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Revenue Committee
February 14, 2018

[LB911 LB1007 LB1077 LB1106 LR290CA]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 14, 2018, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB911, LB1007, LB1077, LB1106, and LR290CA. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Brett Lindstrom; and Paul Schumacher. Senators absent: Tyson Larson.

SENATOR SMITH: (Recorder malfunction)...welcome to the Revenue Committee public hearing. My name is Jim Smith, and I represent the 14th Legislative District in Sarpy County. And I serve as Chair of the committee. The committee will take up the bills in the order that's posted on the outside of the room today. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation that's before us today. To best facilitate today's proceedings, I ask that you abide by the following procedures. If you would, please, first silence your electronic devices so as not to interfere or interrupt the person that is testifying before us. The order of testimony will be introducer of the bill, proponents, then opponents, then those wishing to testify in a neutral capacity, and then we will have closing remarks by the introducer of the bill. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written materials and you would like to have those distributed, we will need 11 copies. If you need any help making those copies, just raise your hand and let the page know and we will help you get those copies made so you'll have them available when you do come up to testify. I think, with that, we will use...just due to the number of bills we have today, we will use the light system. We're going to limit testimony to five minutes. The green light will be on for four minutes, then it will turn to an amber color for one minute, after that it will turn to a red. And if the red light comes on, if you would, please wrap up your testimony if you had not already done so. That just allows us to keep moving through and take care of others that want to testify on the bills. If your remarks were reflected in a previous testimony or if you would like your position to be known but do not wish to testify, we offer that you sign the white form in the back of the room as it will be included in the official record. When you do come up to the testifiers table, if you would both state and spell your name for the record so we can get it...so the transcriber can get it correct into the record. The committee staff with us today: to my right is legal counsel Mary Jane Egr Edson, to my immediate left is research analyst Kay Bergquist, and to my left at the far end of the table is committee clerk Krissa Delka. Members of the committee will be coming and going today, so please bear with us. It's not because we're not interested in hearing your testimony, they do have...members of this committee have obligations in other committees as well, and they have to come and go during the hearing. I'm going to allow the members of the committee to introduce themselves. Senator Harr is at the far end of the table, and he will be joining us a bit later.

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SENATOR SCHUMACHER: Paul Schumacher, District 22. That's Platte and part of Colfax and Stanton Counties.

SENATOR BRASCH: Lydia Brasch, District 16. That is Burt County, Cuming County, and Washington County.

SENATOR FRIESEN: Curt Friesen, District 34; Hamilton, Merrick, Nance and part of Hall County.

SENATOR LINDSTROM: Brett Lindstrom, District 18; northwest Omaha.

SENATOR SMITH: And I believe, a bit later, we'll be joined by Senator Groene and Senator Larson. We do have a page with us today to assist us and assist you; Heather Bentley from Miller, Nebraska. Heather is a junior at UNL majoring in agricultural economics. And with that, we're going to take up our first bill of the day, LB911, to be introduced by Senator Bolz. Welcome, Senator Bolz. [LB911]

SENATOR BOLZ: (Exhibit 1-2) Thank you. I am Senator Kate Bolz, for the record that's K-a-t-e B-o-l-z, here to introduce LB911. I grew up in the Palmyra-Bennet District OR-1 school district. In full disclosure, I've also started, along with my sister, to become a part of a family farm in that community. And my nieces attend Bennet Elementary school. So I watched very carefully the attempts and ultimate passage of their recent school bond, which took three attempts. It was a challenging conversation for the community balancing local leadership, the need more space, the interest in athletic facilities, and pressures on taxpayers. Some of the attention came, of course, from the fact that school funding is rooted in property taxes and local control of spending by school boards. In Nebraska, in Palmyra and elsewhere, our school districts and local communities have very little flexibility to meet educational needs outside of increasing property taxes. So, LB911 creates a mechanism by which local school boards can ask their voters to approve a local option income surtax, not to exceed 20 percent, for school districts for property tax reduction or building construction, remodeling, or site acquisition for a duration not to exceed five years. With a majority vote of the school board, a local option income surtax can be put on a ballot in the primary, general, or special election. Section 6 of the legislation clarifies that a local option income surtax shall not increase budget authority for General Fund budget expenditures. In other words, a local community could address school needs in a different way by spreading the cost across taxpayers based on income rather than on property tax payments. This approach would give the communities the option of spreading the cost across taxpayers based more on their ability to pay according to their income rather than the basis of how much property tax they pay. The proposal is modeled after a local option income surtax in Iowa, I've provided a summary handout of the initiatives happening in that state. Local option income

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surtaxes have been used in Iowa since the early 1970s, and now 82 percent of all school districts use this tool as a substitute for additional property tax. I see this as a way to address property tax pressure in school needs in a manner that is more fair to all community members. I appreciate your consideration. I will mention, I'm happy to answer any questions, but we've got a rather interesting day in appropriations so I won't stay to close. My staff will be here to take notes and follow-up questions. [LB911]

SENATOR SMITH: Thank you, Senator Bolz, for your opening on LB911. Questions from the committee? Senator Friesen. [LB911]

SENATOR FRIESEN: Thank you, Chairman Smith. Intriguing proposition. So, basically, what you're saying is you would have to be a resident of that school district. And so when you check the box that...on your state income tax form that you belong to school district 95-y, or whatever, then if they impose that surtax you would pay that surtax on there. And so, if they chose to do it as a property tax relief measure, you would be applying that property tax relief to patrons who are not living in that district. I own land in four different school districts, so technically, there could a school...I could be on land in there where...let's say that my local school district decides to do this. And some other farmers that don't live in the school district own land there, but they're going to receive property tax relief from this. Would that be correct? I'm not saying that's a bad thing. Because, you know, I currently own land in four different school districts, I get to vote in one of them and I get to check the box in one of them. [LB911]

SENATOR BOLZ: So...yes, it's possible that if a local option income surtax was passed in all four of the districts in which you own land, you would receive...you would be...you would get less property tax pressure in all four of those communities. And in all four of those communities, the pressure would be spread across income taxpayers. [LB911]

SENATOR FRIESEN: Okay. And so, by...if the school board chooses to do that, do they...if they do it for property tax relief, so they have to provide dollar-for-dollar tax relief on the property tax side? Or are you counting on spending lids or something else? [LB911]

SENATOR BOLZ: The legislation doesn't articulate dollar-for-dollar. [LB911]

SENATOR FRIESEN: Okay. [LB911]

SENATOR BOLZ: Rather, it would be...so, say a school district needs to, just for simplicity, replace the roof on a school. And that costs \$100,000, just for the sake of simplicity. The bond

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could be passed so that the income taxpayers pay that rather than the property taxpayers. [LB911]

SENATOR FRIESEN: Okay. [LB911]

SENATOR BOLZ: That's a cost that's coming no matter what, and so you're going to create property tax relief by using mechanism A, rather than mechanism B. Does that answer...am I answering your question? [LB911]

SENATOR FRIESEN: I think you do. And so, another question I have is, then in the TEEOSA formula, none of this would count as a resource access to this extra revenue or would it count as a resource? [LB911]

SENATOR BOLZ: That is a great question, and I'm...Tiffany Seibert Joekel is behind me, with OpenSky... [LB911]

SENATOR FRIESEN: Okay. [LB911]

SENATOR BOLZ: ...and I'm going to pitch that question to her, if that's... [LB911]

SENATOR FRIESEN: Fair enough. [LB911]

SENATOR BOLZ: I hope she's not making a face behind me (laughter). [LB911]

SENATOR FRIESEN: It's an interesting concept... [LB911]

SENATOR BOLZ: I think she will do better about answering that question... [LB911]

SENATOR FRIESEN: ...I appreciate you bringing it. Thank you. [LB911]

SENATOR BOLZ: You're welcome. [LB911]

SENATOR SMITH: Senator Schumacher. [LB911]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for introducing this bill. Just one kind of follow-up question on what anomalous effects we might have. We have a

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situation where maybe one small county seat in the area, in the school district and we have a lot of folks that are basically farming, probably not a lot of income these days, at least for some. But we have...in the small town, we have the telephone company executive, which usually does quite well, along with the local banker, who usually does quite well. And probably pays a good chunk of income tax. And maybe a couple other people who have gotten retired and have got income. So basically, they can be ganged up upon by the...kind of the reverse of what might happen now in a school district, where you have a lot of urban people and a few farms scattered around the edges. So, we could have the reverse of that here where the banker and the telephone company owner ganged up on. [LB911]

SENATOR BOLZ: I don't know that I would use your terms (laughing). I, you know, would say that... [LB911]

SENATOR SCHUMACHER: Outnumbered. [LB911]

SENATOR BOLZ: Outnumbered or a democratic process, but I don't think your assessment is incorrect; that the way that local bonding works now, if there are fewer ag property taxpayers who are using their voice, they will get out voted, and vice versa could happen in other circumstances. The Palmyra-Bennet example is a useful one, not just because I happen to be familiar with it, but because it's a bedroom community of Lincoln. There's actually more of a balance than some other communities between those who are paying agricultural property taxes and those who have income tax who are the telephone company owners and the local dentists. And so, I think it would have been a more robust conversation if that imbalance hadn't been there. And that the responsibility was spread more widely. And I think one potential outcome could have been a more modest proposal, because everyone knew that money was coming out of their pockets. [LB911]

SENATOR SCHUMACHER: So, could the banker and the telephone company executive beat the system by simply moving out of the district? [LB911]

SENATOR BOLZ: Sure. [LB911]

SENATOR SCHUMACHER: As long as there's a way out (laughter). Thank you. [LB911]

SENATOR BOLZ: Um-hum. [LB911]

SENATOR SMITH: Other questions? I see none. Thank you, Senator Bolz, for your opening on LB911. [LB911]

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SENATOR BOLZ: Thanks for your consideration. [LB911]

SENATOR SMITH: We now move to proponents of LB911, those wishing to testify in support. Welcome. [LB911]

TIFFANY JOEKEL: (Exhibits 3-4) Thank you. Okay; Senator Smith, members of the Revenue Committee, my name is Tiffany Joekel, T-i-f-f-a-n-y J-o-e-k-e-l. I'm policy director at OpenSky Policy Institute. Senator Bolz did a great job of providing an overview of the bill. A couple things that I'm handing out; we've done a district-by-district analysis of the potential impact if districts decided to implement a 1 percent income surtax, a 10 percent surtax, or a 20 percent surtax, and then the property tax levy equivalent on their existing levy. So, I'm happy to chat about that if you have any interest. Essentially, an income surtax is an additional percent of tax applied to tax liability. So, if a resident of a school district A, for example, a banker or...if they would have a state income tax liability of \$1,000, as an example, and there's a 1 percent income surtax, the local option income surtax amount would be \$10. That new surtax revenue would be collected in the same manner as other income taxes and then returned to the district to support either property tax relief or the building construction, remodeling, or site acquisition. Our analysis shows that it would have varying impact. It's going to be directly related to the amount of tax liability...the state tax liability in the district. So a 20 percent surtax, for example, in Bennington, should they choose to enact that, could potentially lower their property tax levy significantly, by about 39 cents, while Sioux County Public School District could only lower its levy about 1.2 cents by using the 20 percent surtax. And the fiscal note also, for the bill, notes that if there was a 20 percent surtax applied statewide, which is probably not likely, it would lower school district property taxes by 15.6 percent in total. And at the district level, it would range from a 1.9 percent reduction to a 35 percent property reduction. To your question, Senator Friesen, a little bit about how this works within the existing financing formula. It would not be counted a resource in the way the bill is drafted in TEEOSA because the intent is not to necessarily support general operating. It is intended to either reduce property taxes, so what they're already spending to educate students, or to support, you know, building and construction. In that way, sort of precluding new property taxes, potentially, that they would have to levy to do those sorts of things. If the intent is to lower property taxes it's put into the General Fund and would be subject to the existing budget authority limits in the General Fund. If the district's intent is to use it for building, construction, etcetera, it would go into the special building fund, which already exists for that purpose. We support LB911 at the end of the day because it provides another tool for school districts to support the education of students that is not increasing our reliance on property taxes in the state. So, with that, I'd be happy to answer any questions. [LB911]

SENATOR SMITH: Thank you. Questions from the committee? Senator Schumacher, then Senator Harr. [LB911]

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SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you, Tiffany... [LB911]

TIFFANY JOEKEL: Sure. [LB911]

SENATOR SCHUMACHER: ...for appearing before us today. One of the problems that we...causing our crisis in state finances, in other words no money... [LB911]

TIFFANY JOEKEL: Um-hum.. [LB911]

SENATOR SCHUMACHER: ...is that we've given away our tax base. We've let the cities levy a 2 percent sales tax, so we can't really add much more because we're up against the limit. We've exempted a whole bunch of sales tax stuff. We've exempted a whole bunch of income tax stuff. We've limited our base, so that our rates have got to be high. Well, this then, in communities that would implement this, we're pretty much...we're at the practical limit now of 6.84 percent. At least the official rate, even though...dwindle that down because of our effective rate because of all the gimmicks we've done. [LB911]

TIFFANY JOEKEL: Sure. [LB911]

SENATOR SCHUMACHER: But, you had another point or so, or 10 percent more on top of that, roughly a point, you're now up to 7-point-something percent, and then if the state wanted...got in a pinch, which it will get into, where it's going to have to find some money from someplace. We're now got...have communities that have got tax rates that are really in the high zone. [LB911]

TIFFANY JOEKEL: Um-hum. [LB911]

SENATOR SCHUMACHER: And so, this makes a fragmented thing. It's hard for...how do we get around that? [LB911]

TIFFANY JOEKEL: I mean, I think that's a fair point, Senator. I think OpenSky has been supportive of trying to broaden that state's base in a variety of ways and would certainly be supportive of that. We've also been in front of this committee in supportive of increase...you know, support of increases in rates. To the extent that the state is not willing or not...you know, not interested in moving that way, I think LB911 provides another option. It has to be approved by the local voters. I mean, I think your point is a good one, right, that similarly, people make a similar case about the sales...local sales tax precludes the state's ability to raise their sales tax. But we have efforts in front of this Legislature to do that anyway. So, I think your point is a good

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one, absolutely supportive of broadening bases rather than increasing rates. But in the absence of action in that way, I think this provides districts with a tool that voters can make a choice about how they prefer to support their schools, whether based on income or property. [LB911]

SENATOR SCHUMACHER: Thank you. [LB911]

TIFFANY JOEKEL: Sure. [LB911]

SENATOR SMITH: Senator Harr. [LB911]

SENATOR HARR: Thank you. Our constitution, if I recall correctly, says the state is responsible for providing for education of our children. Isn't this just another step in transferring responsibility from the state level to the local level? [LB911]

TIFFANY JOEKEL: In some ways. I mean, it is providing a local option for local school boards to take advantage of supported by the people. [LB911]

SENATOR HARR: Okay, thank you. [LB911]

SENATOR SMITH: Senator Friesen. [LB911]

SENATOR FRIESEN: Thank you, Chairman Smith. So I guess, Senator Harr in the past has always asked, are we measuring wealth correctly? So, does this...is that what this bill kind of does? We start to measure wealth in different ways instead of just property. [LB911]

TIFFANY JOEKEL: Yeah, I think, in some ways. It doesn't because it doesn't expand the definition of wealth in the formula, right? So, the TEEOSA formula is still going to be primarily focused on property wealth with the small percentage of allocated income taxes included in that calculation. So, I think, in some ways, in the TEEOSA formula, the definition of wealth remains the same. In the resources actually available to school districts to access to educate their students, it does expand the tools available to them beyond a property tax levy now to a new source of revenue or a new stream of revenue in a local option income surtax. [LB911]

SENATOR FRIESEN: What would be wrong in just mandating it to every school district? [LB911]

TIFFANY JOEKEL: Well, we like local control, Senator (laughing). [LB911]

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SENATOR FRIESEN: It still is, you know, we've... [LB911]

TIFFANY JOEKEL: Yeah, I mean... [LB911]

SENATOR FRIESEN: ...you just said, we're almost passing it down to more local control because it's coming from those local... [LB911]

TIFFANY JOEKEL: I think there are some districts that may not choose to access this. I mean, they may not feel the sense...there are potentially some districts that are not as burdened by the property taxes that they pay and may not choose to access this option. And so, I think for that reason I think it's important to leave it as a local option. I think there are other districts that would very much like to broaden the resources available to them to support their districts. We've had a number of requests since we put out a brief on this yesterday from school districts all over the state asking for exactly what we handed out today; how much could we raise? What would that make available to us? So, I think there is a lot of interest in districts that don't want to rely so heavily on property taxes to try to find some safety valve and I think LB911 presents that. [LB911]

SENATOR FRIESEN: I guess my question is, by allowing school districts to choose, again, we create more disparity, I guess, between school districts by allowing it. I know it's the local control, but in the end it provides the disparity that we have now and amplifies it. [LB911]

TIFFANY JOEKEL: Yeah, I think that's fair. [LB911]

SENATOR FRIESEN: Okay. [LB911]

TIFFANY JOEKEL: It changes what the...so, by utilizing a different form of wealth, I think you're looking at two different kinds of disparities. But certainly, it will increase the diversity, I suppose, of how we fund school districts... [LB911]

SENATOR FRIESEN: Okay. [LB911]

TIFFANY JOEKEL: ...without a doubt. [LB911]

SENATOR FRIESEN: Thank you. [LB911]

TIFFANY JOEKEL: Sure. [LB911]

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SENATOR SMITH: As you impose income taxes based on individuals based on where they live and they are the individuals that can be mobile and choose to locate somewhere else, aren't you accelerating the decline of our rural communities by imposing something like this? [LB911]

TIFFANY JOEKEL: It's possible, Senator. I mean, it's certainly, in theory, a thought. I mean, I think generally we don't find that the research shows a strong connection between taxes and mobility. That being said, Iowa has this, this proposal is modeled after a similar...very similar provision in Iowa. As Senator Bolz said, it's been in place since the '70s. Eighty-five percent of districts take advantage of it to some extent. So, they're going to have to find that percent of districts that don't access this to be mobile. And so then all sorts of decisions go into that; is that where they want to live, is that, you know....so, you know, we don't necessarily buy the mobility argument, but it's certainly possible. [LB911]

SENATOR SMITH: Very good, thank you. I see no further questions from the committee. Thank you. [LB911]

TIFFANY JOEKEL: Thanks. [LB911]

SENATOR SMITH: Next proponent of LB911. Welcome. [LB911]

LARRY SCHERER: (Exhibit 5) Thank you. Senator Smith, members of the Revenue Committee, my name is Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r. I'm here on behalf of the NSEA to support this bill. And, philosophically it's...for NSEA, it broadens the tax base for schools and allows for lowering of property taxes without hurting schools. So, that's our foundation. I'd just like to talk a little bit about some historical stuff and also try to answer some of your questions. Senator Harold Sieck from Pleasant Dale, 40 years ago, introduced these bills. At that point in time we didn't have computers, hardly, and so it was very difficult to implement. Now, it's...all the information is there and Senator Friesen, it would even be possible to prorate, probably, that income tax depending on the schools districts to spread it out. But I don't know whether you'd want to do that, but it's probably possibly. Senator Schumacher, you ask about the state tax base. Yes, this would cut in to the state tax base. The state tax rate would still be 6.84 percent no matter where you live, no matter what your school district does. But the school district revenue would be increased, and the state's revenue would be decreased. Philosophically from the standpoint of the original goal of TEEOSA, that fits. The idea was to broaden the tax base for public schools, so. The other, Senator Friesen, mentioned the wealth issue. I think that is a real issue in terms of equalization. And I don't think any district should be able to levy this property tax surcharge above what they need for the basic education. In other words, you wouldn't want this to bring in more money than needed. I disagree, somewhat, with what Tiffany was saying, although we could probably argue. I think that should be considered a local resource, because

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otherwise, in effect, the state is paying twice for the same thing; once through TEEOSA equalization aid, and another time through this local option, so. The other thing that's been mentioned is, won't taxpayers just leave the district? Well, they're going to pay the same thing no matter what district they're in. The school district is capturing income tax liability, right? They're not changing the tax rate for anybody. That is the job of the Legislature. So, I don't think the mobility argument is really a sound one. This is a fairly big step. I tend to agree with Senator Friesen; maybe this should be a statewide deal because then it would be equitable across the board. But...so, if you have questions or think I'm all wet, please let me know. [LB911]

SENATOR SMITH: Thank you, Mr. Scherer. Senator Schumacher. [LB911]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you, Mr. Scherer. The...so you're going to trace back people's income and try to source it for this tax, rather than just where they reside and what school district they check off on the... [LB911]

LARRY SCHERER: That school district...the board passes the resolution, it goes, as I understand it, then that district would capture up to 20 percent of the income tax liability of that...people that are residents of that school district. [LB911]

SENATOR SCHUMACHER: But if I've moved out, I'm not a resident anymore. [LB911]

LARRY SCHERER: Everybody else is, you're moving to...why would you move, because your tax rate... [LB911]

SENATOR SCHUMACHER: Because I don't want to pay more taxes. [LB911]

LARRY SCHERER: You wouldn't be paying any more taxes, you're paying the same more, you're just paying more for the schools and less for the state. [LB911]

SENATOR SCHUMACHER: So I get to deduct this school tax off of my state income tax? [LB911]

LARRY SCHERER: No, it is the state income tax. The state is obligating you to pay 6.84 percent. So, it's no deduction, you're paying it already. You can deduct it...I mean, you already deduct it off of your federal income tax, but that's being limited now, so. [LB911]

SENATOR SCHUMACHER: I guess... [LB911]

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LARRY SCHERER: I'm not understanding your question. [LB911]

SENATOR SCHUMACHER: As I understood your testimony, if I have a source of income in a community...if I'm Budweiser, and I'm delivering beer to the local tavern... [LB911]

LARRY SCHERER: Right. [LB911]

SENATOR SCHUMACHER: ...is the school going to get a chunk of Budweiser's income? [LB911]

LARRY SCHERER: No, they don't live there. [LB911]

SENATOR SCHUMACHER: Okay, so all someone has got to do in order to, what I say, beat the system, is just leave the town or leave the district. [LB911]

LARRY SCHERER: You're not beating the system unless you're leaving the state of Nebraska. [LB911]

SENATOR SCHUMACHER: No, because if I'm in this school district, I pay an extra... [LB911]

LARRY SCHERER: No, you don't pay any extra. You pay the same amount. [LB911]

SENATOR SCHUMACHER: So I still pay the 6.84... [LB911]

LARRY SCHERER: It's the very bottom line your tax liability, you're writing a check for the tax liability you owe, goes to the State Department of Revenue, they will ship the money back to the school district. [LB911]

SENATOR SCHUMACHER: So the state then... [LB911]

LARRY SCHERER: No tax impact on the taxpayer. [LB911]

SENATOR SCHUMACHER: ...loses out on it's 6.84 percent. [LB911]

LARRY SCHERER: It would, yes. Yes, that's what I'm saying. This would reduce the state tax base, income tax base. I think you raised an appropriate question about whether you want to do

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that or not, we think you should. But, it does not affect the individual taxpayer's tax liability. [LB911]

SENATOR SCHUMACHER: So, if I'm in the town and they decide to...the school district, they decide to levy the extra...let's call it a percent? [LB911]

LARRY SCHERER: Um-hum. [LB911]

SENATOR SCHUMACHER: Okay, that's indicated on my tax form and instead of the state getting 6.84 percent of my hide, it only gets 5.84 percent and the school district gets a percent? [LB911]

LARRY SCHERER: In effect. You know, it's not a rate thing, the rate..the tax rate stays the same. It's a proportion of the total income tax liability that goes to the state or it goes to the school district. [LB911]

SENATOR SCHUMACHER: I guess I'll have to read this closer, because I'm a bit confused. Thank you for your testimony. [LB911]

SENATOR SMITH: Senator Brasch. [LB911]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Mr. Scherer. [LB911]

LARRY SCHERER: Sure. [LB911]

SENATOR BRASCH: This seems to get more interesting as the... [LB911]

LARRY SCHERER: It does, yeah. [LB911]

SENATOR BRASCH: ...as we get into the weeds, here. Now, what I'm also seeing is...so, you must, wherever you reside, you will owe your individual income tax. [LB911]

LARRY SCHERER: Right. [LB911]

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SENATOR BRASCH: That school district may decide to issue a local income tax option to offset the levy and property tax for that school district, that's correct? Now, that school district may also be a recipient of open enrollment students, perhaps... [LB911]

LARRY SCHERER: Yes, yes. [LB911]

SENATOR BRASCH: ...and other potential sources of revenues. [LB911]

LARRY SCHERER: Right. [LB911]

SENATOR BRASCH: And are they...is there any kind of adjustment at the end of the day? Can they get all the open enrollment students they want, they can get all the... [LB911]

LARRY SCHERER: That's what I was suggesting, is that in the final analysis you need to look at what it costs to educate a student in that size of school district. [LB911]

SENATOR BRASCH: Correct. [LB911]

LARRY SCHERER: And I don't think state resources, or local resources... [LB911]

SENATOR BRASCH: Right. [LB911]

LARRY SCHERER: ...should ever provide more revenue than it takes to do that. [LB911]

SENATOR BRASCH: Correct, and that's... [LB911]

LARRY SCHERER: From all sources. [LB911]

SENATOR BRASCH: ...that's what I'm having trouble... [LB911]

LARRY SCHERER: Yeah, yeah. [LB911]

SENATOR BRASCH: ...envisioning, is every school district must already have an accountant of some sort or some system. [LB911]

LARRY SCHERER: Right. [LB911]

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SENATOR BRASCH: But, you'd need to look at the TEEOSA formula, plus open enrollment, plus the open option, plus the levy... [LB911]

LARRY SCHERER: Exactly. [LB911]

SENATOR BRASCH: ...and so there would be many... [LB911]

LARRY SCHERER: Yeah, that's why I say I think this has to be counted as a resource to make it all work. [LB911]

SENATOR BRASCH: Okay... [LB911]

LARRY SCHERER: I think you're right. [LB911]

SENATOR BRASCH: ...you've answered my question, so, thank you very much. [LB911]

LARRY SCHERER: Yeah. Thank you very much. I appreciate your time. [LB911]

SENATOR SMITH: Senator Friesen. [LB911]

SENATOR FRIESEN: Thank you, Chairman Smith. I'm going to read you a little portion of OpenSky's description of what we have. [LB911]

LARRY SCHERER: I wish I would have had time to read it. [LB911]

SENATOR FRIESEN: "A local option income surtax is an additional percent of tax applied to tax liability. For example, if a resident of school district A has a state income tax liability of \$1,000 and school district A has imposed a voter-approved local option income surtax of 1 percent, the local option income tax surtax amount is \$10. The new surtax revenue would be collected along with their income tax and returned to the district..." [LB911]

LARRY SCHERER: Yeah, that's... [LB911]

SENATOR FRIESEN: ...so I think... [LB911]

LARRY SCHERER: ...you know, I may have read it in a different way than... [LB911]

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SENATOR FRIESEN: ...you were talking more about the allocated income tax portion... [LB911]

LARRY SCHERER: Yeah, yeah. [LB911]

SENATOR FRIESEN: ...which we currently have... [LB911]

LARRY SCHERER: Yeah. [LB911]

SENATOR FRIESEN: ...and it's capped at 2.2 percent, is that... [LB911]

LARRY SCHERER: Yeah, it's 2.23 percent now. [LB911]

SENATOR FRIESEN: Yeah. [LB911]

LARRY SCHERER: And in my mind, the way that it would work the best is if you allowed that district to capture up to 20 percent of that allocated income tax. [LB911]

SENATOR FRIESEN: Okay. [LB911]

LARRY SCHERER: Yeah, and I...you know, I'll be honest, I could have misread it. I was reading it as it just allows... [LB911]

SENATOR FRIESEN: Right. [LB911]

LARRY SCHERER: ...the existing tax liability, and that explains my answers to Senator Schumacher. [LB911]

SENATOR FRIESEN: Okay. [LB911]

LARRY SCHERER: I'll reread it again. I've been wrong before. [LB911]

SENATOR FRIESEN: Thank you. [LB911]

LARRY SCHERER: Probably will again. [LB911]

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SENATOR SMITH: Further questions from the committee? Senator Groene. [LB911]

SENATOR GROENE: Sorry about being late. I was listening on TV, so. So, is this outside the budget limits... [LB911]

LARRY SCHERER: No. [LB911]

SENATOR GROENE: ...spending of this extra cash? [LB911]

LARRY SCHERER: No, it's not... [LB911]

SENATOR GROENE: I heard earlier...I thought I heard an answer to that, it would not offset property taxes dollar for dollar. [LB911]

LARRY SCHERER: The...as...then it has no effect on the budget lid, how much school districts spend. They're still under that. The levy cap still applies, so...yeah, they can only be used, number one, to reduce property taxes, and number two, for facilities. I think I have that right. So, yeah. I mean, if you wanted to reduce property taxes, you could reduce them dollar for dollar. And what I was suggesting before, is...I don't...I'm very strongly in favor of broadening the base, but you don't want to ever provide the district with more capacity to tax... [LB911]

SENATOR GROENE: To spend. [LB911]

LARRY SCHERER: ...than it needs for that size of school district. [LB911]

SENATOR GROENE: So, it would be considered as a local resource? [LB911]

LARRY SCHERER: I would. I mean, that's my opinion. I think it should be. [LB911]

SENATOR GROENE: I think I heard that answer earlier. All right. [LB911]

LARRY SCHERER: I think maybe we don't agree, but that might be philosophical. [LB911]

SENATOR GROENE: Thank you. [LB911]

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SENATOR SMITH: And, Mr. Scherer, looking at the fiscal note, not seeing an impact. Then I would say that the Fiscal Office as well as our staff here, interprets it, as does OpenSky... [LB911]

LARRY SCHERER: As an additional... [LB911]

SENATOR SMITH: Yes. [LB911]

LARRY SCHERER: ...tax? [LB911]

SENATOR SMITH: Yes. [LB911]

LARRY SCHERER: Well, it would if... [LB911]

SENATOR SMITH: And so, would your response to Senator Schumacher change then... [LB911]

LARRY SCHERER: If it was an additional tax base... [LB911]

SENATOR SMITH: ...as in terms of having an impact on where people decide to live? [LB911]

LARRY SCHERER: I think it would change people's minds about where to live, yes, if it's an additional tax. And, again, I think it probably should be an allocated income tax, share of that, not an additional tax. [LB911]

SENATOR SMITH: All right. Very good. Senator Schumacher. [LB911]

SENATOR SCHUMACHER: Thank you, Chairman Smith. But we could fix that, couldn't we? I mean, we could then have the additional tax that applies to everybody, and then we can have a mini advantage act program (laughter) if we want incentive to keep somebody there, we could give them a special tax break off of that, couldn't we? [LB911]

LARRY SCHERER: Yes, you certainly did. [LB911]

SENATOR SCHUMACHER: Okay, got that figured out. [LB911]

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LARRY SCHERER: (Laughing) That's, you know, probably a different answer in terms of opposition or support. [LB911]

SENATOR SCHUMACHER: Thank you. [LB911]

SENATOR SMITH: All right, I see no further questions. Thank you, Mr. Scherer. [LB911]

LARRY SCHERER: Yeah. Thank you, very much. And I apologize for the confusion, if there was some. [LB911]

SENATOR SMITH: Next proponent of LB911. Welcome. [LB911]

KYLE MCGOWAN: Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Kyle McGowan, K-y-l-e M-c-G-o-w-a-n. I'm here today representing the Nebraska Council of School Administrators. We are proponents of LB911 primarily because it does...the intent is to lessen the burden on property owners...the tax burden on property owners. From a school's perspective, it appears that it would not affect TEEOSA regardless of whether or not any school would enact a surtax or not. The school districts would still be subject, if they took advantage of it, existing restrictions with levy limits, spending caps, growth limits. If the income surtax were to be used for building construction, remodeling, or site acquisition the new revenue would be deposited in the special building fund, which schools currently use for that purpose. If school boards intended to use the surtax for property tax reduction, the new revenue would be deposited into the General Fund and subjected to existing budget authority limits. The decision is up to local school boards. In all, kind of as Senator Harr was talking about; schools need to be paid for. And, you know, I don't know if this would be a viable solution to many districts, but it would be another option in an attempt to lessen what I would say is the overreliance on property tax to pay for local schools. With that, I'd answer any questions. [LB911]

SENATOR SMITH: (Exhibits 6-8) Thank you, Mr. McGowan, for your testimony. I see no questions from the committee. I see no questions, thank you. Continuing with proponents of LB911. We do have letters that were submitted for the record in support of LB911 from: Steve Nelson, the Nebraska...representing the Nebraska Farm Bureau Federation; Marcia Mahon, South Sioux City Community Schools; and Todd Strom representing STANCE, GNSA, and South City...South Sioux City Community Schools. We now move to opponents of LB911. Those wishing to testify in opposition to LB911. Welcome. [LB911]

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NICOLE FOX: (Exhibit 9) Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, and I'm director of government relations for the Platte Institute. And I'm here to testify in opposition to this bill. LB911 would increase state income taxes through a new local income tax conceived as a surtax to be tacked onto state income tax. The justifiable concern about property taxes or school funding in Nebraska should not be answered simply by shifting costs, hiking income taxes, and making Nebraska even less competitive. Only 14 states allow their municipalities to impose their own local income taxes in addition to federal and state income taxes. Of Nebraska's neighbors, Colorado, Missouri, and Iowa all have cities that impose a local income surtax. Not only does this tax make Nebraska more uncompetitive with a higher income tax rate, this tax is a disincentive for people that want to create jobs as entrepreneurs or any attempt to grow the economy. Many small businesses report their income through their individual returns, so this will be a direct tax on business. A higher tax on our small businesses does not generate economic growth. In addition, this bill does not give voters any assurances in exchanging for giving school boards this authority. LB911 says the revenue generated will be "for property tax reduction," but then says the money is to go into the General Fund. There is no guarantee to taxpayers that the property tax rate will be reduced by the amount collected. Another detriment to this bill is the use of special elections. While allowing voters to participate in the political process is something we support, when school districts can place the question of a tax increase in a special election, it reduces the voter participation. If this bill were to be enacted, then only primary or general elections should be allowed. This allows for more voter participation, and the decision to raise taxes gets heard by more people. Overall, we see LB911 as a bill with good intent, which is to give school districts an additional revenue option and trying to reduce the property tax burden at the local level. But unfortunately, the offset by creating a local income surtax is not the answer to growing Nebraska's economy. Further, it does not guarantee property tax rates would be decreased. Thank you, and I'd be happy to take any questions. [LB911]

SENATOR SMITH: Thank you, Ms. Fox. Questions from the committee? Senator Friesen. [LB911]

SENATOR FRIESEN: Thank you, Chairman Smith. Ms. Fox, if...if you were guaranteed dollar-for-dollar tax reduction in property taxes, do you think this is a better way to fund K-12 education than what we're currently doing? [LB911]

NICOLE FOX: Well, as it was pointed out just a bit ago, I don't think that...I mean, I don't think it's good policy. And the reason is because people are mobile. And I think if I was living in a school district where they were going to put to a vote a potential increase in income taxes, I would be... [LB911]

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SENATOR FRIESEN: What if we then mandated it... [LB911]

NICOLE FOX: ...I think there would be individuals inclined... [LB911]

SENATOR FRIESEN: ...statewide so that it wouldn't be a choice of districts? Would...I guess it boils down to, are we measuring wealth correctly? And that goes for the urban residential homeowner. Just because someone buys a \$500,000 house doesn't necessarily make them rich. We're...by measuring income tax and taxing for schools accordingly, are we measuring...value or the ability to pay in a better way than what property taxes do? [LB911]

NICOLE FOX: I think...I mean, you know, it's the opinion of the Platte Institute that, you know, income tax...to, you know, impose increased income taxes is...it's a disincentive. It would, again, disincentivize people wanting to grow their business. And people would move with their feet. I don't think it would be good policy. [LB911]

SENATOR FRIESEN: I have a gentleman who has come into my office for my district several times, and we've spent numerous hours discussing this. But his argument is that everything is based on income. So, your ability to pay an income tax, it dictates whether you can pay a sales tax, because if you don't have any income you can't buy things to pay a sales tax. If you don't have any income, you can't buy land to pay a property tax. So, his premise was that everything is based on income. And so, by measuring income and taxing that, he says you do everything equally according to your ability to pay. Do you agree with that statement? [LB911]

NICOLE FOX: I think that that is punitive. [LB911]

SENATOR FRIESEN: Thank you. [LB911]

SENATOR SMITH: Ms. Fox, do we tax income today? [LB911]

NICOLE FOX: Yes, quite a bit. [LB911]

SENATOR SMITH: And how do we rank in the region with our income tax marginal rates? [LB911]

NICOLE FOX: Nebraska is not competitive. [LB911]

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SENATOR SMITH: All right, and do you think that that has an influence on our economic growth in this state? [LB911]

NICOLE FOX: Yes, I do. [LB911]

SENATOR SMITH: All right, thank you. Other questions from the committee? I see none, thank you. [LB911]

JOSEPH YOUNG: Chairman Smith... [LB911]

SENATOR SMITH: Welcome. [LB911]

JOSEPH YOUNG: ...members of the committee, for the record my name is Joseph Young. It's spelled J-o-s-e-p-h Y-o-u-n-g. I am the executive vice president of the Nebraska Chamber of Commerce and Industry, testifying today in opposition to LB911. Obviously, at the State Chamber we have a long-standing position to oppose any local income tax, mainly because of the points that have already been shared today. Income taxes in this state are already uncompetitive. We are the...we are ranked, of our neighboring states, second worst. And if you talk about effective rates, many times we are worse than Iowa because you can deduct your state income taxes off of your federal. So, there's some question about that. But, I also...we, at the Chamber, obviously, buy the mobility argument. There's two states that we neighbor with that don't have any income taxes. And we have lost population to those two states 14 out of the last 15 years. And I'm pretty sure it's not because of the balmy weather. Those are obviously Wyoming and South Dakota. So, as we talk about competitiveness and how we measure wealth, I think this measures income, but not necessarily wealth. It's also worth mentioning, I think, that you can...I live in a nice house. It's about \$290,000, we can all look it up. But I don't have to live in that nice of a house. I'm not...I can move if I'm not happy with my property taxes. I'm probably not going to my boss, though, and ask for a \$50,000 pay decrease. I don't think that any reasonable person would want me to do that, so. Those points shared, I'll take any questions if you have any. [LB911]

SENATOR SMITH: Questions? Senator Groene. [LB911]

SENATOR GROENE: Look, you take the position that everybody pays income taxes, not asking you to raise them, and that everybody should get some of their income taxes back to fund their schools. Would you guys support taking from 2.23 back to the 20 percent that you pay in income taxes guaranteed back to fund your schools, since it is a state mandate that state pays for it and not the local property taxpayer? [LB911]

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JOSEPH YOUNG: We would not support that, mainly because of what I said of competitiveness... [LB911]

SENATOR GROENE: Well, Omaha gets 30, 40, 50 percent of their income taxes back to fund their school. Lincoln gets 40 percent. I can name you 175 school districts get 2.23 percent. [LB911]

JOSEPH YOUNG: And I would suggest that it's not working. You know, some people say it's working great but... [LB911]

SENATOR GROENE: (Laughing) We'll agree on that one. [LB911]

JOSEPH YOUNG: I think TEEOSA is the place to have that discussion... [LB911]

SENATOR GROENE: Well, that's what I'm asking you. Do you think it's fair, your members living in Wallace, Nebraska, in my district don't get any of their income taxes...2.23 percent of their business income taxes come back to their school district, while your members in Omaha get 30, 40 percent. [LB911]

JOSEPH YOUNG: Right. [LB911]

SENATOR GROENE: Do you think that's a fairness issue for your members? [LB911]

JOSEPH YOUNG: I do not necessarily think it's fair. We don't have a position at the Chamber with regards to TEEOSA right now. [LB911]

SENATOR GROENE: It means we don't raise them. [LB911]

JOSEPH YOUNG: Well, we don't take position on that either, with TEEOSA. [LB911]

SENATOR GROENE: Raising taxes? [LB911]

JOSEPH YOUNG: No...of course, I mean, taxes, yes. TEEOSA, no. [LB911]

SENATOR GROENE: All right. Thank you. [LB911]

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SENATOR SMITH: Senator Schumacher. [LB911]

SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you for your testimony, Mr. Young. On the people move with the feet argument, and that's been an ongoing thing for as long as I've been down here, as to whether or not that's a valid principle... [LB911]

JOSEPH YOUNG: Yeah. [LB911]

SENATOR SCHUMACHER: Why would we have, like, school districts, I think there's one, Centennial, that may be is, like, 40 cents. In my district there's the Humphrey District and the Lakeview District is way low. In fact, may be among the lowest in the state. Why don't we see a bunch of people flooding there? [LB911]

JOSEPH YOUNG: There's a lot of reasons why people move. That doesn't mean that taxes aren't one of them. We've also lost, for example, a population to Colorado. They do have lower income taxes than us, but they also have a lot of other things. So, you can't look at it in a vacuum necessarily, but it does make a difference. [LB911]

SENATOR SCHUMACHER: Wouldn't it make more of a difference if it's on a very localized basis and one district, if you happen to be there, on all of your income from wherever it might be gathered is going to be zapped by that one district and if you just move a few miles, it's not zapped. Doesn't this accentuate the people moving problem? [LB911]

JOSEPH YOUNG: Absolutely. [LB911]

SENATOR SCHUMACHER: Thank you. [LB911]

SENATOR SMITH: Senator Friesen, then Senator Groene. [LB911]

SENATOR FRIESEN: Thank you, Chairman Smith. Where is Nebraska rated as far as property taxes? [LB911]

JOSEPH YOUNG: Also poorly. I think...I'm not sure, I want to say 11th worst, maybe. [LB911]

SENATOR FRIESEN: Okay, so, I mean, it's...you're trying to say we have a high-tax state? (Laughter) [LB911]

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JOSEPH YOUNG: I believe that we do, yes. I'm just one guy. [LB911]

SENATOR FRIESEN: Okay. So, I mean, I'm going back to allocated income tax. I mean, that's a portion of the TEEOSA formula that was always...had been in place and never been funded. But if we want to, again, spread the cost of how we fund education, why wouldn't we fund that at 20 percent? I mean, we're not raising taxes, I'm not going to the raising here. I'm just saying, 20 percent of what I pay comes back to my school. Is that objectionable? [LB911]

JOSEPH YOUNG: Like I said earlier, we don't take a position on TEEOSA funding. But, I mean, you can make all sorts of fairness issues. I think you can make the case that...you mean, TEEOSA is basically sales and income taxes. And I know that a lot of folks in your districts, your rural districts, aren't getting equalization aid, like they should, perhaps. But, we don't really take a position on the 20 percent. In fact, I'm not...I wouldn't even pretend to be...I've never read the statute, so I'm not...I'd hate to comment on it. [LB911]

SENATOR FRIESEN: Okay. Thank you. [LB911]

SENATOR SMITH: Senator Groene. [LB911]

SENATOR GROENE: Thank you. But I have heard you comment at meetings that property taxes are a local issue. [LB911]

JOSEPH YOUNG: Right. [LB911]

SENATOR GROENE: And now you're telling me it's a TEEOSA issue. [LB911]

JOSEPH YOUNG: No, it's not just TEEOSA or property taxes, it's all one egg. But property taxes are levied at the local level. [LB911]

SENATOR GROENE: Forced at a certain levy through TEEOSA, on that part of it. I agree with you on the county and the city and the NRDs. [LB911]

JOSEPH YOUNG: Right. [LB911]

SENATOR GROENE: So, you want to cut taxes. So do I. So, my assumptions is one of your compatriots is over in the Appropriations Committee as a proponent of cutting the funding to the University of Nebraska so that we can cut your taxes. [LB911]

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JOSEPH YOUNG: He's an opponent of cutting... [LB911]

SENATOR GROENE: Well, that don't add up. [LB911]

JOSEPH YOUNG: Well, we believe, in a \$4.4 billion budget, that there are priorities to be made. And we also think that you should, the state, should be putting more of their resources where you're going to get a bigger return on investment. And we think the university has a pretty high ROI. [LB911]

SENATOR GROENE: For Omaha and Lincoln. [LB911]

JOSEPH YOUNG: That's arguable. [LB911]

SENATOR SMITH: Mr. Young, who collects sales taxes and income taxes? [LB911]

JOSEPH YOUNG: Well, income tax is all by the state. Sales taxes is both state and cities. [LB911]

SENATOR SMITH: Right, and who benefits in the state from the distribution of those revenues? [LB911]

JOSEPH YOUNG: Everyone. [LB911]

SENATOR SMITH: Everyone, and I think that gets at what Senator Groene's asking, is that there are many...there's quite a bit of sales tax revenue and income tax revenue that is being generated by the types of investments in our university campuses, including UNMC, which is a major economic driver for our state. [LB911]

JOSEPH YOUNG: That's right. [LB911]

SENATOR SMITH: And those revenues are distributed across the state and benefits those across the state. [LB911]

JOSEPH YOUNG: Absolutely. [LB911]

SENATOR SMITH: And I think...I just wanted to comment on that. [LB911]

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JOSEPH YOUNG: Not only the revenues, but the work that they're doing there. [LB911]

SENATOR SMITH: Further questions from the committee? [LB911]

JOSEPH YOUNG: Thanks for the chance to testify. [LB911]

SENATOR SMITH: (Exhibit 10) Thank you, Mr. Young. Next opponent of LB911. Seeing none, we do have one letter that was submitted for the record in opposition to LB911 from Robert Hallstrom representing the NFIB. We now move to neutral testimony, those wishing to testify in a neutral capacity. Seeing none, I do not see Senator Bolz here, so Senator Bolz waives closing on LB911. And that concludes the hearing on LB911. And Senator Kolowski, I see he's in the room, so we will now move to LB1007 to be introduced by Senator Kolowski. Welcome to Revenue, Senator Kolowski. [LB911]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Good to be here. Before I begin my prepared remarks, I'm Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, senator from District 31. I want to just ask a couple simple questions that we've all had to live with and deal with in our own lives. When was the last time, or think back in the ten-year time period, of the number of times you've taken your car in for repairs or service or anything else of that nature, or in your home. What else has needed repair or service, from air conditioning, heating, electrical, plumbing, anything of that nature. And I think it sort of drives home the point we're trying to make with this particular bill as I share this with you today. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Senator Rick Kolowski, which I have spelled, representing District 31. I am here today to introduce LB1007, which allows school districts upon a two-thirds vote by the school board to levy an additional three cents, up to three cents, for the maintenance, upkeep, and repair of school district facilities. The purpose behind LB1007 is to give school districts a tool to pay for needed expenses for school facilities. The intent of this is to provide funding for those expenses that are not significant enough to ask the voters for a bond issue, but important enough that need to be completed. This could, in the long run, save schools money by preventative maintenance which prevent expensive repairs down the road to many different areas. There will be those following me who can provide specific examples from school districts. As you know, we do not provide any funding from the state for school buildings. Schools shouldn't have to choose between fixing a roof or replacing a boiler and having a quality teacher to provide education for their students. An example of one district, a district I served in, in the Millard Public Schools, for 38 years. At the current time, they have 38 buildings; 35 school buildings; and three support buildings in that district of a wide variety of ages. A few examples...another aspect, just area of acres of grass to mow in those numbers of school buildings and territory, it's over 350 acres in the Millard District that we have the combined responsibility for. Other examples where this could be used: building a new restroom in a

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softball field complex; building temporary classrooms--portables they're called--to add to an elementary school with enrollment growth would be a second issue or one that could also benefit from this particular aspect. Thank you for your consideration. I would be happy to answer any questions that you might have. [LB1007]

SENATOR SMITH: Thank you, Senator Kolowski, for your opening on LB1007. Questions from the committee? I see no questions. Thank you. [LB1007]

SENATOR KOLOWSKI: Thank you, sir. [LB1007]

SENATOR SMITH: We now move to proponents. Those wishing to testify in support of LB1007. [LB1007]

JOHN BONAIUTO: Senator Smith, members of the committee. John, J-o-h-n, Bonaiuto, B-o-n-a-i-u-t-o, representing Nebraska Association of School Boards. And we very much appreciate Senator Kolowski introducing this bill. This is a bill that's not going to go anywhere, but it's intended to be a bill for discussion. It's a tax increase. We understand that school boards aren't in the market for promoting a tax increase of this nature. But this discussion is to remind the committee that the last time we went down this path in the late 90s, school boards had multiple funds where they could levy. And one of those funds was for facilities. And the Revenue Committee needed to lower property taxes. And the climate was very much like it is right now. And I think the Revenue Committee had the best plan that they could put forward and get passed at the time, and part of that plan was to collapse all of the funds for schools into the general operating budget and eliminate moneys in these other funds. And so, that put facilities in competition with learning and instruction. And we were concerned with that at the time, but it was what we had to work with. Knowing that, unless something needed immediate repair, there would be a considerable amount of deferred maintenance. And that's what's happened. So, we just want to put on your radar, that as you look at a solution with all of these moving parts that facilities are out there and need help. It's probably good that over the years the state did not follow the path of other states and put a factor in the formula for facilities with so many districts that are not a part of the state aid formula. But, we still have the issue of facilities. And the Revenue Committee at the time that the original tax plan of the '90s was put into law had a broader vision of where we would be at this point in time. And that vision was, we started out at \$1.10 for schools. And then we were moving down: \$1.10, then we would get to \$1.05, \$1.02, \$1.00, \$0.95. That was the plan. And it was...and it seemed to be a good plan, if everything would have come together. But the state had some financial problems, and money could not be allocated for school funding. And, slowly, more money drifted back to property tax. And so, that's where we're at currently. So, again, we just want to say that, with this bill, we're concerned about where we go with facilities in the future. Whatever the plan is that is put on the table, we

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don't know what it's going to look like, but it's something we're going to have to deal with that. With that, I will just conclude my testimony. [LB1007]

SENATOR SMITH: Senator Groene. [LB1007]

SENATOR GROENE: John, remind me never ask you to be a proponent on one of my bills when you start out by saying this will never pass. You know you have a 14 cent building fund levy, and there's 174 districts that don't get any state aid. Got 14 cents and you also know that we got rid of the minimum levy, so you could, of your \$1.05, you could go 10 cents, 14 cents, and put that toward the building fund, could you not? [LB1007]

JOHN BONAIUTO: Sir, yes, that is true, for those districts that are able to do that. For those districts that can, that is something that works. For the districts that are at their \$1.05, they'd have a hard time just funding the operation. [LB1007]

SENATOR GROENE: But why do we need...why not have a vote of the people? Millard did it, and in their proposition it said some of it would be...some of that 9 cents, or whatever they wanted, people voted for would be used for building repairs and buildings... [LB1007]

JOHN BONAIUTO: And that is... [LB1007]

SENATOR GROENE: ...so we have mechanisms in the law already, don't we? [LB1007]

JOHN BONAIUTO: And that is another option that boards can take. [LB1007]

SENATOR GROENE: Why do you need another option? [LB1007]

JOHN BONAIUTO: Well, they can go to a vote of the people or they can set aside money if they have the money to set aside. What we're saying is, for those districts that don't, it would be nice if, at some point, to have a levy...and it, we don't know if 3 cents is the right number to have set aside. [LB1007]

SENATOR GROENE: Well, vote of the people, you can go as much as you want... [LB1007]

JOHN BONAIUTO: That's true... [LB1007]

SENATOR GROENE: ...Millard did it, Westside did it. [LB1007]

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JOHN BONAIUTO: And, in some districts, they can pass a bond issue. [LB1007]

SENATOR GROENE: It's up to the people, isn't it? [LB1007]

JOHN BONAIUTO: Yes, it is, Senator. [LB1007]

SENATOR GROENE: Thank you. [LB1007]

SENATOR SMITH: I see no further questions. Thank you, Mr. Bonaiuto, for your testimony. We continue with proponents of LB1007. Seeing no additional proponents, we do have letters for the...oh, got to move fast (laughter). [LB1007]

LARRY SCHERER: (Exhibit 1) I was hoping there would be somebody before me. Senator Smith, for the record, my name is Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r. And testifying in support of Senator Kolowski's LB1007. And, basically, the reason is what Mr. Bonaiuto mentioned. There are a number of school districts already at the \$1.05, and within those cases it puts operations and funding for classrooms and teachers in the same...in competition really, with having good buildings. As Mr. Bonaiuto mentioned, a number of states do have equalization of facilities in their funding systems, and Nebraska does not. So that...that makes the facilities issues somewhat unfair to a number of districts. And this would help. And sort of a rural/urban issue, I think the urban issue is closer to the \$1.05 and then the rural districts are not getting any...very little state aid. So they have room to levy, but, you know, with the high property tax burden it's very difficult to do. So, I'll close there. Are there any questions? [LB1007]

SENATOR SMITH: Thank you, Mr. Scherer. Questions from the committee for Mr. Scherer? I see none, thank you. [LB1007]

LARRY SCHERER: Thank you. [LB1007]

SENATOR SMITH: (Exhibits 2-3) All right. Where was I, neutral? Okay, anyone wishing to testify in opposition to LB1007? Seeing none, we do have a proponents'...I failed to read these letters of support into the record for LB1007 from: Virgil Harden representing GNSA; and from Jami Jo Thompson representing Norfolk Public Schools. Again, we have no opponents wishing to testify. Do we have anyone in a neutral capacity that would like to testify on LB1007? Seeing none, we invite Senator Kolowski to close on LB1007. [LB1007]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Appreciate that, very much. And thank you for those who had a chance to come to give those opinions today, I think that's very important.

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Keep in mind, again, the 3 cent override, up to 3 cent; it could be half a cent, it could be a penny, whatever districts might want to go for. That's a two-thirds vote of the school board, not taking it to the vote of the people. And they would have the opportunity to make that decision within their school board to make that happen, and that's the difference. The two-thirds majority that we had in the recent Millard vote was an outstanding result of voting for the continuation of excellence in our district. And they can use up to 9 cents on that. Of course, it could be a half a cent, could be 3 cents, or a 5 cents; whatever they're looking at, and working on trying to maintain ourselves because of the impact upon our district in the Millard schools and districts all across the state since ten years ago, in 2008, when we went through the difficult financial times and have never really gotten out of that the way we hoped to. That's kind of the summary of where we are on this particular bill. I think this is an extremely important bill. I was a principal of a brand new building that we opened in 1995. Within that time period of opening that building we added about four different additions to that building, a number of different classrooms and wings and student areas and all the rest, as well as parking lots added to the facility. Remember, that's a 60 to 70 acre campus that you have when you have a high school. It's a large facility with something like 2,400...2,500 kids now, 2,300 when I was there. And that is a huge complex. Think of a mall and all of the aspects of what you've got to deal with and things that you're working on to make that as efficient and effective on a daily basis with that number of students and teachers--150, 200 adults working in the building as well. Those are challenges. And when you add anything to a building there's also finishing touches that have to take place that's part of that bond issue or the money that has been allocated to make that work for that particular facility and that building with everything else that's going on around you. I think it makes a difference for our district to have that choice of three cents. It is an impact that many districts would really appreciate having. And in the metro area, almost everyone is at \$1.05 as far as the overall indebtedness and their ability to use the money at this current time. And this three cents would go a long way to help with a lot of things that, as I asked you to think back in your own home or your own facilities for the last ten years and the number of things you had to do with your property. With that, I'll finish. Thank you, very much. [LB1007]

SENATOR SMITH: Thank you, Senator Kolowski, for your closing on LB1007. Remaining questions for Senator Kolowski? I see none. Thank you. [LB1007]

SENATOR KOLOWSKI: Thank you, Mr. Smith. [LB1007]

SENATOR SMITH: That concludes the hearing on LB1007. And we now invite Senator Friesen to open on LB1077. [LB1007 LB1077]

SENATOR FRIESEN: Thank you, Chairman Smith and members of the Revenue Committee. My name is Curt Friesen, C-u-r-t F-r-i-e-s-e-n, I represent District 34 and I'm here to present

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LB1077. So not to waste too much time on something that's dead, let's just make it simple. I erred a little bit in what I've done, but basically I've been told numerous times over the years that school funding is a local issue. So, I'm trying to make it a truly local issue. So, if we remove the lids, and the only thing that I forgot to do and I'd have to come with an amendment if there's a lot of enthusiasm for this bill (laughter), that would also raise the LER and take it away. And so, now you've got unlimited funding resources available to our schools and we wouldn't need Senator Kolowski's bill. Maintenance and everything would be taken care of and we'd have unlimited ability to levy property taxes to fund our K-12 system and save our precious kids (laughter). And at the same time, we would lower the requirement of state funding by \$900-and-some million. And I think we could use that to lower the income tax rate and the corporate tax rate. So, with that, I do need to fix the bill a little bit. I need an amendment, but otherwise it's a pretty simple bill. Thank you, Mr. Chairman. [LB1077]

SENATOR SMITH: Questions from the committee for Senator Friesen? Senator Brasch. [LB1077]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you. Has...I don't know how much study or input or background, but have schools ever been at a point where they have enough money or too much money... [LB1077]

SENATOR FRIESEN: I guess we... [LB1077]

SENATOR BRASCH: ...in Nebraska, I guess, I was just wondering that this dollar... [LB1077]

SENATOR FRIESEN: I guess they've always...they've always complained to me they don't have enough. [LB1077]

SENATOR BRASCH: They don't have enough, but you're not aware of something that we've done right in the past where cash was plentiful and everyone was happy? [LB1077]

SENATOR FRIESEN: I guess in my three years here, I've always had schools asking for more. I've never asked them to cut us...cut their funding. Nope, haven't had that happen. [LB1077]

SENATOR BRASCH: So, you're just taking...the sky is the limit? [LB1077]

SENATOR FRIESEN: I am assuming that they are operating to the best of their abilities and we should free them to do as they choose. [LB1077]

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SENATOR BRASCH: Okay. I just wanted to make sure... [LB1077]

SENATOR FRIESEN: It's a local issue. [LB1077]

SENATOR BRASCH: Okay. All right. I have no other questions, thank you. [LB1077]

SENATOR FRIESEN: Thank you. [LB1077]

SENATOR SMITH: Senator Groene. [LB1077]

SENATOR GROENE: You sparked my...an idea that you might support putting an amendment on here that we do a constitutional amendment. We get rid of the state's responsibility to fund free instruction. We say it's a local responsibility. And we add in there that they can...locals can fund it by property taxes. We get rid of the State School Board, Department of Education; 174 districts are basically funding their own schools anyway. We only need another 40 or 50. We can get rid of a billion dollars of state aid. I'm fine with that. School district I'm going to end up living in is already doing that. What do you think of that? [LB1077]

SENATOR FRIESEN: I'm kind of open to that suggestion. I'm just saying, I've been told over and over that it's a local issue. And I just want to make sure that we unfetter that local district to be able to do what they want. [LB1077]

SENATOR GROENE: So, 174 districts are already doing that. [LB1077]

SENATOR FRIESEN: Yeah. [LB1077]

SENATOR GROENE: Omaha and Lincoln taxpayers can fund their own schools, too, couldn't they? [LB1077]

SENATOR FRIESEN: I'm assuming they could. [LB1077]

SENATOR GROENE: With property taxes. We prove it can be done. [LB1077]

SENATOR FRIESEN: I'm assuming they could. [LB1077]

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SENATOR GROENE: Let's work on that next year, constitutional amendment. Thank you. [LB1077]

SENATOR SMITH: I see no additional questions. Thank you, Senator Friesen, for your opening on LB1077. We now accept proponents of LB1077. Those wishing to testify in support of LB1077. They're rushing to the table (laughter). All right, seeing none, those wishing to testify in opposition to LB1077. Those wishing to testify in a neutral capacity on LB1077. Senator Friesen to close on LB1077. [LB1077]

SENATOR FRIESEN: I can't resist. This has been the most unusual bill I've ever introduced (laughter). Nobody's for it, against it, or they don't care (laughter). [LB1077]

SENATOR SMITH: All right. Senator Schumacher, then Senator Harr. [LB1077]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Senator Friesen, you've been hanging around me too long (laughter). [LB1077]

SENATOR FRIESEN: I do sit close to you. [LB1077]

SENATOR SCHUMACHER: He introduces a crazy bill, nobody support. Now you got to get one step better; you got to be able to get the opposition. I'll teach you how to do that next week. (Laughter) [LB1077]

SENATOR FRIESEN: If I would have had the amendment or done the bill correctly, and that was my mistake. I admit I made a mistake. [LB1077]

SENATOR SCHUMACHER: I now know who is going to take over my role in this committee (laughter). You're doing good, Senator. [LB1077]

SENATOR FRIESEN: Thank you. [LB1077]

SENATOR SMITH: Senator Harr. [LB1077]

SENATOR HARR: And to follow up on that, what does it feel like to be Paul Schumacher (laughter)? [LB1077]

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SENATOR FRIESEN: It's a little different (laughter). I'm going to have to let my hair grow.
[LB1077]

SENATOR SMITH: All right. Very good, I see no further questions. Thank you, Senator Friesen, for your closing on LB1077. And that closes the hearing on LB1077. We now move to LB1106, to be introduced by Senator Linehan. Is Senator Linehan in the house? We will just stand by for just a moment here. I'm certain that she is on her way. (Recorder malfunction)...open on LB1106. Take your time. Welcome, Senator Linehan. [LB1077]

SENATOR LINEHAN: (Exhibit 1-2) Good afternoon, Chairman Smith, members of the Revenue Committee. My name is Lou Ann Linehan, L-o-u A-n-n L-i-n-e-h-a-n, representing Legislative District 39. I am here today to introduce LB1106. LB1106 is a simple bill which requires 50 percent plus one of the immediate preceding primary election voters for a levy override. So, in other words, you would have to have at least 50 percent of the people who voted in the immediate general--well, not general election--but primary election in a regular election to raise taxes, instead of a special election where you may have a turnout of 14 or 20 percent, and therefore you have a situation where 12 percent of the voters raise taxes on 100 percent of the people who live in that area. So, I've got a couple of handouts I would like to give you. The first one is a list of levy overrides since 2008. And the second one is the number of special elections by year. This is just levy overrides. We looked at bonds. I actually...this morning we were looking at bonds, too. But we narrowed it down. Legislation is just on levy overrides. Part of--as this committee knows better than any of us--there's a huge concern of property taxes across the state. And when I ran and went door to door, people were concerned about both property taxes and income taxes, but they seemed to be confused as to how they get so high. And I actually think sometimes people don't understand when there's not a robust debate, as there is during general elections or regular primary elections, and there's elections by mail, a special poll elections whether they're...you have to go the poll or whether you vote by mail. And I'm sure all of you, as I do...we get a lot of stuff in the mail that's from the party committees saying there's special elections and it's junk and we throw it in the trash. I'm not sure when we're not in a regular cycle, people actually understand what's going on. So, it's not...I don't think...I mean, I have some concerns about special election at large. But I don't think you can take that away because people do have...you can have natural disasters, you can have things where there really is an emergency. But seeing special elections to have levy overrides or bonds that are two months before or after a general primary election, a statewide election that's already, makes me somewhat suspicious. Another concern is when it's not in the general time frame of elections that we're all involved in, it's also not as...there's no debate. Like, if there is a bond issue when you or I or the Governor is running for an election and we go to a town hall meeting or we go to a debate, somebody will ask us for our opinion on the bond or the levy override. And the public will be exposed to different opinions. When it's an election and that's all that's going on, we're not held to be...no one's asked us. You know, we're not held...there's not a robust discussion. And

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also, finally, my concern is with some of these, and I haven't...I just live in Douglas County, so it's what I've seen in Douglas County. There are foundations and organizations that are organized to support these overrides. And unlike when we run for election and every one of our contributors over \$250 has to be reported, these...the contributors that report to the foundations that support overrides are not public knowledge. There's no...we don't have any vision on who is...there is some give, and it's public, but when the foundation gives...one example, I think a foundation gave \$90,000 to support an effort. You can't go back and found out who gave the money to the foundation. So, that's another concern I have. So, with that, I'd welcome any questions. [LB1106]

SENATOR SMITH: Thank you, Senator Linehan, for your opening on LB1106. Questions from the committee? Senator Schumacher. [LB1106]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you, Senator Linehan, for bringing this bill. Why did you take...why did you not go down the road of controlling bond elections, particularly that are repeatedly presented at special elections until the dice rolls and they come up with the right...with a winner. [LB1106]

SENATOR LINEHAN: I think I was trying to keep it narrow so it's something...I'm not against looking at bonds, because I do have concerns. And I know specifically in some areas where they have run bonds one or two, three times, to...people get worn down. So, (inaudible) again, it's...it's almost an abuse, I think, of the special elections. So, when I originally looked at this I thought we should just do away with special elections. But I...you know, there are examples when there's an emergency, I think it's should be a tool that should be available. I just think, maybe, it should be reigned in a bit. [LB1106]

SENATOR SCHUMACHER: Thank you. [LB1106]

SENATOR LINEHAN: I think, if you notice on the chart that I handed out, the big one, concerns...they almost always pass. If you look over on the right-hand side to "outcome," you'll see it's pass, pass, pass, pass. But the next one, the percentage of people who vote, if you go way to the bottom...my kids went to Westside, so I like Westside, I'm not picking on Westside. But this is when I first saw these numbers, what concerned me. In 2012...they had a much bigger turnout this time. But in 2012, when they did a levy override, 11 percent of the people voted; 1,528 people raised taxes on 21,238 people. That's my concern, is when you have a very small number turning out and it ends up affecting the tax rates and the property taxes on a much larger number. [LB1106]

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SENATOR SMITH: Senator Linehan, looking at the percentages, I mean, even when you have a large turnout, it does not guarantee that these initiatives do not pass. But just...you're just saying just the very fact, or the ability, to have more people turn out is a good thing, have more people participate in the process is a good thing. [LB1106]

SENATOR LINEHAN: We spend...at least I believe, I think we all believe, that the more people who are involved in the process, the better. We have all kinds of efforts to get people to turnout to primaries, and League of Women Voters, we all think it's very important that people vote. So when you look at elections where you get 31 percent, and 27 percent, and 27 percent, and 22 percent, and it just...I think it's concerning. [LB1106]

SENATOR SMITH: All right. So those that would be looking at this bill and saying, well, you're just seeking to influence this to make it...the outcomes different, even when the evidence shows otherwise, that that would not necessarily be the case, you're just wanting more people to participate in the process? [LB1106]

SENATOR LINEHAN: Right, and robust debate. The more people that participate and a robust debate where it's not, kind of, one sided with a foundation with no other points of view being presented to the public. [LB1106]

SENATOR SMITH: Very good. Senator Friesen. [LB1106]

SENATOR FRIESEN: Thank you, Chairman Smith. When you were looking into the levy override, and I'm remembering some specific things that go with a levy override on some school districts where you can...if a school district decides to override their levy limit, patrons are allowed to transfer their land out of that district in certain cases. There's certain criteria they have to meet, are you familiar with that at all? [LB1106]

SENATOR LINEHAN: I read everything...I did read everything they gave me to go with the bill, I don't remember seeing that you can transfer land out. That could be, I don't know that. [LB1106]

SENATOR FRIESEN: And I think there's several criteria that have to be met. But if you were in that situation, I think there was an option in some school districts...and I don't remember what all the criteria were. But when you did a levy override, people in that district on the boundary had the option of transferring out of that school district into another one with a lower levy. [LB1106]

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SENATOR LINEHAN: I find that very hard to believe that that's probably true in Douglas or Sarpy County. And it might be. [LB1106]

SENATOR FRIESEN: And there may be other criteria that it didn't allow that to happen there. But I was just curious, because I don't remember all the details either. But, that was, you know, I think, a factor that entered into some school districts when they went to decide if they wanted to override the levy, because when you want to override the levy if the neighboring school district had a lower levy you would have people transferring out. And so, you...it was a little bit of pressure to hold down your levy and not do the levy override. But there were special circumstances, I believe, and I was just wondering if you had looked at that at all. [LB1106]

SENATOR LINEHAN: I have not looked at that. I mean, I don't see how, really, that would work in Douglas County or in Sarpy County... [LB1106]

SENATOR FRIESEN: That's true. [LB1106]

SENATOR LINEHAN: ...but I can...because I would expect...well, those schools are at the \$1.05, but let's say they go up to \$1.20. So if you are a...if you own a warehouse somewhere on the borderline, I can't imagine that OPS is going to let Millard...I just don't think that's allowed. I'm sorry, I don't know. Maybe someone behind me will know. [LB1106]

SENATOR FRIESEN: So, there were some special circumstances, I think, that allowed it. But it probably wasn't for every district. [LB1106]

SENATOR LINEHAN: Right, and I don't think it affects the districts... [LB1106]

SENATOR FRIESEN: Thank you. [LB1106]

SENATOR LINEHAN: You're welcome. [LB1106]

SENATOR SMITH: Senator Brasch. [LB1106]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Senator Linehan. I think your numbers here are very evident that we do have voter turnout issues, and especially when there's special issues at stake. Cost more money for taxpayers that...this is going to be a tool or a method to stabilize costs or you think it will drive people to the polls? I...I'm curious how... [LB1106]

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SENATOR LINEHAN: Well, I think...I think if we're going to allow...well, we do allow levy overrides. And we do allow bonding. And I know this legislation doesn't speak to bonding, but I think in Douglas County the number of school bonds that are up are teetering...well, it's about \$750 million dollars this year. And that's \$750 million dollars on that bonding does not...the cost of the bonding and buildings doesn't go to our per pupil cost of schools. So, there is a lot of moving parts on how much money is going out. And I'm not sure we have a good picture, and we're not presenting to the public well. So, I think if more of these elections were pushed in the normal cycle of elections, I think there would be a much more robust debate. I think when you have 24 percent...in some of these...you'll see in some of these smaller districts where you have 208 people in one district where it was a tie, 18 to 18. You...you have...you're leaving out a huge part of the population that's going to end up paying for the results. [LB1106]

SENATOR BRASCH: Sure. [LB1106]

SENATOR LINEHAN: And I just don't think that's fair to the people that aren't engaged somehow. [LB1106]

SENATOR BRASCH: Very good, thank you. [LB1106]

SENATOR LINEHAN: Thank you. [LB1106]

SENATOR SMITH: Senator Harr. [LB1106]

SENATOR HARR: Thank you, Senator Lindstrom...Senator Smith (laughter). [LB1106]

SENATOR LINDSTROM: Hey (laughing). [LB1106]

SENATOR HARR: My other Chair, Senator Lindstrom. And thank you, Senator Linehan. I guess my concern isn't so much that people who are eligible to vote choose not to vote. My bigger concern about those people who are otherwise able to vote, but are prevented from voting due to voter ID (laughter)? [LB1106]

SENATOR LINEHAN: Is this General Affairs? [LB1106]

SENATOR HARR: What do we do about that? [LB1106]

SENATOR LINEHAN: I didn't think we had a voter ID law in Nebraska, do we? [LB1106]

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SENATOR HARR: Thank goodness. All right. My problem's solved then. Thank you (laughter). [LB1106]

SENATOR SMITH: Senator Groene. [LB1106]

SENATOR GROENE: Thank you, Chairman. Did you do research on these school districts, what the voter turnout was during the primary? You've got them or am I missing something here? [LB1106]

SENATOR LINEHAN: Only...not on all of them. I did on...I did on some of them. And that's a very good question, Senator Groene, of course you would ask that because voter turnout in primaries sometimes is low. So when I originally did this... [LB1106]

SENATOR GROENE: You've got in here that it has to be at least 50 percent of what the...if it's the special election of... [LB1106]

SENATOR LINEHAN: Fifty percent of the primary. [LB1106]

SENATOR GROENE: Of the last primary? [LB1106]

SENATOR LINEHAN: Right, so, originally I wrote "general." And then I backed off general, because general would be much bigger number. [LB1106]

SENATOR GROENE: But, on the examples you give us here, how many of these did not...would not have passed? Did your staff figure that out, if they...because they didn't have 50 percent plus one? [LB1106]

SENATOR LINEHAN: No, but I think it would depend on the district. But...and it depends on the election, if it's presidential or if it's... [LB1106]

SENATOR GROENE: I understand... [LB1106]

SENATOR LINEHAN: Right, so I didn't... [LB1106]

SENATOR GROENE: ...but there's no need... [LB1106]

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SENATOR LINEHAN: ...I did not... [LB1106]

SENATOR GROENE: ...for the law if... [LB1106]

SENATOR LINEHAN: My answer...I'm sorry, no I didn't. Except for the one specific case with Westside where it was 1,500 people and 11 percent turnout, is...I think Westside usually, in a primary, if I remember from my days of being very involved with this, was more like 30 percent. So a primary election is usually more like 30 or 40 percent. [LB1106]

SENATOR GROENE: Another question. Whoever...our forefathers did a unique job. November and May, everybody understands there's five months between both of those. So, no matter when you would have a disaster or whatever, you're only two to three months, maybe six at the most, away from the next election. [LB1106]

SENATOR LINEHAN: In an election year, but if you have... [LB1106]

SENATOR GROENE: The primary...depends who's up. Well, every two years we have people up in Lincoln County for sheriff or school board. There's a primary every year...every two years. There's a general every two years everywhere, too. So, I see no need for a special election. [LB1106]

SENATOR LINEHAN: Well, I...I would...I'm not against looking at curtailing the number of special elections we have. It seems... [LB1106]

SENATOR GROENE: The reason to do it is the low voter turnout. [LB1106]

SENATOR LINEHAN: Well, I think...I don't know. I can't... [LB1106]

SENATOR GROENE: That's a judgment call. [LB1106]

SENATOR LINEHAN: ...I can't judge the reasons, but it does seem that if...I have spent a lot of time doing elections in my lifetime (laughter). And if you only have one issue, and you know where the votes are you need. And you specifically can call those people and tell them to vote, and you can ignore a whole group of people over here, and don't ever even whisper to them, mail them, call them that there's an election going on...I mean, I've run enough elections that you can get the results you want by... [LB1106]

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SENATOR GROENE: But that doesn't happen in a primary or general election? [LB1106]

SENATOR LINEHAN: It's much harder when there are several things on the ballot and you know that everybody's getting called. If you're having an election and there's only one issue on the ballot, and nobody else is running, so you know this whole group over here is not getting turned out and your best hope is for that group not to vote, then it's very likely...unlikely that anybody is going to mail them, talk to them at all. And, in my opinion, likely, that they don't know what is going on. [LB1106]

SENATOR GROENE: So, it'd be good then...in rural Nebraska, it'd be good to have a bond election April 20 when all the farmers in a tractor, planting. [LB1106]

SENATOR LINEHAN: Yeah...I don't know, that might be (laughter). And there's also... [LB1106]

SENATOR GROENE: I've got a political comment; wouldn't it be nice if we had a good curriculum on civics and a state law that our voter...that our students would come out and want to vote and our voter turnout would be a lot better? [LB1106]

SENATOR LINEHAN: I'm all for a very robust civics. [LB1106]

SENATOR GROENE: Yes. [LB1106]

SENATOR LINEHAN: Thank you. [LB1106]

SENATOR SMITH: Additional questions from the committee? I see none. Thank you, Senator Linehan, for your opening on... [LB1106]

SENATOR LINEHAN: Thank you. [LB1106]

SENATOR SMITH: ...LB1106. We now invite proponents of LB1106, proponents. Seeing none, we invite opponents of LB1106. Those wishing to testify in opposition. Opposition, right? [LB1106]

JERRY STILMOCK: Yes, sir. [LB1106]

SENATOR SMITH: Okay. [LB1106]

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JERRY STILMOCK: Mr. Chair, members of the committee, my name is Jerry Stilmock, J-e-r-r-y S-t-i-l-m-o-c-k. Testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association, the Nebraska Fire Chiefs Association. The special elections oftentimes are needed in fire districts in order to assist the volunteers with their efforts. I think, perhaps, with your work that you did on the Revenue Committee and then the full Legislature a couple years ago on LB325, that helped out fire districts, maybe that issue has gone away. But we have been faced in the past where fire districts had little or no levy authority. Now on the handout that Senator Linehan passed out, there were three fire districts listed. And just for a point of reference, committee members, Sheridan...I'm about four, five, six down. Sheridan...it says Sheridan, Dawes, and then Sheridan, and reading in the third column, it's RFD, both of those fire districts are principally in the Sheridan County, so they probably are taken care of by legislation that you've already...the Legislature's already adopted. There's only one other fire district listed here, and that's Pleasanton in Buffalo County. Buffalo County was not one of the problem counties where they were allocated...the commissioner's were allocating no levy authority. But, typically, just to cut my testimony brief, Senators; it often falls upon the volunteers to go out banging on doors in addition to their responsibilities to let people know that the levy allocation is insufficient or to cover the expenses of fuel and insurance and so forth. It would be another task placed upon the volunteers to go out and have to...if the special election were taken away or it had this addition requirement of 50 percent plus one. The only other thing is, in reading the statement of intent, it referred to passing a bond issue. So, apparently the statement of intent certainly had spoke in terms of it wasn't...the legislation wasn't intended to go to a bond issue, and so I just point that out for your reference. It's tough getting people to show up. And sometimes the special election for fire districts is necessary, and I just want to present that information to you. Like I said at the beginning, hopefully prior legislation will take care of most of the fire districts. But, fortunately, I come to you with the three that were hit and they were...they did show up on the exhibit that Senator Linehan passed out, that have pretty decent turnout but it was less than 50; 46 and 42 percent in those fire districts. That concludes my comments, Senators. Thank you. [LB1106]

SENATOR SMITH: Questions for Mr. Stilmock. Now, I do understand why the 50 percent would be a barrier for you and I understand that part of your testimony, but I don't understand the timing of not having a special election, but having it during a regular election period. I don't understand why that would be a hurdle for those that you represent in the volunteer response... [LB1106]

JERRY STILMOCK: Yeah, I... [LB1106]

SENATOR SMITH: ...responders. [LB1106]

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JERRY STILMOCK: Yeah, I can't give any specific factual settings as to why they chose to go with a special election rather than in a primary or general. But, I know that they typically have to fight pretty hard to go out and educate the public just to get to show up in the first instance. And, you know, a lot of these oftentimes happen at a...well, that's really beside the point, the comment I was going to make, Senator. So, I don't really have any specific facts to submit, sir. [LB1106]

SENATOR SMITH: Okay, very good. [LB1106]

JERRY STILMOCK: Yes, sir. [LB1106]

SENATOR SMITH: I see...Senator Groene. [LB1106]

JERRY STILMOCK: Yes, sir. [LB1106]

SENATOR GROENE: The way I read it, the 50 percent is 50 percent of who voted...the total who voted in the last primary election. It's not 50 percent of registered voters. [LB1106]

JERRY STILMOCK: Fifty percent of who voted. And if I may comment, Senator, and I didn't...it's 50 percent tied to what vote? Fifty percent...I'm not talk... [LB1106]

SENATOR GROENE: Of who voted in the last primary election. If 10,000... [LB1106]

JERRY STILMOCK: For what? [LB1106]

SENATOR GROENE: For a special election. [LB1106]

JERRY STILMOCK: Okay. [LB1106]

SENATOR GROENE: It says here, "favorable votes for such tax is at least equal to one-half of the number of the registered voters voting in the immediately preceding statewide primary election", plus one. [LB1106]

JERRY STILMOCK: Um-hum. [LB1106]

SENATOR GROENE: So if you got 30,000 registered voters and only 10,000 voted in the primary, you have to have 50.1 percent) of 10,000, not 30,000. [LB1106]

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JERRY STILMOCK: Yes, sir. Right, I agree. I agree with what you said. [LB1106]

SENATOR GROENE: So, you have no idea if that 42 percent turnout at Pleasanton or whatever wasn't already enough. [LB1106]

JERRY STILMOCK: Right. I agree with what you said. [LB1106]

SENATOR GROENE: But the county is already printing a ballot for a primary or a general. [LB1106]

JERRY STILMOCK: Yes. [LB1106]

SENATOR GROENE: To add one more line, that gets mailed out or is in certain precincts where somebody's in a fire district, I would think it would be less cost to the fire district to have the county add one more line to an existing ballot than to have a special ballot. [LB1106]

JERRY STILMOCK: I would agree with what you said, yes. [LB1106]

SENATOR GROENE: So I just don't understand the need for special elections. [LB1106]

SENATOR SMITH: I see no other questions. [LB1106]

JERRY STILMOCK: Okay. Thank you, Senators. [LB1106]

SENATOR SMITH: Thank you for your testimony. Next opponent of LB1106. Seeing no additional...do we have an opponent? [LB1106]

BETH MORRISSETTE: Yeah. [LB1106]

SENATOR SMITH: Okay. [LB1106]

BETH MORRISSETTE: Absolutely. Hi, good afternoon... [LB1106]

SENATOR SMITH: Welcome. [LB1106]

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BETH MORRISSETTE: Chairman Smith and members of the Revenue Committee, my name is Beth Morrissette, B-e-t-h M-o-r-r-i-s-s-e-t-t-e, like Mississippi, double consonants and all letters. And I am the president of Westside Community School Board of Education, so I appreciate the opportunity to talk today about LB1106. The levy override statutory scheme is designed to give voters of the school district a voice in overriding the levy limits mandated by the Nebraska Legislature. The voters in the Westside Community School District have clearly expressed their voice in successfully approving levy overrides in 1997, 2002, 2007, 2012, and 2017. The decision by Westside Community School Board to pursue levy override is vigorously discussed at a public school board meeting. A resolution is...to submit a levy override to the voters as drafted, approved, and voted on at this public meeting. And often, we've talked about it before, the public meeting votes at different board meetings. The resolution is then submitted to the Douglas County Election Commissioner, who subsequently publishes the actual ballot language, as well as the notice of the upcoming election in a legal newspaper. All Westside Community school members are given the opportunity, if they so desire, to attend one of the public meetings and express their opinion and whether a levy override should be submitted to the voters. It is the very public and open process because we want our community to have all the information necessary to...in order to make an informed decision when they cast their vote. LB1106 would dramatically change the threshold to win an override election. The suggestion that levy override elections are low turnout and covert way....a covert way for school districts to gain more levy authority is plain wrong. The process is very public, and Westside engages the community members and voters from the start. The importance of this process cannot be underestimated, as the citizens of the Westside Community School have granted the levy override authority to the school board for 25 years, since this has been a possibility. These measures have passed through polling places, elections, and mail-in elections, and even polling-place elections that took place in a March snowstorm. The process works. In a 2017 override election, actually we exceeded the turnout of the 2016 general election, but we realize that may not always be the case. The special election override election is now conducted through a mail-in ballot. Historically, mail-in ballots have a higher turnout than polling place elections. In Westside, the 2017 override, there were 7,538 votes cast; comparative 5,804 cast in the 2016 primary election. Therefore, if LB1106 were law the 2017 override would have been successful. Nonetheless, we are opposed to adding yet another needless hurdle for levy override elections. The override tool is vital to the success of Westside Community Schools and we are opposed to LB1106 because it could jeopardize a successful process that Westside has utilized for a quarter of a century. I'd also like to add, quickly, about the looking at who shows up to vote. So, even though we know that the voter turnout for our district was 7,000 and some voters, when you get lower on the ballot, you have fewer people that mark the circles. So, it's not necessarily an adequate way to engage who's engaged in our district and our community votes, especially the lower the name on the ballot are. I know that by my own experience. But, again, I'd like to thank you, so much, for you time today. I'm happy to answer any questions you might have. [LB1106]

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SENATOR SMITH: Thank you. Senator Friesen. [LB1106]

SENATOR FRIESEN: Thank you, Chairman Smith. I think I've found somebody who's going to support my bill (laughter). So, if we took the levy limits off and took the LER away, then you wouldn't have to have these elections. Save you money, right? [LB1106]

BETH MORRISSETTE: Well, it would go back to the way it used to be when Westside had a higher levy. You're right. That would be a potential way to do it. [LB1106]

SENATOR FRIESEN: I knew I'd find somebody that liked the bill (laughter). [LB1106]

BETH MORRISSETTE: The other thing I'd like to comment on is that as...the levy used to be much higher than Westside had set as well. And we weren't taken full advantage of the levy that had been approved by the voters. It was, at one point, more...we had plus 30 percent that we could have taken advantage of. And we never abused that. We always took what we needed to for the time, and we've even lowered the levy override at times. Recently we had to increase the request that we had for the override, but that was after we did major budget cuts two...a year and a half before. [LB1106]

SENATOR FRIESEN: So, I am curious, though; why do you...why would you do a special election when you can just include it in a primary or a general, and it would save you money. Why wouldn't you time it then? [LB1106]

BETH MORRISSETTE: That's a great question, I appreciate that question. So, a couple of things. One is the levy override is good for five years, so it doesn't fall on the sequential, even-count years which would fall with the primary and general election years of every two years. And also, the other thing is one of the challenges is that, as a board member, we are involved as citizens on the levy override. And if you're running for office at the same time that the levy override is going on it would become very hard to campaign as an incumbent for both the levy override and your own campaign. So that would be a challenge. [LB1106]

SENATOR FRIESEN: Not a good reason for me, but... [LB1106]

BETH MORRISSETTE: I think it would be hard for me. I mean, it's a busy time for us. [LB1106]

SENATOR FRIESEN: So, I mean...and another item, I guess, I really don't like the mail-out ballots either, so. If people don't take the time and effort to come vote, I sometimes feel that they

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don't have enough interest, they maybe shouldn't even bother to vote because they haven't taken the time to study the issues. But... [LB1106]

BETH MORRISSETTE: Which would count against us in this bill. [LB1106]

SENATOR FRIESEN: Yeah, well, I just like it when people do study the issue, and it's tough getting people to do that. [LB1106]

BETH MORRISSETTE: Agreed. [LB1106]

SENATOR FRIESEN: But, by including it in a primary or general, I do think people do take more notice than doing a special election. [LB1106]

BETH MORRISSETTE: I think we would probably have an interesting conversation disagreeing that, because I think, sometimes, when we have special items on the ballot or even judges that are up for renewal, we see that the numbers are really low on who votes for those compared to who votes for the president... [LB1106]

SENATOR FRIESEN: Right... [LB1106]

BETH MORRISSETTE: ...and what I like...I'm sorry to interrupt. What I like about that is that people do now recognize that they aren't informed enough on the situation...the ballot or on the judge, and they choose not to participate. [LB1106]

SENATOR FRIESEN: Exactly, that's what I would do if I don't know the gentleman, I tend not to vote... [LB1106]

BETH MORRISSETTE: Right. [LB1106]

SENATOR FRIESEN: ...either way because I don't want to... [LB1106]

BETH MORRISSETTE: Right. [LB1106]

SENATOR FRIESEN: ...send somebody out that I... [LB1106]

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BETH MORRISSETTE: Right, but I would be concerned that if the only reason why you came to vote at the general election was because you wanted to vote for a presidential person, and that was the only circle you marked. And then that would count against me as a school district on who can give...who would be able to support the levy override or not. [LB1106]

SENATOR FRIESEN: Okay, thank you. [LB1106]

BETH MORRISSETTE: Thank you, I appreciate it. [LB1106]

SENATOR SMITH: Senator Groene, then Senator Schumacher. [LB1106]

SENATOR GROENE: Your timing...you said something about your five years runs out. [LB1106]

BETH MORRISSETTE: Yeah. [LB1106]

SENATOR GROENE: But, September, you've already done your budget for the next year. And in August or so, you're doing your budget. Is that not correct? [LB1106]

BETH MORRISSETTE: Yeah, so we just passed our levy and it does not affect this school year because we're finishing out the current levy and then it would go into effect the next school levy. [LB1106]

SENATOR GROENE: But, you've got a whole year now for your next budget till next July and August when you start working on your budget before you take into effect if you won the election or lost the election. So, timing...two months later would have been November and you could have put it on the ballot and saved the taxpayers money because it's just one more line on the ballot in November. [LB1106]

BETH MORRISSETTE: Well, I would say that there's a lot of complications that, if a levy wasn't passed, that we would have to start planning for and talking through with our teachers to really think through the contracts and the impacts it's going to have on different programs. [LB1106]

SENATOR GROENE: That all happens further down the line towards the summer, end of the year when you're getting ready for your budget for the next school year. [LB1106]

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BETH MORRISSETTE: I would say we start talking about that stuff as soon as the budget passes right now, we start talking about the next year budget. [LB1106]

SENATOR GROENE: So then do it in May. Then do the budget override at the... [LB1106]

BETH MORRISSETTE: Then we would run into... [LB1106]

SENATOR GROENE: ...if you want more time do it in May... [LB1106]

BETH MORRISSETTE: Sure. [LB1106]

SENATOR GROENE: ...at the primary. [LB1106]

BETH MORRISSETTE: Sure, I would be concerned about...and I don't know all the logistics about the contractual stuff that we have to do with the teachers. But I would wonder how that would impact that work. [LB1106]

SENATOR GROENE: Also, I'm concerned about your comment that you care about that somebody would come to the ballot box in November and not vote on your issue. That's good for you, the same people that would vote that you're trying to attract to vote in September would also show up in November and May at primary, would they not? [LB1106]

BETH MORRISSETTE: Say that again, let me track it. [LB1106]

SENATOR GROENE: The people you're attracting that you want to limit to vote for, the people who support you or have a view on it, on a special election would still show up in November or May at the primary. [LB1106]

BETH MORRISSETTE: Right, I agree. [LB1106]

SENATOR GROENE: Is that not correct? [LB1106]

BETH MORRISSETTE: I agree. [LB1106]

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SENATOR GROENE: So, if they don't vote on your issue and they only vote on the president, that doesn't affect you at all. But if they vote "no" because they voted for Trump and they don't like tax increases and they voted "no..." [LB1106]

BETH MORRISSETTE: Yeah. [LB1106]

SENATOR GROENE: ...that would affect you. [LB1106]

BETH MORRISSETTE: Okay. Okay. [LB1106]

SENATOR GROENE: So, anyway, I just don't see the need for special elections. You guys could... [LB1106]

BETH MORRISSETTE: Yeah, and I want to... [LB1106]

SENATOR GROENE: ...and your people have supported it. [LB1106]

BETH MORRISSETTE: Yeah, well, and I would be...I don't know...I didn't get...guess I didn't read LB1106 about special elections, I read it more about the levy override and the impact of the general...and the general election number of turnouts would impact what we needed to be able to carry to carry... [LB1106]

SENATOR GROENE: I see. [LB1106]

BETH MORRISSETTE: ...to have a successful override. [LB1106]

SENATOR GROENE: But if you have it at the primary, you've done it because you will have 50.1 percent (sic--50 percent plus one) of who voted in the primary. [LB1106]

BETH MORRISSETTE: And in the current example, we would have been successful, yeah. [LB1106]

SENATOR GROENE: Thank you. [LB1106]

SENATOR SMITH: Senator Schumacher. [LB1106]

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SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you for your testimony. Two areas, one...and they're implied by this bill but not necessarily addressed by it. One is trying to be political with the process to pick a situation where you're apt to win, like Senator Linehan described where, you know, that in a special election you can maybe advertise to the people who are apt to show up to win. The second issue is repeated presentations of the same issue until you just tire the voter out or the odds are that one of the times you're going to hit it. In your experience on the board, how often do you present...re-present a losing issue? [LB1106]

BETH MORRISSETTE: You know, that's a great question. And since I've been on the board and from what I understand is that we have not lost a levy at all, so we've never had to re-present it in a short period of time. And we recently passed a bond as well, I believe it was in 2014, and we just did that one bond. We didn't have...we were successful at it and so we didn't have to come back and try to redo it again. [LB1106]

SENATOR SCHUMACHER: Are you aware of the practice in the school industry for re-presenting and re-presenting and re-presenting a bond issue or override until you get lucky? [LB1106]

BETH MORRISSETTE: I guess I wouldn't even be able to tell you a specific school district that I know of that's doing that. [LB1106]

SENATOR SCHUMACHER: And the second issue, you seem to favor some of the mail-in ballots. But in Nebraska, mail-in ballots aren't secret ballots anymore. And doesn't that have an impact on your election, particularly if you're voting against something that there is a sentiment; gee-whiz, you're not a good citizen if you vote against this? [LB1106]

BETH MORRISSETTE: So what you're saying...let me make sure I understand. So what I hear you saying is that when you mail in your ballot, if I work at the election commissioner, I would know how you voted for it? [LB1106]

SENATOR SCHUMACHER: If you wanted. It comes in an envelope with your name on it. [LB1106]

BETH MORRISSETTE: Well, your name is on the outside of it, but not on the inside of the ballot. So, they would...so, my understanding is they don't know how you vote, they just know if you turned in your ballot. [LB1106]

SENATOR SCHUMACHER: Somebody takes your ballot out of your envelope. [LB1106]

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BETH MORRISSETTE: I guess that would be above my pay grade as a board member.
[LB1106]

SENATOR SCHUMACHER: Okay. Thank you. [LB1106]

BETH MORRISSETTE: Yeah. [LB1106]

SENATOR SMITH: Senator Harr. [LB1106]

SENATOR HARR: Thank you. And this is a little off topic, but never stops me. Yesterday on the floor, one of the senators, our state...fellow state senators, said that Westside was founded for racist reasons. [LB1106]

BETH MORRISSETTE: Ooh. [LB1106]

SENATOR HARR: Is that true? [LB1106]

BETH MORRISSETTE: No. [LB1106]

SENATOR HARR: Okay, thank you. [LB1106]

SENATOR SMITH: Other questions from the committee? I see none. Thank you, Ms. Morrisette... [LB1106]

BETH MORRISSETTE: I appreciate your time. [LB1106]

SENATOR SMITH: ...for your testimony. [LB1106]

BETH MORRISSETTE: I appreciate it. Thank you, very much. [LB1106]

SENATOR SMITH: (Exhibits 3-6) All right, we continue with opponents of LB1106. Seeing none, we do have letters for the record that were submitted in opposition: Jami Jo Thompson representing Norfolk Public Schools; Greg Adams representing Nebraska Community College Association; John Spatz representing NASB; and Jenni Benson representing NSEA. Do we have anyone wishing to testify in a neutral capacity on LB1106? Seeing none, we invite Senator Linehan back to close on LB1106. [LB1106]

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SENATOR LINEHAN: (Exhibit 7-8) Thank you, I'll be quick. On the fire and rescue, we need fire...I'm very glad there's firemen close to us. But I'm just going to hand out...Bennington recently built a new fire station. It sits on the south side of town. The picture, I promise you, does not do it justice. We need to...I've got in front of me the advertisement that was used when Millard overrode its levy. And one of the reasons I'm bringing this is because I'm very concerned. We've had Westside, which has done it since 1998. Westside has unique...unique...it's unique in the fact it gets no equalization aid, but about a third of its budget comes from opt-in kids. Millard gets 50 percent of its budget from state aid. And even though Millard gets 50 percent of its budget from state aid, when they ran their levy override campaign, one of the reasons they had to override the levy is because last year this Legislature decreased their state aid by \$2 million. So, in every mail piece that went out and on their Web site the reason they said they had to have a levy override is because we decreased state aid and we do not give them enough in state aid. Therefore, they had to have a levy override. And at Christmas time when I was cleaning out closets, I found a letter from 1998, when my children were at Westside, asking me to vote for a levy override because state aid got cut. So just so we understand, when these levy overrides and these special elections are happening, in a vacuum where we're not involved in the conversation, nor is the Governor, or anybody else political, I don't know...I know these two facts, I haven't seen other levy override advertisements. The reasons people are being told they need a levy override is because we're cutting their state aid. So, I just...it's not a robust conversation. And that's my concern. I think...I believe greatly in democracy. I believe in elections, but I think that every side of the issue needs to be discussed. And we have special elections that are, kind of, leave out half the population, or you only target the 30 percent you need to turn out. It's not good democracy, so. Any more questions? [LB1106]

SENATOR SMITH: Remaining questions for Senator Linehan? Senator Brasch. [LB1106]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Senator Linehan, in passing out this Bennington new state-of-the-art...individuals in Washington County also had to pay part of this ticket, correct? [LB1106]

SENATOR LINEHAN: I don't know, I just... [LB1106]

SENATOR BRASCH: I believe so... [LB1106]

SENATOR LINEHAN: I remember it because I went...Superintendent Haack was kind enough to ask me to come out to Bennington and when I drove by it I was...it's very large. [LB1106]

SENATOR BRASCH: And I think it had a lot of controversy. Is...it spilled over into Washington County. You say you are in Douglas...you are in Douglas? [LB1106]

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SENATOR LINEHAN: It's not...I'm not in that district... [LB1106]

SENATOR BRASCH: Okay... [LB1106]

SENATOR LINEHAN: ...and that's... [LB1106]

SENATOR BRASCH: ...you're not. Okay... [LB1106]

SENATOR LINEHAN: ...not my school district... [LB1106]

SENATOR BRASCH: All right. [LB1106]

SENATOR LINEHAN: ...so I'm... [LB1106]

SENATOR BRASCH: Okay. [LB1106]

SENATOR LINEHAN: ...not familiar with it.... [LB1106]

SENATOR BRASCH: All right... [LB1106]

SENATOR LINEHAN: But it was... [LB1106]

SENATOR BRASCH: ...well, when I saw this it reminded me of a very concerned constituent or two that they were helping to pay the bill on it. [LB1106]

SENATOR LINEHAN: Right, because as you know, Bennington, Elkhorn, a lot of people...and this is another group that gets left out on these elections are seniors who are in homes that they built 30 years ago, who are now...is now the value of them has increased significantly. And their property taxes are more than they ever paid in a mortgage payment. So it's...when these things happen...and they don't understand it because it's not...it's...it's just foreign to them that you would spend money that way when it's tax money. [LB1106]

SENATOR BRASCH: Thank you. And thank you for sharing. [LB1106]

SENATOR LINEHAN: You're welcome. [LB1106]

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SENATOR SMITH: Senator Harr. [LB1106]

SENATOR HARR: And that's a perfect lead-in for Senator Kuehn's bill, which is coming up next. [LB1106]

SENATOR LINEHAN: Thank you. [LB1106]

SENATOR SMITH: I see no additional questions. Thank you, Senator Linehan, for your closing on LB1106... [LB1106]

SENATOR LINEHAN: Thank you, Chairman. [LB1106]

SENATOR SMITH: ...and that concludes our hearing on LB1106. We now invite Senator Kuehn forward. Senator Harr has already made that introduction (laughter). And Senator Kuehn is going to open on LR290CA. [LB1106]

SENATOR KUEHN: That's a lot of pressure. It's like the first one into the tee box when everyone's behind you watching and you swing and miss. Chairman Smith and members of the Revenue Committee, I am John Kuehn, J-o-h-n K-u-e-h-n. And I represent the 38th Legislative District, seven counties in south central Nebraska. Today I am channeling my best inner Senator Schumacher for the conclusion of your day of hearings. So during my four years serving here in the Legislature, there have been a lot of proposals that have addressed a number of both the consequences and what some see as the root causes of challenges in our current property tax system in Nebraska. So, as a concept today, I bring to you constitutional amendment LR290CA for your consideration, which, to my mind, would meet the criteria I look at as I evaluate tax proposals. And that is simplicity, transparency, neutrality, and stability to the property tax system in Nebraska. If adopted by Nebraska voters, all property in Nebraska would be valued for property tax purposes at its market value at the date of the...at the date the owner of the property assumed title, determined by the actual purchase price or the other mechanisms in tax law, which would establish it if there's not an actual purchase such as an inheritance or a gift. That valuation would not change until the property is sold to a new owner. Fair market value of any property is established under Nebraska's valuation laws when there is a willing buyer and a willing seller, both of whom know the uses and capability of the property. And ultimately, to my mind, we can only establish that when money changes hands. Until that transaction occurs, again, any valuation is an estimation at best. And this committee has heard prior some of my concerns with the mass-appraisal approaches and challenges that accompany the current assessment system. We see a lot of things that are happening that frustrate property owners and lead to many of the issues I think we see with our property tax system. You see a home buyer in a community who comes in and is willing to pay much more for a particular home in an emerging community

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based on their individual family wealth. And that raises the property values of maybe, for example, senior citizens in a home next door who have lived in the home and raised their family there their entire lives. We certainly, in my area, see investors who pay really high prices for land or that arms-length sale or transaction, but it's right across the road from their farm so they're going to pay a much higher price than anyone else. Yet that resulted in increased valuation assessments for all taxpayers who didn't necessarily make that personal choice. We also see new commercial developments, sometimes subsidized by TIF, come in to town and raised commercial property values, which then impact the property tax bill of a small business owner operating for decades in the downtown square. So, if adopted, many of the frustrations that property taxpayers experience now with one of the two moving parts of their property tax bill, that is the valuation piece, would be largely eliminated. Gone are fluctuating valuations--up and down from year to year--everyone's favorite, equalization protests and unpredictable tax bills from year to year that makes budgeting difficult for families. The complex and often confusing appraisal process is replaced with a simple and fully transparent valuation mechanism, the price on your bill of sale. Until you sell that property and therefore realize any increase in its value, it does not change. Total property values in a district would have a much more predictable rate of growth from year to year as--depending on the tax district and the type of property--there's typically a consistent level of turnover of that property, which would provide greater stability to local governments and taxpayers alike. The system is neutral for all classes of taxpayers since individual purchasing decisions, based on what you're willing to pay for in a home, affects you and only you and your valuation. The personal choices of other buyers will not cost other taxpayers on their own property. This is, in my mind, a structural change, obviously, in how the market value of property is determined. Obviously, there would have to be following a whole host of statutory changes. We would have to completely revisit our levy limits. We would have to revisit or make adjustments based on the implications for our school aid formula and other implications for how we fund local governments. Which I recognize would be a follow-on task following this constitutional change. However, I wanted to throw something that was bold, not particularly new or original, as some of you may recognize where this has been...one part of it has been implemented before. But it's a structural change that I thought I would put before the committee for you to consider. With that, I'm open to any questions that you may have. [LR290CA]

SENATOR SMITH: Thank you, Senator Kuehn. Questions from the committee? Senator Schumacher. [LR290CA]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you, Senator Kuehn. I see you're learning well, I don't see a whole list of proponents behind you (laughter)... [LR290CA]

SENATOR KUEHN: You know... [LR290CA]

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SENATOR SCHUMACHER: ...so we're off to a good start. [LR290CA]

SENATOR KUEHN: ...that's usually standard for my bills on the list of proponents (laughter), so we're okay. [LR290CA]

SENATOR SCHUMACHER: (Laughing) But I do have a couple legitimate questions. How do you handle an LLC trust--something that we just were cooking up today in Banking is series LLC--where title never changes? [LR290CA]

SENATOR KUEHN: Right, and I think that's one of the statutory changes about when the...when you have going concern and the title never changes because you have a corporate entity which goes on in perpetuity. I think in reality--with the exception of really, really large companies--most of those are, at some point, going to have a finite change or corporate structure change. So, again, I think that's a statutory issue that we'd certainly look at, which is if that LLC is acquired or a certain percentage of ownership in that corporate structure changes in terms of corporate owners, that that would trigger a reassessment or a revaluation process. [LR290CA]

SENATOR SCHUMACHER: But the constitution under this amendment doesn't let us...doesn't have that leeway, and so... [LR290CA]

SENATOR KUEHN: Correct, yeah and so... [LR290CA]

SENATOR SCHUMACHER: Next year's version will have that. (Laughter) [LR290CA]

SENATOR KUEHN: Next year's version could have that. You know, the Bill Drafters loved some of...I tried to work this in via statute, and that got really complicated and fun, so. But, certainly, I think that there's an opportunity to think maybe differently. And, you know, this is basically one part of Proposition 13 from California. And so, there is a model there with at least how they have looked at and addressed a number of these issues. They have some differences. They have a 1 percent cap on valuation increase over year over year. But certainly something to look at. If Initiative 300 was still in place, you know, we'd certainly have some of the issues taken care of with that farm ground. [LR290CA]

SENATOR SCHUMACHER: The other issue is in places where this kind of works--I think Florida's one of them--your neighbor can be paying tax at a tenth of what you're paying because... [LR290CA]

SENATOR KUEHN: Um-hum, right. [LR290CA]

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SENATOR SCHUMACHER: ...they bought in the recession and you bought after the recession was over. But part of what mitigates the fact that...at least to have some growth in their base, is unlike farmland where they're not making any more of it, they are making new valuation in every new residential project, new condominium, new office complex. So you have a growth on your valuation side of your scale irrespective of the fact that maybe individual parcels are somewhat gapped. [LR290CA]

SENATOR KUEHN: Right, yeah. Absolutely, and I think, you know, modeling this is complicated and I'm guessing some of the policy groups probably went cross-eyed trying to think how to model these growth patterns. You know, there's a baseline growth that occurs in that kind of commercial and residential property. And then you would get these kind of punctuated, generational changes that occur as we see...farmland, in particular, tends to turn over in kind of generational waves. That, then, kind of provide a surge and a change in the tax base. So, yeah, I think there's always the question of adjoining property owners paying very different property tax bills. But if tax policy is based on your ability to pay, the time of purchase and the purchase price is, to my mind, probably one of the most fair and equitable ways to ascertain your ability to pay. So that's where I kind of come from on it. [LR290CA]

SENATOR SCHUMACHER: Thank you, Senator. [LR290CA]

SENATOR KUEHN: You bet. [LR290CA]

SENATOR SMITH: Senator Harr. [LR290CA]

SENATOR HARR: Thank you. Thanks for coming. And it, this is, you know, going back to Meghan Trainor, it's all about the base (laughter). So it's base times rate. [LR290CA]

SENATOR KUEHN: Right. [LR290CA]

SENATOR HARR: And you're controlling the base, but we're doing nothing to control the rate on this. And so, in a way, you're pushing more people...you could push more people into being equalized school districts and it is probably causing a shift in taxes to sales and income. That's my first concern. My second is, if I buy a dilapidated house and rehab it, I get the dilapidated price. However, what happens if someone buys a dilapidated house, fixes it up and flips it, now the base is up here? I mean, I think it incentivizes people to go out and look for the most dilapidated house out there and then put a whole bunch of money into it because their base will be lower than buying a house that's already been flipped. [LR290CA]

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SENATOR KUEHN: So, I'm not sure that's a bad thing, because now you're incentivizing rehabbing older houses (laughter). So I guess I don't see that as a downside. [LR290CA]

SENATOR HARR: Well, but you do see the difference, though? [LR290CA]

SENATOR KUEHN: No, I absolutely do. And the flipper... [LR290CA]

SENATOR HARR: If I buy a new house versus a flipper, and you're getting rid of the flipper, because the smart thing would be...to do is to go to Senator Schumacher and say; hey, you want to buy this house? I'll fix it up, but you buy it first. [LR290CA]

SENATOR KUEHN: Well, someone who lives in a 1943-era farmhouse, you have to have some skills to be a flipper. So not everyone is necessarily going to have that skill or ability. But I think it creates an interesting idea when you talk about how you would, for example, incentivize rehabbing dilapidated buildings. When we talk about a flipper, they're realizing the...at the time of sale, they're realizing the increase in that value. So they're capturing that and then the next owner would be the one who would be taking advantage of that increased value of a home. And it would increase their tax bill, but... [LR290CA]

SENATOR HARR: But take it a step back. Why wouldn't I just buy a dilapidated house, hire a general contractor because then my base is \$200,000 as opposed to if it's rehabbed, it's now \$400,000? [LR290CA]

SENATOR KUEHN: Because...well, that's not necessarily a bad thing. Now you have a general contractor that's paying income taxes and a lot of sales taxes at the local level. [LR290CA]

SENATOR HARR: But they would have paid it either way. [LR290CA]

SENATOR KUEHN: I agree, I understand that and I get what you're saying. I'm not intending to flip. [LR290CA]

SENATOR HARR: No pun... [LR290CA]

SENATOR KUEHN: I think that there are lots of interesting implications. And again, if you look at the Proposition 13 example in California, kind of where and how that has played out in terms of, you know, they have amended it over the years since it was passed in the '70s with portability for people over 55. And there's a lot of interesting implications as you look at how something

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like that may work. And I agree 100 percent, it's not doing anything with the rate. But where I am when I'm having conversations with constituents about property taxes, the vexing thing about it is there's two moving parts, continually. And that is you got one part that's always in motion, which is the valuation. And then you have the levy rate, which is always in motion. And it becomes confusing. So for simplicity, when I'm looking at something and I've got two moving parts, I want to hold one still and then I can assess the motion of the other one. So this is one way of holding one still or relatively still, and gives a better idea to analyze what happens with the other. And certainly, it doesn't address that at all and I agree with you. [LR290CA]

SENATOR HARR: Thank you. [LR290CA]

SENATOR SMITH: I see no other questions from...Senator Groene. [LR290CA]

SENATOR GROENE: Even if we passed this, why would you think that the state would follow it or the courts would follow it? I mean, we have a constitutional amendment says the state shall provide for free instruction in our schools. And we also have a constitutional, pretty clear, it said the state can't use property taxes for the purposes. They've ignored that, so why wouldn't they ignore this? [LR290CA]

SENATOR KUEHN: I'm not 100 percent sure how to honestly respond to that (laughter), Senator Groene. One would hope. But no, I understand what you're saying in terms of it would change, ultimately, the assessment system. And so, there would have to be some sort of...when you talk about a CA that is an amendment adopted by the people, I would hope that the Legislature would be responsive in putting in a statutory framework to carry out the will of the people. [LR290CA]

SENATOR GROENE: I kind of like this idea, that we can get rid of the constitutional, strike that at the same time about TIF, because now we just fixed it (laughter). Everybody's going to buy an old building and fix it up and we're going to have urban renewal. [LR290CA]

SENATOR KUEHN: Yeah, TIF wasn't actually in my written comments. I inserted that just because when I came into the room you guys were looking a little bit calm (laughter), and I wanted to make sure to throw out some red meat to engage your questions here at the end of the day on Valentine's Day. [LR290CA]

SENATOR GROENE: How about another idea? Why don't we just put a disclaimer in here that the Legislature can, just like ag land, just put any value on it they want? Wouldn't that stimulate the lobby? Boy, look at all the lobby, every small business, rental property, they all would be

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down here for a special--we'd eat a lot of steak dinners (laughter)--to get a special taxing valuation for theirs. That'd be really good, wouldn't it? [LR290CA]

SENATOR KUEHN: I hope the transcribers can translate nonverbals (laughter), maybe they're transcribing off the video. So I don't know if there's going to have parenthesis, "laughter," or how that's going to go. But, I appreciate that input. [LR290CA]

SENATOR GROENE: Thank you for your efforts. [LR290CA]

SENATOR SMITH: Senator Brasch. [LR290CA]

SENATOR BRASCH: I believe the transcribers are doing emojis over there, right now (laughter). I have no questions. [LR290CA]

SENATOR KUEHN: (Laughing) That will be an interesting legal transcript. [LR290CA]

SENATOR SMITH: I see no additional questions from the committee. Thank you, Senator Kuehn, for your opening on LR290CA. [LR290CA]

SENATOR KUEHN: Thank you. [LR290CA]

SENATOR SMITH: (Exhibit 1) Do we have proponents wishing to testify, proponents? We do have a letter for the record that was sent in support of LR290CA from Doug Kagan representing the Nebraska Taxpayers for Freedom. Do we have opposition to the bill? Those wishing to testify in opposition. Welcome. Senator Friesen, for the record, this is how you have a bill. All right? (Laughter) You have to have opposition, like Senator Schumacher said. Welcome. [LR290CA]

RENEE FRY: (Exhibit 2) Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky policy institute. Senator Kuehn is right. We had no way to model this legislation. And so we are opposed to LR290CA for several reasons. At this point, we have no way of knowing what the fiscal impact to the state would be. We can theorize, however, that equalized districts would likely lose valuation and have their resources reduced, thereby requiring more equalization aid under TEEOSA, which would increase the cost of TEEOSA significantly. We also have no way of knowing what the impact would be to local governments across the state. And we have no way of knowing what the impact would be to taxpayers, although we do have a couple of examples that I handed out I would like to walk through to illustrate the distortions that

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would be created among property taxpayers. So if we look at the handout, we have one residential example and one ag landowner example. So I'll start with the agricultural landowner. You can see here they are in Wallace Public School District. Both of them have property valued at \$1 million. The district levy in Wallace is \$0.45, and they currently both pay property taxes of \$3,264. So if this were to go into effect, assume that ag landowner one purchased their property a long time ago. At the time it cost \$500,000 for them. And the ag landowner two we assume was a more recent purchase and they paid \$950,000 for their property. So what we're assuming here is that Wallace, who has, obviously, a lot of room under their levy, very far away from equalization, would increase their levy to make up the lost revenue. If that were to happen, we would see that the agricultural landowner who purchased their property a long time ago when it was \$500,000, their property taxes would go down to \$2,268 while as the more recent purchaser, their property taxes would go up to \$4,309. So what you have here are two ag landowners have the same value of property, and one is paying nearly double what the other property tax owner is paying. In our second example, we have two residential owners in Elkhorn Public Schools. We're assuming that their home is valued at \$250,000. Their district levy there is at \$1.05, the max levy. Right now they're both paying \$2,625. So, again, we assume that residential owner number one made their purchase a while ago, when the house was...cost them \$175,000 versus number two, who bought their home recently and is valued at...they paid \$250,000. So we assume that the levy doesn't change because they don't have any room in their levy limit. And so what would happen is that residential owner number one, who purchased that residence a while back, their property taxes would decrease to \$1,800, whereas the person who recently purchased their home for the same amount their property taxes would stay flat. In this scenario then, we would assume that those property tax owners, they'd pay unequal amounts, but the school district would lose resources there. So that would increase the amount of state aid that they would receive under TEEOSA. So just wanted to flag that. Thought that was important to look at the distortions created between taxpayers with similar-sized...similarly valued property. So if you believe that resources and TEEOSA are already a poor indicator of actual ability to pay, this bill would make that...would make it so the calculation of resources in TEEOSA will be less indicative of actual ability to pay than before because of instead of equalizing resources, we would be equalizing turnover. Because where there's a higher rate of turnover, resources would grow and where there is a lower rate of turnover, resources would be in decline. The bill also creates an incentive to cheat the system. Senator Schumacher alluded to this. Under California's Proposition 13, ownership doesn't technically change unless one individual gains more than 50 percent of the stake in a property, so some property owners have avoided reassessed property valuations by dividing ownership at the time of sale among several people. Billionaire Michael Dell purchased a beachfront hotel in 2006 for \$200 million and avoided reassessment of the property's valuation at the time of the purchase by spreading ownership among several people, leading to an annual savings of about \$1 million on property taxes. LR290CA doesn't contain any guardrails that would limit the valuation rollbacks to homeowners or prevent the above scheme wherein multiple owners leads to a tax shelter. Several other states have adopted similar statewide caps on

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property assessment levels, including Proposition 13 which caused massive revenue problems for the state, especially schools, whose revenue fell to 61 percent over the two-year period following an enactment. So, with that, I'd be happy to take questions. [LR290CA]

SENATOR SMITH: Thank you, Ms. Fry. Questions from the committee? Senator Groene. [LR290CA]

SENATOR GROENE: Do you want to restate that, when you said the Wallace School District \$500,000 might have bought that a long time ago? [LR290CA]

RENEE FRY: Yes. [LR290CA]

SENATOR GROENE: That was less than ten years ago; from \$500,000 to \$950,000 valuations. So it wasn't a long time ago farm prices went up. But California's doing fine. Growing, population's booming. People are living there and they've got Proposition 13. They're growing faster than we are, population-wise. [LR290CA]

RENEE FRY: I would say that we had a speaker from the Kansas Legislature who came to our symposium. She and her husband lived in California for a long time. They actually left California and moved back to Kansas because the K-12 education system was in such disrepair. [LR290CA]

SENATOR GROENE: Because Brownback cut taxes. [LR290CA]

RENEE FRY: What's that? [LR290CA]

SENATOR GROENE: Because Brownback cut taxes. [LR290CA]

RENEE FRY: No, they moved back for the school system. They moved back well before Brownback and she was actually a Republican that voted to repeal some of the Brownback tax cuts. But she moved back before that happened, and then voted to repeal it because the problems it caused in K-12. [LR290CA]

SENATOR GROENE: Just a comment. It must have been a slow day if you thought this one was (inaudible). That's fine with me. [LR290CA]

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RENEE FRY: I thought it was important to make sure that we were looking at the unintended consequences that could occur, and we're always concerned when there are too many unknowns and we can't calculate what would happen. We're concerned about the legislation. [LR290CA]

SENATOR GROENE: Thank you. [LR290CA]

SENATOR SMITH: Other questions from the committee? Senator Schumacher. [LR290CA]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you, Renee, for appearing today. What one of the premises of the bill, at least the way I initially understood it, was that this kind of makes it based on the ability to pay. But, in your Wallace example, you have two equal pieces of property. Presumably they're an equal capacity to grow a crop or graze livestock, or something, and yet, even though the ability to produce is equal, the tax is very "disequal". [LR290CA]

RENEE FRY: That's absolutely right. [LR290CA]

SENATOR SCHUMACHER: So this doesn't have the type of correlation or the type of pinning to the ability to pay. [LR290CA]

RENEE FRY: Yeah, I think that's a really fair point. [LR290CA]

SENATOR SCHUMACHER: Okay, thank you. [LR290CA]

SENATOR SMITH: I see no remaining questions. Thank you, Ms. Fry... [LR290CA]

RENEE FRY: Thank you. [LR290CA]

SENATOR SMITH: (Exhibit 3) ...for your testimony. Other opponents of LR290CA? Opponents. Seeing none, we do have a letter for the record in opposition from Jenni Benson representing NSEA. Do we have those that would like to testify in a neutral capacity, neutral? Seeing none, Senator Kuehn, you're welcome to close. Senator Kuehn waives closing... [LR290CA]

SENATOR KUEHN: Unless you may have questions, I waive... [LR290CA]

SENATOR SMITH: ...Senator Kuehn waives closing. [LR290CA]

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SENATOR KUEHN: ...apparently I'm not allowed to waive closing. [LR290CA]

SENATOR SMITH: I think Senator Friesen may want to wish you a happy Valentine's Day (laughter). [LR290CA]

SENATOR KUEHN: Hey, they don't match; I'm wearing navy and black socks, but they all do have hearts (laughter). So we're in good shape. [LR290CA]

SENATOR SMITH: Senator Friesen. [LR290CA]

SENATOR FRIESEN: Thank you, Chairman Smith. So I want you to know that I had a lot shorter opening, I had no supporting testimony, no opposition, no neutral. You wasted a lot of our time. (Laughter) [LR290CA]

SENATOR KUEHN: Let's see, that's how many man-hours? I will count that up, we'll put that on my expense account. [LR290CA]

SENATOR SCHUMACHER: At five dollars an hour, you better be prepared to pay. (Laughter) [LR290CA]

SENATOR FRIESEN: Happy Valentine's Day. [LR290CA]

SENATOR KUEHN: The committee staff has a much higher rate than senators do, don't they, I believe? [LR290CA]

SENATOR SMITH: All right, I see no further questions. Thank you, Senator Kuehn... [LR290CA]

SENATOR KUEHN: Thank you. [LR290CA]

SENATOR SMITH: ...for your closing on LR290CA. And that concludes our hearings for the day. Thank you, all. [LR290CA]