

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

Revenue Committee  
February 25, 2009

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[LB138 LB264 LB421 LB536]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 25, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB536, LB421, LB138, and LB264. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Mike Friend; Galen Hadley; LeRoy Louden; and Dennis Utter. Senators absent: Tom White. [LB536]

SENATOR CORNETT: (Recorder malfunction)...Senator Cap Dierks from Ewing; to his left is Senator Greg Adams from York; and to his left is Senator Hadley from Kearney. Bill Lock is research analyst and he'll be joining us later; Erma James is committee clerk. To my far right we have Senator Utter from Hastings; Senator Louden will be joining us a little bit late, and he's from Ellsworth; Senator Tom White from Omaha and Senator Mike Friend from Omaha will also be joining us. To my immediate right is legal counsel Shannon Anderson. Our pages today are Rebecca Armstrong and Elsie Cook. Before we begin hearings today, I'd like to advise everyone to please turn their cell phones to either off or vibrate. The sign-in sheets for testifiers are on the tables by both back doors. These forms need to be completed by everyone wishing to testify. If you are testifying on more than one bill, the form needs to be completed for each bill prior to testifying. Please print and complete the form before coming up to testify. When you come up to testify, hand that form to committee clerk, Erma. There are also clipboards in the back of the room to sign in if you do not wish to testify but would like to indicate your support, opposition, or neutral to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door. The introducer of the bill followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed to come up to testify or closing remarks. As you begin your testimony, please state and spell your whole name for the record. If you have handouts, please provide the committee with ten copies for each member. And if you do not, please give them to the pages and they can make copies for us. With that we will begin the hearings for the day. Senator Stuthman, you are recognized to introduce LB536. []

SENATOR STUTHMAN: (Exhibit 1) Thank you. Good afternoon, Senator Cornett and members of the Revenue Committee. For the record, I am Arnie Stuthman, A-r-n-i-e S-t-u-t-h-m-a-n, and I represent the 22nd Legislative District. First of all, I would...the bill that I am introducing here today is 65 pages long and what I have done is I have condensed it down into a summary of sections and I would like to have the page please pass these out, because that gives you an idea of what each section is pertaining to. LB536 would allow the creation of Transportation Development Districts to finance the improvements of construction of roads, streets, bridges, and related transportation structures within the district through an additional retail sales tax. Under LB536, a city council or a county board would have the authority to propose the district. A public hearing would be held on the issue, and if accepted by the county board or the city council who called for the hearing, the issue would be put on the ballot. And if it was

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accepted then, you know, like I stated it would be put on the ballot. The additional sales tax would not go into effect until it was approved by the voters in the district. Or if there are no voters in the district, then a vote by the registered landowners in the defined district. The process for forming a Transportation Development District is very similar to a Street Improvement District. Once an area is designated as a Transportation Development District, an additional sales tax would be placed on all retail sales within that designated district. The amounts of sales tax would be an eighth, a quarter, or up to a half a percent. The revenue generated for these taxes would then be used to service the bonds issued to construct or improve the transportation-related infrastructure within the district. I would also like to say some of those things would be the streets, the parking lots, the sidewalks, whatever type of infrastructure would be needed to be placed in that designated district. The idea to introduce this bill came from some of the members of the Columbus Chamber of Commerce. Columbus, like many other cities of this size, is working hard to develop retail in our community. LB536 could really help the more rural communities attract retail, because it would reduce the developer's investment and, ultimately, lower the lease price of the buildings within that district. It is another tool to help us keep existing sales tax dollars in our communities. There will be testifiers that follow me that can speak of their experiences in using a Transportation Development District: how it works from a governmental standpoint and the value this kind of tool can have on those areas of retail development that could be otherwise considered marginal. I would like to emphasize the fact that this would be a tax that would be issued on the retail sales in that designated area, like I had stated, and it's, in my opinion, a user fee. If the development district attracts good retail businesses that will be established in that district, and the people are willing to frequent those retail outlets, they would be willing to pay the additional sales tax on those sales items in that. This does not affect any other business, any other retail outlets within the community, or the city, or the village. With that those are my opening comments and I'd be happy to answer any questions. But I do have testifiers behind me that have had experience with these districts, and we also have some that are very interested in trying to develop these districts. [LB536]

SENATOR CORNETT: Thank you, Senator Stuthman. Are there any questions from the committee? Senator Adams. [LB536]

SENATOR ADAMS: Thank you, Senator Stuthman. And you may have testifiers that wish to try to respond to this question, but I'm going to give you a shot at it. [LB536]

SENATOR STUTHMAN: Okay. [LB536]

SENATOR ADAMS: And I understand if you don't have an answer. So this would be sales tax in addition to any local option sales tax that may already exist. [LB536]

SENATOR STUTHMAN: Yes. [LB536]

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SENATOR ADAMS: So if a city is already, like Columbus, at one or one and a half, this would be an additional half or quarter... [LB536]

SENATOR STUTHMAN: Or an eighth. [LB536]

SENATOR ADAMS: Or an eighth. [LB536]

SENATOR STUTHMAN: Um-hum. [LB536]

SENATOR ADAMS: And counties would have the same ability. [LB536]

SENATOR STUTHMAN: The counties would have the same ability if the county has a county sales tax. [LB536]

SENATOR ADAMS: If they have a county sales tax. [LB536]

SENATOR STUTHMAN: If they have a county sales tax. [LB536]

SENATOR ADAMS: Okay. [LB536]

SENATOR STUTHMAN: Of which there are very few counties that have a county sales tax. [LB536]

SENATOR ADAMS: Right. And I would...I'm sitting here trying to envision the larger counties, more heavily populated, that have commercial outside of their municipal boundaries--that is probably the areas that we're talking about? [LB536]

SENATOR STUTHMAN: These are areas that are outside of... [LB536]

SENATOR ADAMS: The city limits. [LB536]

SENATOR STUTHMAN: ...the city of Columbus. They're, you know, they're in the county... [LB536]

SENATOR ADAMS: Right. [LB536]

SENATOR STUTHMAN: ...but yet they're under the jurisdiction of the city, being in that two-mile radius of the city. [LB536]

SENATOR ADAMS: Okay. So that raises another question. So then if the city were to annex the areas that the county had designated and imposed an extra penny, then I'm assuming the city would also inherit that obligation? Would the city then inherit those

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bonds and that obligation? [LB536]

SENATOR STUTHMAN: That I will have to refer that question to... [LB536]

SENATOR ADAMS: Okay. [LB536]

SENATOR STUTHMAN: ...to, hopefully, one of the other testifiers. I'm not sure on what would happen in the event of something like that. And it's...I think one of the people behind me should be able to answer that. [LB536]

SENATOR ADAMS: Okay. I'll wait and ask them some other questions. Thank you. [LB536]

SENATOR STUTHMAN: Okay. [LB536]

SENATOR CORNETT: Seeing no further questions, thank you. [LB536]

SENATOR STUTHMAN: Thank you. [LB536]

SENATOR CORNETT: First proponent. [LB536]

K.C. BELITZ: (Exhibit 2, 3) Good afternoon. My name is K.C. Belitz, K-.C-.; last name, B-e-l-i-t-z. I am the president of the Columbus Area Chamber of Commerce. I'm also here today with the agreement of the Lincoln Chamber of Commerce to testify in support of them and have distributed their letter to you for your information along with my testimony for today. On behalf of the legislative committee, the Retail Development Task Force, and the board of directors of the Columbus Area Chamber, I'm testifying in favor of LB536, introduced by Senator Stuthman. We appreciate the Senator's working with us on the development of this idea over that past number of years. As Senator Stuthman outlined, Transportation Development Districts give cities or counties another tool to use, in our view, in terms specifically of retail development and the necessary transportation infrastructure that comes with those developments. By authorizing that local sales tax within that defined area, that developer has the opportunity to pay for those costs in a way other than the rate that they have to charge as a lease to the tenants of that retail development, thus making the development that much more attractive. And as the Senator said, in some smaller areas that may be more marginal with retail development, those reductions in lease rates can be very helpful indeed. The purpose of the TDD in other states is to encourage retail development in places very much like Columbus, York, Hastings, etcetera, and the experience of towns in Missouri and Kansas, as two examples show, that TDDs can work to create retail developments in those areas. That obviously brings dollars to those communities. Also, from our perspective, enhances the quality of life for the residents and for those who you would like to be residents. In our region in the past number of years, we've faced significant

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challenges in recruiting and retaining enough people to take advantage of job opportunities that we've had, and our employers have told us a number of times that those potential employees--or for that matter, potential companies that we may be looking to recruit as part of our economic development strategy--look at retail and other community amenities as a baseline expectation that they expect to be met before they consider moving to a new community. As you know, certain chambers of commerce are generally no fans of additional taxes, and so that puts us at odds, in some ways, with this idea, so let me address that. In our view, this is somewhat different--in fact, significantly different in that it is certainly limited in scale, it's limited in scope, it is done at the behest of not only the local governmental agency but also either the landowners or residents, whoever lives within that district. And as such, both those who impose the tax, as well as those who will pay the tax, have a choice of whether or not they think that makes sense. The developer can choose, knowing that it'll be another eighth of a cent or a quarter of a cent that's put on all the purchases within their development, and certainly those who may or may not shop at those developments also have that same choice to make--whether or not they believe that that's worth their extra quarter of a cent on that purchase. As is outlined in the letter from the Lincoln Chamber of Commerce and, I believe, in a letter from the city of Lincoln as well, they, and I think other communities, have a different purpose, potentially, in mind for this--a more general use of this to develop transportation infrastructure. That's certainly valid, just a different justification than we had in developing the legislation initially. In a nation where the vast majority of the population will live on the coasts in the fairly near future, we in rural America, rural Nebraska, want to have every tool available to us to continue to build quality of life, to build community amenities, and we believe that retail development is one of those. As such, we're looking for tools like LB536 that give local municipalities or counties the opportunity to do that, and this is a tool that's been used successfully in other places to accomplish that goal. As such, we'd ask for your support, your consideration, and certainly your discussion of the ideas contained in LB536. And I would be happy to answer questions. [LB536]

SENATOR ADAMS: Are there questions from the committee? Senator Utter. [LB536]

SENATOR UTTER: Are you familiar with...we heard a bill just a few days ago that allowed the establishment of Urban Development Districts. Are you familiar with the provisions of that bill? [LB536]

K.C. BELITZ: Only marginally. [LB536]

SENATOR UTTER: Okay. It seems that this is a similar type concept. It does have one potential advantage as far as I'm concerned. At least the people affected are going to vote on it. The Urban Development District bill failed in that regard. And I assume these become general obligation bonds of that district, the bonds that are going to be issued under this. It seems to me like most new...I assume this will be used in new

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development areas or is this something that you would...are you envisioning that the entire city of Columbus would establish this improvement district? [LB536]

K.C. BELITZ: In...what we would envision is not the entire city of Columbus but, for instance, we have a new north arterial around which we would expect to see some commercial development. This would be an ideal tool... [LB536]

SENATOR UTTER: The development is not there now? [LB536]

K.C. BELITZ: No. No, exactly. [LB536]

SENATOR UTTER: So then the potential tax that would be used to repay any development bonds that were issued is problematic? [LB536]

K.C. BELITZ: Well, what has happened in other places would be in situations exactly like that, where the developer tells their tenants up front, you know, we're going to be charging this sales tax. In exchange for that, your lease rate's going to be lower because you are not going to have to, as a tenant, pay for the parking lot, pay for the lights to go in the parking lot, whatever...access roads, whatever. So that's the trade off that the developer makes and what has happened in those cases is the developer's gone to either the municipality or the county, whatever, and asked for that district to be created so that those future revenues pay for those developments. [LB536]

SENATOR UTTER: If the developer is developing property that is speculative in nature, not leased yet... [LB536]

K.C. BELITZ: Um-hum. [LB536]

SENATOR UTTER: ...where does the revenue come from to satisfy the payment of the bonds should a economic slowdown hit and those buildings, or whatever the retail district, at least, takes a period of time to fill up? [LB536]

K.C. BELITZ: Um-hum. That's an excellent question. I'll have to admit I'm not sure I know the answer and I'd hate to speculate. But I can certainly find the answer from the developers who've used the tool because they certainly have run across those occasions in the past, whether they want to or not. We could certainly find a model for how that's been handled. I'd be happy to get that answer for you. [LB536]

SENATOR UTTER: The Urban Development District, they're setting aside a portion of the city option sales tax for the repayment of bonds, and if we have an Urban Development District established and then have another development district established on top of that, it seems to me like this could be maybe prone to excess. Is there a...how do you... [LB536]

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K.C. BELITZ: Well, that's why it needs to be under the control of a city or county: they would be making those choices about whether or not one is enough or two is too many. They would have control of that, in addition to the fact that either the residents or the landowners would have to vote in favor of it as well. [LB536]

SENATOR CORNETT: Senator Hadley. [LB536]

SENATOR HADLEY: Thank you. Would there be any problems with cities that are up against the spending lid right now? Since you're using sales tax revenue to do this, if the city's up against the spending lid, would they be able to use the proceeds to use it? I understand using special assessment bonds where you assess and the stream of revenue is the special assessment... [LB536]

K.C. BELITZ: Right. [LB536]

SENATOR HADLEY: ...would there be a problem with cities or counties that are up against the spending lid using this procedure for... [LB536]

K.C. BELITZ: To the best of my knowledge there would not, but I'm certainly not an expert in how those would interact with each other. It is, obviously, outside of the local option 1.5 that they would have at their capacity as far as specifically being within that 7 percent overall sales tax lid, so I can speak intelligently to that. I'm not sure I can speak intelligently enough to how it impacts their spending lid. [LB536]

SENATOR HADLEY: One other just quick question. [LB536]

K.C. BELITZ: Um-hum. [LB536]

SENATOR HADLEY: One of my neighbors the other day--well, within the last year--they happened to finish a street that...he was on a corner, or two away from a corner, and they finished the street and he was assessed the cost of the finishing up that street. I guess I'm trying to think how I would explain to him that he has to pay for that street, whereas the developer that's going to put in a big shopping center will then use sales tax proceeds to help the developer pay for the infrastructure for that, where the homeowner had to pay for the structure himself. [LB536]

K.C. BELITZ: Sure. I would answer that in that, from our perspective, the people who benefit from that shopping center is not just the developer but we feel like, as a community, we benefit from that as well. And those shoppers benefit from having those options available to them. So we're comfortable saying that all of us benefit from the fact that--whatever shopping option it was--chose to move to Columbus, Nebraska. And so we're comfortable saying that we're all okay with sharing an eighth or a quarter of a cent

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of that expense. It is certainly different depending on your perspective, and our perspective...we've just really looked for tools to develop retail. And that would, I'm sure, be a different perspective if you're from a community where that's not been an issue and you have the choices that people want. [LB536]

SENATOR CORNETT: Senator Adams. [LB536]

SENATOR ADAMS: If I may, I'd like to continue on a line of questioning that Senator Utter opened up. So you're defining an area-- either county or city--you're defining an area. You're asking the people within that area if they are willing to have an additional eighth, quarter, or half cent sales tax over and above state and/or local option that's already there, right? [LB536]

K.C. BELITZ: Um-hum. [LB536]

SENATOR ADAMS: And then those dollars will be committed as a revenue stream to bonds to develop transportation infrastructure, but within that district. [LB536]

K.C. BELITZ: Exactly. [LB536]

SENATOR ADAMS: No place else in the town or the county. [LB536]

K.C. BELITZ: Uh-uh. [LB536]

SENATOR ADAMS: Within that district. [LB536]

K.C. BELITZ: Uh-huh. [LB536]

SENATOR ADAMS: Okay, so the upside is, at least one, it would give cities and counties an additional tool... [LB536]

K.C. BELITZ: Right. [LB536]

SENATOR ADAMS: ...and I'm 100 percent empathetic with that. The other is, that Senator Utter brought up, you have asked the people that are going to have to pay for this, in contrast to another bill that we've heard this year. However, if the sales tax stream off of this area isn't substantial enough to meet the PNI on that bond, then you are going back to the rest of the sales tax and/or property tax base, are you not? [LB536]

K.C. BELITZ: Yeah, that--as I suggested to Senator Utter, that's a question I'm not qualified to answer, but I will get an answer and I'll share that with you in the next day or two... [LB536]

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SENATOR ADAMS: Okay. [LB536]

K.C. BELITZ: ...from those cases where that may have happened. [LB536]

SENATOR ADAMS: Along that same line then...so as I think about some of these commercial areas within municipalities, or typically outside of them... [LB536]

K.C. BELITZ: Right. [LB536]

SENATOR ADAMS: ...and you want to ask those property owners, or retailers, whether they want to have this additional sales tax imposed, I'm guessing--and maybe my stereotype isn't right--that a lot of those retailers are chain operators that don't headquarter even in Nebraska. [LB536]

K.C. BELITZ: Certainly some would be, anyway. [LB536]

SENATOR ADAMS: I guess what I'm wondering is, what is the likelihood of them wanting to commit to have an extra eighth or quarter of a cent attached to their sales. And I don't know if you have an answer to that. [LB536]

K.C. BELITZ: I do, yeah, because it's certainly a valid point. I mean, if they don't support it it doesn't happen anyway. But we've talked specifically with two different developers who do developments exactly like this. They use this specific tool in communities very comparable to Columbus, to York, etcetera, and in those cases the developer--it was their idea because it allows them to lower the costs to their lease holders. Now the lease holders would be more of the people you're talking about, who maybe don't see, or wouldn't see up front the justification for that. But they would not be the ones voting on that--it would be the landowners, not the individual retailers within those bays. And so the landowner who wants to have that development go, wants to make it work, wants to get it full--they would certainly have justification for doing this because, again, it allows them to lower the cost of the lease that they're going to have to charge those tenants. [LB536]

SENATOR ADAMS: What about the issue that I asked Senator Stuthman about--annexation? [LB536]

K.C. BELITZ: To the best of my knowledge, that obligation would certainly transfer with that property, just as a Street Improvement District does. They're structured, as I understand it, they're structured almost identically to Street Improvement Districts, those kinds of things. Except that, of course, it's sales tax, not property tax. [LB536]

SENATOR ADAMS: Are you familiar with the urban growth language bill that was

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moved by the Legislature in the last couple, three weeks? [LB536]

K.C. BELITZ: Only marginally. Only what I've read in the media; I certainly have not read the bill. [LB536]

SENATOR ADAMS: The intent is to capture...well, not really to capture, but to pledge... [LB536]

K.C. BELITZ: Um-hum. [LB536]

SENATOR ADAMS: ...the sales tax growth off a specific area... [LB536]

K.C. BELITZ: Right. [LB536]

SENATOR ADAMS: ...but then spread the development out wherever. [LB536]

K.C. BELITZ: Um-hum. [LB536]

SENATOR ADAMS: Okay, thank you. [LB536]

K.C. BELITZ: Certainly. [LB536]

SENATOR CORNETT: Go ahead. [LB536]

SENATOR UTTER: I have just one more quick question. [LB536]

K.C. BELITZ: Sure. [LB536]

SENATOR UTTER: Does this become a little bit of an administrative problem of this collection of a sales tax within a very limited area? Do you see any problems with that at all? [LB536]

K.C. BELITZ: I certainly recognized the question, and there is language in the bill to make sure the authorities are being compensated a little bit for their time, as they should be for collecting those taxes. Yeah, certainly it's more administration, there's no question. But obviously, the system is set up to administrate those things and handles Street Improvement Districts and other vehicles that are similar to this. And then it wouldn't be creating a new tool that they need to learn about, just another... [LB536]

SENATOR UTTER: Well, I can see where property assessments would be a fairly easy thing to do... [LB536]

K.C. BELITZ: Right. [LB536]

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SENATOR UTTER: ...as opposed to maybe the retail sales assessments. And then should, within this area that has been designated... [LB536]

K.C. BELITZ: Um-hum. [LB536]

SENATOR UTTER: ...for this improvement district, a new business would be established after the time when this was done, do those businesses automatically come in and pay their, pay the tax? [LB536]

K.C. BELITZ: Um-hum, yeah, until the time is up, yes. Yeah, and I hate to keep going back to what's been done elsewhere because it doesn't need to be done that way, but in the examples we've seen it's really been done so specifically, you know, around one development, most likely, that that isn't a common case because the land is developed and they know going in that that's the deal. But if they...if there was more land to be developed, then certainly the person who bought that or chose to put their establishment there would certainly know up front that they've got that extra eighth of a cent or whatever it is that they're going to need to charge. [LB536]

SENATOR UTTER: Thank you. [LB536]

K.C. BELITZ: Yes. [LB536]

SENATOR HADLEY: Just a quick question. [LB536]

K.C. BELITZ: Um-hum. [LB536]

SENATOR HADLEY: The people who would vote on this are the people within that...how do you define the area that you would let the people vote on? [LB536]

K.C. BELITZ: The area is defined by whatever the boundaries of that district are. [LB536]

SENATOR HADLEY: So you could set the district whatever, however small or however big... [LB536]

K.C. BELITZ: The developer could ask the city or county to set it, yeah, within whatever parameters they chose to. [LB536]

SENATOR HADLEY: I can see a developer setting it one block around the development... [LB536]

K.C. BELITZ: Certainly. [LB536]

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SENATOR HADLEY: ...and then everybody in Columbus who comes to shop at that shopping center has to pay the extra quarter, eighth, or half, and I didn't get to vote on it. [LB536]

K.C. BELITZ: Right. But you get to vote by whether or not you shop there. [LB536]

SENATOR HADLEY: Okay. [LB536]

SENATOR CORNETT: Senator Adams. [LB536]

SENATOR ADAMS: One other quick question. When you were thinking about this, did you ever consider using occupation tax rather than sales tax to do exactly the same thing? [LB536]

K.C. BELITZ: Hmmm. No, I... [LB536]

SENATOR ADAMS: Because there is a statute already on the books that would virtually do the same thing. [LB536]

K. C. BELITZ: Yeah. [LB536]

SENATOR ADAMS: You identify the area, you go to the developer and say, are you willing to have an occupation tax imposed by the political subdivision, the authority's already in statute. The occupation tax is then pledged to infrastructure development and streets would fall into that. You might look at that. [LB536]

K.C. BELITZ: Yeah, absolutely. Yeah, the way that... [LB536]

SENATOR ADAMS: And you also have a steadier stream of revenue that way. [LB536]

K.C. BELITZ: Sure. And the way the process worked, we were approached by those developers who were looking at doing a project--not just in Columbus, but in two or three places around Nebraska. They said this is a tool that we've used, it's a tool that just...we have to have to make the business plan work and so we, frankly, we copied the idea from the Missouri legislation. [LB536]

SENATOR ADAMS: This other language I'm describing for you is already on the books. [LB536]

K.C. BELITZ: Yeah. We'll certainly look at that. [LB536]

SENATOR CORNETT: Senator Adams asked my question, so. [LB536]

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K.C. BELITZ: Good for him. (Laughter) [LB536]

SENATOR CORNETT: Senator Louden. [LB536]

SENATOR LOUDEN: Sorry I am late on this, but this is something that's kind of intrigued me. What is the valuation of the county where...what's the county that Columbus is in? [LB536]

K.C. BELITZ: Platte County. [LB536]

SENATOR LOUDEN: Platte County. What's the valuation of that county? [LB536]

K.C. BELITZ: Oh boy, I don't know what that number is exactly. [LB536]

SENATOR LOUDEN: Is it way over a billion dollars? I presume... [LB536]

K.C. BELITZ: Oh, I think so. [LB536]

SENATOR LOUDEN: ...I don't have my paper with me. But what I'm wondering, as I've looked into some of this before, are these for just streets and that sort of thing is what you want this money for? Or do you want it to build, oh, a road around the town or improve some expressway or what? [LB536]

K.C. BELITZ: Our vision was much more specific than that. It would be more of a specific retail development where it'd be used for a parking lot, or streetlights within that parking lot, or an access road from the highway to the development in those kind of transportation districts. [LB536]

SENATOR LOUDEN: How come the development don't pay for that now? [LB536]

K.C. BELITZ: Well, they do. And so the point of this legislation, in places that are somewhat marginal for retail development, is it would allow the developer to spread that cost over time and over more people paying the eighth, quarter, half cent sales tax so that they can reduce the lease rate that they charge to the retailers who would move into their development, thereby making it more attractive and easier for them to fill it up. [LB536]

SENATOR LOUDEN: I see, thank you. [LB536]

K.C. BELITZ: Yes. [LB536]

SENATOR CORNETT: Seeing no further questions, thank you. [LB536]

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K.C. BELITZ: I appreciate it. I will get the answer for...in fact, I'll just share with the committee the answer to Senator Utter's question. We appreciate that. [LB536]

SENATOR CORNETT: Next proponent. [LB536]

JACK CHELOHA: Good afternoon, Senator Cornett, members of the Revenue Committee. My name is Jack Cheloha, first name's J-a-c-k; the last name is spelled C-h-e-l-o-h-a. I'm a registered lobbyist for the city of Omaha. I'd like to testify in support of LB536. First of all, I'd like to thank Senator Stuthman for introducing this idea. I think it's innovative. It gives us another way to consider funding proposals for improvements. The bill is broad enough where it includes cities and a county to have the ability to set up a Transportation Development District. I think one point I'd like to make in terms of, like, the city of Omaha, a lot of our development and needs occur on the fringe of the city where we have...because we do authorize and utilize the Sanitary Improvement Districts, or SIDs, in our city, so a lot of the new stresses and needs on transportation fall on the outer borders, so I'd have to double check in the bill to make sure that we could set up these improvement districts within our three-mile planning jurisdiction because right now, currently, our city sales tax is 1.5 percent as state law allows. But we can, obviously, only tax within the city limits. If we wanted to set up, you know, one of these improvement districts we would hopefully be allowed, with your acceptance and amendment or whatever, allow us to tax within the area where this development is occurring and where the needs are great. The Legislature has heard similar ideas to this one. Senator Adams, obviously you'd be very familiar with the idea--you talked about with the witness before me--I think that was LB562 from a few years ago that you sponsored, and thank you for doing that. That's another tool that gives us to look at. Just yesterday, the Urban Affairs Committee heard LB381 by Senator Rogert which would allow for Community Improvement Districts and Transportation Development Districts and finally, as was mentioned, the Legislature's already looked at and considered LB85 this year. And so all of these are great ideas and I think that's awesome that the senators are thinking about these ideas and trying to put them forward, and it gives us, your political subdivision, some tools to use. And you hear that a lot about another tool in a toolbox, but this truly would be another idea to look at. One last...I think the bill is good because it has safeguards in it. You get voter approval to move forward with these types of Transportation Improvement Districts. One other thing I did want to mention would be on page 2 of the bill, right within the first Section, Section 1, where it talks about the types of improvements or constructions that you could use. Just to be farsighted for the city of Omaha as I hear my bosses talk about, over a number of years we've looked at and considered street car development in our city, so maybe I'd ask this committee, if you're going to go forward with this, to think about amending that section there to allow these Transportation Development Districts to include the ability to set a special tax to help pay for streetcars if, indeed, that that's something that we want to move forward with. And then ultimately the voters would vote

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yes and approve it, so. That's just something I ask you to take a look at because I know that that idea's been floated around at least over the last decade. And we have been in serious discussions with federal officials, Department of Transportation, and other people regarding it, so. I think with that I'll probably end my testimony and ask you to look favorably on LB536. Any questions? [LB536]

SENATOR CORNETT: Senator Utter. [LB536]

SENATOR UTTER: Just one question. As I'm envisioning this, and a developer comes in and develops a...or has the plan, at least, to develop a project and it has to have voter approval. If it's strictly defined to a commercial, retail area, typically there's not a lot of residents within that area that would be eligible voters, is there? Is this just one voter, the developer? Is he the person that votes on this? [LB536]

JACK CHELOHA: Well, I'm not certain on that, Senator. You do need approval by the public, and likewise there's a secondary safeguard that whoever is setting up this district you'd have to have voter approval within your governing body, whether it's the county board or city council and... [LB536]

SENATOR UTTER: That would come first, and then... [LB536]

JACK CHELOHA: Right. [LB536]

SENATOR UTTER: ...pending voter approval of the... [LB536]

JACK CHELOHA: Right. [LB536]

SENATOR UTTER: ...residents of the district--but there are no residents; who votes? [LB536]

JACK CHELOHA: That's a good question and something to think about. I think the boundaries of such a district, though, would probably be broad enough where--at least in our metropolitan area--where we would have citizens residing there. But I'm not certain for other locales. We'd have to take a look at the language further, but good point. [LB536]

SENATOR UTTER: Senator Hadley. [LB536]

SENATOR HADLEY: I'll ask the same question I asked before. How do I explain to my neighbor that he gets to pay for his assessment on the fact they're paving the street that's two lots down, and we're going to let the big developer that's developing this big shopping center, we're going to charge a tax on everybody that shops there so the developer doesn't have to pay for the infrastructure? [LB536]

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JACK CHELOHA: Likewise, that's another good point. Hopefully, that's a rhetorical question because it's hard to answer, but... [LB536]

SENATOR HADLEY: You could take it as a rhetorical question. [LB536]

JACK CHELOHA: I appreciate that, thank you very much. [LB536]

SENATOR HADLEY: Okay. [LB536]

SENATOR CORNETT: Looking at the city of Bellevue and the city of Omaha, when you brought up Sewer Improvement Districts, a lot of times the debt load in the Sewer Improvement Districts is high enough that it impedes annexation, am I correct? [LB536]

JACK CHELOHA: Now did you say sewer? [LB536]

SENATOR CORNETT: SIDs. [LB536]

JACK CHELOHA: Oh, you meant SIDS, okay. [LB536]

SENATOR CORNETT: Sanitary, right--my mistake. [LB536]

JACK CHELOHA: Excuse me, right, right, okay, okay. [LB536]

SENATOR CORNETT: Am I correct? [LB536]

JACK CHELOHA: Typically, the debt load is high on them and initial development. [LB536]

SENATOR CORNETT: And you do not annex until... [LB536]

JACK CHELOHA: Right, right. [LB536]

SENATOR CORNETT: ...the debt load is paid down until it is economically feasible... [LB536]

JACK CHELOHA: Typically. [LB536]

SENATOR CORNETT: ...for either city to annex. [LB536]

JACK CHELOHA: Typically, that's the way we operate, yeah. [LB536]

SENATOR CORNETT: So if you do one of these development areas and it's a pocket,

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basically. [LB536]

JACK CHELOHA: Um-hum. [LB536]

SENATOR CORNETT: And it fails. Is the city going to annex it then, or how are you going to handle that? [LB536]

JACK CHELOHA: That's a...boy, that's a good question to think through. With SIDs... [LB536]

SENATOR CORNETT: We have pockets of SIDs... [LB536]

JACK CHELOHA: Right, right. [LB536]

SENATOR CORNETT: ...in the middle of the cities now, and... [LB536]

JACK CHELOHA: Right, and they're funded through property tax. [LB536]

SENATOR CORNETT: ...you've got pockets in the county. Do you really want more pockets like that? [LB536]

JACK CHELOHA: Well, I mean, a Transportation District, I assume, is more specific, if you will. But yet at the same time, typically SIDs develop, you know, for the purposes of paying up front their sewer and transportation and streets, etcetera. [LB536]

SENATOR CORNETT: Um-hum. [LB536]

JACK CHELOHA: Yeah, we would have to take a look more closely to see how those would work our goal...working for the city is to keep it healthy and financially viable, etcetera, so... [LB536]

SENATOR CORNETT: And uniform annexation. [LB536]

JACK CHELOHA: Right. There could be some pockets out there, and that's a good question. I haven't thought through, what if one of these Transportation Districts fail? You're right. That's a good point. [LB536]

SENATOR CORNETT: Okay, thank you. Senator Hadley. [LB536]

SENATOR HADLEY: Another quick question, I guess. What...maybe you can't answer...what would be your stance if we changed the voting from the district to the entire... [LB536]

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JACK CHELOHA: Community at large. [LB536]

SENATOR HADLEY: ...community, city, county, because everybody's going to be shopping there. I mean, everybody has the opportunity to shop there. So I guess it bothers me that you have this small, little area that can decide to raise taxes. [LB536]

JACK CHELOHA: Um-hum. [LB536]

SENATOR HADLEY: And I just think there could possibly, might be a store there that I really...that's the only place I can shop, that I need, for that particular product. So I'm going to pay a higher sales tax and I had no... [LB536]

JACK CHELOHA: Right. [LB536]

SENATOR HADLEY: ...ability to vote on it, so I would... [LB536]

JACK CHELOHA: Okay, right [LB536]

SENATOR HADLEY: ...so I would throw out, maybe if we take this further then we look at the entire political... [LB536]

JACK CHELOHA: I think you'd, Senator, I think you'd still want to option of trying to make these districts more local, if you will. I mean, because granted, under the bill you could declare your whole city to be a Transportation Development District or, you know, and try to access that. But then everybody would have a vested interest in it and hopefully the money would be utilized, you know, in a fair and equitable manner. But again, I think these things are more narrowly focused to try to pinpoint an area and develop it, and if you get the citizens that live there's approval, hopefully, the majority, if you will, brought it on themselves--and if that's a way to put it. But, I mean, they accepted it, they knew what they were voting on, and they moved forward with it. I know it's tough. It's always tough for anybody to say yes, tax me more. But at least they get to see what they voted for and where it is, but. [LB536]

SENATOR HADLEY: Okay, thank you. [LB536]

SENATOR CORNETT: Seeing no further questions. [LB536]

JACK CHELOHA: Okay. [LB536]

SENATOR CORNETT: Wait, I'm sorry. Did you have another...? You're thinking. (Laughter) [LB536]

JACK CHELOHA: I'll see you tomorrow. [LB536]

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SENATOR ADAMS: I guess what I'm wondering here...so let's say that you had a retailer come in and they said, okay, we'll go along with another eighth of a cent. [LB536]

JACK CHELOHA: Um-hum. [LB536]

SENATOR ADAMS: And then that retailer, five years later says, this isn't the place we thought it would be, our sales are down, we're out of here. [LB536]

JACK CHELOHA: Um-hum. [LB536]

SENATOR ADAMS: Now who assumes the debt on that street that's out there? [LB536]

JACK CHELOHA: Well, you know, as we think it through, I mean... [LB536]

SENATOR ADAMS: It's not a lien against property, is it? [LB536]

JACK CHELOHA: Well, I don't think so. I can't answer with certainty, but in order to get the money up front, you know, the bill authorizes types of bonds and in order to protect, you know, the financial well-being of the city as a whole we'd probably like to limit it to the...whatever revenue stream is pledged--almost a revenue bond, if you will. And if that area dries up, you know, obviously...I mean, I've got to be honest, we'd like to keep the risk on the bond company and not on the city as a whole, but whether or not they would allow us and issue the bonds in the first place is something for people smarter than me, so. [LB536]

SENATOR ADAMS: Probably the only way the underwriter's going to do that... [LB536]

JACK CHELOHA: Right. [LB536]

SENATOR ADAMS: ...is to say you're going to have to pledge your whole sales tax base if... [LB536]

JACK CHELOHA: Yep. [LB536]

SENATOR ADAMS: ...District A goes belly up, we still got the rest of the town to collect on. [LB536]

JACK CHELOHA: Right. That's something that would have to be worked out with the bond companies and bond counsels, so. [LB536]

SENATOR ADAMS: Okay, thank you. [LB536]

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JACK CHELOHA: Okay, thank you; a good point. [LB536]

SENATOR CORNETT: No further questions. Next proponent. [LB536]

LYNN REX: Senator Cornett, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, and we are in support of the concepts of this bill. We thought, to be consistent, we testified in support of concepts before the Urban Affairs Committee yesterday, as Chairman Friend knows, and all the states surrounding Nebraska have concepts like this. I would just underscore that there are some issues we want to point out about this bill. Because I do think it's important for the Legislature to always look at things that are innovative and what's going on, and Missouri--I know yesterday it was presented, and Senator Friend probably remembers the numbers better than I, but well over 100 Transportation Districts in Missouri; 100 Community Improvement Districts--not the kind of CIPs we have but literally like this concept. And with that there...obviously, you looked at and passed LB85 this year. In addition, in 2007, Senator Adams, your priority bill was LB562 which, basically, is Occupation Tax Districts. It did not allow for an increase in sales tax. It basically was, conceptually, the developer would decide...with the agreement between the city and the developer would both have to agree--not one, both of them--and the developer would work to determine whether or not it was going to be on a front footage basis, net gross sales, however it was going to be funded. And if it was an area that was substandard and blighted that could be subjected to and utilize tax increment financing, then, in fact, they could use those funds for anything for what you could use tax increment financing. If it does not, then you're limited to only public structures. We support the concept of this bill because we really appreciate Senator Stuthman introducing a bill recognizing the need for more funding for streets and roads. One of the biggest issues all across the state is that we think the economic engines of the state of Nebraska come down to municipalities. That's where the growth happens, is around municipalities; in and around municipalities. So anything you can do to help bolster that helps the state economy. And we think that's a positive thing. By the same token, there are some complications, I think, that...and some clarification that we'd like to have in the bill itself and I apologize to Senator Stuthman: I didn't have time to chat with him or his staff about this ahead of time. But, for example, if you'd be kind enough to look on page 4 of the bill we would just offer an amendment, as an example, to say that on page 4, line 5 that the district for a municipality, for a city...and by the way, this is a city--this only talks about city councils so I assume they did not intend to include villages. So this would only include the city of Omaha, the city of Lincoln, all first-class cities, and all second class cities, but no villages, by definition or the lack of definition of what constitutes a city. And basically, by looking on page 4, line 5, we would indicate this: the description of the boundaries of such district shall only include the territory within the...including these languages--corporate limits and actual territorial zoning jurisdiction of the city. And then we would limit this bill to cities, but in the extra territorial zoning jurisdiction, it would have to have the approval of the county and the city in order

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to do this. And here's why: for the exact reason that Senator Cornett pointed out. Otherwise, you end up with pockets of development and then you end up with cities having to go around that and can they annex them or not, and I will assure you they will not annex them if, in fact, you've had a developer that has walked away from a project. One example of such is on Warlick Boulevard here in Lincoln. I mean, that was going to be a project. The city--things were happening there, the land was purchased, everything occurred, and for whatever reason--predominantly, I think, my understanding was because of lack of funding, it stopped. So then what? So in any event, we are concerned that for planned growth context of municipalities in this state that you have growth going out. Because I don't care who or what the industry is, they're going to need water, sewer, they're going to need that infrastructure, and it grows from the city out. Not just here, there, and everywhere. I could see that this would have tremendous value as a concept just as Senator Adams bill does, but that's assuming the Legislature will be willing to give extra sales tax authority. I think the good thing, I appreciated the fact that you referenced LB562 to your prior testimony or the prior testifiers, because that did not authorize additional sales tax authority. Notwithstanding, some of the other issues in this bill that I think would need to be clarified, and the proponents could talk to you about this, would be also on page 8, what constitutes related structures, on line 4; page 8, line 4. Essentially, this is to be used to finance the improvement or construction of roads, streets, bridges...we support that. We think that's great, because there is development in this state not occurring because cities do not have the funds to do it. And the reason why developers are coming to Senator Stuthman--developers came to Senator Adams, and to us, and to others, is because basically the cities say we can't afford to put the infrastructure out there. We don't have the money to do it. Of the 530 municipalities in the state of Nebraska, over half of them are already up against their maximum levy authority. So they have no place to go. And as a consequence, I would just suggest to you that one of the other issues here is what constitutes related structures? Is that the actual building of the XYZ store? What is that? What does that include? We would like that clarified. It would seem to me it would need to be public structures. It would not, I mean, just by definition. And I do think that there are...as a concept, I can tell you this has worked in virtually every state surrounding us. But I do think there are some things in the bill that you'd want to address. I'd be happy to respond to any questions and, again, really appreciate Senator Stuthman for introducing a measure that recognizes the need for funding for roads. [LB536]

SENATOR CORNETT: And I was going to say I appreciate that also, very much, because I know we're in a tough situation right now, with roads. But a couple of questions. First, let me state that your language in regards to extraterritorial zoning jurisdictions in cities, that makes me more comfortable with what I was describing, but with businesses failing right and left--particularly small businesses, and large businesses right now--and the bond markets as bad as they are, do you think this is really the appropriate time for this bill? The failure rate of new businesses is through the roof right now and, you know, hope springs eternal, but if we do this the potential for the

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counties or the cities to be sitting on this additional sales tax when they go bankrupt is a legitimate fear. [LB536]

LYNN REX: I think it's an excellent question. I mean, certainly in terms of just the profit and loss statement, you're going to have developers looking at what's it going to take to make that happen, but at the same token, there's nothing that binds them to stay. And of course, how do you stay if you don't have business? But I do think that there are...I think it's always great for the Legislature to look at these kind of concepts. Because, again, this is, you know, we've looked at why is it that some of the Iowa cities are growing at a much, much faster rate than municipalities in Nebraska. They've got a lot of these concepts in place and they always have. So this just another tool in the toolbox, but your point is well taken. My guess is that this would, if passed this year, that it would probably be a while before someone would implement it because of that. Because of the economy, Senator. But again, I'm no economist. [LB536]

SENATOR CORNETT: Senator Hadley was actually first. [LB536]

SENATOR HADLEY: Ms. Rex, did I hear you correct that half of the cities and municipalities are up against the spending lid right now? [LB536]

LYNN REX: No up against the lid, but up against the levy limit. They're...because, as you know, there's a double whammy here, a double set of lids. In 1996, when the Legislature passed LB1114, they put in place the lid which Senator Warner, as chair of this committee at that time, said would last for two years. And that lid was to be in effect so that no one would try to up their budget, I guess, during that period of time. And then in 1996, LB1114 passed in that time period said that by 1998 those levy limits are going to come down. And first-class cities like Kearney, and York, and others were not in that bad of shape because, quite frankly, you're going from 87.5 cents for \$100 valuation down to 45.5 in two years and, to my knowledge, there was no first-class city even close to 45 cents at that point. So first-class cities weren't really touched by the levy limit. They've been battered by the lid as you well know, as a former mayor of Kearney. But the second class cities and villages, Senator, went from \$1.05 per \$100 of valuation to 45 cents plus 5 in two years, and there was not, virtually one of them, to my knowledge, I mean there was almost all...let me put it this way: almost all of them were already at \$1.05 because they're small. So they're at \$1.05 and some of them were well over \$1.05 because of voter-approved bond issues. So over half, well, 240 of our 530 municipalities in the state are up against that maximum levy limit of 45 cents per \$100 of valuation, plus 5 for local agreements. [LB536]

SENATOR HADLEY: I guess I'm more concerned about the spending lid, because if you had a big project come in, would this not count against the spending lid since you're using sales tax revenues to pay for it? [LB536]

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LYNN REX: Well... [LB536]

SENATOR HADLEY: I mean, wouldn't this...if I had a \$5 million project or something like that that I'm going to spend to develop a shopping center infrastructure, would that not go against the spending lid for that city? [LB536]

LYNN REX: My understanding is, based on this draft--because this bill's silent on that--my understanding would be that it would go against that, yes. [LB536]

SENATOR HADLEY: So we might have to...if we were to approve something we might have to have some kind of enabling legislation that allows a city to somehow...in order not to discriminate one city against another who happened to be up against the spending lid. [LB536]

LYNN REX: I mean, you do have a couple of things that come into play here. One is that capital improvements are outside the levy, but not the lid, so...and I think you had that hearing last week...so I think you have those sorts of issues, but there's a lot of complications in terms of how does the money flow here? Where does the money go once the developer or the retail store owner collects this, where does that go? And you might, if you want to look at an excellent model of how you can work something along that line, Senator Adams bill has an excellent model for addressing those kinds of issues. But the lid issue is an important one too. The larger cities are really facing tremendous lid issues. The other cities are facing lid and levy issues. [LB536]

SENATOR CORNETT: Seeing no further questions, thank you, Ms. Rex. [LB536]

LYNN REX: Thank you, and again, thanks to Senator Stuthman for this bill. [LB536]

SENATOR CORNETT: Next proponent. We'll move to opponent testimony. Is there anyone in a neutral capacity? [LB536]

LOY TODD: Senator Cornett, members of the committee, my name is Loy Todd; that's L-o-y T-o-d-d. I'm the president and general counsel for the Nebraska New Car and Truck Dealers Association. We're appearing now in a neutral capacity and dependent upon the answers that I get later we might move very strongly toward opposed. But I don't think some of the consequences that are maybe in this bill are intended. I'm having a little trouble reading them, so. As you probably know, motor vehicles are taxed differently than other sales. That is, the sales tax rate you pay is based upon where you live and where the motor vehicle will be garaged or spend the majority of its time. Therefore, you don't get a sales tax on motor vehicles that is applied based upon where the transaction takes place. So that if I go buy some hardware at the hardware store, I pay based upon where the hardware store is located. But if I buy a motor vehicle, I pay the sales tax rate based on where the vehicle's going to be located. And as I understand

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the language of this, this new tax is going to be based upon where the transaction takes place; I can read it that way. I can also read it that we still tax things the same way we tax them and there's an add-on tax if you live in the district. And so I'd just strongly suggest that that be cleared up and also strongly suggest that we maintain the current method of taxing motor vehicles the same way we do now. Otherwise, you get form-shopping and for a purchase that big it would be quite dramatic. In fact, what would happen is if we didn't tax motor vehicles that way, people would stop going to other cities to buy vehicles. You'd end up...well, in fact, all the dealers would have to move out of the big cities or places where there's other taxes. They'd move into rural areas so that you can beat the local taxes and those kinds of things. This just, we think, ought to be coordinated. If the people in the district decide to vote for a tax on themselves, then they ought to be the ones paying for it as opposed to the people who visit there and buy a motor vehicle and then take it someplace else. [LB536]

SENATOR CORNETT: Senator Louden. [LB536]

SENATOR LOUDEN: Yes. Thank you, Senator Cornett. Loy, if...say if one of these car dealers moved into there, then he would be paying, or they would be charging this extra percentage of sales tax on repairs, parts, or anything like that that he would be selling in that particular area, wouldn't he? [LB536]

LOY TODD: Yes, even under the current law that's how it would be. [LB536]

SENATOR LOUDEN: And if it was a implement dealer or something like that they would be paying the extra percentage for repairs or parts. But, I mean, you're talking about one deal where it's a big box store and the other one that would be where it's repairs and parts and local people--they'd still all have to pay that same percentage the way I understand this. Is that correct? [LB536]

LOY TODD: That's correct. [LB536]

SENATOR LOUDEN: Yeah. What would happen if they did away with all of this and put it on a property tax? If they want to redo these roads and bridges and everything in there, if they set it up, gave them permission to go outside the levy and do a property tax? Would that make as much sense or more? [LB536]

LOY TODD: Well, it certainly avoids the concern that we have and the wisdom of the tax policy of that is obviously not our arena, but as it regards motor vehicles, that's correct. [LB536]

SENATOR LOUDEN: Okay, thank you. [LB536]

SENATOR CORNETT: Senator Hadley. [LB536]

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SENATOR HADLEY: Mr. Todd, I'm trying to think of a...envision a situation where we do this for a car dealer coming into a district and the people vote for it and then that means if they buy a car someplace else in the city they pay an extra half cent because they live within that district. And if it's a \$50,000 car, they're going to pay \$250 more because they live in that district--whether it's a car dealer or whoever we did it for. [LB536]

LOY TODD: Yes, that would be accurate under our current law. I don't know what happens here because it talks about a transaction within the district, and so. Maybe you could beat it that way, so maybe...that's why I'm here. [LB536]

SENATOR HADLEY: If it could be beaten somebody would try and figure out to do it, wouldn't they? [LB536]

LOY TODD: I'm confident for \$250 somebody's going to drive somewhere. [LB536]

SENATOR CORNETT: Yes. Just trying to figure out, then, if the way it is written, if where you license your car and pay your taxes if they'd have to somehow collect that sales tax and remit it to that district? [LB536]

LOY TODD: Yes, I think that's the solution, if that's what you choose to do. And it is certainly doable, those monies are divided up quite a bit anyhow and every...the Department of Revenue puts out that information to our dealers when they create the Form 6 and advise the customer where they're going to have to pay their taxes and what they're going to have to pay. That's incorporated in it. So we could figure it out, but it would certainly be an issue. [LB536]

SENATOR CORNETT: Realistically speaking, though, a car dealership is not going to probably want to move into one of these districts just for that reason because they're automatically at a sales disadvantage. [LB536]

LOY TODD: Oh, that's correct. [LB536]

SENATOR CORNETT: Okay. Seeing no further questions, thank you. [LB536]

LOY TODD: Thank you. [LB536]

SENATOR CORNETT: Anyone else in a neutral capacity? Senator Stuthman, you're recognized to close. [LB536]

SENATOR STUTHMAN: Thank you, Senator Cornett. In closing, I just want to try to answer some of the questions that were asked during the testimony. Senator Loudon, the value of Platte County is \$2.7 billion; that's what the value is of the county. I think, in

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the discussion, we were also discussing the fact of the bill that we had debated on the floor--the creation of the Urban Development Districts. In my opinion, this is a lot different than that. The Urban Development Districts that were created were development that was already in existence--a designated area where they took the amount of sales tax generated in that area in the past and utilized that for the selling of the bonds, utilizing that for payment towards infrastructure throughout the city. If that portion was 4 percent of the sales tax generated throughout the community, then they utilized that much for that. I felt that in the debate there that it wasn't as far as starting another area and attracting new businesses. What my vision is for in creating this development district, and it's kind of unique in the Columbus area where we have just put in the north arterial, Lost Creek Parkway. There's a lot of acres between the city and that parkway that we hope to develop in the future. Let's say there's a development of 20 acres or 40 acres where a developer, you know, purchased the ground or there's several owners of that designated area. Those individual owners would be the ones that would vote on it, or if there's someone that lives in there it would be the resident of that district. It was brought to the attention...Senator Hadley said you know, what if an individual lives in that district and buys a car someplace else and he has to pay that additional quarter or half percent. In my opinion, there will be no residents allowed in that development district. It will not be a residential district. And that is the way it is to be, in my opinion, what we're trying to impose. Although there may be, in existence, a resident or two or three in that district at the present time, you know, when they develop that district and in time to come they may be asked to move out or their property will be purchased by the development district. I think...I'm willing to work with some of the testifiers if there is a problem with the bill. I'm willing to work and develop an amendment. I think this is a situation where I'm going to take a serious look at Senator Adams, you know, the occupation tax--whether we could utilize that, whether we have something in place already that will benefit us in trying to develop that area. Our main emphasis is on that, if we develop these areas, you know, it's up to the developer to attract good enough and respected retail outlets that will attract customers to frequent that place that are willing to pay that extra quarter percent of sales tax to pay for the infrastructure in that area. I have a concern with people...let's...I'll give you the example of Columbus develops a Transportation Development District of 40 acres. You know, it's possibly, maybe, part of it in the city, part of it in the county, and we allow the people of the city of Columbus to vote on it, you know, what about the individuals that are in the county--let's say Platte Center--the ones that would frequent it too, and they won't have they opportunity to vote. It's pretty well explained in my summary as to who would vote, you know, residents or landowners there. I have a little concern about the issue that Senator Adams brought up, I think: the fact that in five years if the retail just closes the door and leaves, who's responsible for those bonds? You know, in my opinion it should be the developer who'd be responsible for those bonds, but that needs to be clarified, in my opinion. Hopefully, that...I would encourage you to take a serious look at this. This is something that...it would be another tool for our community and other communities to utilize--to hopefully pay for some infrastructure--streets, parking lots, lights and stuff like

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that, in an area that we would like to attract businesses to and giving them the opportunity to come there, knowing well enough that they will be charging an extra portion of the sales tax. There is a little bit of a fiscal note to this, like \$30,000, but that is for the development of the process, you know, to collect those dollars and get them to fund the bonding of that portion of it. And with technology nowadays, it would just be identifying the retail outlets in that development district just as any other area that would be collecting an additional sales tax. And make sure that those revenues, you know, after a little bit of administration fee is taken off, that that amount of money gets to the right entity. With that, those are my closing comments and I'd be glad to try to answer any questions. [LB536]

SENATOR CORNETT: Senator Adams. [LB536]

SENATOR ADAMS: Very quickly, Senator, as you look at that occupation tax one of the advantages that that might have to you is that there was a contractual arrangement between the developer and the city in that case where, even if the developer closed the doors, they were still obligated. Or if they sold the project, the next person inherited whatever that obligation was. The other question I had, and maybe it's in here and I haven't seen it yet--did you proportionalize the vote in any way so that, you know, let's say I'm a farmer and I've got 30 of the acres in this 40-acre tract, do I get more votes than the guy on the other side? See what I'm saying? [LB536]

SENATOR STUTHMAN: Yes, yes, yes. [LB536]

SENATOR ADAMS: Kind of like street improvement where I've got more land--linear feet--along this proposed street so I get more votes than the person that... [LB536]

SENATOR STUTHMAN: No, that is not addressed in there. The voting procedure as addressed in there as far as first of all it is the residents in that proposed district. And if no residents it is the property owners in that district. But it doesn't identify that, you know, I got 4 times as much property in there than you do and I get four votes as compared to your one. [LB536]

SENATOR ADAMS: Okay. [LB536]

SENATOR STUTHMAN: No, that is not identified in there. It is identified as property owners. If there is ten owners, ten individuals have the opportunity to vote. [LB536]

SENATOR ADAMS: Fair enough. [LB536]

SENATOR CORNETT: Seeing no further questions. Oh wait...okay. Thank you very much. [LB536]

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SENATOR STUTHMAN: Thank you, and I would ask for our favorable consideration on moving this out. Thank you very much. [LB536]

SENATOR CORNETT: Thank you, Senator Stuthman. That closes the hearing on LB536. Senator Nordquist, you are recognized to open on LB421. [LB536]

SENATOR NORDQUIST: Thank you, Madam Chair, members of the committee, my name is Jeremy Nordquist, and I represent District 7 in Omaha. LB421 would exempt compressed natural gas from the Compressed Fuel Tax Act from July 1, 2009 to January 1, 2015. Ultimately, it is my hope that this 5.5 year window will allow compressed natural gas to establish itself as a mainstream fuel, transportation fuel in Nebraska. It wasn't long ago that \$4 gasoline was at our gas stations, and it is clear that as we emerge from this worldwide recession, oil demand will continue to rise to levels that would eclipse the rate at which we are going to be able to produce it, causing prices to go back to that level if not higher. To make matters worse, the transportation industry is the only major energy market that relies only on one fuel. Electric power, home, and commercial heating, and other energy markets have diversified to include many different fuels. But whether we are proactive or not, this is not sustainable. Our nation's energy security, balance of trade, and reality of a changing climate all demand that we seek alternatives to the status quo. Unfortunately, there is no one technology, no one fuel that will solve our state and nation's energy shortfalls in the future. But what we do have is options. Natural gas, ethanol, propane, gas hybrids, electric cars will all be a part of the solution. And I believe the conclusion is clear that our transportation market needs to take an "all of the above" approach and diversify. Natural gas vehicles offer a lot of advantages that need to be considered. They offer lower emissions, lower greenhouse gases, lower refueling costs, and additionally 98 percent of the natural gas used in the United States is produced in North America. CNG is also readily available right here in Nebraska. The infrastructure is in place. We have an interstate, an intrastate network, pipelines running throughout our state. CNG refueling stations can be built anywhere along those lines, along with also home compressor units are available on the market that people can install at their own home. Currently, vehicles burning CNG are subject to a 26 cent per gallon gas equivalent...per gallon equivalent tax. This tax is not levied. There's an exemption for buses hauling--I believe it's seven or more passengers--on compressed fuels. There's an exemption; they don't pay the tax, so this is not an unprecedented move to make an exemption in this tax. So offering this as an option to consider. The fiscal note is relatively small because there is very little consumption right now of natural gas, compressed natural gas, for transportation in our state. And we don't, we don't have people coming through our state burning compressed natural gas because there's not the infrastructure, so it's kind of a chicken and the egg thing here. And I think by moving down this road, opening the window for a few years to see if this is something that will take off. Several other states have done it, and there will be people testifying after me that can go more in depth about what other states and what other incentives are out there. So I'd be happy to answer any

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questions. [LB421]

SENATOR CORNETT: Senator Louden. [LB421]

SENATOR LOUDEN: Yeah, Senator Nordquist, I went to that presentation you had here the other day. When I look at your bill here, it says compressed fuel does not include motor vehicle fuel as defined in Section 66-482. What motor fuel is defined in 66-482? [LB421]

SENATOR NORDQUIST: I don't have the bill in front of me, but I believe it's the compressed, defined as compressed motor vehicles. [LB421]

SENATOR LOUDEN: Okay, is that propane or? Because I see in these other ones you mentioned butane and all that, but you don't mention propane. [LB421]

SENATOR NORDQUIST: Yeah, the tax would apply to everything but compressed natural gas under the way the bill would be written. Compressed natural gas would be, would get an exemption, get the exemption for five years from the 26 cent gallon equivalent tax. [LB421]

SENATOR LOUDEN: Okay. When you say compressed natural gas and liquefied petroleum gas, now how...there's quite a difference there. How much compressed natural gas can you get in a tank? [LB421]

SENATOR NORDQUIST: There will be experts that can testify a little bit more in depth on that. I don't know how much, I don't know the...the, kind of the science behind it, but natural gas is a gas, at normal temperatures, the temperatures that we would experience, where petroleum is a liquid. [LB421]

SENATOR LOUDEN: As I looked into it after we had the hearing, I found out that...I was told that if you wanted to go across Nebraska with natural gas, you're going to have to fill up about four times or more in order to make it because you don't go very far on a tank of natural gas. [LB421]

SENATOR NORDQUIST: I think that there's, I think, like, for instance, I believe, when I checked into it, and there's someone testifying behind me that knows specifically, but like the Honda Civic model that's out there, I believe, has a couple hundred mile, 200 mile radius or something like that on a tank of compressed natural gas. [LB421]

SENATOR LOUDEN: Okay, thank you. [LB421]

SENATOR NORDQUIST: Yeah. [LB421]

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SENATOR CORNETT: Seeing no further questions, thank you. [LB421]

SENATOR NORDQUIST: Thank you. [LB421]

SENATOR CORNETT: First proponent. [LB421]

DOUGLAS R. CLARK: (Exhibit 4) Good afternoon, Senator Cornett and members of the Revenue Committee. My name is Doug Clark, C-l-a-r-k. I'm with the Metropolitan Utilities District. I am vice president of marketing and government affairs. Right now, you are receiving a handout regarding the information on compressed natural gas. One of the factors that we are facing...as you're getting these, I'll explain a little bit of why this becomes a critical factor to us, this 26 cents. In the early '90s and throughout the '90s and even into the early 2000s, you could buy a compressed natural gas vehicle from an American manufacturer. Ford, General Motors, and Chrysler produced these cars, trucks, and vans for purchase. In the early 2000s when gasoline was cheap, Ford, GM, and Chrysler decided that they didn't need to be in this market any longer. So what transpired is a loss of capabilities of purchasing these vehicles. And they became a secondary market vehicle. These vehicles on the secondary market are much more expensive to purchase than if they were coming off a manufacturing line at GM, Ford, or Chrysler. Nobody can produce cars as fast as American car companies can. They might struggle from time to time like they are now, but they can make cars, and they can get them off the line very fast. So to buy a new natural gas powered vehicle today, it will cost you, for a sedan, between \$6,000--the Honda Civic I drive is \$6,000 more than a gasoline-powered Honda Civic. Now I will make that up in the miles I drive between Lincoln and Omaha every day in the cost of the natural gas that I am using. But for a normal home owner or a normal commuter, they're not going to have that same return on that \$6,000 investment. And the 26 cents will make that payback work for somebody who's buying it to go to college with their child or they're commuting back and forth to work. Your question Senator on how much can you put into a tank, it depends on how tight you want to pack it. At 3,600 pounds per square inch, my car will hold 8 gallons of natural gas. And it will do roughly 240 miles on a full tank. I've been gauging it since I've been driving to Lincoln every day and back, and believe it or not, it is almost exactly 120 miles from where I fill up to Lincoln and back to the pump, and I fill up every day because there are no other stations for me to fill up at, which is another problem. But I'll walk through this now quickly, and then I'll answer any questions that the Senators have. We have been talking with various people in Omaha and the metro area for the last year, year and a half on compressed natural gas. The availability of natural gas is abundant. There is roughly 120 year supply of natural gas in the United States and North America today. The infrastructure is in place. We have roughly 2 million miles of natural gas infrastructure spread out throughout the United States, and there is very few communities that could not have a natural gas fueling station if they wanted one. The benefits of natural gas: the environment. Almost every pollutant created through the internal combustion engine is reduced by 25 percent or more when you burn natural

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gas. The economy: 98 percent of all natural gas comes from North America, which means that \$370 or \$600 billion a year that we're shipping offshore to foreign oil companies would end. Efficiency: natural gas is 90 percent efficient from the field to the pump by the...from where you dig the well to transport the natural gas to the marketplace, 90 percent of that natural gas will be usable in your tank. So it's a very efficient method of delivering an energy source. There are industry hurdles. The cost of building a fill station is roughly \$400,000 to build a fast-fill station, due to the compressors and the storage system you need available to store natural gas at 3,600 psi. And the storage tanks probably store it at a higher compressed rate than what your tank is. As you can see if you turn to page 4, there's a map of the United States and a map of Nebraska. Surrounding Nebraska and Iowa are states that actually have public fill stations for natural gas. Nebraska and Iowa are two states that have no public fill stations for natural gas. And so what you have is you have roughly 800-900 miles of Interstate 80 that has no fill station available for individuals who are traveling on compressed natural gas. We, because the district has a fill station, we will receive phone calls from buses that traverse the country and are going to L.A. or are going from the Southwest to New York or to Washington, D.C. where they have these buses, will call us and ask if they can use our fill station as they pass through Nebraska. So there is a demand out there. The limited number of fill stations make it more and more difficult for this to take hold. So if Nebraska were to insert four or five fill stations along I-80, it would roughly cover 90 percent of the population of Nebraska would have it available in some form for use in a vehicle. L.A. is running 2,500 buses on compressed natural gas today. The city of Washington, D.C. is running 500 buses. There are over 100 stations in California and New York selling compressed natural gas right now. Historically, compressed natural gas sells at 50 percent the price of gasoline; a significant cost savings. Now when gasoline is \$1.50 a gallon, you're not saving as much as if gasoline was \$2.00 or \$4.00 a gallon. But it still is an economically viable fuel. It is an environmentally friendly fuel, and it is an American friendly fuel. And I'd be happy to answer any questions that you might have. Senator Friend? [LB421]

SENATOR DIERKS: I am sorry, I'm sleeping over here. [LB421]

SENATOR FRIEND: Oh, I didn't know who was in charge here. It's certainly not me. Thank you, Senator Dierks. Mr. Clark, when I get my...I should know the answer to this question, but I don't. Can you tell me how many different ways I'm being taxed on natural gas during the winter? And I'm a MUD customer. No, there's an excise tax, there's also a sales tax associated with it, correct? [LB421]

DOUGLAS R. CLARK: Currently, if it was on an automobile fuel, it would only be the excise tax. [LB421]

SENATOR FRIEND: No wait, forget about the...forget about the compressed natural gas on the automobile fuel. [LB421]

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DOUGLAS R. CLARK: Yes. [LB421]

SENATOR FRIEND: If I, I look at my MUD bill when I get it, and I try to figure out what the...there is a fixed sales tax rate on that? [LB421]

DOUGLAS R. CLARK: Yes, there is 7 percent. [LB421]

SENATOR FRIEND: Okay, but there's an excise tax too, right? Seven percent but there's an excise tax, too. [LB421]

DOUGLAS R. CLARK: No, there is not. [LB421]

SENATOR FRIEND: Okay. If we were to do something like this and, by the way, just for fun, I get taxed on water that you pump into my house, too, don't I? [LB421]

DOUGLAS R. CLARK: Yes, you do. [LB421]

SENATOR FRIEND: But if I go to the store and I try to buy water, I don't have to pay any tax on it, do I? [LB421]

DOUGLAS R. CLARK: That's accurate. [LB421]

SENATOR FRIEND: All right. Here's my question. If the Legislature implements this and five years from now technology takes up--the water thing was just for my purposes--I'll explain that in a few weeks from now. If the Legislature implements this and this technology takes off through no fault or cause of our own in Nebraska, what's the first thing a Legislature--and this is not a trick question--what's the first thing the Legislature is going to do when they realize they can garner revenue off of compressed natural gas. We're going to tax it. [LB421]

DOUGLAS R. CLARK: They will want to reinsert the tax, absolutely. Yes. [LB421]

SENATOR FRIEND: We're going to tax. Okay, I don't want to, I don't want to tax anything, but I mean, there's a reality associated with this. What are we accomplishing right now by exempting this tax. I mean, Senator Nordquist pointed out that right now, it's a chicken or the egg, and I agree with it. Why are we here now talking about this? Where's the gain here from a big picture standpoint? [LB421]

DOUGLAS R. CLARK: The gain here, and we were very conscious that the state is in a situation where giving up revenues is a very difficult thing to do. Currently, this bill will cost the state about \$15,000 because the Metropolitan Utilities District is one of the few--if not the only--company utilizing compressed natural gas today. We consume

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about 40,000 gallons of compressed natural gas annually. [LB421]

SENATOR FRIEND: Okay, I see where you're going. All right, Doug. But Doug. [LB421]

DOUGLAS R. CLARK: Right. Go ahead. [LB421]

SENATOR FRIEND: Three or four or five years from now, the chicken lays the egg, and it's golden... [LB421]

DOUGLAS R. CLARK: Yes. [LB421]

SENATOR FRIEND: And we're back here looking for, we're back here looking for revenue. My point is, we don't know exactly whether there's going to be any golden eggs, and I think we're trying to solve a problem that isn't there right now. I mean, we're in a small corner of this nation trying to figure out how we can be more economically responsible, and, but also think creatively. I'm trying to see the game...I mean, the ethanol industry has been heavily subsidized. That's not what we're talking about here. We're talking about just exempting a tax. [LB421]

DOUGLAS R. CLARK: Exactly. [LB421]

SENATOR FRIEND: So why not go the other route? I'm not, by the way, I'm not saying that I'd be happy with that one either, but why not go the other route and try to subsidize an industry that needs subsidization. [LB421]

DOUGLAS R. CLARK: This industry could use subsidization. I don't believe that it would be a wise question for me to ask at this point in time. But the initial request here is for a five year grace period for the 26 cents. Roughly, the state would be out \$15,000 times five, and hopefully in that five year period of time, the initial cost of the car is \$6,000 to \$10,000. That 26 cents avoided costs assists in that payback period. For a heavy truck, the cost is \$25,000. I have a couple of gentlemen who will testify behind me that says that this 26 cents will allow them to break even within 2 to 2.5 years. [LB421]

SENATOR FRIEND: Okay. All right, Doug. So you're saying the only downside is if this industry takes off like a rapid fire in two years, then we have a potential of losing three years worth of revenue. That's the downside. [LB421]

DOUGLAS R. CLARK: Right, that's your downside. [LB421]

SENATOR FRIEND: Okay. Thank you. [LB421]

SENATOR DIERKS: Thank you. Are there other questions for Doug? I'm sorry. To ask Doug? Senator Loudon, please. [LB421]

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SENATOR LOUDEN: Yes. Well, thank you, Doug, for testifying here. Did I hear you right and say that these tanks are...you fill them to 3,600 pounds per square inch? [LB421]

DOUGLAS R. CLARK: Yes, sir. [LB421]

SENATOR LOUDEN: And how much is your storage tanks compressed to? [LB421]

DOUGLAS R. CLARK: I believe they have compressed to 5,000. [LB421]

SENATOR LOUDEN: And people are allowing them in their back yards for fuel stations? [LB421]

DOUGLAS R. CLARK: Well, we're not having them in back yards, sir. They're, they would be at the compressor stations, because the compressor will take the gas off the distribution line, and then will compress it into the storage tank so it would be available to be shot into the gas tank of your vehicle when you pull up. [LB421]

SENATOR LOUDEN: Yeah, but how far would that big tank be from your fill stations here, when you show pictures of your fill station? [LB421]

DOUGLAS R. CLARK: The one that I use is probably 25 feet away. [LB421]

SENATOR LOUDEN: Twenty-five feet. [LB421]

DOUGLAS R. CLARK: Yeah. [LB421]

SENATOR LOUDEN: Well, you're in somebody's back yard though with that thing. I mean, somebody must live around there, don't they? It would be like all the gas stations or mini-marts, a lot of them, they're, you know, just out there. I guess what I'm wondering is when you say 3,600 pounds on your car, well, you're driving a little bomb down the highway, aren't you? [LB421]

DOUGLAS R. CLARK: Well, that's an, it's an interesting question because all the testing shows that it's a lot safer than driving the gasoline car you drive down the highway every day. [LB421]

SENATOR LOUDEN: Do you have to stop at all railroad crossings? [LB421]

DOUGLAS R. CLARK: No. No, you don't. [LB421]

SENATOR LOUDEN: Why not? Because if you're hauling compressed gas like oxygen

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and that's only 2,000 pounds per square inch, you've got to stop at railroad crossings if you're hauling that. [LB421]

DOUGLAS R. CLARK: I'm not a...I wouldn't be a commercial vehicle though, I hope, Senator. Although you have the power to make me. [LB421]

SENATOR LOUDEN: I was just wondering, because I mean, I've been around, you know, oxygen sellers and stuff like that and shop work and stuff. And you know, if you ever popped the top off one of them, they'll go through a brick wall. [LB421]

DOUGLAS R. CLARK: Fortunately, I never did. [LB421]

SENATOR LOUDEN: That's what I'm wondering about this. You know, what size of a tank and how dangerous that tank is that you're hauling, I guess. [LB421]

DOUGLAS R. CLARK: Well, all the testing that has been done, they have done...they have put these carbon fiber tanks, by the way, which are produced here in Lincoln, Nebraska, shipped all over the world, used in every other nation and every other state but this one...they have put them in cars. They have dropped them from 40 feet, 60 feet, 100 feet, and the tank has never ruptured. [LB421]

SENATOR LOUDEN: I was under the impression these that were made weren't filled to that high of a pressure? [LB421]

DOUGLAS R. CLARK: I don't...that's not the testing I've seen, sir. [LB421]

SENATOR LOUDEN: Okay, thank you. [LB421]

SENATOR CORNETT: Senator Hadley. [LB421]

SENATOR HADLEY: I am trying to kind of make sense of the bill. When you talk about other, what types of gases that can be used for fueling a motor vehicle, they're not giving this, they would not get this exemption, is that what you're saying? Because you're talking about liquefied petroleum gas, liquefied natural gas, butane, and other types of compressed gas or compressed liquid suitable for fueling a car, except compressed natural gas? [LB421]

DOUGLAS R. CLARK: Yes, that is correct. [LB421]

SENATOR HADLEY: Okay. [LB421]

DOUGLAS R. CLARK: And I think it's a simple striking of compressed natural gas as in the definition, so. [LB421]

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SENATOR HADLEY: Okay, I was trying to... [LB421]

DOUGLAS R. CLARK: So, I had to read it several times, too because, exactly. [LB421]

SENATOR HADLEY: Yeah, it seems kind of confusing, the bill. [LB421]

SENATOR CORNETT: Thank you very much. [LB421]

DOUGLAS R. CLARK: Thank you. [LB421]

SENATOR CORNETT: Next proponent. [LB421]

THOMAS BOSSHARDT: (Exhibit 5) Thank you, Madam Chairman and members of the Revenue Committee for the opportunity to testify today. My name is Tom Bosshardt, and I'm the executive director...the last name is spelled B-o-s-s-h-a-r-d-t, executive director of the Nebraska Gas Propane...Nebraska Propane Gas Association. I'm here today to support LB421 exempting natural gas from commuter motor fuel tax. Our association believes that propane should be also be included in this exemption along with natural gas. Propane is a green alternative fuel as natural gas. The Nebraska Department of Energy in their Interim 2009 Nebraska Energy Plan, on page 20, states: Propane provides the best mileage per gallon of any of the currently available alternate fuels. To travel the same distance in a vehicle powered by an alternate fuel, a propane vehicle would require 15 gallons, an ethanol vehicle would require 18.14 gallons, and a compressed natural gas vehicle 22.5 gallons, end quote. Ninety percent of the propane used in the United States is domestically produced. The carbon footprint of propane is similar to natural gas and is much better than gasoline. The infrastructure is available today and in place through the propane marketers throughout the state. It has been estimated that there is currently 2,400 vehicles using propane in Nebraska. We respectfully ask that propane be included in this bill to receive the same tax exemption as motor fuel tax as notated in LB421. Thank you. [LB421]

SENATOR CORNETT: Questions from the committee? Senator Hadley. [LB421]

SENATOR HADLEY: Mr. Bosshardt, just...could you estimate the 2,400 vehicles, approximately how many equivalent gallons would that? [LB421]

THOMAS BOSSHARDT: I cannot, I'm sorry. [LB421]

SENATOR HADLEY: I'm just trying to think of a fiscal note at 26 cents a gallon. [LB421]

THOMAS BOSSHARDT: I understand, and the number of vehicles that I've been given, nobody can tell me what kind of vehicles they are. We are assuming they're fairly old

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vehicles, because again, what was stated earlier today, but how many dollars would affect the state, I would say it would be minimal at this point in time. [LB421]

SENATOR CORNETT: Senator Utter. [LB421]

SENATOR UTTER: Propane conversions, Mr. Bosshardt, somewhere in the cost is similar to natural gas? [LB421]

THOMAS BOSSHARDT: Converting a gasoline engine to propane would be similar to natural gas. It runs between \$4,500 to \$8,000 depending on the vehicle. Roush pickups, it's an F-150 Ford pickup and they are converting over to a 250 pickup is about \$8,000 for the conversion. And that is considered an OME when you do a Roush pickup. But there are other after market conversion kits available. [LB421]

SENATOR CORNETT: Seeing no further questions, thank you. [LB421]

THOMAS BOSSHARDT: Thank you. [LB421]

SENATOR CORNETT: Next proponent. [LB421]

KEN WINSTON: Good afternoon, Chairman Cornett and members of the Revenue Committee. My name is Ken Winston. The last name is spelled W-i-n-s-t-o-n, and I am appearing on behalf of the Nebraska Sierra Club in support of LB421. The Nebraska Sierra Club supports efforts to reduce air emissions, natural gas as was previously indicated is a cleaner burning fuel than gasoline. Automobiles generate approximately 30 percent of the greenhouse gas emissions at the present time. We support LB421 as a means of providing incentives for use of natural gas in motor vehicles. We'd be glad to answer questions. [LB421]

SENATOR CORNETT: Senator Louden. [LB421]

SENATOR LOUDEN: Well, Ken, I get to visit with you again. [LB421]

KEN WINSTON: Well, it's nice to see you, Senator Louden. [LB421]

SENATOR LOUDEN: I'll see what you know about this. You're Sierra Club, right? [LB421]

KEN WINSTON: Uh-huh, yes. [LB421]

SENATOR LOUDEN: Okay, now, they're not concerned about all these little bombs all running up and down the highway at 3,600 pounds per square inch? [LB421]

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KEN WINSTON: Well, Senator, based upon...you're the first person that brought that up, but based upon what Doug Clark said and indicated the kind of testing that it had gone through, I'm assuming that he knows what he's talking about. But lacking better information, I'm going to go with what Mr. Clark indicated. [LB421]

SENATOR LOUDEN: Okay. You realize, of course, that even if you're hauling one bottle of oxygen, you know, in your pickup going home, you've got to haul it standing up, and you've got to stop at railroad crossings with them, you know, and tie, have them tied. It isn't just commercial, but if you're hauling one. And I'm wondering how you're getting by with this because those bottles only have 2,000 pounds per square inch and you're talking about some with 3,600 pounds per square foot. This is my concern is why, why are we, why are we doing this? What's our reasoning here behind allowing this, and I'm wondering if Sierra Club has looked into that? [LB421]

KEN WINSTON: Well, I guess I'm not familiar with the requirements for oxygen bottles, and obviously you know quite a bit about it, so I'm going to go with what you said about it. And what I would respond is similar to what I said earlier. I'm presuming that there has been the kind of testing that Mr. Clark referred to, that these devices are constructed differently from the oxygen bottles. And therefore, because of the different construction, that alleviates that concern. I'd be glad to look into it and if I find out anything different, I'll certainly let you know. [LB421]

SENATOR LOUDEN: Good, then, Ken, I am taking your, I'm understanding your testimony on a presumption then. Is that fair enough? [LB421]

KEN WINSTON: Well, I think practically everything in life is a presumption, Senator. I mean, I presume...presume that I have enough strength to make it through the day. [LB421]

SENATOR LOUDEN: Thank you, Ken. [LB421]

KEN WINSTON: Thank you, Senator. [LB421]

SENATOR CORNETT: Seeing no further questions, thank you. [LB421]

KEN WINSTON: Thank you. [LB421]

SENATOR CORNETT: Next proponent. [LB421]

BROCK PETERSON: (Exhibit 6) Good afternoon, my name is Brock Peterson, B-r-o-c-k P-e-t-e-r-s-o-n. I'm here on behalf of Lincoln Composites, a member of the Hexagon Composites Group. I'd first like to read a letter authored by Dale Tiller, our president, and then I'd like to address some specific concerns of the committee. Lincoln

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Composites is the world's leading designer and manufacturer of Type IV compressed gas fuel tanks. One of the primary uses for our tanks is the storage of highly compressed gases such as natural gas, methane, and hydrogen in vehicular applications. Transit buses across the world depend on Lincoln Composites' tanks to move millions of people each day. Truck fleets throughout the United States use natural gas stored in our tanks to make their daily trips and large automobile manufacturers from across the globe seek out our hydrogen storage tanks for their fuel cell vehicles. Our tanks are designed and manufactured in Lincoln, Nebraska, and our parent corporation, Hexagon, has made a commitment to keep it that way. By the time we move into our new state-of-the-art manufacturing facility in the Lincoln Airpark Rail Center later this year, Hexagon will have invested over \$15 million in Lincoln over the past four years. In these past four years, we have seen our manufacturing space more than double and our employment has nearly tripled. We now employ more than 100 employees of which one-fourth are engineers; most of whom graduated from the University of Nebraska-Lincoln. Lincoln Composites' sales have increased by fivefold since 2004 and 100 percent of our sales are to customers outside of Nebraska. And 75 percent of our sales are to customers outside of the United States. In 2008 alone, we plowed more than \$7 million into the local Nebraska economy in payroll and the purchase of goods and services. Lincoln Composites is proud to contribute to the economic growth of this city, this state, and the country; and we are proud of our employees and their families. We would welcome any of you and all of you to visit our facilities to learn more about the amazing things going on at Lincoln Composites. We thank you for the opportunity to support LB421 and encourage any of you to contact us with questions you might have about Lincoln Composites and the compressed gas fuel tank industry. That concludes the letter. As far as general comments, I can speak to the safety of compressed natural gas fuel tanks. CNG industry has essentially been around since the '80s; in earnest since the early '90s. Transit districts such as L.A. metropolitan and WMATA have been running on compressed natural gas, and as this market has grown so have the technologies for storing the fuel. Any natural gas fuel tank in the United States put into service has to go through a set of testing as set out by ANSI/CSA. This is an agreed upon standard that applies both in the U.S. and Canada. The testing includes cycle life, ambient cycle life testing, high pressure burst testing, bonfire testing, gunfire testing, flaw tolerance testing, environmental testing, high temperature, low temperature cycle testing. If there has been an incident that has caused damage to a tank, it has been added to the testing regime. Lincoln Composites has sold over 80,000 of these all composite tanks and yet had a tank rupture or fail in the field; 3,600 psi of natural gas--to explain one of the tests--if you perform a gunfire test with a 9mm shell, you set it out on a rock, you take your gun to it and you shoot it, all that's going to happen is the gas is going to vent out. It will not rupture, there will be no explosion. There is fire protection devices on every tank, so if the tank becomes engulfed in fire, the tank automatically vents the gas out. Oxygen is more of an accelerant and oxygen will explode if you shoot a gun into it. Natural gas is a very low bandwidth of flammability, from 12 to 17 percent, meaning unless you have the exact

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prime optimum mix of oxygen and compressed natural gas, you are not going to have combustion. CNG safety record is exceptional and far above anything that the petroleum-fueled vehicles can offer. I welcome your questions. [LB421]

SENATOR CORNETT: Senator Louden. [LB421]

SENATOR LOUDEN: And you...then these cars fill up at 3,600 pounds per square inch is what these car gas tanks? [LB421]

BROCK PETERSON: All over the world. All over the country. [LB421]

SENATOR LOUDEN: And what's your composite made of? [LB421]

BROCK PETERSON: Carbon fiber and fiberglass oxy resin. [LB421]

SENATOR LOUDEN: Okay, then they can be busted or something, I mean, it isn't like? [LB421]

BROCK PETERSON: They are built to the manufacturing standard requirement of 2.35 times stress ratio on the burst, meaning that they have to burst at over 8,100 psi. [LB421]

SENATOR LOUDEN: What about your rear-end crashes and all that kind of stuff? [LB421]

BROCK PETERSON: There's testing for that as well. Most tanks are contained in the structure, but because of the ability for rear-end impact, FMVSS 304 stipulates rear-end and side impact testing. [LB421]

SENATOR LOUDEN: Okay, because we went through that back there in the '70s with our Chevy pickups. We had to take all the gas tanks out from under...well, first of all, we had to take them all out from the cab, and we had to take them all out from along the frame on the outside of the frame. And so that's what I was wondering how, do they design those tanks inside the frame then in these cars nowadays so that? [LB421]

BROCK PETERSON: Most of them are inside the frames. I will say this...at 3,600 psi because of the physics of the pressure and the carbon fiber wrap, at 3,600 psi, the tank is going to be the strongest thing in the car. We have had a Civic hybrid, a Civic Honda running on natural gas in New York. It was parked, it was rammed by a fully-loaded gasoline tanker. It crushed the car up to the B pillar, they pulled the tank out, and the tank didn't leak. In fact, the tank actually provided enough structural support that the driver walked away. [LB421]

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SENATOR LOUDEN: Thank you. [LB421]

SENATOR CORNETT: Seeing no further questions, thank you. Next proponent. Can I see a show of hands of how many proponents are...remain on the bill? Okay, thank you. [LB421]

STEVE CROSBY: Hi, I'm Steve Crosby, Treat America Food Services. Last name, C-r-o-s-b-y. Thank you for the time today and I'm a proponent of LB421. Really the question that came back earlier was why do the bill now and what impact does that have? For my company, I run about 25 to 30 vehicles out of the Omaha market right across the street from the utilities. If the tax was postponed for five years, I would have a two-year ROI which we talked about earlier. It would save my company approximately \$35,000 a year just in the fuel costs of those vehicles. And then as far as subsidizing, why not subsidize it? There is a pretty heavily federally funded subsidy program for me to retrofit that vehicle. Because all of my vehicles would have to be retrofitted as long as they're a dedicated natural gas vehicle. So we do have a subsidy program in place, but it's not enough to offset the total costs. And if I have the tax in place, I would have about a 4.5 year return on investment which is absolutely out of the question for my company to do. So if we did away with the tax, technology came up to speed where I could buy the vehicle already equipped, then the 26 cents if it went back in place in five years, might not be an issue. The other issue is if it--I want to make sure I say this right--the other issue with the taxes, if I continue to sit here and pay the tax now, like I said before, there's no way that I can continue to support the model. And that's basically my testimony. Without the tax, I can do it. With the tax, there's no way I can do it. [LB421]

SENATOR CORNETT: Seeing no questions, thank you. Next proponent. [LB421]

JOHN DAVIS: Senator Cornett, members of the Revenue Committee, my name is John Davis, last name spelled D-a-v-i-s. I'm here today to testify on behalf of LB421. I represent Happy, Yellow, Checker, and Cornhusker Cabs operating in Douglas and Sarpy County primarily. I guess my main reason for coming here...I'm not an expert in terms of the design of fuel tanks or CNG at all, but as an operator of a medium-sized fleet; we operate approximately 200 taxi cabs in the Omaha area. As we look forward, this is something that just makes sense to us. But unfortunately, there's not the infrastructure for us to go ahead and retrofit our cabs right now. There aren't any public stations in Nebraska or Iowa. So in order for this to make sense, then we would have to look at working with MUD and possibly becoming one of the first public fast fill stations in Nebraska. Other than that, there's the whole issue of the ROI. That would be a large investment on our part in terms of retrofitting our vehicles. Obviously there would be a return on the cost of gas, and there are also some subsidy programs out there for giving at least a portion of the retrofitting back in terms of tax credits and that sort of thing. But I guess ultimately it comes down to doing the right thing. We've all heard testimony from people that I would consider experts regarding how much natural resource we have

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here in terms of CNG, how much we're dependent on foreign, petroleum-based oils and fuels. When I go out and meet with peers in other markets in the West and the East and that sort of thing, and to see how successful they are with CNG and how it's moving in the right direction and all the things that we hear about reducing our carbon footprint. Quite frankly, it's kind of embarrassing when we say, well, we don't have any infrastructure right now in Nebraska to be able to offer that. And I think quite frankly when we get up to a situation where we have \$4 or \$5 a gallon gas, everyone says, well, you know, someone should do something. And you know, I want to be that person or we want to be one of these people that are saying well, you know, if not now, then when? And if not me, then who? So that's the reason that we are involved in this and have been working with the MUD and again, we're really just kind of at the outset, but everything about it seems to be the right thing. That's really all the testimony I have. I'll certainly take questions. [LB421]

SENATOR CORNETT: Senator Dierks. [LB421]

SENATOR DIERKS: Well, thanks, John. I appreciate your testimony. Can you give me a comparison of what it would cost your cabs miles per gallon and dollars per gallon with the gas you drive today compared to the compressed gas you would try to use tomorrow? [LB421]

JOHN DAVIS: Well, right now, we're in the process of still doing a lot of the research. But I can tell you that based on the research that I've done with talking with different experts in this field, that a gallon of gas is essentially relative to, or excuse me, a gallon of CNG is directly relative to a gallon of gas in terms of efficiency. So that being said, when we first looked at this in July of '08, gas was right around \$4 a gallon here in Nebraska. At that time, I think compressed natural gas was about \$1.28 a gallon. So realistically, you know, it's obviously very fluid. It depends on when you're trying to compare your savings. It depends on what your average price of gas is. But at that point, a "guesstimation" is that the average car would save about \$100 to \$120 per week just on fuel. [LB421]

SENATOR DIERKS: So what is the price of compressed gas today? [LB421]

JOHN DAVIS: The last I heard was \$1.48. [LB421]

SENATOR DIERKS: Okay, thank you. [LB421]

SENATOR CORNETT: Seeing no further questions, thank you. Are there any further proponents? Are there any opponents to the bill? Is there anyone here in a neutral capacity? Senator Nordquist, you are recognized to close. [LB421]

SENATOR NORDQUIST: Thank you. Thank you, Madam Chair and members of the

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committee for a thoughtful discussion, thoughtful questions. I appreciate your full consideration on this. On Senator Friend's question about subsidizing, we looked at a number of options over the interim with MUD and you know, what other states have done and what's available. We looked at an infrastructure subsidy to help get some fill stations, and we looked at direct subsidies to either fleets or to consumers maybe to purchase the automobiles, but we knew we were in, you know, where we were at fiscally as a state and big expenditures like that wouldn't be possible. With this right now, it's not going to set us back. You know, it's like...the fiscal note is, you know, somewhere around \$10,000 to \$15,000. So it's something I think that could get this industry off the ground and help, you know, I don't need to tell you guys about energy independence, but it would take us down that road, so I think it's something we need to consider. [LB421]

SENATOR CORNETT: Senator Friend. [LB421]

SENATOR FRIEND: Thank you, Madam Chair. Senator Nordquist, was this modeled after a, you know, sometimes we model bills, maybe Illinois is doing something. I mean, there is, by 5:00 a.m. there have been a million, you know, cars up and down the Dan Ryan in Chicago. I mean, are we modeling something here after Illinois or are we? [LB421]

SENATOR NORDQUIST: Actually the one state that's kind of really taking the lead to reduce costs on natural gas to lower the price has been Utah, which I don't think is too different from us. [LB421]

SENATOR FRIEND: I'm just glad you didn't say California. [LB421]

SENATOR NORDQUIST: No. Certainly not. I mean, they have a lot of infrastructure in place in California, too, but Utah, as far as this kind of model for reducing the price, I think they have, I think they might even, they have no tax, they might subsidize. I think I heard it was, you know, \$0.80 a gallon or something like that for compressed natural gas there. [LB421]

SENATOR FRIEND: And of course, the bottom line is, supply and demand would indicate that if the more traffic you, you know, you end up having and whether the industry subsidized or not, natural gas is going to become more... [LB421]

SENATOR NORDQUIST: Yeah, that's why I wanted to also...yeah, that's why I wanted to create a narrow window, because like I said, no one wants to vote for a tax increase. So this says in five years, it's gone. You know, no one has to take a vote on raising taxes in five years, too. So. [LB421]

SENATOR FRIEND: True. Thank you. [LB421]

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SENATOR NORDQUIST: Yeah, any other questions? Yeah. [LB421]

SENATOR CORNETT: Senator Utter. [LB421]

SENATOR UTTER: Thank you, Senator Cornett. Senator Nordquist, let's just assume for a minute that this thing really takes off and the gentleman converts these 200 taxicabs and we get a set of natural gas pumps across the state and this all happens in the next year or two because of the relative price of natural gas relevant to the price of gasoline. A big chunk of the, if not all of the gasoline, the current gasoline tax goes to the Department of Roads for roads upkeep and maintenance. This, while the estimated fiscal impact of this initially is pretty low, this could turn out to be a pretty substantial thing. [LB421]

SENATOR NORDQUIST: Sure. I see what you're saying. [LB421]

SENATOR UTTER: Are we letting this, are we...and if the payback is a couple of years as someone intimated that it needed to be, who are we going to get to pay this tax if this thing really, to help, are we going to raise the gasoline tax on everybody else? What's your take on that? [LB421]

SENATOR NORDQUIST: Well, I see what, that there would be some offset there and you know, it's, it's a challenge we're going to have to look at. I don't, you know, we're talking about a couple of companies here in Omaha that are looking at it. I would, I guess I would not anticipate this being a huge revenue loss as far as offsets in five years. It's about kind of nurturing and incubating the industry as it gets going. Trying to get a couple of fuel stations in the next two or three years, and the dollar amount that we would losing in the Highway Trust Fund, I think would be pretty minimal, even under the best circumstances, if this does get going. [LB421]

SENATOR UTTER: Let me suggest to you that if we include propane which seems like the only fair thing to do as Mr. Bosshardt suggested, that they...that the infrastructure for delivering propane across the state is already there. And I could see where this could become a rather substantial thing pretty fast. [LB421]

SENATOR NORDQUIST: Sure. And it's a discussion that I'll let the committee think about. Propane is available, I would say that, and I'm open to the discussion. I know that would probably significantly increase the cost of the bill. I think initially when we checked, when we first, we asked what does the Compressed Fuel Tax Act bring in, it was somewhere around \$300,000 or \$400,000. So that, then I think propane is probably the biggest, one of the bigger chunks of that. So it would increase the cost of the bill. I mean, I don't know the question and this is something that we need to look into. Is, is there a lot...is there much new production of propane vehicles? It sounds like it's

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something that maybe we're going away from and compressed natural gas has been something that seems to be kind of more of a way of the future. [LB421]

SENATOR UTTER: So did we leave propane out of this mix as a compressed fuel because of the fiscal impact that propane might have eventually? [LB421]

SENATOR NORDQUIST: I would say that on those two points, the fiscal impact and the fact that compressed natural gas is something that's being produced now, not domestically as far as vehicles. But I know, you know, Honda is doing it. Companies are doing a lot of retrofitting, and there is some on propane, but I don't know that it's as...you know, kind of leading the way right now that compressed natural gas has been. And I don't, we didn't bring these numbers, but all the major automotive manufacturers are producing these vehicles right now: GM, Ford, Chrysler, for sale in other countries; they're just not doing it here. But so the production of compressed natural vehicles is happening now, and it seems like it's more technology that can lead us into the future. [LB421]

SENATOR UTTER: Thank you. [LB421]

SENATOR CORNETT: Thank you, Senator Nordquist. [LB421]

SENATOR NORDQUIST: Thank you. [LB421]

SENATOR CORNETT: Thank you, Senator Nordquist. That closes the hearing on LB421. And we will open on...we'll hear the opening on LB138. Good afternoon, and welcome to the Revenue Committee. [LB421]

NICOLE KANNE: Thank you. Good afternoon, Chairwoman and committee members. My name is Nicole Kanne, it's N-i-c-o-l-e K-a-n-n-e. I am the legislative assistant for Senator Bill Avery. He's got two other bills in other committees and is chairing Government today so he was unable to make it. Senator Avery has introduced LB138, which is a bill that includes language in Section 77-2715.07 of the Nebraska income tax credit statute which allows individuals who are full-time public school teachers in Kindergarten through Grade 12 classrooms a \$1,000 refundable tax credit for all taxable years beginning on or after January 1, 2009, and part-time public school teachers in Kindergarten through Grade 12 classrooms a tax credit equal to \$1,000 multiplied by the percentage representing the individual's portion of full-time employment as a school public teacher for all taxable years beginning on or after January 1, 2009. According to a recent report by the Nebraska State Education Association, during the 2007-2008 school year Nebraska ranked 45th in teacher pay. The average teacher salary was nearly \$10,000 behind their counterparts for a total average of \$42,885 during the 2007-2008 school year. If you look to our regional neighbors, Nebraska has some distance to cover. Two years ago, Iowa invested \$145 million in teacher salaries.

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Wyoming's average starting salary is now on par with Nebraska's average salary, opening at \$40,000 or more. In addition, Wyoming's average salary is well above the national average at \$53,000. In addition, Nebraska salaries are also behind Colorado, Kansas, and Missouri. Since Nebraska has not addressed teacher salaries for some time, this tax credit is a small step towards demonstrating our commitment to teachers. Every day, teachers supplement their curriculum with books, supplies, and other tools aimed at boosting their students' learning environment, and often at their own expense. This bill will help offset the out-of-pocket costs that our public school teachers incur each year. There are similar measures in legislatures across the country, including the Oklahoma House which is currently considering a similar measure to allow tax credits for the cost of materials, equipment, or supplies if the cost is not refunded or reimbursed from any other source. Earlier this month, an Oklahoma House panel passed a measure allowing teachers a \$500 tax credit for classroom materials. Wisconsin is also considering legislation that would give teachers a \$250 tax break for money spent on supplies. Senator Avery understands that this legislation has considerable potential fiscal liability. However, he's a realist and understands that this is not the best time to be raising this issue, but he truly believes that the conversation should continue until the state's willing and able to adequately and fairly compensate our teachers. On behalf of Senator Avery, thank you for your time today and I believe there's a member of the Education Association here to answer your questions. [LB138]

SENATOR CORNETT: Thank you very much. [LB138]

NICOLE KANNES: Thanks. [LB138]

SENATOR CORNETT: First proponent. [LB138]

BRIAN MIKKELSEN: (Exhibit 7, 8) Senator Cornett, members of the committee, my name is Brian Mikkelsen. I'm the director of political action for the Nebraska State Education Association; it's M-i-k-k-e-l-s-e-n. And I just want to say I'm glad I know nothing about compressed natural gas. I was debating my decision to ride home with Doug Clark for a while today, but I think I'm okay now. Real quick, I've got two handouts. One is just some talking points on teacher salaries, the other is a map that I think you would find interesting. If you put yourself in the context of a new teacher that the state just spent significant money subsidizing your education at the University of Nebraska or Chadron, and you sat down and decided where to go teach and you were looking at this map, it becomes pretty obvious, pretty quickly where you would start. Points that I want to mention...and my role at NSEA is a little different than Herb who you deal with mostly. I'm out on the road most of the time and I talk to members every day, pretty much, throughout the state. And what I hear overwhelmingly is that new career teachers, career teachers, they are all leaving or--not all, but many are leaving or considering leaving to Wyoming, Iowa, other states over the salary issue. Some points I want to address from the talking point. One of the issues we argue is that Nebraska,

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we're getting a great bang for our buck. We're number one in ACT test scores where 70 percent of the students take the test. We're in the top ten in every academic achievement there is. But we're 45th in average salary. Last year, Chadron State's education grads...our information shows us that every single one of them went to teach in another state. And so the taxpayers of Nebraska subsidized their college education and then they turned around and took it to another state. And there's good reason. If you look, last year Wyoming's average salary went up 4.7 percent. The average starting salary--in fact, I think the minimum starting salary in Wyoming is over \$40,000 in almost every single district. Wyoming pays both sides of the employee-employer retirement system. Iowa went up 8 percent last year; Nebraska went up 2 percent. Texas is now paying student teachers, so if you want to come do your student teaching--if you want to go to Nebraska for three years and have the taxpayers subsidize your education, you can go to Texas and be paid to student teach. Well, why do they do that? Because once you student teach, you stay there to teach. One of the reasons we like LB138 is that even though we are 50th in the nation in state aid on a per-pupil basis, even though we're not meeting that requirement that we need to in state aid, we are putting...this Legislature and the Governor are putting a ton of money out in state aid. It's nearly a billion dollars a year now; \$800 million, somewhere in there. The problem is the money is not getting to the teacher. And so we have double digit increases in state aid and we have single and below 5 percent increases in teacher compensation. And so one of the reasons we really like LB138 is that it guarantees that this Legislature's commitment to teacher salaries actually gets to the teacher. And so with that I thought Nicole did a great job using our talking points so I won't bore you with everything you've heard from us before, but the numbers are not getting better, the numbers are getting worse. Just one look at that map lets you know that if you are a new teacher and you are deciding where you want to go teach, there's a lot of options out there that pay a lot more money. So with that we'd respectfully request your support of LB138 and be open for questions. [LB138]

SENATOR DIERKS: Oh, I'm sorry. I'm on tap. Are there questions for the speaker?  
Senator Hadley. [LB138]

SENATOR HADLEY: Mr. Mikkelsen, when I was running for election I got very interested in this topic. Where do we stand in cost per...cost of educating per pupil nationwide among the states? [LB138]

BRIAN MIKKELSEN: You know, the best person to answer that question is to your right. I don't have that number off the top of my head. I know it's something we could find for you. [LB138]

SENATOR HADLEY: Well, it just seemed to me that I, when I was running, I did research that and I was surprised that we were toward the midpoint in cost per student... [LB138]

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BRIAN MIKKELSEN: Right. [LB138]

SENATOR HADLEY: ...to educate, and our teachers were paid, as you said, in the 45th... [LB138]

BRIAN MIKKELSEN: Right. [LB138]

SENATOR HADLEY: So my question I guess I'm leading up to is, where does the money go? [LB138]

BRIAN MIKKELSEN: Yeah. The census data that I can get you, and this is straight off my memory, is cost per pupil: we're eighth in the nation in property tax support per pupil, but we're 47th in the nation in state support per pupil. And so when you average those together you do come somewhere in the middle. Off the top of my head I can't think of it, but I can find it for you. Where does the money go? It varies on a district by district basis. One of the problems is, you know, 80-some percent--it depends on what the percentage is district by district--but a large portion of the entire budget is staff. And so getting a raise for a lot of people is difficult. In some cases cash reserves, we think, have gone up significantly. A lot of our negotiators would say that districts are sitting on cash reserves that are excessive, that they should be spending on salaries. And so it varies on district per district basis. [LB138]

SENATOR HADLEY: I was just surprised at the difference in teachers' pay rank versus what we're spending per pupil. [LB138]

BRIAN MIKKELSEN: Right. That's essentially our argument. Our argument is even though we're lagging behind in state aid. We are putting a lot of money out in state aid and the increases in state aid have been significant, but they're not getting to where, I believe, the Legislature and the Governor really intend them to go, which is straight to the classroom for a competent or more than competent, qualified, caring teacher. That's what makes the difference in educating the child. [LB138]

SENATOR DIERKS: Thanks, Senator Hadley. Other questions? Senator Friend. [LB138]

SENATOR FRIEND: Yeah, how many teachers do we have in the state? How many certified teachers do we have in the state? [LB138]

BRIAN MIKKELSEN: Yeah. We have about 25,000, 28,000 members is the number that we have--that includes retirees. The fiscal note shows 21,000. [LB138]

SENATOR FRIEND: So do the members...are all of the members public school

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teachers? [LB138]

BRIAN MIKKELSEN: All of our members? [LB138]

SENATOR FRIEND: Yeah. [LB138]

BRIAN MIKKELSEN: No. No, we have all... [LB138]

SENATOR FRIEND: I mean, you wouldn't have a problem then, I'm assuming...all certified teachers in the state, I mean, teachers are teachers if they're certified. I mean, this only...am I reading this wrong? This only deals with public school...I can only get the credit if I'm a public school teacher? [LB138]

BRIAN MIKKELSEN: Right, right, yeah. The first question you asked I answered differently than where you were going. Yes, it only applies to public school teachers at this point. Too, we have other members that are not in K-12 locals, like community colleges, higher ed, all the state colleges. We also have non-teachers: custodians, paras, so we have lots of members beyond just teachers. But at this point it does just apply to public schools. [LB138]

SENATOR FRIEND: Okay, thanks. [LB138]

SENATOR DIERKS: Senator Friend, Senator Louden. [LB138]

SENATOR LOUDEN: Yeah, this will be done every year for them [LB138]

BRIAN MIKKELSEN: Um-hum. [LB138]

SENATOR LOUDEN: Now, I was on the school board years ago when we had teacher incentives and it was a real mess, because usually the incentives came to the school district the year after the other teacher had left, or something like that. But anyway, how are you...have you got this figured out in here so that you have some superintendant that's making 100 and some thousand a year decide that he's going to teach a study hall one day a week or once a day or something so and then he can get his \$1,000. Those are the people that don't need the money, I mean, this is a problem I've had and I've visited with some of the NSEA members about this that I thought entry-level teachers weren't getting paid enough. Then every time we come up with something, the entry-level teachers really don't get the benefit. It ends up on somebody that either has some continuing education or gets into the administration. So how are you going to handle that so that that don't happen? [LB138]

BRIAN MIKKELSEN: I can't speak to this exactly, but I would bet the definition of teacher in other places in the statute would prohibit administrators from doing that. But if

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not, we would certainly be open to any amendment that made it very clear that this was only to certificated classroom teachers and non-administrators. [LB138]

SENATOR LOUDEN: Now should there be a cap in here that just teachers that are making less than \$45,000 a year are eligible to get this? [LB138]

BRIAN MIKKELSEN: You know, Senator, to be honest, I think where we're at, in terms of the salary issue, that we're pretty much willing to do what it takes to get the job done. And so if we can get some movement on the salary issue, we're open to ideas. But I would say that it's not just new teachers that we're losing. I know we have numbers of cases of teachers from Sidney and Kimball that are leaving for Wyoming because Wyoming's not only paying their retirement side, not only paying their full family health, not only paying them more money, but taking all of their years of experience. So it used to be that a career teacher with 15, 20 years of experience couldn't leave because the next salary schedule wouldn't accept your years of experience--that doesn't happen anymore. Districts are taking 15 years, 20, 30 years of experience, moving you right down the salary schedule to the bottom. And so the short answer is, you know, I think we're willing to look at anything we can do. The second answer is, you know, we've got to be concerned about career teachers because they're leaving too. [LB138]

SENATOR LOUDEN: Well, yeah, and when I mean entry-level teachers I mean those that are down in the trenches--they're entry level on the students. Because that's what's part of our problem before when we had teacher incentives. Near as I remember, we would give incentives if they took continuing education and that sort of thing, and so you ended up with these people that had been in there quite a while and they would take some courses through the summer and get their increase in pay--which they were probably entitled to because it wasn't that great then anyway, but nonetheless, all of these teachers--you might say young teachers--that are probably...some of them are probably trying to raise a family beside--didn't have time to take a lot of extra education were more or less left in about the same ditch they were when they first crawled in. And this is...I'm wondering how we can help this so these teachers down on the bottom end of it will increase. I got a daughter-in-law that's a teacher, so don't... [LB138]

BRIAN MIKKELSEN: No, I'm...like I say, and Senator, I was the one that talked a lot about this. We do have a big concern over starting teacher salaries. I mean, that's really what that map shows is those kids coming out of college who the state of Nebraska subsidized their college tuition, throwing everything in the back of their Toyota Civic and going to another state--they're gone forever. The next big gap is between the first year they start teaching and the fifth year that they start teaching, when we lose about half of them. And then once we've kept them that far, if we can keep them to about the 15th year then we know we can keep them. And so I...what you're saying, we'd agree with. [LB138]

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SENATOR LOUDEN: Okay, if there was a \$40,000 or \$45,000 cap on it do you know what kind of fiscal note would be on it? Do you have any idea? [LB138]

BRIAN MIKKELSEN: No, I don't. [LB138]

SENATOR LOUDEN: Is there any way we can ever find out that, I mean... [LB138]

BRIAN MIKKELSEN: And at that range, at \$45,000 you're at about what the state average is right now, you know. I mean, I don't want to commit to a 45 number, but what I'm saying is we're willing to look at that issue. [LB138]

SENATOR LOUDEN: Can the Department of Education get us those numbers? [LB138]

BRIAN MIKKELSEN: I would think so. [LB138]

SENATOR LOUDEN: Okay, we got a chairman, he'll get them for us. (Laughter)  
[LB138]

BRIAN MIKKELSON: Yeah, well, I don't want to make more work for you, Senator. That doesn't make my life any better. We'll check on that; we'll definitely check on that.  
[LB138]

SENATOR LOUDEN: Okay, thank you. [LB138]

SENATOR DIERKS: Senator Hadley. [LB138]

SENATOR HADLEY: Senator Dierks. Mr. Mikkelsen. [LB138]

BRIAN MIKKELSEN: Yeah. [LB138]

SENATOR HADLEY: This proposal would do nothing to alleviate the problems of rural, smaller towns getting teachers, though, would it? [LB138]

BRIAN MIKKELSEN: You know what's interesting is the first time I went out on the road after this bill was dropped was I went to North Platte, which isn't a small, rural town, but I was amazed at how many teachers came up to us and were like, you know, they were really excited about this concept which I...it kind of took me back a little bit, you know, because I thought, you know, \$1,000. You're right. It doesn't specifically give rural schools any more than an urban area. But as a percentage of their salaries it's probably a higher percentage. [LB138]

SENATOR HADLEY: It's a higher percentage. [LB138]

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BRIAN MIKKELSEN: Yes. [LB138]

SENATOR HADLEY: But I guess, Mr. Mikkelsen, I had just had the feeling that rural Nebraska is probably...it's sometimes harder to recruit teachers--and I'll use Axtell, Nebraska, or something like that--than it is to a Lincoln or an Omaha. You know, it's the different lifestyle and that's where the university is and such as that. So I guess I always am concerned about out-state Nebraska, what we can do to make sure that students are willing to look beyond the big cities to teach. [LB138]

BRIAN MIKKELSEN: I don't know that there's any evidence that it's harder or not. I do know there are, you know, when I talk to student groups there are teachers that are committed to that lifestyle, that rural lifestyle, and they want to go back, you know. And there are some that want to move on to the bigger city. I don't know if it's harder to recruit in rural Nebraska than it is in Lincoln or Omaha. You know, they're different teaching situations. [LB138]

SENATOR HADLEY: Okay. [LB138]

BRIAN MIKKELSEN: Sometimes class size is a huge difference. [LB138]

SENATOR DIERKS: Thank you. Senator Adams. [LB138]

SENATOR ADAMS: Do we know how many, or do you know off the top of your head, approximately how many new entry-level teachers we have annually in Nebraska? [LB138]

BRIAN MIKKELSEN: I don't. [LB138]

SENATOR ADAMS: Okay. I would be curious if you'd find that number. [LB138]

BRIAN MIKKELSEN: But let me see if we can find that too. I think we've run some numbers on just numbers of teachers under a certain salary threshold, so I think that information should be contained in there... [LB138]

SENATOR ADAMS: Okay. [LB138]

BRIAN MIKKELSEN: ...but I can search for that. [LB138]

SENATOR DIERKS: Other questions? I have a couple, Brian. First, I want to praise the abilities of our teachers that are with us today because I think they've done a great job as far as keeping students in school. We have a great graduation rate compared to other states. Our abilities as far as the national tests are wonderful. One of the things that is a problem with me, and with many of my rural compatriots, is the fact that the

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cost of property taxes has gone so high and so whenever we get an increase in teacher salaries, why, the cost of property taxes go up. And we see no way to get relief here. Now I brought a bill to this committee three or four weeks ago that would, it was really a wonderful piece of legislation--it only had a \$4 billion fiscal note on it. (Laughter) But we thought that we could ask the schools to come to the General Fund for teacher salaries and for transportation costs and free up the money that would come from property taxes, whether it's farm property, or business property in town, or homes in town, if those dollars could be used for needs of the county and the courthouse and maybe some infrastructure like roads and bridges. I'm trying to remember if there are any...anybody from the NSEA here supporting my legislation. I don't think that happened. But as far as that goes, I don't think anybody else did either, so. (Laughter) But I think it's something we need to think about because, you know, this is getting to be a pretty onerous thing for us and so take that message back to some of the NSEA folks for me, if you would. [LB138]

BRIAN MIKKELSEN: Absolutely. It's interesting--if you compare the average salary numbers per state and if you compare it to states that, in their percentage of their district budget that comes from the state...so in other words, states that have a higher percentage of the K-12 budget that comes from the state as opposed to property taxes, they're very similar. States that have more money coming from the state to fund K-12 education have higher teacher salaries. States that have lower percentage of the budget coming from the state and more from property tax have lower teacher salaries. I think one of the reasons is, is when we go in and negotiate in Bloomfield, the teachers know that the state's only giving you this much money and if we raise, you know, if you give us a bigger contract increase we're raising property taxes on ourselves, plus our neighbors, plus our friends, plus our relatives...it makes it a difficult situation to raise property taxes. So absolutely I agree with you. [LB138]

SENATOR DIERKS: Okay. [LB138]

BRIAN MIKKELSEN: And like I said earlier, we're open to any idea to help solve this issue at this moment in time. [LB138]

SENATOR DIERKS: Well, that's great. I think you have to be. Thank you very much. [LB138]

SENATOR CORNETT: Senator Utter. [LB138]

SENATOR UTTER: Thank you, Senator Cornett. Mr. Mikkelsen, I'd question...when we're comparing teacher salaries, state to state, are we just comparing the salary or are we comparing fringe benefits, are we comparing the values, for example, of defined benefit retirement plans, those type of things? Or is it just strictly the dollar salary? [LB138]

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BRIAN MIKKELSEN: You know, I'm so glad you asked that question because there's two myths out there that relate to teacher compensation and benefits that get continually spun around. One is that no other state is giving their teachers, or paying their teachers' health insurance benefit, which isn't right. I mean it's...we're not the only state paying teachers' health insurance benefit. They do it in Iowa; they do it everywhere else. The second is the myth that every teacher is getting their full family teacher health insurance benefit paid for by the district. And that's not the norm now at all. A majority of our membership is covered under health insurance where they're paying anywhere from 50 to, you know, not all of it but probably the lowest would be 50 percent of it. So those two issues, I think, hurt us on the compensation issue and that people think well, you know, our benefits are so much better here. Well, that assumes nobody else is paying benefits. Every other state is paying teachers' retirement and health insurance benefits. And teachers no longer, in most cases, get that full family health insurance paid. They're paying a fair share of their portion. In terms of comparing these numbers that we've said--45th in the nation compared to other states--does just deal with salary. We have, in the past, and it's not recent enough to really make the case, but we have included in the past health insurance benefits to the point that we could, and it really does increase us about two or three points on the average salary scale. It's not huge. And the other problem is it's difficult to do with other states because, like in Nebraska, every district negotiates a different amount for health insurance. So you can't, I mean, you're comparing to 300 different school district contracts in Iowa and 200 in Kansas, but when we did it I think we did it on surrounding states around the border. And we found that it didn't make that much difference, that other states were paying health insurance as well. On the retirement, let me write that down, because I think I can find you how our retirement plan compares to other states. Most states have a defined benefit plan as well for teachers, or school employees. As I mentioned earlier, Wyoming pays both sides. They pay both the employee side and the employer side. But I'll get you that information. [LB138]

SENATOR CORNETT: Senator Dierks. [LB138]

SENATOR DIERKS: Something else just occurred to me, Brian. There will be a bill coming before the committee, I think, this committee that would provide a tax relief for parents of students that go to parochial schools. I may not have the terminology exactly right, but something like that. [LB138]

BRIAN MIKKELSEN: LB67. [LB138]

SENATOR DIERKS: And so if I ask you...the next question I'm going to ask you I want to give you a proposition first. The fact that every one of these parents are paying property taxes to support teachers in the public schools, every one, would it be possible for the NSEA to come in in support of that legislation? Knowing that these people not

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only pay the tuition to get their kids educated in the parochial school but they also pay property taxes to educate the kids in the school next door that's a public school. Could that be an issue that you could support? [LB138]

BRIAN MIKKELSEN: No. I haven't testified a lot this year but that would probably be the last time I would testify if I were to say yes to that because...but we have a long standing tradition of opposition to vouchers or tuition tax credits or things of that...especially in a year when we're considering cutting the growth in state aid that would be something that I'm pretty sure we'll be testifying in opposition to that day. [LB138]

SENATOR DIERKS: Could you at least agree with me that there's an unfairness to that situation? [LB138]

BRIAN MIKKELSEN: No. [LB138]

SENATOR DIERKS: Okay. [LB138]

BRIAN MIKKELSEN: I think we're...I think...you know, I used to work for Chris Beutler and he always used to say reasonable minds can agree to disagree and I think we would probably agree to disagree on that. Philosophically. [LB138]

SENATOR CORNETT: Senator Hadley. [LB138]

SENATOR HADLEY: Thank you, Senator Cornett. Mr. Mikkelsen, I just happened to think of something. You know, we talk about average teacher salaries and you've compared us a lot to the 50 states and such as that. Do you have any idea what the average salary for a Nebraskan compares to the other states? [LB138]

BRIAN MIKKELSEN: That's a good question, I don't; I'll look for that. You know, they said it this morning... [LB138]

SENATOR HADLEY: Well, you know, and that's not a trick question, because I don't know either, but I just wondered where, as a state, we compare. [LB138]

BRIAN MIKKELSEN: They said it this morning at the SCHIP hearing I was at but I think it was like 45... [LB138]

SENATOR CORNETT: Well, also you see a breakdown, usually, by counties in regards to the incentive package and what the average salaries are. So you can get that information from that. [LB138]

SENATOR HADLEY: Okay, well, I was just curious, you know, because that is to me a

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fair, you know, to see where the average person in Nebraska, you know, how they're comparing... [LB138]

BRIAN MIKKELSEN: Right. [LB138]

SENATOR HADLEY: ...to their peers. [LB138]

BRIAN MIKKELSEN: Right. And I know...I'll also look for you because we have...we also can break it down by education and so comparing teachers with a masters degree to other people who have a masters degree is how we look at it as well, but I think we have that as well. [LB138]

SENATOR HADLEY: Okay, thank you, Brian. [LB138]

BRIAN MIKKELSEN: So I'll look for that as well. [LB138]

SENATOR CORNETT: Senator Utter. [LB138]

SENATOR UTTER: I'm sorry, but I've got just one further question. I've got the utter question to ask, and that is the fiscal note on this is about \$21 million as I am reading it, and we're in a severe financial situation this year, the state is. This \$21 million that the state is not going to receive or is going to pay out means that we either have to cut some funding and some other program somewhere or we have to raise the taxes on some other type of tax. Do you have any suggestions as to how we meet this problem? [LB138]

BRIAN MIKKELSEN: Well, I think...our position at NSEA is that the fiscal crisis may not be...I mean, we are sitting on a rainy-day fund that's significant if you look at it in a historical context. The second argument was we're also on the precipice of getting, I think, 200 and some million dollars from the federal government for education that the Legislature and the Governor can decide what to do with. And so I guess our position at this point would be that the premise is not necessarily one that we would agree with. [LB138]

SENATOR UTTER: Well, I don't know about the stimulus package, but let me suggest to you that the reserve may not be there. [LB138]

BRIAN MIKKELSEN: I understand. [LB138]

SENATOR CORNETT: Seeing no further questions, thank you. [LB138]

BRIAN MIKKELSEN: Okay. [LB138]

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SENATOR CORNETT: Next proponent. Opponent? [LB138]

JEREMY MURPHY: (Exhibit 9) Good afternoon, Senator Cornett, members of the Revenue Committee. My name is Jeremy Murphy, spelled J-e-r-e-m-y M-u-r-p-h-y. I serve as the associate director for education issues for the Nebraska Catholic Conference and we are appearing in opposition to this bill. I do have copies of my testimony if the page could distribute those, please. Thank you. Our opposition to this bill is based solely on the fact that the bill limits the proposed tax credit to only those state-certificated teachers who teach in public schools. Our 120 or so catholic schools employ more than 2,000 state- certificated teachers who teach full time in state licensed and regulated elementary and secondary schools, and a lesser number of state-certificated teachers who are employed on a part-time basis. Other private schools employ state-certificated teachers as well. In fact, it is an absolute requirement for approval and accreditation that every school, private as well as public, must use only teachers for classroom instruction who hold a certificate to teach issued by the state of Nebraska. The basic certification process is the same for teachers employed by approved and accredited private schools as it is for teachers employed by public schools. We would simply ask the committee to extend this income tax credit to all active, state-certificated teachers regardless of whether they're providing education for Nebraska students in public, elementary, and secondary schools or in private schools. This is a matter of educational equity and tax justice. Without this modification, this bill unfairly discriminates statewide against a sizeable group of state-certificated teachers who are contributing to the public good just the same as their public school counterparts. Their service in educating Nebraska students is equally valuable. If this bill is amended to treat all active, state-certificated teachers equitably and fairly it would completely dispose of our opposition to this bill. Thank you. [LB138]

SENATOR CORNETT: Senator Adams. [LB138]

SENATOR ADAMS: Jeremy, along the same lines that Senator Dierks opened up, just to be ornery--the afternoon's late. If we amended this bill to include private school teachers, would the Catholic Conference consider seat belts in school buses? [LB138]

JEREMY MURPHY: The Catholic Conference did not take a position on that bill this year. [LB138]

SENATOR ADAMS: Okay. [LB138]

JEREMY MURPHY: The seat belt bill as currently written is for school buses that are transporting public school students only, if I recall correctly. That's something that our diocesan superintendents would have to discuss with us and give us what their position would be. I'm not authorized to... [LB138]

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SENATOR ADAMS: I understand. [LB138]

JEREMY MURPHY: ...make any kind of, you know, statement as to what their position would be if this bill would change materially, whether that would affect a bill they didn't take a position on. So I guess I'd like the opportunity to discuss that with them if you're asking me to do that. [LB138]

SENATOR ADAMS: Thank you. [LB138]

JEREMY MURPHY: Thanks. [LB138]

SENATOR CORNETT: I'm sorry. [LB138]

JEREMY MURPHY: Yes. [LB138]

SENATOR CORNETT: I know it's late and I really wasn't going to ask any questions, but just kind of continuing on that line of reasoning: you're opposing a bill because you're not included in it, correct? But you're not sure if you would support a bill if you were included in it? [LB138]

JEREMY MURPHY: True. I... [LB138]

SENATOR CORNETT: I see some faulty logic there. If it's good for private school teachers--and my kids go to private school--as it is good for public school teachers, why isn't it good for private schools and public schools to have the same regulations in regards to safety for children? [LB138]

JEREMY MURPHY: Well, the...well, number one, three years ago there was a bill to... [LB138]

SENATOR CORNETT: I remember the bills. [LB138]

JEREMY MURPHY: And you probably recall, maybe, even the number of the bill--I think it was LB988. But it would have provided an income tax credit for public and private school teachers--I think maybe only for accredited schools which is somewhat different than the proposal that's before us. But we're...I guess the bills that come out that deal with the safety and welfare of our children we're very concerned about that, and I guess we look at those bills on a bill by bill basis and, you know, we have to look at the fiscal impact of requirements upon our schools and figure out how private schools are going to pay for those, so. And private schools don't have the same funding sources and same number of funding sources pots to pull money from as public schools do. [LB138]

SENATOR CORNETT: Any...I think Senator Hadley was first, then Senator Utter.

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Senator Hadley. [LB138]

SENATOR HADLEY: Thank you. Quick question: we heard a lot about where public schools stand vis a vis the 50 states. Is there any data on where private Catholic schools in Nebraska compare to the other 50 states in pay? [LB138]

JEREMY MURPHY: Senator Hadley, I'm not really sure if we have that data or not. I know the National Catholic Education Association may or may not collect data like that. I'm not really sure if that's one of the data fields they actually are doing some kind of comparison, but I guess I would tell you that, you know, private school teachers are feeling pressure in paying their bills as well. And I guess...so I don't really have any data to point you to on that. [LB138]

SENATOR HADLEY: Second quick question: are you having the same problems that some public schools in rural Nebraska of recruiting teachers? Is it more of a problem to recruit teachers to your schools in rural Nebraska than it is to in a Lincoln and an Omaha situation, for example? [LB138]

JEREMY MURPHY: That may vary geographically. I think particularly in the western part of the state, which tends to be more rural, that's maybe a bigger issue. If you have neighboring states and depending on where those people attended college or teaching school they may choose to go to one of the other states instead of staying in Nebraska. But I think we're all struggling to find qualified teachers that meet our expectations that we think will best be able to help our students, and so. [LB138]

SENATOR HADLEY: Thank you. [LB138]

SENATOR CORNETT: Senator Louden. [LB138]

SENATOR LOUDEN: Do you know...do you have any members of your school system, any teachers, that belong to the Nebraska State Education Association? [LB138]

JEREMY MURPHY: I don't know the answer to that, Senator Louden, without checking with, I guess, either with our diocesan superintendents or the NSEA. I don't deny that that's possible. I think there are some teachers that teach in both schools systems, somewhat, meaning public and private, depending on what type of education they're providing. So it's possible, but I don't know if there are any or not. [LB138]

SENATOR LOUDEN: Okay, thank you. [LB138]

SENATOR CORNETT: Seeing no further questions, thank you. [LB138]

JEREMY MURPHY: Thank you. [LB138]

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SENATOR CORNETT: Next opponent. Is there anyone in a neutral capacity? [LB138]

DOUG NABB: Senator Cornett, committee, my name is Doug Nabb, N-a-b-b. I would like to answer a couple of questions before I get to the neutral part of what I'm dealing with but Senator Louden asked were there anyone as far as that working in the trenches. I was in the trenches for 31 years and then got trenchmouth and got out. But the salary schedule might be a way of resolving the issue in regard to a principal teaching part time, but if you look on the last page, I think it does answer that question. Because on page six it starts out and it talks about the time that's spent in the classroom, that they get a pro rata amount, so I think that answers that, possibly. But salary schedule would be another way of putting that into the bill too. The other thing that I would like to mention that, I think Senator Adams brought up the question in regard to the number of new teachers coming in. In Fremont, and I am a lobbyist for the Fremont Public Schools, in Fremont we have anywhere between 12 and 15 teachers replaced per year and we have a 300 teacher-plus system so you're talking roughly 5 percent. Somewhere in that category is what the turnover rate is there. So I don't know if we're above or below average but I think that's pretty close to the state average in regard to that issue. The reason I'm speaking today is in regard to, if you would take a look at page 5, lines 20 and 21. Line 20 starts out, it says: a full-time public school teacher in a Kindergarten through Grade 12 classroom. We have five teachers on our staff that are pre-kindergarten, and so that's some terminology that would need to be adjusted, I think, to this bill. Because we're no different than anyone else. When you have a pre situation, you know, Lincoln is ten times our size so, in effect, they probably have 40-50 teachers that fall into that category that are on the salary schedule, paid on the salary schedule, they are teachers, and yet it's not...this doesn't reflect them in this bill. And it also, then, the same mistake, basically, comes back on page 6 where it talks about Kindergarten through 12 classroom. That's the only concern that I have is that it doesn't deal with those teachers that are pre teachers. I'd be happy to answer any questions if you have any--try to, I should say. [LB138]

SENATOR CORNETT: Seeing none, thank you. [LB138]

DOUG NABB: Thank you. [LB138]

SENATOR CORNETT: Is there anyone else here to testify in a neutral capacity? Seeing none, that closes the hearing on LB138. Senator Fischer, you are recognized to open on LB264. [LB138]

SENATOR FISCHER: Good afternoon, Chairman Cornett and members of the Revenue Committee. We're doing Niobrara Council stuff across the hall. For the record, my name is Deb Fischer, F-i-s-c-h-e-r and I'm the senator representing the 43rd District in the Nebraska Unicameral. Last session I introduced LB846 which made a fundamental

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change to how Nebraska's gas tax is computed. Starting in July of this year, a portion of the gas tax will be calculated based on the average wholesale price of gasoline. During the debate on LB846, an amendment was proposed and agreed to by the Legislature that called for no gas tax increase and it made the bill revenue neutral. The amendment was adopted, the bill passed, and it was signed by the Governor. The formula was adjusted to ensure that the gas tax that the state will have beginning in July of this year will remain the same as it currently stands. That calculation was based on an average wholesale price of \$2.44 per gallon. LB264 makes a technical change to arbitrarily set the average wholesale price at \$2.44 per gallon when the tax is computed for July of this year. This will ensure the gas tax does not increase nor decrease based on LB846 taking effect. Looking back, we probably should have put that in when we passed the bill last March, April, and we should have set the price at \$2.44 because that's the wholesale price that we used all the way through our discussions on the floor. We used that in determining the changes that were made to the variable and the fixed prices of the gas tax, and so I would encourage you to pass this bill and advance it so that we have stability and we are able to accomplish what we set out to do in LB846 last session. Thank you. [LB264]

SENATOR CORNETT: Thank you, Senator Fischer. Questions from the committee? Senator Friend. [LB264]

SENATOR FRIEND: Thank you, Madam Chair. Senator Fischer, thanks for coming in and addressing this, and I do remember and paid really, really close attention to all of the things that were happening last year. I wasn't nearly as involved as you were, as you know. What happens practically, and you did allude to this a little bit, what happens practically if the LB846 on July 1, I believe, goes into effect, the wholesale price can fluctuate if LB264 does not pass every...twice a year it could do it just like the variable rate currently does, so that's what we're up against. [LB264]

SENATOR FISCHER: Correct. [LB264]

SENATOR FRIEND: We need this bill because, notwithstanding any other thing in the Legislature that's going on right now, we need this bill to lock in that rate. Are you saying that it could vary but it could only vary twice a year, and this protects us from radical variances that LB846 wouldn't if we don't have LB264 associated with it. Am I making sense? [LB264]

SENATOR FISCHER: Well...(laughter) Yes, yes you are. [LB264]

SENATOR FRIEND: It was a stream of consciousness. [LB264]

SENATOR FISCHER: As I always enjoy with you. [LB264]

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SENATOR FRIEND: What happens if LB264 doesn't pass? [LB264]

SENATOR FISCHER: If LB264 doesn't pass, the rate will still be adjusted every six months. It will not start out at \$2.44... [LB264]

SENATOR FRIEND: Okay. [LB264]

SENATOR FISCHER: ...which is my purpose with this bill that, since that was what we discussed and what we all agreed on last year when we made the changes to the fixed rate and the variable rate... [LB264]

SENATOR FRIEND: Right, right. [LB264]

SENATOR FISCHER: ...it was with the understanding that the wholesale price would be at \$2.44. So that's the purpose of this bill is to meet that. If this bill was...and by the way, then, that is adjusted twice a year, Senator Friend, as you said. It can only go up or down, increase or decrease by a penny after that first number is set there. [LB264]

SENATOR FRIEND: Will that affect our budget adjustments next year if the bill didn't pass? I mean, your guess. It could? I mean... [LB264]

SENATOR FISCHER: Of course it could, but it could affect our budget if it passed, too. [LB264]

SENATOR FRIEND: Even if it does, right. [LB264]

SENATOR FISCHER: Because it...the Appropriations Committee comes forward with a recommendation on what the budget for the Department of Roads should be, first of all. And when we act on that...before LB846 was passed, then you had the fluctuations with the gas tax. Under LB846, with that cap of a penny either up or down, we tried to limit what those fluctuations were with the gas tax. For the consumers, but also for the benefit of the body in making decisions too. [LB264]

SENATOR FRIEND: I...thank you. [LB264]

SENATOR FISCHER: And it's a risk. [LB264]

SENATOR FRIEND: Right. [LB264]

SENATOR FISCHER: LB846 is a risk, and not necessarily for the state because we still have a four-cent variable with LB846, but...and we discussed this and I know there will be people coming up after me to discuss this too. This was a policy shift and the cities and counties took a risk in going this way because the state could make up in their

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budget through the variable portion of the gas tax. The cities and counties don't have that but they were willing to move forward on it. And I think you'll hear that from the county representative who follows. [LB138]

SENATOR FRIEND: In your view, Senator, is it more...sorry, Madam Chair, I didn't...I should have asked you... [LB264]

SENATOR CORNETT: That's quite all right. [LB264]

SENATOR FRIEND: ...if I could continue. In your view, is it more dangerous to leave a wholesale price with a variance associated with it than it would be if LB846 never would have passed? Where we have a variance set twice a year? Is it more dangerous to the taxpayer, is it more dangerous to our budget, is it...I mean, we did LB846 because we think it's a fairer way to tax. [LB264]

SENATOR FISCHER: I think... [LB264]

SENATOR FRIEND: But is it more dangerous if LB264 were not to pass, is...LB846 is still in play... [LB264]

SENATOR FISCHER: Correct. [LB264]

SENATOR FRIEND: Is it more dangerous to watch the wholesale price fluctuate than it would be to watch the retail price fluctuate? [LB264]

SENATOR FISCHER: I think it's six on one side, half a dozen on the other. [LB264]

SENATOR FRIEND: Okay, all right. I was hoping you'd answer it that way because I don't know what I would have done if you didn't. [LB264]

SENATOR FISCHER: But I just better stop. (Laughter) [LB264]

SENATOR FRIEND: Right. (Laughter) No, and we can...we'll talk later. It's late, we'll talk later. [LB264]

SENATOR CORNETT: Senator Utter. [LB264]

SENATOR UTTER: I know the hour is late, but I'm a newbie and I need illumination and education. Are you saying to us that it doesn't make any difference where the wholesale price is, the state's still going to get their 26.4 or their 19.5 cents a gallon, the state portion of this tax is always going to be 19.5 cents a gallon, and the people at risk here are the cities and the counties, that they're the people that take the hit when the wholesale price goes down or when the wholesale price goes up they benefit? [LB264]

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SENATOR FISCHER: I think as a newbie you have it down. [LB264]

SENATOR UTTER: It's a risk-free thing for the state but it isn't for the cities and counties, is that right? [LB264]

SENATOR FISCHER: I think it could be characterized that way and I think you hit it on the head when you said it was a risk for cities and counties. And last year they knew that and they supported this policy change. I don't...I think LB846, and obviously the body did last year too, that this made more sense to us. That we needed to move this direction in how we were going to define our gas tax in this state. Under LB846, we made changes to the fixed rate for the cities and counties and also for the state, and we lowered the variable by almost 10 cents. That was a big decision, when you lower the variable in the gas tax formula, because that's a way that the state can make up when not that many gallons are sold; if we're not seeing new cars sold. If you have less revenue coming in with the gas tax or with new car registrations or sales tax, then the variable can go up in order to meet what we have budgeted for the state. But it was a risk putting that variable at 4 cents too, so there was some risk to the state on that because you don't have as much to work with, which was another reason we put that 1 cent on there--either an increase or a decrease. But for the cities and counties it is a much greater risk when you have the wholesale price drop. I don't think there's anybody in the state of Nebraska that thinks the gas prices are going to remain low. We saw that last year. We saw it last summer when we're up to over \$4 a gallon for gas, which is when we first started thinking about putting this bill in place because the consumers really would have been hit on that. You know, and now we've seen them gone down. Who knows what they're going to do the next few months? The Department of Revenue, from the information that's available to them, they don't anticipate, you know, the wholesale price is going to be down below \$2 or anything. You know, it's going to be about in this area. They're thinking \$2.30. But the reason for this bill to come forward is, truly, this is what we agreed on last year and this is what we based our discussions on and this is what we based making changes in the fixed and variable rates, and I believe it is the right and proper way to go forward. [LB264]

SENATOR UTTER: Essentially, you wouldn't be here today if we...if gasoline was still \$3.75 a gallon. [LB264]

SENATOR FISCHER: No, I probably would be here. [LB264]

SENATOR UTTER: You would be here? [LB264]

SENATOR FISCHER: I probably would be here because I talked to my legal counsel when it was \$4 a gallon and I said, my gosh, we can't allow this to happen because it's really going to hit the consumers then. So no, I would be here today. [LB264]

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SENATOR UTTER: So what would you be asking for then? [LB264]

SENATOR FISCHER: I would be asking that the price be set at \$2.44 because that's what we discussed and Senator Friend knows that when I give my word, that's it. [LB264]

SENATOR UTTER: Why don't we just have a...what is the argument against just having a fixed rate? [LB264]

SENATOR FISCHER: We'll give you information out of Transportation Committee on Senator Friend's bill on that, I'm sure. [LB264]

SENATOR FRIEND: We will talk. (Laughter) [LB264]

SENATOR UTTER: Thank you. [LB264]

SENATOR CORNETT: Seeing no further questions. Will you remain for closing? [LB264]

SENATOR FISCHER: I will waive closing. Thank you very much. [LB264]

SENATOR CORNETT: Thank you, Senator Fischer. May I see a show of hands of how many proponents we have? Okay, thank you. [LB264]

LARRY DIX: Senator Cornett, members of the Revenue Committee, for the record my name is Larry Dix, spelled D-i-x. I'm executive director of Nebraska Association of County Officials appearing today in support of LB264. And there's been some good discussion already and I'm sure that will continue. Certainly I would tell you that the counties, myself, were very, very involved in LB846 last year; very, very involved in the negotiations, in the discussions. And I would tell you, as you have heard me state on other bills in front of the Revenue Committee, that this is what was agreed to. There isn't any question about that. It is important that we establish the \$2.44. I also would tell you that if the wholesale price of gas was significantly higher, which counties would benefit from, I would tell you a deal is a deal and that \$2.44 needs to be established. That is the center around all the debate that took place last year. That is the basis that was used for the analysis of the potential for the movement a penny either direction. And so that's why it's very, very important. LB846 is important to counties because it does provide that stability. Granted, there can be a decrease. There can also be an increase. It cuts both ways. We're very, very much aware of that. Today, as we sat here today and just yesterday, I started looking at what impacts us today if LB846 is gone away, what impacts us? And what impacts us then is consumption. And right now, consumption for the last six months of this fiscal year is down 4.7 percent. And so with that consumption

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there's a significant decrease in what counties are receiving. That's actually going on today; that's happening today. There's no floor to how far the consumption can drop. Likewise, on the other way there's no ceiling. But LB846 provides that stability because built into it is the rise or fall of a cent. And it gets to be sort of a detailed conversation, detailed discussion, that we participated in last year full well knowing where that wholesale price was going to be set. Nobody, I believe, at that time, nor do I believe when I look at the fiscal note here and you look at this thing projected out two years...I would tell you if anybody knows what's going to happen to the price of fuel in two years they can make a lot of money not doing what they're probably doing today. But when I look at the fiscal note, I look at it a little bit differently than what is proposed here, and the other thing I certainly do not project it out two years. So with that I'd be happy to answer any questions that anybody may have, but we certainly are here in support of LB264. [LB264]

SENATOR CORNETT: Senator Hadley. [LB264]

SENATOR HADLEY: Yes, thank you, Senator Cornett. Mr. Dix, would you agree that we need to take a long, hard look at how we fund our roads and transportation system? Because as time goes on and consumption goes down, you don't pick up the paper that you don't see that the pressure is on for car manufacturers to come up with higher mileage cars, then we're going to have to take a long, hard look at how we fund our road systems in the future. [LB264]

LARRY DIX: I would tell you since I've been executive director in 2002, every year we go down that path. We continually look for new ideas for funding of our road system. And do we need to do it in the future? Absolutely, 100 percent we need to look at that. To give you an idea, you can't pick up a paper today without seeing something about stimulus. Counties have identified \$117 million worth of projects that are stimulus-related. And by all we're seeing, we're going to see \$9 million. So we've got a tremendous need and we're not going to make up that \$117 million in LB846 or LB264 even in the best of times, no matter what that may be. So yes, we do need to continually look at that. One of the things that we liked about LB846 last year is it started to go down that road and started to provide us some inflationary benefit, and so that's why LB846 is attractive to us. [LB264]

SENATOR HADLEY: Mr. Dix, I did look at that, what'd you say, a hundred and... [LB264]

LARRY DIX: 117 million. [LB264]

SENATOR HADLEY: And it seemed to me that Buffalo County could use the \$9 million--I looked at the projects. Absolutely no question (laugh). [LB264]

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LARRY DIX: So if you get the opportunity to prioritize, you would be happy to... [LB264]

SENATOR HADLEY: I would be...you see, I would be happy to... [LB264]

LARRY DIX: I understand. [LB264]

SENATOR HADLEY: Or Kearney County too, you know. [LB264]

LARRY DIX: I understand. And about half of those projects are bridges. Bridges are really...as we're sitting here the deficiency rating...we're having a lot of them fall down. [LB264]

SENATOR CORNETT: Seeing no further questions, thank you. Next proponent. [LB264]

LYNN REX: Senator Cornett, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We, too, are here in strong support of LB264 and appreciate Senator Fischer bringing this measure because, as has already been noted, this was the basis of the discussions and the projections when LB846 was under consideration last year. We recognized that municipalities and counties were at risk, but notwithstanding, it's a much better place than where we would be under the current formula. And as Larry Dix indicated in his prior testimony, we're losing money today under the current formula. At least under LB846 there's some stability in the sense that it has to go 1 cent up or down, so at least it's something and it's in the right place. And I think first and foremost the concern that we had with LB846, and I mean this in a positive way, was stability for the Department of Roads. Because it is really important to provide some stability for their funding. It's one of those situations where you can build all the--of course we don't have the money to, but if we had the money to build all the road projects and things that need to happen on a municipal and county level, you still need to be able to connect to a state system. And so they need that too. And so in short, we strongly support this measure. We think this is the basis of what...we know this was the basis of what LB846 was last year, and think that this will at least provide some additional stability. Any questions? I'd be happy to respond to them. [LB264]

SENATOR CORNETT: Seeing none, thank you. [LB264]

LYNN REX: Thank you very much. [LB264]

SENATOR CORNETT: Next proponent. [LB264]

LOY TODD: (Exhibit 10) Senator Cornett and members of the committee, my name is Loy Todd, that's L-o-y T-o-d-d. And I'm testifying, not only for the Nebraska New Car

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and Truck Dealers Association, but I also serve as chair of the Taxation Council for the State Chamber of Commerce and I'm testifying, also, on their behalf and have submitted written testimony for the Lincoln Chamber. And that's all the people that caught me before I got in here, so. But...and really, our story's the same for all groups. We participated very actively in LB846. It was an innovative and welcome answer to part of the puzzle regarding highway funding. It provided stability and it also, for the first time ever, added an inflationary factor that recognized the fact that, yes, prices fluctuate. Everything else is per gallon and motor vehicle taxes, of course, have somewhat stabilized. So for that reason we see this as simply going to where we all thought we were, because we had assumed this number, this incorporates that number, and so we would urge the committee to advance this and for this correction to be made. Thank you. [LB264]

SENATOR CORNETT: Seeing no questions, thank you. Next proponent. Are there any opponents? Is there anyone here in neutral capacity? That closes the hearing and the hearings for the day, thank you. [LB264]

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Disposition of Bills:

LB138 - Indefinitely postponed.

LB264 - Indefinitely postponed.

LB421 - Placed on General File with amendments.

LB536 - Indefinitely postponed.

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Chairperson

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Committee Clerk