing and know that, hey, if I make that choice to drink a pop, I also better be pairing that with some pretty good physical activity. [LB447]

SENATOR SULLIVAN: Do you have soda pop available in your vending machines at school? [LB447]

JOHN SKRETTA: We have what is currently allowed would be...we do, basically, milk, juice, waters, yeah. [LB447]

SENATOR SULLIVAN: Thank you. [LB447]

SENATOR HADLEY: Other questions for Dr. Skretta? Seeing none, thank you for coming in, sir. We appreciate it very much. [LB447]

JOHN SKRETTA: Thank you very much. [LB447]

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SENATOR HADLEY: Next proponent. [LB447]

KATE HEELAN: (Exhibit 14) Hello. [LB447]

SENATOR HADLEY: Dr. Heelan, welcome to the Revenue Committee. [LB447]

KATE HEELAN: Thank you. I'm Dr. Kate Heelan, K-a-t-e H-e-e-l-a-n. And I'm a professor at the University of Nebraska at Kearney and the director of a human performance lab. I'm here as a proponent for LB447, as an obesity expert, speaking specifically on the Healthy Nebraska Kids Act that's being proposed. A few statistics, just to let you know where this obesity epidemic currently is. Over the past three decades we've seen obesity rates more than double for preschool-age children; it's actually more than tripled for children between the ages of 6 and 11 years of age. So currently there's 17 percent of the child population, that's 12.5 million children, who are considered to be obese. And when we look at low-income preschool-age children, one in seven children are obese. And I bring this up...these are national statistics, but we have the same problem right here in our state, right in our own backyard. And something needs to be done because of the health risks. One thing that we've done in Kearney is we've been able to track the prevalence of obesity, and I've worked very closely with Kearney Public Schools for about ten years now. And if you turn your handout over, there's a little graph that shows what the prevalence of overweight and obesity has done from 2006 through 2013. In 2006 we started collecting height and weight as part of the typical health screening that the school nurses do. We started entering that into a database and calculating BMI and BMI percentile, which is how the Centers for Disease Control recommends you determine weight status among children. From that you can see the percent of obese, which would be your red, and the percent of overweight, which is the blue. We started implementing lots of programs throughout the district. And this year, 2013, our numbers continue to go down, to where this year, just one month ago, we measured only 12.8 percent of elementary schoolchildren to be obese and 13.1 percent to be overweight. So that 12.8 percent can be compared to the national statistic of 17 percent. So as...our brand-new data is even better than what Senator Avery proposed, that he saw last year's data. We've continued to see that decrease go down. And we've received a lot of national attention over the last two to three years because typically schools are seeing increases in prevalence of obesity. In Kearney we've been seeing a nice decline continue to go down. And the question is, well, what are you doing, and how can we take what you're doing in Kearney, Nebraska, and extrapolate that out throughout the rest of the state and the nation? And so when we sit back and evaluate what we've done, a lot of it comes down to the data. We started collecting this data back in 2006, and we had a baseline, we had a number where we could say...go to the grant agencies, go to external funders, and ask for funding. We knew where the highest need were, our greatest population was. We were able to receive a PEP grant, which is a federally funded grant. With that money we were able to hire a wellness coordinator, develop districtwide initiatives, where we had

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advocacy groups within our community, involved Parks and Recreation as well as administrators. The teachers, students started to implement programming within the school and changing the school environment as a whole. No longer will you go into an elementary school in Kearney Public Schools and see a child be given a doughnut for a reward; they won't be given suckers when they get an A-plus on a spelling test; there's not classroom parties every Friday afternoon. You won't find the bake sales every Friday afternoon for fund-raisers. You will find a districtwide fund-raiser going on right now where you can buy a garden that comes from our local greenhouse, and that's the type of fund-raising we're doing now. The teachers, the administrators, they've now bought into health as being one of the primary objectives of the school. And a lot of it has to do with this data that we've collected. We created a Web-based registry at UNK to help school nurses to be able to implement this data and be able to calculate this. And this has been expanded now through multiple communities and is in high demand to help school nurses to obtain this data so they can see where they need to start, how we can get a wellness coordinator put into place, and how to train those people. So what UNK is able to offer is not only the database and help with interpreting that data, but also we have expertise within our faculty to provide technical support throughout the state and to how to hire the wellness coordinator, what they need to do, and the evidence...best practices on how to change the school environment to make it a sustainable impact on childhood obesity. Questions? [LB447]

SENATOR HADLEY: Questions for Dr. Heelan? Senator Schumacher. [LB447]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Doctor. How many students are in the elementary schools that this...in Kearney, I guess? [LB447]

KATE HEELAN: About 2,600 students in elementary schools. [LB447]

SENATOR SCHUMACHER: And so about 6 percent, just looking at the graph...that would be roughly 150 kids that are now no longer obese, that were... [LB447]

KATE HEELAN: Correct. [LB447]

SENATOR SCHUMACHER: Okay. [LB447]

KATE HEELAN: I mean, that's a... [LB447]

SENATOR SCHUMACHER: ...obese or overweight? [LB447]

KATE HEELAN: ...fair estimate. [LB447]

SENATOR SCHUMACHER: Okay. Thank you. [LB447]

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SENATOR HADLEY: Further questions? Senator Sullivan. [LB447]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Doctor. In your research, as far as focusing on changing behavior, have you also looked at are there certain things that are causing this increase in obesity? [LB447]

KATE HEELAN: I think...I do a lot of talking across the state. And my three main things are too much sedentary time, which is huge--television viewing right now: 22 to 28 hours per week are being spent in front of a television--removing the television; increasing fruit and vegetable; time spent outdoors. And decreasing soda consumption is one of our major efforts. [LB447]

SENATOR SULLIVAN: Okay. Thank you. [LB447]

SENATOR HADLEY: Senator Schumacher. [LB447]

SENATOR SCHUMACHER: Yeah, thank you, Senator Hadley. That brings up a point. What percentage, or do you have an idea, of soda is artificially sweetened and what percentage with sugar or corn syrup? [LB447]

KATE HEELAN: With this...I don't know that information. [LB447]

SENATOR SCHUMACHER: Okay, because there would be no...I mean, artificially sweetened soda wouldn't contribute to obesity, would it? [LB447]

KATE HEELAN: I run a child obesity treatment program as well, and we advocate no soda consumption because the artificial sweeteners can lead to cravings of more carbohydrate- and sugar-type foods. And so direct link? Possibly not. But we do advocate against that as well. [LB447]

SENATOR SCHUMACHER: Okay, thank you. [LB447]

SENATOR HADLEY: Any other questions for...? The only comment I would make is I'm certainly glad you didn't do these studies for old gray-haired men. (Laughter) With that, thank you very much, Senator (sic) Heelan, for coming in to visit us. Next proponent. [LB447]

ADI POUR: (Exhibits 15-17) Good afternoon, Senator Hadley. Good afternoon, members of the committee. My name is Dr. Adi Pour, A-d-i P-o-u-r. And I'm the director of the Douglas County Health Department. I'm representing Friends for Public Health, which is the advocacy group for all local health department directors in Nebraska, and I'm testifying in support of LB447. I'm also presenting a letter to you in support of this bill by PHAN, the Public Health Association of Nebraska. I also would like to thank Senator

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Avery because, as you heard, he has introduced this bill last year. We were here last year. Sometimes it does take some education. I think we have come a long way. This bill is much more prescriptive, really, than it was last time. So I think it is a very, very positive development. You have heard some of the data. Let me just tell you again that in Nebraska childhood obesity rate has been between 15 percent to 20 percent. And in Douglas County, probably as in every community, one in three children is at an unhealthy weight at this time, one in three children. When we talk about the adult obesity rate, it has increased from 15 percent in 1995 to about 28 percent in 2011. If we collectively are not making every effort to change this trend, we will have every second Nebraskan obese by 2030. Just think about this. This is national published data. We will not be able to afford the healthcare costs related to diabetes, chronic depression, chronic heart disease, and arthritis, just to say a few of the health outcomes with obesity. Over the last few years, local health departments have worked tirelessly with schools, community organizations, and businesses to reverse this trend. In Douglas County we were fortunate; we received a grant from the Centers for Disease Control to attack this and really change some of the built environment to make the healthy choice the easy choice. As such, eight local neighborhood stores were recruited based on where the need was the greatest: fruit and vegetable consumption was less in that area; the obesity rate and the death rate from cardiovascular disease and diabetes was high in that area. And then we overlaid it with income and population density. All of the stores made changes, such as providing more fruits and vegetables, sometimes in small portions that was easy to grab and take, for the consumer. They also are carrying now more low-fat milk. Some of the stores never carried low-fat milk. I can tell you, the first months they carried them, they called us up and they said, we are out of low-fat milk. So it was helping the store owners trying to see what are, really, some of the healthier choices to keep around. They have made modifications to the store design and the layout by, for example, putting healthy foods in the front of the store, having a banana tree when you checked out instead of having a huge candy display there, so really trying to make...they have reduced some of the costs...of the prices of healthy food. And they have brought cooking demonstrations in these stores because people need to know again how to cook with fresh fruits and vegetables. This has been a win-win for the store owners as well as for the clients in that area. And we have evaluated this, and after two years there was a 39 percent increase in individuals eating at least five servings of fruits and vegetables. That's a step in the right direction. We also all recognize that childcare is a key environment to help children learn healthy habits around eating and being active. And we developed a program called...that's actually a national best practice. It's called NAP SACC; it's the Nutrition and Physical Activity Self-Assessment for Child Care, where childcare providers assess the environment to make sure that they can optimize it in regard to nutrition and physical activity. This program is actually implemented in several communities in Nebraska. Farm to School initiatives have been implemented in several communities, targeting school food vendors and service personnel to achieve policy and programmatic changes. We have actually now model food procurement policies and recommendations and have them

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made available to school districts. I'm sharing this information with you to give you an indication what every community can do with funds created by removing the subsidy on sugar-sweetened beverages, or other funding sources if you have any available, for that matter. Attached you will find an issue brief developed by the Trust for America's Health that calculates the healthcare cost savings in Nebraska. If we could reach a reduction of BMI of 5 percent--it seems a pretty achievable goal--we could save more than \$1.3 billion in 10 years in healthcare costs related to obesity. I know we can do this. However, without comprehensive evidence-based programming, this cost savings cannot be achieved. I appreciate your consideration of the Nebraska Healthy Kids Act 2013. Any questions? [LB447]

SENATOR HADLEY: Are there questions? Senator Schumacher. [LB447]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. I believe this year so far we've heard and, if I remember right, last year we heard, as far as the causes of obesity, always very high up on the list and maybe even higher than soda pop is cable television, broadband, cell service. What about an excise tax on the phone companies and on the cable companies to fund this? [LB447]

ADI POUR: You know, I think, as a community, we need to look at all sources. And you will see, actually, across the nation many legislatures, as you try to tackle this issue...because they want to make their states the healthiest. So you'll see a wide variety. I think what you hear today is one way of doing it. But there are others to do it; I agree with you. [LB447]

SENATOR SCHUMACHER: Thank you. [LB447]

SENATOR HADLEY: I guess I have a question, I guess, along the same lines, and it's whether...to be sure that...is sweetened soda pop the primary reason for obesity in children? Or is there studies that show what...you know, what is the primary reason that we have a nationwide epidemic in obesity in children? [LB447]

ADI POUR: You know, if I would have the answer, I will probably get a Nobel Prize. What we always say, it is many, multiple factors. It is, as you heard before, it...being a sedentary lifestyle. So it has a lot to do with lifestyles. Our food has changed. We can go through the drive-through and probably get it cheaper there than if we prepare it at home. You know, family dining is a big issue that we are trying to encourage again in Omaha, because we think if you sit around with the family it has many good components to it. So I would tell you this is an issue that layers over many different, different issues; it's not soda pop. Soda pop in this case is the avenue to get us to implement good programs in the state of Nebraska. [LB447]

SENATOR HADLEY: It is...would you say that it's, basically, the funding for the

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programs, then; is that...? [LB447]

ADI POUR: From my standpoint, it is the funding, yes. [LB447]

SENATOR HADLEY: Okay. Okay. Thank you. Next proponent. [LB447]

NICK JULIANO: (Exhibit 18) Good afternoon, Senator Hadley, members of the committee. My name is Nick Juliano, N-i-c-k J-u-l-i-a-n-o, here to provide testimony on behalf of Boys Town in support of LB447. The portion of LB447 I will focus my testimony on today is the creation of the Evidence-Based Practice Grant Fund, which would provide grants for expanding evidence-based practices and prevention services for at-risk children in Nebraska. The need for services for at-risk children in Nebraska was never more apparent than in 2008 during the safe haven crisis. In 2009 the Legislature passed LB603, which, among other things, provided funding for the Nebraska Family Helpline, a 24-7-365 hot line operated by Boys Town under a contract with the Nebraska Department of Health and Human Services, Family Navigation Services, and Adoption Support Services. The helpline is a resource for families of a child experiencing a behavioral health crisis that will connect the family to resources in their own community and, hopefully, provide prevention and early intervention services. For many families, this also means eliminating the need for costly out-of-home placement and the need for the child to enter the child welfare system. Since January 2010 the helpline has received nearly 12,000 calls from more than 8,200 unique callers and provided families across the state of Nebraska with almost 16,000 referrals for services within their own communities. In addition, the helpline has gathered a wealth of data related to the needs of these families, what services they have attempted to access before calling, and what gaps in services exist in their community. And as part of the LB603 oversight committee work, the helpline reported the existence of three major barriers to at-risk children and their families getting the help they need: cost, service availability, and wait time. When the right service was available, often the family's private insurance would not pay for it. Many families reported having to travel great distances for the right service or experience waits of days or weeks to get the help they needed. In the meantime, they often turned to law enforcement or an emergency room for services, which in many cases was not in the best interest of their child. The funding provided by LB447 could make community-based interventions, like in-home family services, mobile crisis intervention, and respite services, available in areas where it does not currently exist or increase capacity where the services do exist so families can receive the right services at the right time for the right duration. Boys Town has secured funding for a small pilot of in-home services for helpline families, and the early results are promising. Unfortunately, the demand for this type of program greatly exceeds funded capacity in every area of the state. So one of the critical factors in increasing the availability of preventive services is to fund programs that have strong evidence of being effective and replicable. Evidence-based programs typically have common characteristics, including: the programs are manualized; implementation science and

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continuous quality improvement are built-in features; a strong consultation process support staff; the use of both during-program data and post-program data for evaluation; and having consistent, high-quality training for all staff before working with families. Many effective programs utilize practice-based evidence while working towards completing the most rigorous forms of evaluation. Therefore it will be important that the grant process in LB447 not only consider new programs for funding but also utilize a thorough assessment process to determine what programs already existing in Nebraska may qualify for funding, given the evidence they already possess indicating a strong likelihood of being effective and replicable. I'll take any questions at this time. [LB447]

SENATOR SCHUMACHER: Any questions from members of the committee? [LB447]

SENATOR SULLIVAN: Thank you, Doctor...Senator Schumacher. And thank you for your testimony. It's without a doubt you're doing some really good things at Boys Town, and I appreciate that. And this fund, if passed in the legislation, would give you some of those much-needed funds, as you indicate. But a couple of things in that respect. How do you feel about pulling out a specific part of our food and beverage industry to help pay for all these programs? [LB447]

NICK JULIANO: Well, actually, I have to defer that question to Bob and some of the others. What I can tell you is that the link between child health and child well-being... [LB447]

SENATOR SULLIVAN: Uh-huh. [LB447]

NICK JULIANO: ...is very real and very strong and that oftentimes the families that not only Boys Town serves but the families calling the helpline and the families served in communities across Nebraska, there are often multiple problems, including child health problems, that contribute to that crisis. [LB447]

SENATOR SULLIVAN: Okay. That being said, do you have any thoughts about...and this isn't directly related to this piece of legislation, but since you're here and since you indicate that there are programs that you're doing that are underfunded, how do we make sure that we provide adequate funding for these programs? [LB447]

NICK JULIANO: Well, one of the ways to do that is to look at where there are gaps and needs. And, as I discussed, you know, the helpline was provided with an opportunity to do that. There are other efforts underway in the state to look at where those gaps and needs are and to make difficult decisions on where to fund programs, whether they're prevention, early intervention, or, of course, deeper in mental health services, so... [LB447]

SENATOR SULLIVAN: Thank you. [LB447]

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NICK JULIANO: Okay. [LB447]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. Senator Hadley said he had to go get a soda. [LB447]

SENATOR JANSSEN: Not as good as a smoke break. (Laughter) [LB447]

SENATOR SCHUMACHER: No. Maybe he's doing that too. Welcome to the Revenue Committee. [LB447]

BOB RAUNER: (Exhibit 19) All right. I'm Dr. Bob Rauner: Bob, B-o-b; Rauner, R-a-u-n-e-r. And I'm testifying on behalf of the Nebraska Medical Association. Basically, we lined up some folks and experts here to tell you why this bill would fund great things, okay? These are things that are proven; they've been proven repeatedly across the country. And it's...I'm happy to say that two of the best examples are here in Nebraska. Granted, this is a great program; why are we picking this? Okay. Well, a couple things, one...and why Revenue Committee? Well, one, because it involves taxation, but this bill has huge financial implications. Dr. Pour gave you some examples from Robert Wood Johnson Foundation. We calculated out if Nebraska could get the same obesity lowering as Kearney has just given...what Dr. Heelan showed you, it would save about \$113 million a year. That's how much it could save. Healthcare costs for obesity are enormous. The direct medical cost of obesity to Medicaid alone are estimated to be \$154 million a year right now. That's an estimate coming out of the Yale University Rudd Center, where they had state-by-state estimates of obesity. If you want to lower long-term taxes, you have to lower long-term costs. And the biggest thing putting pressure on our state budget, and for education right now, is healthcare. Most of what we do in healthcare reform right now is, unfortunately, just rearranging deck chairs on the Titanic. It doesn't go to the root cause, which is the things that make people unhealthy in the first place. And obesity is one of the biggest ones; smoking, which you talked about two days ago, is another large one. Why are we picking pop? Are we picking on pop? No. I would say, look, you can take two approaches with taxation. You can discourage; that's the sin tax on cigarettes, which you heard about two days ago. You can encourage, which means you make something exempt. We do that for charitable donations; we do that for mortgage interest; we do that for food and asthma medicine. And there's a good reason for that to be the case. What we are looking at, though, is, why on earth would you do that for pop, though? We are actually tax-encouraging in Nebraska, and we are one of the few states that does that. I have the map on the back. So they quoted numbers. That's actually the whole map right there. The white states are the only ones that conclude that pop is food and therefore exempt from sales taxes. Every state around us doesn't do this. So we're not, quote, picking on pop, it's just because the exemption makes no sense. When we came up with this bill--we have been working on this for three years now--it was during the

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budget crisis, where everybody was really worried there's going to be no new money. So we figured, if we're going to do this, we're going to find the source and not try and get it and steal it from somebody else; we're going to find out what makes sense as a great place to fund this. Well, an exemption that makes no sense in the first place is the perfect way to fund this; that's why we've done it. You know, if you look at this long term, this is an \$11 million project we're proposing, not what the fiscal note says, which I can get to. If we can get that reduction I quoted, with Kearney, if we can reproduce Kearney's results across the state, that's a 10:1 savings; and that doesn't even include the behavioral health savings. So if we keep one of those kids from being institutionalized or entering the legal system or shooting up Von Maur again, that's a huge savings too, plus a lot of other side benefits. And so we, you know, this is a...this bill has really large implications for the future of Nebraska, okay? We have...we didn't...the reason that the Nebraska Medical Association wrote in the bill...why we wanted it to be University of Nebraska at Kearney: because not only do they have the best results in Nebraska, they actually, literally, have the best results in the country right now. They were quoted in both The Wall Street Journal and The New York Times a couple months ago. They talked more about New York because they're New Yorkers, but Kearney actually has better results than they did. Lincoln, we've been doing the same thing. My job, I do what Kate does, but I do it here in Lincoln. We've got similar results, although not as good because we've only been at it for four years, as opposed to her being at it for eight years. We're also seeing significant reductions in obesity in our kids. So from a public health expert, the most frustrating thing you can have is a program that you know works, it's been proven to work repeatedly, but we got no funding for it. The challenge we face in the school system is schools...it's about education, of course, and all of their accountability is around math and reading scores. So how do I make the case to the school board that we should fund this when they're trying to maintain...fix a leaky roof or trying to hire another math teacher? It's a hard battle. So we want to find a designated source of funds to make this work in the school system. Most goes to the schools; why? Because that's been proven to be the most effective place. There's also money that goes to outside things, like day care, which Dr. Pour mentioned; the NAP SACC program is great. We also have that active in Lincoln, and I think that's part of the reasons why; it's not just the schools. And, then, you guys asked, you know, what portion goes to what. There actually are some calorie studies; they say what's causing obesity. If you made a pie chart...the reason it's harder than tobacco is because there's multiple causes with obesity. It's not just cigarettes, just like it's not just pop. But if you made a pie chart, it's about half pop. The other half is junk food and not enough vegetables, portion sizes--because we just use bigger plates and bigger cups--and inactivity. But, still, the biggest single source is sugar-sweetened beverages. If you...so we've gone from 5 percent to 17 percent; you'll get rid of half that just by getting people to switch to drinking water. But you won't get the rest until you do other things. So that's why this is a comprehensive approach, it really is. The Coordinated School Health, it's got eight components to it; it takes a little time to put together. That's why it needs funding; it doesn't just happen; people don't just do it

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because it's the right thing to do. You need someone tasked to make it happen, and you need a good data system to make it work. So thank you. [LB447]

SENATOR HADLEY: Dr. Rauner. Are there questions? Senator Sullivan. [LB447]

SENATOR SULLIVAN: Thank you, Senator Hadley. Based on what you said, I guess I should have asked a couple more questions of the doctor from Kearney and also the superintendent, because under this bill each school district would get \$10,000. [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR SULLIVAN: And then the rest of it would go out on a pro rata basis... [LB447]

BOB RAUNER: Yeah. Um-hum. [LB447]

SENATOR SULLIVAN: ...which I don't quite understand. [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR SULLIVAN: But first of all, how is Kearney and the school district there doing it under their current funds available? [LB447]

BOB RAUNER: Okay. [LB447]

SENATOR SULLIVAN: Or are they accessing grants? [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR SULLIVAN: And secondly, is that \$10,000 enough to make a difference, I guess? [LB447]

BOB RAUNER: Okay, the difference between...we actually have a similar system in Lincoln. You need a couple things together. One is you need someone who can assemble, collect the data properly, crunch the data, figure out where your problems are. And so Kate does it for the Kearney district; I do it for Lincoln Public Schools. So, for example, I have all 37...38, now, elementary schools. I can tell you how obese each one is, how they do on their fitness rates. We can find out where the problem is, what's going well. And, most importantly...and I call this the opposite of the No Child Left Behind approach. Instead of finding the bad person, you find out who's really doing well. So for example, out of all 38 schools, we have 1 school that is knocking it out of the park. Prescott Elementary has had some of the best numbers I've seen. They're a school with 70 percent free and reduced-cost lunch, but their obesity stats are closest to

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the wealthiest schools in town. And it's because they're doing everything that Kate just told you about. They got rid of the junk food rewards; they took the pop out of the school; they put in a walking path, a climbing wall; they got their neighborhood organization involved; they do it all right. The problem is that doesn't happen by accident; someone has to take the task to actually get all those people assembled and have the meetings, look at the data. They request the data...they have been requesting the data from me from the last four years. That's why I wasn't surprised when I found that they were doing so well, because they request because they know it's important, and they actually act on it. So you need the data to make it work. Second is it needs to be somebody's job to make it happen. They pay the wellness coordinator. A lot of businesses, like Lincoln Industries, Duncan Aviation, they have a wellness coordinator whose job is to do this. The schools need someone whose job it is to do this. When you roll it out, it takes someone to actually implement. And so that's what they have. And they...we have the same PEP grant that they got. And so that's part of what you use to help fund our efforts. Also, we have people like Kate or myself who spend a lot of our time writing grant applications, because you have to beg, plead wherever you get the money, basically. And I have cobbled together money from a lot of sources for the last three years to pay for a wellness coordinator. The problem is, after a while you get worn out and you can't keep raising that money. Also, her PEP grant is done; our PEP grant is done; where is the next money going to come from? There is a PEP grant out, and I have not asked Kate if she's going to compete with us on that one, because we're both begging for the same grant. Well, we have 249 school districts who also need to do this. Where are they going to get the money? You know, if there's only one PEP grant for the state, that means one of us wins, the other 248 lose. This is a way for us to get that. The reason it's \$10,000: it's \$10,000 as a fixed amount to...so that the small district has at least a minimum amount, and the rest is pro rata. So we take that chunk of money, divide it by the school population and it...there's a per student cost, essentially. I've got a spreadsheet that they didn't mention in the fiscal note. I have the spreadsheet that it's calculated off. So it's anywhere from, say, fifteen thousand dollars for a really tiny school district up to a couple hundred thousand for OPS, which has 50,000 kids in it. So it's got both a fixed and a variable amount to it, and that's why. So it would be significantly higher for a large school district. We've also written into the grant...or into the legislation that schools can pool their funds. So I'm a Sidney, Nebraska, native, originally; you know, Leyton, Potter-Dix, Lodgepole, Chappell, do they all need to have their own? No, they could actually just pool their funds under their ESU, and the ESU could hire one student wellness coordinator and maybe even a nurse to help them with some of the assessment. So they can pool their funds, and that's specifically mentioned in the legislation, because that's a more efficient use of resources in a small district. The other thing I'd point out, in the fiscal note...and I think that Senator Harr was actually right. We've been trying to figure out where on earth they came up with this negative number, last night and all this morning; it doesn't address it in the narrative. I think he's right, that I think they're taking the fountain beverage, which is already taxed, and they're taking all that money and adding into the program too. And suddenly the costs ballooned much

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higher. It's more money than we need, so I'd actually recommend you put that back where it needs to be. I put on your list last year's fiscal note, because all of our budget projections are based on last year's fiscal note. And it's around \$11 million, not...I think they bump it up to \$18 million, which is more than we need. So I'd say...and we have two fiscal analysts who have different opinions. So if we could contact them and clarify why one thinks it's one way and one it's the other and let's clear that up, we're happy with that. We want that money to stay in the general revenue where it's been; we don't need that much money. But the amount we put in is the right amount; we're basing those numbers based on Kate's costs, our costs in LPS. It's not just pulled out of a hat; we put a lot of time into that. So...and then I also, on this, I put the copy of the Colorado bill, which...they closed this loophole in 2009. And they used the...what the...that "streamlined use" language that the fiscal...we're happy with it. If you want to switch to that to deal with that issue, we're okay with that. And then the last thing I put actually was the things that the beverage industry lobbyists and grocers said last year that aren't true. So I put those there for your reference. [LB447]

SENATOR SULLIVAN: Thank you. [LB447]

BOB RAUNER: Sorry, kind of a long-winded answer. [LB447]

SENATOR SULLIVAN: That's all right. [LB447]

SENATOR HADLEY: Other questions for Dr. Rauner? I guess I have a question. We're going to be doing a tax modernization study... [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR HADLEY: ...if we can get it passed on the floor. [LB447]

BOB RAUNER: Yeah. [LB447]

SENATOR HADLEY: And Senator Avery alluded to that. [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR HADLEY: And, obviously, this could very well be a part of that. Do you have any thoughts--and the 1,000-pound elephant in the room--taxing food? Putting a sales tax on food? [LB447]

BOB RAUNER: Well, then you're kind of getting into the, "Does government tell you what to do or not to do?" I think, neutral a sales tax--which is where we're hoping to put this in, we want pop to be where toothpaste and toilet paper are--I think you can make a case that broccoli shouldn't be taxed, just because you don't want to hinder anybody's

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access to broccoli or asthma medicine. On the flip side of that, I think the studies actually show that sales tax doesn't affect consumption very much. It's not a big enough tax. You usually have to hit 20 percent before it affects people's behavior. So a 7 percent tax...people said, will this pop tax going to make people quit drinking pop? No, it's not big enough. And that's why it's not the sin taxes they're proposing on the coasts, and the beverage lobbyists have been confusing people on that. I think there's other foods that should be taxed. Actually, the Colorado bill, if you look, they actually took candy out of the definition too, they wrote it in law. And so they actually reinstated the sales tax on candy. I'd be happy to put that in there and use that to, you know, lower income taxes on retired people or military. I think that would be a great use. I don't think candy deserves tax exemption. But I think you can make an argument for milk or broccoli. [LB447]

SENATOR HADLEY: Okay. [LB447]

BOB RAUNER: So...um-hum. [LB447]

SENATOR HADLEY: It becomes difficult for us because... [LB447]

BOB RAUNER: Yeah. [LB447]

SENATOR HADLEY: ...we start...I hate to use the term, but "winners and losers"... [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR HADLEY: ...we're going to tax this, and we're not going to tax that, and... [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR HADLEY: ...so I just... [LB447]

BOB RAUNER: Yeah. And every state handles it differently. There are some states that don't exempt food, either. [LB447]

SENATOR HADLEY: Sure. [LB447]

BOB RAUNER: So... [LB447]

SENATOR HADLEY: Sure. You know, somebody mentioned South Dakota. You know... [LB447]

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BOB RAUNER: Um-hum. [LB447]

SENATOR HADLEY: ...South Dakota basically taxes food. I think Kansas taxes it at a... [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR HADLEY: ...a little lower rate than their normal sales tax. [LB447]

BOB RAUNER: Yes, they're different amounts...and, yeah. [LB447]

SENATOR HADLEY: And just so everybody knows, I'm not advocating... [LB447]

BOB RAUNER: Yeah. [LB447]

SENATOR HADLEY: ...a tax on food, but I think it's interesting that some states have gone to that as a... [LB447]

BOB RAUNER: Um-hum. [LB447]

SENATOR HADLEY: ...as a revenue source to fund things like this. [LB447]

BOB RAUNER: Yeah. Yeah, and I think there are some sales tax exemptions that need to go, even some of the healthcare ones, to be honest with you, and I'm a physician by background. I think some of them don't make sense either. But...anyway. [LB447]

SENATOR HADLEY: Senator Schumacher. [LB447]

SENATOR SCHUMACHER: Thank you, Senator Hadley. I think it would be okay to just tax broccoli. [LB447]

BOB RAUNER: Um-hum. (Laughter) I'm sure my middle daughter would agree with you as well, so... [LB447]

SENATOR HADLEY: Was it...you and President Bush. [LB447]

SENATOR SCHUMACHER: Yeah. [LB447]

SENATOR HADLEY: Was President Bush the one that didn't... [LB447]

BOB RAUNER: Yeah. [LB447]

SENATOR HADLEY: ...think much of broccoli after his mother quit making him eat it,

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right? [LB447]

BOB RAUNER: Yeah. Yeah. [LB447]

SENATOR SCHUMACHER: Thank you for your testimony. [LB447]

SENATOR HADLEY: Thank you, Dr. Rauner. [LB447]

BOB RAUNER: All right, thank you. [LB447]

SENATOR HADLEY: We appreciate your coming. Are there any other proponents?
[LB447]

TIFFANY CARLSON: Good afternoon. My name is Tiffany Carlson, T-i-f-f-a-n-y C-a-r-l-s-o-n. I am the program coordinator for Community Fitness Initiative in Lexington, Nebraska. I've had the privilege of working with Ms. Heelan--Dr. Heelan, excuse me--with her health report cards in our community. We're a small community of about 10,000 people; we have about 1,300 elementary students. Since I have had the privilege of working with Dr. Heelan and getting her report cards, our obesity prevalence has dropped 6 percent, not only through increased awareness through the parents and the schools and things like that, but activity, physical activity, many things. Excuse me, I'm getting very nervous. I'd just like to say that I see no greater fit for this, the tax, to go towards a health and wellness program, hiring a wellness coordinator for the schools. Funding in schools is hard to come by, as everyone has previously testified. And to get something on tap that would allow--I can't think of my words properly--but that it is very fitting that it would come from sugary beverages as opposed to other things, to pay for and help raise awareness of the kids' mental, physical health. And I think, with Boys Town, the mental health portion of this is also extremely important and can go a long way towards physical health as well. [LB447]

SENATOR HADLEY: Thank you so much for coming in. [LB447]

TIFFANY CARLSON: Yes. [LB447]

SENATOR HADLEY: Senator Sullivan. [LB447]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you for your testimony.
[LB447]

TIFFANY CARLSON: Yes. [LB447]

SENATOR SULLIVAN: So how does Lexington Schools handle its wellness program? Do they have a coordinator? Or do you...you are the coordinator? [LB447]

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TIFFANY CARLSON: I am a community-based coordinator. [LB447]

SENATOR SULLIVAN: Okay. [LB447]

TIFFANY CARLSON: They do not have their own LPS-funded wellness coordinator. But we are a grass-roots, community-based... [LB447]

SENATOR SULLIVAN: Um-hum. [LB447]

TIFFANY CARLSON: ...and we are funded through grants and primary things like that. So we have taken over that, just because it is such an important role to have. [LB447]

SENATOR SULLIVAN: Okay. Thank you. [LB447]

TIFFANY CARLSON: Um-hum. [LB447]

SENATOR HADLEY: Any other questions? Thank you. We appreciate your coming in. [LB447]

TIFFANY CARLSON: Thank you. [LB447]

SENATOR HADLEY: Any other proponents? Seeing none, first opponent. [LB447]

WAYNE PARKS: (Exhibit 20) Good afternoon, Chairman Hadley and members of the Revenue Committee. My name is Wayne Parks, P-a-r-k-s. And I'm president of the Nebraska Beverage Association, here to testify in opposition of LB447. The Nebraska Beverage Association is the trade association representing the nonalcoholic beverage industry, including beverage producers, distributors, franchised companies, and supporting businesses. The NBA offers consumers a myriad of products, brands, flavors, packaging choices, and a full range of drink options, including soft drinks, diet soft drinks, ready-to-drink teas, bottled water, flavored waters, 100 percent juice, juice drinks, sport drinks, and energy drinks. The beverage industry in Nebraska directly supports over 1,300 employees and workers across the state, pays hundreds of millions of dollars in wages, and benefits and generates over \$115 million annually in state and federal taxes. Obesity is a complex problem with no simple solution. And, just listening to everybody testify, I think we all would agree on that. Many factors contribute to obesity and related health problems. Singling out one particular product for taxation isn't going to make a difference in a problem as complex as obesity. If Nebraska citizens want to get serious about this obesity problem, we need to encourage a balanced diet, sensible consumption of all foods, beverages, and promote more physical activity and exercise for all citizens. Being a collegiate athlete, I learned very early on that if you wanted to lose weight, you consumed less, burned more, and you lost weight. It's math.

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And it was always there, always behind me; always knew that it has always worked. The fact is, full-calorie sodas have declined over the past decade while obesity rates continue to increase across the country. Across the country...I've got several documents here. One thing I can't dispute are the various studies that we'll all see, from both proponents and opponents. But the one thing I can tell you that I am pretty much an authority on is the soft drink business. Since 2008 the soft drink industry in the United States has lost over 200 million cases of business. So if you look at that from a standpoint of about 10 percent to 12 percent decline each year, from 2008, if your business is that unhealthy, of going 10 percent to 12 percent in a decline, while obesity rates continue to climb, type II diabetes continues to climb, the simple math there doesn't work. Sales of regular soft drinks have declined year after year about 12 percent from 1999 to 2010 alone, according to Beverage Digest, an industry magazine. Childhood obesity rates continued to rise across the country during the same period, according to the Centers for Disease Control and Prevention. And that's not a soft drink study; that's a private industry out there. The beverage industry has cut the total amount of beverage calories it produces for the marketplace, yet obesity rates continue to climb in America. The total amount of calories the beverage industry has brought to market has decreased 21 percent from 1998 to 2008, due to our innovation, production of more non-calorie, low-calorie, zero-calorie as well as smaller portion sizes in beverages, this according to the Beverage Marketing Corporation data. Common sense tells us, and science proves to us, that taxes do not make people healthier. Making smart, educated decisions about diet and exercise do. Sugar-sweetened beverages are a small part of the American diet, just 7 percent. That means 93 percent of the calories come from other foods and beverages, this according to the Dietary Guidelines for Americans study in 2010. The beverage industry is taking bold action to do its part to help address obesity. Our companies removed full-calorie soft drinks from schools across America, replacing them with lower-calorie beverage choices, cutting calories available from beverages in schools by 88 percent. We have placed new labels on every soft drink package that's out there clearly listing calories on the front of our beverages. We're producing fewer total beverage calories for the marketplace through the innovation of more zero- and low-calorie or zero-calorie products. In 2006 the beverage industry teamed up with the William J. Clinton Foundation--that's Bill Clinton--and the American Heart Association to develop the National School Beverage Guidelines. These guidelines, which have been fully implemented across America, fully remove full-calorie soft drinks from all schools and provide students with a broad range of lower-calorie, nutritious, smaller-portion beverage choices. If we really want to have a significant impact on the state's obesity rates, we need to look at comprehensive solutions that will have a meaningful and lasting impact on our citizens. A beverage tax unfairly lays the blame for obesity on the consumption of one particular product. Taxing soft drinks or any other single food or any other ingredient is just unjustified. Thank you for your time. I'll take any questions you might have. [LB447]

SENATOR HADLEY: Thank you, Mr. Parks. Are there questions for Mr. Parks? Senator

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Hansen. [LB447]

SENATOR HANSEN: I have one. About a year and a half, maybe two years ago, my wife started bringing home these...pop in these little, tiny bottles. Is that a industry...did they come up with that? Was it a consumer-driven...? And I drink them. I mean, I don't get totally satisfied, but, as she says, it's enough. Enough is enough. (Laughter) But where did those come from? [LB447]

WAYNE PARKS: I'm very aware of these lights up here, so I wanted to get as much of my information out as I could. In fact, the consumer, across America, is voting with their wallet when it comes to soft drinks. The consumer is very educated; the consumer is much, much smarter than they ever were. They're very aware of the caloric intake; their doctors are keeping them aware of caloric intake; and therefore the industry had to respond to the needs of the consumer. The consumer says we want to consume less soft drinks, want it to be a healthier soft drink. The 12-ounce bottles came back; the little 8-ounce cans have come back, and they're in diet, zero-calorie flavors out there as well. And that goes back to what I'm saying about 88 percent of the calories coming out of the schools. We completely removed sugared soft drinks from school voluntarily. There was no law that made us do that; we did that voluntarily. [LB447]

SENATOR HANSEN: Well, the 100 percent juice drinks, too, have...are full of fructose. [LB447]

WAYNE PARKS: Absolutely. [LB447]

SENATOR HANSEN: So they're...that's a source of sugar. Even though it's not added sugar, it's a sugar. So thank you. [LB447]

WAYNE PARKS: Yes, sir. [LB447]

SENATOR HANSEN: Thank you for testifying. [LB447]

SENATOR HADLEY: Senator Schumacher. [LB447]

SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. Earlier today we heard testimony that you had to get a tax up to 20 percent, or something like that, in order to impact consumption. I guess the obvious question: If a 5 percent or 7 percent tax will not impact consumption, why do you guys care? [LB447]

WAYNE PARKS: I would go back to my first page of the...the decline in the industry as it continues to go. I believe that to unfairly tax one ingredient or one specific item out there is to put a disproportionate amount of the burden for an epidemic-type problem on one issue. And we, as a soft drink association, beverage association, just don't agree

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with that. [LB447]

SENATOR SCHUMACHER: Thank you. [LB447]

SENATOR HADLEY: Thank you, Mr. Parks. We appreciate your coming in. [LB447]

WAYNE PARKS: Thank you. [LB447]

SENATOR HADLEY: Next opponent. [LB447]

STEVE FORD: (Exhibit 21) Good afternoon. Chairman Hadley and members of the Revenue Committee, my name is Steve Ford, F-o-r-d. I'm the CEO of LinPepCo, which runs three franchises here in Nebraska. And I'm also the immediate past chairman of the Nebraska State Chamber. I am testifying today on behalf of the Nebraska State Chamber in opposition of LB447. The Chamber does not believe the tax increase and additional government programs found in LB447 are the answer to the extremely complex issue of child obesity. In fact, some would say that LB447 actually discourages healthy living, as it not only eliminates the exemption on sugared soft drinks but on healthy soft drinks as well. On a broad level, the State Chamber supports efforts to increase government efficiencies and to reduce or restrain state and local government spending. We continue to oppose further broadening of the Nebraska sales and use tax and will oppose efforts to repeal current sales tax exemptions needed by businesses to remain competitive and viable in our state. Simply put, the additional taxation on soft drinks will not make people healthier. A review by George Mason University researchers showed that a 20 percent tax on soda would reduce the obese person's body mass index from--thank you, by the way, for doing that (laughter)--from 40 to 39.98. That was perfect timing. This is so small that the amount would not even be measurable on a bathroom scale. According to the Centers for Disease Control and Prevention, West Virginia and Arkansas are two states with an excise tax on soda yet both states rank among the 10 states with the highest obesity rates in the country. If you'd like more information, that is being passed around to you. So there's more information on other states where it's also been shown to be ineffective. Furthermore, the public opposes discriminatory taxes on beverages. According to an Associated Press poll conducted from November 21 to December 14, 2012, nearly 6 in 10 people surveyed oppose taxes targeting foods, known as soda taxes or fat taxes. This poll along with others, including the Harris Interactive/HealthDay Poll from February of 2012, show that the majority of voters across the country are opposed to soda taxes. And there is extensive real-world evidence to support the fact that we cannot tax our way to better health. Companies like ours and others within the State Chamber spend thousands of dollars on an annual basis to promote parks and recreation areas, youth sports events, local marathons, and, yes, even schools and universities like those that talked to us before. How they use their money is their choice, but they do have the money that we do give them to support them. In my opinion, we are making a much better statement about reducing obesity by

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giving them the money to do the things they can with the various activities than we will be by adding another tax on the citizens of the state of Nebraska. We will not solve the problem of obesity by ignoring the many contributors of this serious public health issue. And at the end of the day there's no single answer for eliminating obesity. We must continue to work together to encourage Americans to adopt balanced, healthy diets and exercise. Thank you for your time, and I'd be glad to answer any questions. [LB447]

SENATOR HADLEY: Are there questions for Mr. Ford? I just have one quick one, Mr. Ford. The local marathons, could you put me on the list of (laughter), you know, finding out when those are. [LB447]

STEVE FORD: You bet. [LB447]

SENATOR HADLEY: I might think about those later on. Thank you, Mr. Ford. [LB447]

STEVE FORD: Okay. Thank you. [LB447]

SENATOR HADLEY: Next opponent. [LB447]

MARK WHITEHEAD: Chairman Hadley and members of the Revenue Committee, my name is Mark Whitehead, W-h-i-t-e-h-e-a-d, representing Nebraska Petroleum Marketers and Convenience Store Association. I guess I would take this from a couple different perspectives. All of you may be aware of exactly what we're talking about, but I'll give you an executive summary of the way it manifests itself into the convenience store business, as it...what items are taxed, which ones aren't taxed. And it does get complicated in the convenience store business, because we do have a broad customer base, some of it for different purposes. The executive summary is very simple: immediately consumable items are sales-taxed; anything that can be taken home and consumed later is not taxed. And that creates an interesting scenario on a lot of different levels. A sandwich that gets put into the microwave gets sales tax; the same sandwich that doesn't get put into the microwave, and consumed later, doesn't get sales tax. Fountain drinks or drinks consumed out of the fountain machine get sales tax, and those that are taken out of the reach-in cooler or off the floor display are not. It creates...it is...at its core, it's a fairly simple scenario. But, to my knowledge, this is the first time that we've had something that has dodged that trend, in terms of definition, as to what gets sales tax, what doesn't get...which ones get exempted, which ones don't get exempted, that don't fall into those very simple terms. Again, broccoli would be...and other...there are many other things, such as energy drinks and some of those things, which...I don't know whether they'd be covered by this or not, that may not be covered by it. As the original testifier, Mr. Parks, had indicated, there's been a downward trend over the course of the last ten years in carbonated soft drinks. So I think it would be difficult to draw a direct correlation to the increase in obesity over the last several years...draw a correlation directly to sugary soft drinks. I mean, you know, my own case

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in point, I went to high school more than a few years ago, and the pop machine was right next to the candy bar machine, and we didn't have nearly the problems. I think the problem with obesity goes far, far beyond what we're trying to narrowly define here with this particular bill. Senator Hadley, you brought up an interesting concept earlier as to, should we in fact--going back to my original comment--should we in fact put sales tax on all grocery items? And I brought that up as well. Politically...political-capitalwise, I don't know whether or not that would work. If in fact it was a revenue-neutral proposition, which is to say if the rate came down, it may be a palatable idea. It would certainly make our industry a whole lot easier in terms of deciding what we end up sales-taxing and what we don't end up sales-taxing. But with that, I would be happy to answer any kind of questions you might have. [LB447]

SENATOR HADLEY: Are there any questions for Mr. Whitehead? Senator Hansen. [LB447]

SENATOR HANSEN: Thank you for coming twice in one day. What's the magic rate? What would be the magic rate on taxing food? We're going to ask this question as... [LB447]

MARK WHITEHEAD: Revenue neutral. Magic rate is revenue neutral. [LB447]

SENATOR HANSEN: Okay. [LB447]

MARK WHITEHEAD: I mean, you take a look at the macro sales tax income, and whatever that dictates. But, again, I don't know whether...I don't know that anybody would take that seriously. But, you know, that might be something worth considering at some point; and it certainly would be more palatable, I think, to the citizens of the state of Nebraska, if in fact it were a revenue-neutral proposition. [LB447]

SENATOR HANSEN: Thank you. [LB447]

SENATOR HADLEY: Just a comment. One of my staff is a former revenue commissioner and, not Mary Jane but someone else explained to me one time the Dilly Bar rule, that if you went into Dairy Queen and bought one Dilly Bar, you were charged tax on it because you can eat it there. If you went in and bought the box with 12 of them in, you were not charged tax because that was something you were going to take home. And he called it the Dilly Bar rule. So I do understand the complexity of deciding whether it's something that can be consumed there or taken home for consumption. [LB447]

MARK WHITEHEAD: When we got started in this industry, or we got...the problem that used to be manifested: if it came out of the store cold, it could certainly be sold and consumed later; and hot, certainly it had to be consumed immediately, so therefore it

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was sales-taxed. Our organization took it to the extreme and...fountain drinks come out cold, so we didn't charge sales tax on fountain drinks. The Department of Revenue kind of corrected me on that a few years later. (Laughter) [LB447]

SENATOR HADLEY: Well, I hope none of my staff. [LB447]

MARK WHITEHEAD: That was a big hit. That was a big hit for us. (Laugh) [LB447]

_____: Long time ago. [LB447]

SENATOR HADLEY: Long time ago. Thank you, Mr. Whitehead. [LB447]

MARK WHITEHEAD: Thank you. [LB447]

SENATOR HADLEY: Next opponent. [LB447]

KATHY SIEFKEN: (Exhibit 22) Chairman Hadley and members of the committee, my name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association in opposition to LB447. And I'm hoping I don't run out of time. In the event I do, I'm not going to go over the handouts. But I'm hoping I'll get to that. First of all, we didn't know that there was an amendment coming. And the fact that the definition of a "soft drink" does not align itself with streamlined sales tax is a major concern. Many years ago when we all worked on streamlined sales tax, there were many hours and hours of meetings trying to get to a definition that everyone could live with. And the...while I haven't seen the amendment, Senator Avery made the comment that he changed...that the amendment would change it to "100 percent vegetable or fruit juice." That's not the only problem with the language. As a matter of fact, the actual bill says that if it contains "primarily milk or milk products, soy, rice, or similar milk substitutes," and that's where we have an issue with how to determine what would be taxed and what would not be taxed. So as a result I went into the grocery store; we tried to get together with Senator Avery so that we could walk him through a store. And this time of year you all know how busy that is. And we just weren't able to pull that together. So what I did was go into the store, and I took photos of the labels and some of the products that were on the shelf. Now, those photos are of items that were defined based on the definition before the amendment. And, again, I'm not sure exactly what the wording in that amendment is, so I'm not quite sure how that all will affect that. But the streamlined sales tax definition is a huge, huge issue. Secondly, Senator Avery is calling this a subsidy of a product. And it's not a subsidy. A subsidy is a sum of dollars that is granted by the government to assist an industry. This is a tax. And a tax is a tax; it's not a subsidy. And while we're all moving toward looking at the taxes across the state of Nebraska, moving this bill anyplace would probably...well, we would be opposed to doing that because you're going to be reviewing taxes here in the interim. In addition to that, we discourage carving out individual products. The tax code as it is right

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now is very complex. And an example of how complex it is, is rotisserie chicken. It depends upon where it is in the store as to whether it is taxed or not and what the temperature of it is. So if you walk into a grocery store and you buy a rotisserie chicken that is warm and you walk out with it...you can't eat it on the premises because we're not a restaurant, but that is a taxable product because it is ready to consume. And there's another part of the tax code that says if you give napkins and forks, that those products would be deemed taxable. Yet if you take that same rotisserie chicken that you didn't sell while it was warm, you cool it, you wrap it, you throw it in the refrigeration case, you can sell that as not only a taxable product, but it's also a Food Stamp-eligible product. When it's warm it's not. So the rules that we have to adhere to now are very complicated. And there are hundreds of examples like that. Listerine strips is another one. But it could take me all day to go through all of these little idiosyncrasies that we have to deal with. We believe that taxing an individual product like this, carving it out, is just bad tax policy. The Revenue Department does not provide us with a list of items. They give us a definition, and then we have to go read labels. And that's why I gave you the copy of the labels that are attached. But on the front of that: there is a CDC study that just came out, in February of 2013, and on the left-hand side I put a red arrow there that basically shows--and I'd like you also to refer to page 6, the summary--but it basically says that the caloric intake for most of the age groups discussed, between 1999-2000 and 2009-2010, have decreased. And the calories, as you read through this entire--it's here in its entirety--as you read through that, the calories that have been decreased are the carbohydrates, which are the soft drinks. Industry is taking care of it, and so are the schools. We are heading in the right direction. We don't need the government to step in and punish us via taxation. In addition, the calories that have increased, according to the CDC study, are proteins. So people are eating better; they're eating healthier. And the study proves that we are going in the right direction. And then the last thing that I would like to point out is that what this bill is, is a tax increase that goes to fund yet one more government program. And once those government programs are funded, they never go away, and they always want more money and more money. I think we should try to do the best we can with the money that we have. And let's use what we are currently giving to the schools, through both our...the funding from the state of Nebraska, the federal government, and through the voluntary things that the beverage industry is doing, use those funds in an appropriate way to get this issue under control. If you have any questions, I'd be happy to try to answer them. [LB447]

SENATOR HADLEY: Questions for Kathy? Senator Sullivan. [LB447]

SENATOR SULLIVAN: Thank you, Senator Hadley. Well, all earmarking aside, for funds that might be derived by something, and in reference to what you said is a very complex issue in terms of what is taxed and what's not, what about lowering the rate and taxing all food and beverage items? [LB447]

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KATHY SIEFKEN: Our industry is strongly opposed to taxing all food items. And we don't like carve-outs. The reason for that is because a sales tax on food is a sales tax on a basic necessity of life. And while I may go in...I don't have any children at home anymore. So if I go in and buy a gallon of milk, a 7 percent increase on the cost of that milk isn't going to change my mind. But if a mother of four goes in and wants to buy two gallons of milk for her children this week, those taxes will directly affect that decision, because there is only so much available dollars, after bills are paid. And that disposable income is affected by taxes. So it's just very regressive, and it's very hard on the lower-income in our society. [LB447]

SENATOR SULLIVAN: Thank you. [LB447]

SENATOR HADLEY: Other questions for Kathy? Thank you. [LB447]

KATHY SIEFKEN: Thank you. [LB447]

SENATOR HADLEY: Next opponent. [LB447]

CARL SOUSEK: (Exhibits 23-26) Thank you, Chairman. Mr. Chairman and members of the committee, my name is Carl Sousek, spelled C-a-r-l S-o-u-s-e-k; I'm a farmer from northwest Saunders County. I am chairman of the Nebraska Corn Growers Association, here today in opposition to LB447. And you're getting some handouts, and also from two other ag organizations in the state: the Nebraska Farm Bureau Federation and the Nebraska Cattlemen's association also share our opposition to this bill. This bill seeks to eliminate the sales tax exemption on nonalcoholic beverages, including those that contain high-fructose corn syrup, a natural grain product and a natural sweetener. Despite its complicated-sounding name, high-fructose corn syrup is just sugar made from corn. Our opposition is founded on two basic principles. First, a new tax on products containing high-fructose corn syrup, or corn sugar, will adversely affect demand for these beverages. Consequently, it will also adversely affect the demand for our commodity. For the 2010-2011 marketing year, about 74 percent of Nebraska's 1.47 billion bushels produced were used within the state. By using Nebraska corn in Nebraska we're capturing more of the corn's value right here in the state. And that's good for the state's economy, rural communities, and Nebraska corn growers. And I'm going to go slightly off my prepared statements here. And don't misunderstand, the corn farmers of Nebraska are not advocating for a 2-liter bottle of pop on every school desk in Nebraska. But why we're here today is to make sure that a good, safe, wholesome product is not unjustly demonized. We've fought long and hard to get high-fructose corn syrup in the market and approved by FDA and actually have fought to improve its image and lessen the impact of companies using it because it's got four letters to describe it, to be demonized as a marketing tool. So we're here to make sure that that doesn't happen again. Secondly, and maybe most importantly, we believe that Nebraska's tax system should avoid social engineering through the tax code in order to influence public

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behavior. LB447 attempts to influence obesity and fitness in children by increasing the price of selected beverages and allocating that tax revenue to five new statutory funds. If this committee wants to use taxes as a social engineering tool to make people healthier, the list of products and services is almost endless. The Nebraska Corn Growers Association requests that LB447 be indefinitely postponed. And I thank you and I would be happy to try to answer any questions you might have. [LB447]

SENATOR HADLEY: Are there questions? [LB447]

CARL SOUSEK: Thank you. [LB447]

SENATOR HADLEY: Thank you, Mr. Sousek. Are there any other opponents? Seeing none, are there any neutral testifiers? Seeing none, Senator Avery, would you like to close? Have a brief close? (Laughter) [LB447]

SENATOR AVERY: Yeah, actually, I wasn't planning to close, but there were so many untruths during the opposition testimony I feel like I have to say something about that. Maybe the testifiers in opposition were not here to listen to the proponents. But it seems to me that people who are opposing this legislation are continuing to mislead and to misrepresent the issue. No one...not one claim was made that sugar-sweetened beverages cause obesity alone, yet that was stated. Mr. Parks said this bill unfairly blames sugar-sweetened beverages for obesity. We didn't say that. In fact, Dr. Rauner said just the opposite. The truth is that we did not make the claim, instead we specifically repeated claims over and over and over to the contrary. It doesn't cause obesity. It may contribute; we don't know how much. But it is not a justifiable tax exemption. It was also said that energy drinks are somehow ambiguous and not covered in this bill. Of course it is; it's a sugar-sweetened beverage, and it's covered. Thirty-five other states seem to have figured out how to do this, but Nebraska can't do it? The grocery association will just absolutely collapse if they have to do something like this? Thirty-five other states can do it, we can't...that was one of the most absurd arguments I heard. Did I say that? Yeah, I did. And I meant to. New programs will never go away; you do this, and you're going to have programs there forever. Well, obesity is probably not going to go away, but maybe we can help reduce it. And certainly it's not going to go away if nothing is done; obesity is not going to be improved. So what about the long-term effects of obesity and the obesity-related illnesses and the cost? That's completely ignored. More untruths: Demand will go down. No, the testimony was exactly not that. The testimony was, it takes about a 20 percent increase in taxes before it affects demand. So the industry is not going to die; corn growers aren't going to go out of business. So I just wish when people who don't like something, or they do like something, just stay with the facts. Don't mislead; don't misrepresent. With that, I will quit. [LB447]

SENATOR HADLEY: Are there questions for Senator Avery? Seeing none, Senator

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Avery, thank you for coming in to the Revenue Committee. [LB447]

SENATOR AVERY: Thank you. I think you're finished now, aren't you? [LB447]

SENATOR HADLEY: I...with you. (Laughter) But we're not finished. Oh, I saw Senator Carlson come in, didn't I? Hiding back there in the second row? Come right up, Senator Carlson, and we'll get started with LB516. This is the last bill of a very long week, Senator Carlson. [LB447]

SENATOR CARLSON: I understand that. Good afternoon, Senator Hadley and members of the Revenue Committee. I am Tom Carlson, T-o-m C-a-r-l-s-o-n, senator from District 38 here to present LB516. I'm not going to be speaking on the green copy of the bill, but to the concept as it applies to LB517, my priority bill for this session. And LB517 creates the water sustainability project task force. There will be 28 voting members to do work from June 1, 2013, to December 31, 2013. And the task force will represent the vast majority of groups in Nebraska who have an interest in and a stake in water issues. We will also call in expertise from many in Nebraska who have extensive knowledge of Nebraska water. This will include UNL, DEQ, Game and Parks Commission, Corps of Engineers, U.S. Bureau of Reclamation, and NRCS-Natural Resource Conservation Service. The task force will hire a moderator, or moderators to facilitate the work. And it will take the work of the water policy task force, which goes back several years in Nebraska; LB229, which was the start of water funding, and LR314 which was the study to determine sources of possible funding for water issues. The task force will make recommendations for a 20-year strategic plan for Nebraska water policy. And this plan will include research, a process of evaluation, gathering of data, conjunctive management of water; it will look at existing structures and whether or not they need rehabbing or improvement. It may look at the building of new structures. And it will include a cost estimate for already suggested projects and a time line for the completion of these projects. The end result, I'm confident, will be a well-thought-out plan with funding needs for the next 20 years. Now the state of Nebraska currently funds \$3.3 million a year out of General Funds. And the Environmental Trust funds \$3.3 million per year. That's for three years and there's a possibility it could go on three more and there's a possibility of three more beyond that if certain benchmarks are met. So that's a total of \$6.6 million a year is the extent of funding of water issues today from the state. And I don't ask for LB516 to move anywhere from this committee in this session. But I look forward to what our testifiers have to say and suggest about funding sources for water. And there may be some interesting new ideas. As we look at energy sources, this thought was mentioned to me by someone this week and it really stuck with me. We may come to a time sometime in the future where we run out of oil and run out of coal, but if we do, we will have developed other sources of energy through renewables. We will have sources of energy. But if we don't manage our water properly and come out with a plan that assures that in the future we have clean good water for our needs in the state of Nebraska, we're in real trouble and we cannot let that happen. We've got the

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best water resource in the United States in the Ogallala Aquifer. Now we have a rather well-believed idea that we have a million acre-feet of water coming into Nebraska every year, and 8 million acre-feet leaving the state. We need to address that. And that would be part of the responsibility of this task force to look at ways that we can keep more water in the state so that in times of shortage we've got more water to use. And that's so important for future years for the management of our water. We need water quantity and we need water quality to be addressed. So that's my introduction. I'm looking forward to seeing what our testifiers have in the way of suggestions for water funding. And I would try to answer any questions that you may have. [LB516]

SENATOR HADLEY: Questions for Senator Carlson? Thank you, Senator Carlson. Water is always a great topic and I think this might have been...I don't remember much before the Revenue Committee before on water, but we're happy to have you here. [LB516]

SENATOR CARLSON: Good. And I'll be anxious to hear what these suggestions are. [LB516]

SENATOR HADLEY: Okay. Would the first proponent please come forward. [LB516]

DON NELSON: Chairman Hadley, Senators, my name is Don Nelson, spelling of the last name is N-e-l-s-o-n. I'm not a lobbyist; I'm not being paid to wait or testify. I'm probably one of the few people that comes to your hearing room as a true outsider and civilian. How did I get involved? Two years ago when the discussions were taking place on how to pay for some of the requirements of compact compliance and litigation, a decision was made to earmark some money from the Nebraska Environmental Trust. Well, for one of the first times in my life, I was not on anybody's payroll. So I became one of the most dangerous men in Nebraska, I could say what was on my mind. I didn't like the discussion or the tone because it seemed to me that the Legislature was trying to avoid coming to grips with a problem that I've seen around for 50 years and that is inadequate attention and inadequate funding of our second most precious resource, water; the first being our human resources. I looked around and I found that during my then second retirement, all of my buddies had retired as well. So I sent out 13 letters to all of my friends and former colleagues, inside and outside of government, and pledged to them that if they would spend one-half of one day with me I would never bother them again. They humored me, they came, we spent a half a day and we put together a nine-page report. Some people call it the "gang of 12" because we had Ann Bleed in our membership. I called it "Snow White and the seven dwarfs." Our gang of 12 continued to meet because they wanted to, not at my call, but at two other members' calls. They added members and asked for more and more input. We began working with, first, Senator Langemeier and then with Senator Carlson and their staffs to make sure that we could provide as much information as possible to them. The purpose of my appearance here today is to support a return to a vigorous and muscular Nebraska

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water financing mechanism by understanding the high priority that water should have in our state. Such a program needs to provide money for water research, water project rehabilitation, and new water projects, including, as Senator Carlson said, both water quality and water quantity. LB517 will advance that discussion. Water financing always has been laced with controversy. How much money is required? Who decides how to spend that money? What is the source of the financing? I'm not here today to argue those points. I can, however, offer some guidelines in regard to these matters and what I've learned in working in and out of government now almost 50 years. Number one, smaller groups are often more effective than larger groups. Number two, statewide representatives are generally more effective than parochial interests. And number three, and most importantly, the political realities often dictate against principle number one and principle number two. And having been privy to many a compromise in the Legislature and between the executive and legislative branch I will not find fault or second-guess anything that the Legislature decides to do in order to advance the discussion. Let me end my testimony here, unless you want to ask questions about what I've learned about the various opinions on sources of revenue for water financing. Thank you very much. [LB516]

SENATOR HADLEY: Any questions for Mr. Nelson? I would just make a comment, we will be asking you for questions later on when we do the modernization tax study because, obviously, the concept of funding state operations of which water is one of those, we will be looking at how we should fund that, along with a lot of different things that we handle in the state. So don't retire completely so that we can call upon you this summer and fall to help us, okay? [LB516]

DON NELSON: Good. The good thing, Mr. Chairman, is my advice is already paid for. (Laughter) The taxpayers of Nebraska invested in me every time I went into public service and I'm still eager to repay that debt. [LB516]

SENATOR HADLEY: Thank you so much for coming. Next proponent. [LB516]

CARL SOUSEK: (Exhibit 26) Hello again, Mr. Chairman. Again, my name is Carl Sousek, C-a-r-l S-o-u-s-e-k, chairman of the Nebraska Corn Growers Association. I'm here today in support of LB516. The Nebraska Corn Growers Association supports LB516; specifically, we agree with the definition in Section 2 that states: our water resources are finite and must be wisely managed. For many years, task forces and commissions have devoted considerable time and energy to research and study of Nebraska water management issues. The Nebraska Water Legacy Commission established by LB516 will build on this important work and provide results that properly manage our vital water resources. Most importantly, LB516 will establish a long term and balanced funding mechanism to manage Nebraska's water resources. The Nebraska Corn Growers Association supports this balanced and broad-based funding approach that recognizes the benefits our water provides the entire state. Thank you

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and I'd be glad to try to answer any questions you might have. [LB516]

SENATOR HADLEY: Are there any questions? Seeing none, thank you for sticking around and providing us testimony. We very much appreciate that. [LB516]

CARL SOUSEK: My pleasure, thank you. [LB516]

SENATOR HADLEY: Next proponent. [LB516]

KRISTOFER JOHNSON: (Exhibit 27) Hello. Thank you, Chairman Hadley and the other members of the Revenue Committee. My name is Kristofer Johnson and that is spelled K-r-i-s-t-o-f-e-r, Johnson is pretty regular, J-o-h-n-s-o-n. I am here today representing Audubon Nebraska and all of our members from across the state. We are pleased to support LB516, the Nebraska Water Legacy Act. Audubon has historically worked in partnership with many Nebraska organizations and communities over the years to ensure that we leave a legacy of clean and plentiful water across the state. In the past, our water, rivers, and wetlands were so abundant that we did not perceive the need to focus on long-term management. Unfortunately, we know that the future will be far more complex as our water resources continue to be utilized for a variety of different uses. A forward-looking plan that we can create collaboratively together is critically necessary to prepare for these challenges in the future. We want future Nebraskans to look back with pride on the decisions that we are making today. In addition to the many environmental considerations, it's also important during this planning effort to look at the broad diversity of economic development and opportunities we experience that are related to our water supply. For example, University of Nebraska studies show that Audubon's Rowe Sanctuary along the Platte River alone has an economic impact on nearby local communities of over \$5 million every year. Clearly, the broader economic implications of water-related activities is far greater. We believe that LB516 is our best path forward. We enthusiastically support Senator Carlson's leadership in bringing together so many interests to create this opportunity for our future. Thank you. I'll take any... [LB516]

SENATOR HADLEY: Thank you, Mr. Johnson. Any questions? Thank you, we appreciate you coming in. [LB516]

KRISTOFER JOHNSON: Thank you. [LB516]

SENATOR HADLEY: Next proponent. [LB516]

JEFF BUETTNER: Good afternoon, Senators. It's my pleasure to be here two days in a row to address your committee. My name is Jeff Buettner, spelled J-e-f-f B-u-e-t-t-n-e-r. I'm the public relations coordinator and a lobbyist for the Central Nebraska Public Power and Irrigation District. We specifically thank Senator Carlson for being willing to carry this legislation. We realize, and he understands as well, that it's a tall task to take on. It

seems that water funding is always at the bottom of that ladder; it starts to climb up; it climbs up and something else comes along and it gets pushed back down to the bottom rung and we have to start all over. But over the years, demand for water in Nebraska has grown and with that growing demand comes more challenges for Nebraska's irrigation projects, NRDs, farmers, power suppliers, municipalities, recreation interests, wildlife habitat, and, yes, for the Legislature. Like electricity, water is often taken for granted. Its importance is most apparent only when it's not there as demonstrated by last summer's drought. According to information from UNL's Water for Food Institute, the world's population is projected to increase by 40 percent in the next 50 years and demand for food will double. The U.S. will be expected to play a major role in meeting that demand and Nebraska is one of the nation's leaders in agriculture must be in the front lines of that effort. However, Nebraska faces perpetual water resources challenges. Water in Nebraska can be both abundant and scarce, as we've seen in recent years. The state has more than 81,000 miles of streams and sits atop one of the most plentiful aquifers in the world. And yet many of our streams are depleted by frequent drought or pumping of hydrologically connected groundwater. The average annual precipitation varies as much between Omaha and Scottsbluff as it does between Omaha and Boston which precludes a one-size-fits-all approach to water management. To top it off, much of Nebraska lies in a semiarid zone which means storage and conservation to offset drought is critical. Like water, state funds are limited and a request for dedicated funding isn't made lightly. The Legislature is unlikely to agree to the request unless it is confident that the funds will be used efficiently. That's the purpose of LB517, as Senator Carlson referenced, a related bill before the Natural Resources Committee that would create the water sustainability project task force. The task force would use past studies and new data to develop and prioritize a comprehensive list of potential water projects. The bill is the next step in a process intended to address Nebraska's water problems. And I'll quickly go over that process, and Senator Carlson did pretty much the same thing. He mentioned LB962, LB229, and the investment that has been made for solving some of our water problems that led to LR314 in 2011 through which information on funding needs for water management activities was gathered. As a result of that study, the Natural Resources Committee indicated that while the study provides a good overview of needs, a more detailed study and a basin by basin analysis are warranted to better identify specific funding needs. Additionally, the committee agreed that before a specific priority listing of water management and funding needs can be established, it is necessary to create a criteria to determine which projects or management activities would be most beneficial. Some may suggest that prior studies have provided a list of potential water projects and that the recent practice of routing funds through DNR to the NRDs is sufficient. While it's true that a list of possible projects exists, there hasn't been the necessary prioritization of those projects, nor is there a mechanism to do so. While DNR has perhaps been adequate as an interim means of directing state funds toward water projects, neither DNR nor the Natural Resources Commission fully encompass the range of interests that would be assigned the task proposed by the task force in the Nebraska Water Legacy

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Commission. Without input from these groups, the increased focus on getting the best return to Nebraska for the dollars spent, Central fear that legislatures will be less certain that funding for water issues will be directed in the best possible way and will be less inclined to provide the dedicated funding that is so needed. In conclusion, water is often called Nebraska's most important natural resource. We believe that it is time to approach water as the critical component of our economy, of our communities, and of our way of life that it is and to provide a more permanent funding mechanism for its management, conservation, and use. For these reasons, Central supports LB516 and thanks the committee for this opportunity to testify. [LB516]

SENATOR HADLEY: Questions? I have one. [LB516]

JEFF BUETTNER: Yes, sir. [LB516]

SENATOR HADLEY: Senator Carlson talked about energy and you mentioned electricity, do you see a time in the future where water will play an even more important role in the possible production of electricity in Nebraska? [LB516]

JEFF BUETTNER: Well, you know, we're limited. Of course there is about...it varies from year to year, according to the water supply, but we're limited by the amount of water available for hydroelectric generation. A couple of summers ago when we had the huge amount of water coming downstream, Central, in particular, generated more hydroelectric power than it had in its history. The year before that and two years before that we were down at the other end. So it's definitely the water supply that dictates how much hydro power can be generated. Now we have investigated some potential for low-head hydro power sites in which you use a smaller drop of the water over the turbines' blades to generate electricity. Up to this point feasibility of that is somewhat questionable because of the long payback period. But I know there is a nationwide movement to look at potential sites for low-head hydro that might generate additional electricity. [LB516]

SENATOR HADLEY: I just...I guess I brought that up only from the reason that we have a bill that's been prioritized and will be heard on the floor, of adding, basically, other alternative sources... [LB516]

JEFF BUETTNER: Um-hum, um-hum. [LB516]

SENATOR HADLEY: ...of energy under the Nebraska Advantage Act. And, obviously, wind energy is the one that people think of right away. But when we think long term, it's...I just wondered if there was the potential for water being something...when you look long term as something that people will be looking at for the potential of generating electricity. [LB516]

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JEFF BUETTNER: I think that opportunity is out there. Other states have done it, and I don't see why Nebraska couldn't do so as well. [LB516]

SENATOR HADLEY: Okay, thank you, sir. [LB516]

JEFF BUETTNER: Um-hum. [LB516]

SENATOR HADLEY: Next proponent. Welcome. [LB516]

PAUL BISHOP: Thank you. My name is Paul Bishop, Paul, P-a-u-l, Bishop, B-i-s-h-o-p. I live near Elm Creek, Nebraska. Thank you, Senator Hadley and other members of the committee, for allowing me to have the opportunity to voice support for LB516, the Nebraska Water and Legacy Act. I'm here today representing Ducks Unlimited and its 11,000 members who live here in Nebraska. Water is one of the most important natural resources that we have in our state. Water is the driving force behind agriculture, the state's biggest economic engine. The importance of irrigation to the health of the agricultural economy was particularly present in the drought during 2012. Certainly, abundant high-quality water is also very important to residents of Nebraska's cities and towns. And as a Ducks Unlimited volunteer and outdoor enthusiast, I can attest to the fact that water is important to wildlife and sustaining wildlife habitat. Hunting, fishing, bird watching, and other wildlife-related activities are cherished by Nebraska families. They contribute to a quality of life that Nebraskans so enjoy. These activities also contribute to economic success. As an example, I point to the thousands of people who are now watching, or will be watching over the next few weeks, Sandhill cranes, migrating waterfowl, and other wildlife along the central Platte River. Unfortunately, we're not blessed with an endless supply of water. As demands for our water resources grow we see increased conflicts over water supplies and water quality. Without a plan to address our looming challenges, we will inevitably see some consequences that are unfavorable for agriculture, for wildlife habitat, and for our communities. LB516 recognizes that water resources are limited and must be managed wisely in a manner that proves sustainable for future generations. This proposed legislation will create a source of funds and a process to invest in our water resources, including projects that protect water supplies and water quality. As a wetland conservation organization, Ducks Unlimited recognizes the important role that wetlands play in storing water, recharging groundwater, improving water quality, reducing the damages caused by flooding, and providing habitat for fish and wildlife species. We recognize that appropriate wetlands conservation efforts will play an important role in achieving the overall objectives of this proposed legislation. LB516 is a courageous and thoughtful effort to address our future water challenges. We commend Senator Carlson for having the wisdom to recognize that the time to act is now. We cannot afford to wait until our water challenges become an unmanageable crisis. This is truly a legacy bill. Our children and grandchildren will thank us for having the foresight to address our long-term water challenges in a thoughtful, thorough process that addresses the benefits water provides to the citizens

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in Nebraska. In closing, just two years ago Ducks Unlimited was part of a large group of natural resources districts, water users, wildlife conservation organizations, and we're meeting on a regular basis to discuss this very issue. The consensus of the group was that Nebraska did indeed need to develop a plan and funding mechanism to deal with our looming water challenges. We believe significant statewide support exists to address these challenges. Ducks Unlimited stands ready to assist Senator Carlson and members of this committee in moving LB516 forward. Thank you. [LB516]

SENATOR HADLEY: Are there questions for Dr. Bishop? I have just one quick one. Were you involved in HPERLS at the University of Nebraska at Kearney? [LB516]

PAUL BISHOP: Yes, I was. [LB516]

SENATOR HADLEY: I just think that's unique. We've had two bills today and we've had two different testifiers from the same department at the University of Nebraska at Kearney on two widely different bills, so I want to congratulate them and the former dean who is my wife, thank you. (Laughter) Next proponent. [LB516]

JAY REMPE: Senator Hadley, members of the Revenue Committee, my name is Jay Rempe, J-a-y R-e-m-p-e. I'm vice president of governmental relations for Nebraska Farm Bureau here today on behalf of Nebraska Farm Bureau in support of LB516. I'll be very brief. We support the bill and the concepts in it as a way to move the water discussion forward and for many of the same reasons that people already outlined. Just two maybe real quick brief points that haven't been made yet, I think the Legislature has already...we've always envisioned water funding as a state and local partnership and mix. And I think the Legislature has done a great job of providing the local funding sources through increased property tax resources to NRDs and the occupation tax on irrigated acres, and so we're pretty well set on the local side. Now we need to focus on the state side which this bill attempts to do. And just someone mentioned the importance of irrigation to the state. Just real quick, last year we asked a group from Iowa to do a study to look...ironically we asked them the year before to look at what the impacts of the flooding was in 2011; last year we asked them about the 2012 drought and if we did not have irrigation in the state of Nebraska what that would mean in the way of economic outlook. And they determined that without irrigation that our economic output would have been \$10.9 million less than it was last year and we would have had 31,000 fewer jobs. So that access to irrigation and our managing our water resources properly is vitally important. And for that reason we support this bill and the continued discussion and thank Senator Carlson for introducing it. [LB516]

SENATOR HADLEY: Any questions for Mr. Rempe? Thank you. Next proponent. Seeing none, are there any opponents? Welcome. [LB516]

JOHN BOELLSTORFF: (Exhibit 28) Good afternoon. Thank you, Senator Hadley and

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committee members. I appreciate the opportunity to present my views. I have a marked up copy of the bill for each of you so I won't go into a lot of the details in there and the... [LB516]

SENATOR HADLEY: Could you give us...we need your name and spelling. [LB516]

JOHN BOELLSTORFF: Oh, excuse me, my name, John Boellstorff, J-o-h-n B-o-e-l-l-s-t-o-r-f-f. I'm an emeritus with the Conservation Survey Division, which is now under the School of Natural Resources at the university. I have worked up of 14 years with them in a coproduction company and a research center in Tulsa. The views I present are my own, I don't represent anybody. And like the other fellow said, I'm not employed by the university; I'm not looking for a job or anything like that, so I can say what I want to say. Number one, just something I just wanted to point out that this past year's drought which seemed to be driving a lot of, I think, hysteria, the National Weather Service said that rainfall or climate...weather for the year was within the spectrum of normal for Nebraska. Now I'm 72 years old, I've lived through a five-year drought in Oklahoma, several...a three-year-long drought in Nebraska. One thing we did not have this year but we had in previous years, was grasshoppers out, at least not down in southeast. And most farmers don't get excited about drought, they expect it. I mean, that's part of Nebraska's climate. I remember back in the '50s, we went out and with an old corn binder and chopped corn for the cattle and such. So we didn't have any grain to take to market. But people weren't looking for handouts from the government. I feel like a lot of this is people wanting to get set up to get financial aid from the government. And I just, you know, I think there's not enough money to go around. I think we need to be thinking about the dollars. But anyway, what I feel as far as the bill, I don't feel there's a need to create a new bureaucracy. I think there's too much of that going on and especially the national and the local economic climate which to me is more worrisome than drought. I'm more worried about the economy continuing nosediving than about drought. We may have drought for three, four years, it wouldn't surprise me. But anyway, I don't think we need a new bureaucracy. I don't see anything that's been presented in there that couldn't be well handled by the existing Nebraska Department of Natural Resources and the 23 NRDs. The geology and the hydrology of the state varies greatly from basin to basin. A statewide plan to me would be the Platte Valley or somebody like this is controlling it, that speak the loudest. I feel like we do need some regulations. For example, down in southeast Nebraska's high bedrock, the aquifers consist of confined buried valleys, they're very narrow channel fields cutting, more or less, east/west across that part of the country. And that's where these irrigators are pumping out of. Well, they'll pump domestic wells dry. My brother's well went dry and burned up a submersible pump because they didn't have water. And this is very common down there. People have had to go to take their laundry to town to get it laundered and all, so. You know, that should not occur. They should shut the pumpers off before that happens. People come before crops. And anyway, okay, then the other thing, as far as revenue, I haven't heard mentioned, I believe, you know, the water

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belongs to all the people. And I think water should be taxed. I think every irrigation well should have a tax and every domestic well should have a tax. The basis of that is domestic wells could be bad points sources of contamination. I think...and irrigators, since it's the people's water, they should be paying a tax so when they pump somebody's well dry, that fund is used to go deepen that guy's well so that he doesn't have to do it or he doesn't have to go through legal proceedings to get the irrigators to do it. So I think that there is a potential for all the money that's needed for water projects. And the third thing I think we ought to look at is combining a bunch of these water efforts. We have a lot of money going to bureaucracy, to administrative. And these different entities are protective. They're little empires; they want to grow their empire and so you don't have collaboration between the workers, you don't have tunneling. I think it's a very inefficient way to go. And that's about all I have. If you have any questions I'll try to answer them. [LB516]

SENATOR HADLEY: I guess I would like to make a comment. I very much appreciate your bill with the notes and I will make sure that Senator Carlson, if he doesn't have one, will get a copy, because I think this is what he was asking for was input on this. So I very much appreciate you're coming to give us that. Thank you, Doctor. [LB516]

JOHN BOELLSTORFF: Okay, thank you. [LB516]

SENATOR HADLEY: Further neutral? Actually we can't use...we have no way in the record for using physical props, so you're going to have to tell us your testimony. [LB516]

MARVIN HAVLAT: Okay. Good afternoon, Senator Hadley. My name is Marvin Havlat, that's H-a-v-l-a-t. And I think, you know, I want you people to think about other things, what comes to Nebraska's water that you possibly haven't thought about before. One moment, please. Senator Hadley, you asked a question about the Nobel Prize, I digress. The reason people are obese is they eat foods that are totally void of nutrition that form mucus in the body. So if you eat nutritionless foods the body still wants the nutrition and if you eat empty foods the mucus forms around the cells and even then it can't get in. Okay. I'd like to give this book to Senator Sullivan. This will put you 25 years ahead of the curve and here's why I know that. My daughter was born in 1970 and her whole body was clogged with mucus. We had to pump it out of her lungs and then we had ear tubes going in and we were pumping it out of her ears. We took her home; a week later we came back, we had to redo her ears, redo her lungs and the doctor said, if we don't change our diet she's going to go deaf. After about 20 years, this is the best diet, it's called the live foods diet, it's not food cooking, it's food preparation. I'd like to give you this. This is a manos; I found it on my farm. The Native Americans used to grind acorns with it. And they could drink out of the streams then. Dr. Swetland, over in Oldfather Hall, is writing a history of the Omaha Indians, they go back a long ways. This is a 10,000-year-old matchbox. This hide scraper, I found it on my farm,

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came from northern Arizona; so there was a lot of trade going on back and forth. I have approximately 1,000 Indian artifacts. Many of them are metates which you grind on, many different kinds of manos, like this stone. I have hide scrapers this wide; all kinds of hammers and pounding things. These people gathered on our farm by the nature of the way the streams came together. If you think about it, you could have probably drank out of those streams 75 years ago. Being a behavioral scientist, I know you're all extremely low on glucose. You've been running out and trying to get some sugar. What glucose does in the human body is transfer the neurotransmitters. There couldn't be a worse time of the week for your mental acuity than right now, Friday. You've made so many decisions this week that you're sitting there, (sigh), and I've been observing your behavior, Senator Hadley. (Laughter) One of the things... [LB516]

SENATOR HADLEY: Please don't tell my wife. [LB516]

MARVIN HAVLAT: I won't. One of the things...this is what I...this is industrial hemp. It cost me \$14 a square foot. Industrial hemp produces as much energy as corn on one-hundredth of the water. My grandson, he was so shocked that I (inaudible) the (inaudible) where my uncle took the pictures. My uncle was the last man to die in the European Theater; he was shot by a sniper 10 minutes after the cease fire. My father got wounded in maneuvers in Arkansas; Uncle Rudy was the tank driver with Patton's crew; and Adolph worked with Senator Eisenhower, he was at the Battle of Bulge and then he was in charge of feeding orphans and burying gas canisters. This is what I think about at nights when I think about Nebraska's water. And being a psychologist, a sociologist, an anthropologist, I have trouble dealing...we have good water. My grandson was born in Seward one year before Seward announced their water was bad. Oh, what is it? Attention deficit hyperactive activity, I think that's what they call it, I forgot, I'm kind of nervous. Sixty percent of his classmates had that. They were all born blue from high nitrogen in the water. Nebraska is worrying about the water in the aquifers, the drinking quality in the horizons above. You've got 10 percent here, the 90 percent of ag chemicals and nitrogen is still to hit the aquifers. Come out to Seward and see that pipe coming out of that cleaning plant into the Blue River. Maybe we should get you a glass of that, because that's what's happening to the Blue River. [LB516]

SENATOR HADLEY: I'm going to have to ask you to...the red light is on, so... [LB516]

MARVIN HAVLAT: That's too bad, but. [LB516]

SENATOR HADLEY: I understand. But we have other people who are testifying. So thank you. [LB516]

MARVIN HAVLAT: Okay. [LB516]

SENATOR HADLEY: Thank you. We appreciate you coming in to see us. [LB516]

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MARVIN HAVLAT: I'd just like to finish up and say that the water quality in this state is so bad. And if you think about it, California last year put 156 million pounds of ag chemicals into their water and when you look up at that north balcony... [LB516]

SENATOR HADLEY: Don't forget your... [LB516]

MARVIN HAVLAT: ...there's not a child sitting up there that doesn't have atrazine and 2,4-D in their reproductive organs. [LB516]

SENATOR HADLEY: And you have your bag here. [LB516]

MARVIN HAVLAT: I will, sir. [LB516]

SENATOR HADLEY: Okay. Next neutral? Seeing none, Senator Carlson, would you like to close? [LB516]

SENATOR CARLSON: Thank you, Senator Hadley and members of the committee. And I want to thank each one of the testifiers that came today whether they were proponents or opponents or neutral. And if you think back, we had a variety of people that testified on behalf of this bill. And I want you to think just a minute as I close because it won't take long. The thrust of this task force and study is to take into account the various groups that do have an interest in water issues: certainly municipalities, manufacturing, domestic users, those with concerns about the environment and water quality, those liking outdoor recreation near water, public power, fish and wildlife, livestock producers, surface water irrigators, and groundwater irrigators. There's 10 groups that I've mentioned, three of which are ag related. And so I think it's really important that we get input from these other groups. Now, one of the approaches would be let ag fund it all. And I don't think that's good policy for the state of Nebraska. We know that agriculture is our number one industry; we know that water is the lifeblood of agriculture. We know that the mission of agriculture is to feed the world. And as we look at the population increase in the world and the requirements that are going to be put on agriculture and the challenge that is there in future years and in Nebraska to raise more with less, then proper management of our water resources are becoming evermore important. And I think the state needs to be a big part of that because if we do it...now, I shouldn't say if...when we do it, when we have good management in place so that generations into the future we've got proper water so that we can grow more with less, the wealth in agriculture and the wealth in Nebraska can't even be calculated. And this is that important. So thank you for listening. [LB516]

SENATOR HADLEY: Questions for Senator Carlson? Senator Carlson, thank you so much. It's a great topic and I will guarantee you that we will be talking with our modernization committee because this is, obviously, something that is on the plate.

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[LB516]

SENATOR CARLSON: Good. Thank you. [LB516]

SENATOR HADLEY: Thank you. With that I will close the hearings for the day. Thank you all for coming. [LB516]