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Revenue Committee  
March 09, 2011

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[LB357 LB358 LB359 LB385]

The Committee on Revenue met at 1:30 p.m. on Wednesday, March 9, 2011, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB357, LB358, LB359, and LB385. Senators present: Abbie Cornett, Chairperson; Dennis Utter, Vice Chairperson; Greg Adams; Deb Fischer; Galen Hadley; LeRoy Loudon; Dave Pankonin; and Pete Pirsch. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue. To my left is Vice Chair Dennis Utter from Hastings; Senator Deb Fischer from Valentine; Senator Greg Adams from York. On my far right, Senator Pankonin from Louisville will be joining us, as will Senator Pete Pirsch from Omaha; Senator LeRoy Loudon from Ellsworth; Senator Galen Hadley from Kearney. The research analysts today are Steve Moore, to my right, and Bill Lock, to my left. Matt Rathje, to my far left, is committee clerk. Our pages today are Marilyn Buresh and Amara Meyer. Before we begin today's hearings, I would please request everyone turn their cell phone to either the silent or off positions. Sign-in sheets for testifiers are on the tables by both back doors and need to be completed by everyone wishing to testify. If you wish to testify on more than one bill, a sheet needs to be completed for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, hand the form to the committee clerk. There are also clipboards in the back of the room to sign in if you do not wish to testify but wish to indicate either your support or opposition to a bill. This will be included in the official record. We will follow the agenda posted on the door. The introducer or representative will present the bill, followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed rebuttal. As you begin your testimonies, please state and spell your name for the record. If you have handouts, please bring ten copies for the committee and staff. If you only have the original, we will make copies for you. Please give the handouts to the page to circulate to the committee. Senator Ashford, you are recognized to open.

SENATOR ASHFORD: (Exhibit 1) Thank you, Madam Chair. My name is Brad Ashford, A-s-h-f-o-r-d. I represent Legislative District 20 in Omaha. And I would like to...first of all, before I get started specifically on the bill, since I never get to come here very often--once in awhile--I want to thank this committee and its staff. And I know you told me not to do any history, but I'm going to just very briefly go back to the last 25 years, in about 30 seconds, and thank the committee and the staffers that have been here, many of whom...some of whom for many years, for all the work this committee has done for my city, for Omaha. Chairman Hall, Tim Hall; Dave Landis; and you, Senator Cornett, for many initiatives, starting with the efforts in the early '90s to address the Riverfront Development in Omaha and the...which started out as a cigarette tax revenue bill and then a turnback bill. Senator Cornett, your leadership certainly, in providing turnback financing for smaller communities in the state utilizing sales tax, and this committee, for its support, and the staff for its creativity in being such a massive part of the

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redevelopment of Omaha's Riverfront, and it means a lot to us and our city. I'm introducing this sales tax option bill because I believe it's a tool that we need in not only Omaha but throughout the state, for cities to meet the demands of the twenty-first century. And it creates flexibility. The idea of a sales tax in lieu of other taxes, creates, in my mind, flexibility. It's an ability to take a look at what the tax scheme in a particular city is and to utilize, to a greater degree than it now has the ability to do, sales tax. Sales tax is an excellent vehicle because we're able to collect taxes from those that don't live in the community--those that come in and use the facilities in a particular town. Certainly Omaha, with the tremendous investment that the state has made in the Qwest Center and the Riverfront, to really turn around...turn Omaha around into the right direction for the twenty-first century. I mean it wasn't many years ago that the drive in from the airport to downtown Omaha was pretty despicable. And now it's not, and it's a beautiful entryway to the state of Nebraska on the eastern edge of the state, and this committee has historically had a significant role to play in that regard. I did...obviously, this bill is a--and you all know it--is this local option sales tax bill. I think the last time the Legislature did allow local option sales tax increase was 1979. It would not go into effect without a vote of the people. I might say that I think, in Omaha specifically, again I'm from Omaha and so the needs of my city are foremost in my mind obviously, but I think we need a conversation in Omaha about taxes. I think we need a...we've been through a tough patch in the last few years, as we all have throughout the state. I just especially think that now we need to have a community conversation about where is Omaha going to be. It's obviously one of the economic drivers of our state--obviously not the only one; it's one of them--and where is Omaha going to be 10, 15, 20, 25 years from now. And tax policy is a major part of that. The citizens of Omaha, obviously, as is the case in most cities in the state, don't get a chance particularly to vote on tax policy. That's a job for the local elected officials, as to well it should be in most cases. But I think putting this option in front of the voters as part of a plan or package that could either reduce taxes, or part of the spending-cut package or whatever it is, would engage the citizens of Omaha in thinking about where Omaha is going to be in the next 20...now through the next 25 years, and as our children and grandchildren begin to grow up and have jobs and hopefully remain in our state. So I think that conversation in our city is critical. It just seems that we need it. We need it. And I think the local option sales tax would engage the citizens in that conversation. Thank you, Madam Chair. [LB357]

SENATOR CORNETT: Questions from the committee? Seeing none. [LB357]

SENATOR ASHFORD: Thank you. I'm going to stay for awhile but I may have to...and then come back, but I'll be around. [LB357]

SENATOR CORNETT: Okay. [LB357]

SENATOR KRIST: Thank you. I'm assuming you're going to call for proponents. I'm trying to jump ahead. Thank you, Madam Chair. [LB357]

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SENATOR CORNETT: I assumed you knew the order. [LB357]

SENATOR KRIST: Okay. I do. My name is Senator Bob Krist. I represent the 10th District in Omaha. Omaha is my town and I represent, I think, a very diverse citizenry within the northwestern part of Omaha. And I think what I hear from the people in Omaha is: give us a choice. And I think we've taken some tools away from the local municipalities and subdivisions. We need to make sure that they have those tools, and I think we have done a fair job of paring down where we are. But anytime we can allow the citizens to vote on how they run their town, how they would raise their revenue, how they would adjust between their property taxes, their sales taxes, their user taxes, their restaurant tax, I think it's the right thing to do. I would hope that this committee would also leave this piece of legislation at the discretion of the locals and not tag on too many restrictions that would restrict how those tax dollars would be used. I would hope that that would fall to the local option. So, in short, I will be brief. I know you're very busy. It's important that we give our citizens a choice. This goes on the ballot. That's a very important thing to me. They can choose for themselves how they wish to go forward in the area of collecting revenue. And secondly, I think this piece of legislation speaks for itself, to go back to the vote with local control exercising how those funds of that revenue would be used. With that, I thank you for your time. I don't want to waste very much of it and I'd be happy to answer any questions. [LB357]

SENATOR CORNETT: Questions from the committee? Senator Utter. [LB357]

SENATOR UTTER: Senator Krist, this may be a question that I will address to other folks who testify here today. But is there any thought in your mind as to whether a vote to continue to increase the sales tax should be just a simple majority, or is there a...should it be greater than a simple majority that votes to increase the sales tax? [LB357]

SENATOR KRIST: Senator Utter, I think that's a valid and a very important question, and I'm not prepared to talk about that today. I would say, in my mind I thought it would be a majority that would lead us down a path as it has been the way we would address a constitutional amendment in that way. But thank you for the question. I will certainly give that some thought because I'm sure we'll be talking about this issue. I would hope we would be talking about this issue in the future. Thank you, sir. [LB357]

SENATOR CORNETT: Further questions? Seeing none, thank you, Senator Krist. [LB357]

SENATOR KRIST: Thank you. [LB357]

SENATOR MCGILL: Hello, Revenue Committee, Senator Cornett and members. I'm, of

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course, Amanda McGill. I represent the 26th District in northeast Lincoln, and I'm here today to support Senator Ashford and his legislation and echo...I won't repeat anything that Senator Krist said or Senator Ashford did, but I'd like to see the bill as it originally is, advanced out, giving cities the ability with very few limitations to put this in action and put it to a vote of the people. Of course, I'm here representing Lincoln and we've already done a lot to impact cities and have the cities and municipalities share the burden that we have to share when it comes to the budget. When we cut aid to cities and counties, that was \$1.8 million to Lincoln, by changing the Environmental Trust, if we so do so...or we so choose to do so, that's \$1.8 million. The change with the cell phones, while the occupation tax won't take effect until 2013, that's another \$1.2 million that we've limited Lincoln from being able to use to raise money, meaning that we need to give them more options on what they can do in terms of revenue, because over the last few years Mayor Beutler has done an excellent job of limiting the budget. He's cut 120 jobs in the last four years. He's taken police officers out of middle school, even though we're seeing a lot of issues in our middle schools dealing with law enforcement. He's cut bus routes. He's cut the Aging Division, \$600,000. We've cut parks and rec programs, after-school programs, pool hours, library hours. The city council and Mayor Beutler have done a great job in trying to cut their budget as appropriate. But the way we're limiting money that's coming to them, they also need to have another opportunity to talk to the public and have a serious discussion about taxes and the ramifications that will come with having to make these further dramatic cuts in their budget. I mean we're looking...we were talking this morning about parks and how some of them are deteriorating or having to be limited without that extra money today. And I think part of the reason we're successful in trying to advance that, is that people were beginning to see the negative impacts of not having a higher fee in their communities, in their local parks. And at this point we're asking the cities to make cuts that people and our populations are going to start to get upset about, and we at least need to have this option if they're not happy with it. Let them vote to raise their taxes if they see so fit. I think it's best to leave it open in terms of limitations, because as we all know, the city of Lincoln and others could be raising property taxes, but we also all know that that is not popular. And, you know, if we leave it open to people and the public and not linking it to pensions or some other abstract concept, I think there's a better chance of being able to get that money raised for a variety of purposes within the city. So I guess I will, at that point, wrap up and say I hope that you'll seriously consider advancing this bill as it is. Thank you. [LB357]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB357]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Senator McGill, I guess as a country boy looks at this thing and the figuring on the barn door, here the other day we did LB383 and we took away the state aid to cities and counties. And I forget, that was \$30,000 they got, each city, or the counties, anyway, got \$30,000, and then they got, I don't know, \$3 million, \$4 million. And now...and that was usually from state aid, so that was funded by probably sales tax, most of it. Now we're going to turn around and now

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we're going to give the cities authority to levy a sales tax. [LB357]

SENATOR MCGILL: Well, citizens to vote to levy a sales tax. [LB357]

SENATOR LOUDEN: Well, I know. But I mean this is what it's all about. If we didn't think it would pass, we wouldn't be here today. So we're going to give them the authority to levy a sales tax. Now it looks like Lincoln might come up with about \$19 million extra over the \$3 million or \$4 million or \$5 million that they lost on the other deal. This is pretty good horse trading, isn't it? [LB357]

SENATOR MCGILL: (Laugh) The thing is, Senator Louden, is if they were to choose to put it to a vote of the people, they would have to present a plan and make their case for how they would use that extra revenue. And I think that's a fair thing for them to do. [LB357]

SENATOR LOUDEN: But I mean money is money. If you got more money than you had, it's a lot easier to make a case. Now who are the winners and the losers? There's always winners and losers in everything, whether you're in a commodity markets or whatever. So if we're going back to giving the sales tax benefit or let people generate the sales tax, you've got to have retail sales in order to get a sales tax. When we were giving state aid, some of these rural counties that didn't have much retail sales got some money, and now they probably won't on this. Is that...would that be correct to say? [LB357]

SENATOR MCGILL: I'm sorry. I...could you restate that? [LB357]

SENATOR LOUDEN: Okay. Some of your counties out there don't have any retail sales to amount to a whiff, you know. So no matter what we do, if we give them authority or the towns there to do a sales tax, they still won't get near the amount of money that we got from the state aid. But yet, your metropolitan areas will make out like Chinese bandits compared to where we were before. So I'm wondering, you know, how come we didn't just let LB383 go? That was \$22 million a year. [LB357]

SENATOR MCGILL: Well, we may not...I'm sorry. [LB357]

SENATOR LOUDEN: Now we're raising the taxes, on Lincoln alone, \$19 million a year just on Lincoln alone. So is this going to be an increase in taxes? [LB357]

SENATOR MCGILL: Well, if this...we wouldn't be here if we weren't limiting our municipalities so much. So if we hadn't passed those bills, then, yeah, we wouldn't be here pushing...pushing for this. But we had to balance our budget and the body deemed that that was a way to help balance the budget. And so I think it's fair that if we're taking money from them, that we do give them a tool to help. I mean if a rural area isn't

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bringing in as much money...I mean many of them don't even use a local option sales tax in those areas at all. And they have a vote of the people to do it and they'd have to make a case that they could make more money out there and...if they can't, they can't, you know. [LB357]

SENATOR LOUDEN: Well, I mean we're talking about...that was what the city and the town and those aid to cities and counties was about, was to put some of that money out in those rural areas. Now we won't with this. [LB357]

SENATOR MCGILL: If they wanted to...it's a local option, and so... [LB357]

SENATOR LOUDEN: Well, I know, but if they don't have any retail sales, why... [LB357]

SENATOR MCGILL: And we took that money out to balance our budget. This doesn't do anything to impact our budget. [LB357]

SENATOR LOUDEN: No, but we raise taxes. [LB357]

SENATOR MCGILL: The citizens of Lincoln, Omaha, or whatever municipalities could vote to raise taxes. [LB357]

SENATOR LOUDEN: Yeah. Okay, thank you. [LB357]

SENATOR CORNETT: Senator Hadley. [LB357]

SENATOR HADLEY: Senator Cornett. Senator McGill, thank you for coming. Do you know what Lincoln's property tax mill levy is? [LB357]

SENATOR MCGILL: I don't know it right off the top of my head. I know that it's low in comparison. [LB357]

SENATOR HADLEY: It's low, right? I mean they're... [LB357]

SENATOR MCGILL: Yeah. I'm familiar with that. [LB357]

SENATOR HADLEY: So the cities could come in. And I guess I wonder... [LB357]

SENATOR MCGILL: We could raise property taxes, you're right. [LB357]

SENATOR HADLEY: You could raise property taxes. And if property taxes are so onerous, which you said they were, why wouldn't we use part of this sales tax increase to decrease or do away with city property taxes then? [LB357]

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SENATOR MCGILL: Maybe that's an option for a plan that they could pitch. [LB357]

SENATOR HADLEY: Okay. I'm curious, because I know...and I'll speak...I don't want to speak for Senator Louden... [LB357]

SENATOR MCGILL: Although I...I mean I think about how they're linked to education and funding and...I mean the city's part of property taxes is relatively small in comparison to the school district, but yeah. [LB357]

SENATOR HADLEY: I understand that, but I hear that...everybody that comes up here says we can't raise it, we can't raise it, we can't raise it, we can't raise it. And so I just wonder, you know... [LB357]

SENATOR MCGILL: And for me, Senator Hadley, I'm a realist in that people don't like that type of tax. They don't. [LB357]

SENATOR HADLEY: Is a property tax fairer than a sales tax? [LB357]

SENATOR MCGILL: A person could have that debate honestly. A sales tax reaches everyone at the same limit. It's you pay what you can afford to buy on an item, and so some would argue that it being a flat tax is more fair to everyone. [LB357]

SENATOR HADLEY: I think most of the people would argue that sales taxes are regressive because the lower income... [LB357]

SENATOR MCGILL: They would. [LB357]

SENATOR HADLEY: ...the lower income. Whereas, property taxes, if you don't own property, you don't pay. Okay, I just... [LB357]

SENATOR MCGILL: Well, you rent and that gets passed along through that way, but. [LB357]

SENATOR HADLEY: Okay. [LB357]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB357]

SENATOR MCGILL: All right. Thank you. [LB357]

SENATOR CORNETT: Next proponent. [LB357]

SENATOR AVERY: This is "Senator Day" at this committee, right? My name is Bill

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Avery, B-i-l-l A-v-e-r-y. I represent District 28 here in Lincoln. I am here to support LB357. I'm going to make three points and be very brief. We talk a lot about local control in the Legislature and we take pride in it. And this, you recall, was a big part of the debate we had on the occupation tax. And it seems to me that LB357 is the essence of local control. You're giving citizens the ability to control their own environment. You're giving them a say in what they pay for services. If the taxpayers decide they want to pay for additional services that they have determined to be underfunded or services that cannot now be funded, then this bill gives the citizens the ability to make that decision. It also, I think, increases accountability. The bill is not a blank check to the cities. It requires the local governments first identify and then justify to the public how the half cent in revenues would be spent. In that sense it's necessary for the cities to engage the public in the conversation. Right now sometimes that does not happen. But in this bill you would have to engage the public in a conversation. You would have to justify what it is you're proposing to do, how it would be spent. And the people then would have the final say in whether or not any tax increase is approved. A third point has to do with the fact that this is a very familiar form of taxation. Local businesses know this tax. They deal with it every day. They're familiar with the collection process and there would be no need for new administrative procedures. There would be no new learning that would be necessary to be in compliance with the burdens that are presently on them to collect the sales tax. This would simply not add to that in any way. Finally, I would say that this bill puts into law a clear standard that taxes will not be raised without listening to the voters first--and that doesn't always happen. I think the emphasis needs to be on the element of this bill that requires that the voters be involved. They say yes or they say no, and if they say no, then it doesn't happen. And to answer Senator Utter's question, which was a good one, I don't like supermajorities in a democracy, at all. Unless you are engaging in some extraordinary action such as the override of a veto, then I think in those circumstances a supermajority is appropriate. But in things like this I don't consider this to fall into that category of an extraordinary action on the part of government. You already have a sales tax, so a simple majority should be sufficient. [LB357]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Senator Avery. [LB357]

SENATOR AVERY: I thought I was going to get a debate. [LB357]

SENATOR CORNETT: I apologize. I forgot to mention at the beginning of the hearing that we will be using the light system. You have three minutes. [LB357]

SENATOR AVERY: Thank you for sparing me the lights. [LB357]

SENATOR CORNETT: Well, you kept it under the time anyway. You're okay. [LB357]

DOUGLAS KINDIG: (Exhibit 2) Good afternoon. Chairwoman Cornett and the members

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of the Revenue Committee, my name is Douglas Kindig, K-i-n-d-i-g. I serve as the mayor of the city of La Vista. I'm here today representing the United Cities of Sarpy County, a coalition of the five mayors of Bellevue, Papillion, Gretna, Springfield, and La Vista, testifying in support of LB357. I want to thank Senator Ashford for introducing this bill. I've provided a letter to the committee to serve as a basis for my testimony. The United Cities of Sarpy County support LB357, as currently drafted, which would authorize an increase in local option sales and use taxes after a vote of the people who live in our cities. We understand and appreciate the difficult budget issues the state is attempting to address and believe this legislation is a useful option for our municipalities to consider as we deal with our local funding issues. While the state continues to deliberate future actions that will reduce or eliminate local revenues, we are looking for alternative ways to address these losses. In Sarpy County alone, the recent passage of LB383 will result in a loss of \$725,000 just to the cities in Sarpy County. This loss could result in a potential property tax increase to residents who live in any one of the cities I am representing today. In a February 27, Omaha World-Herald article, the newspaper wrote that the granting additional sales tax authority would not be dictating to taxpayers. Losses in state aid need to be balanced in some manner. The editorial went on to suggest the Legislature could show the voters respect by putting the taxing decision directly in their hands. We couldn't agree more. Given the choice, we believe our residents do not want reduced services or an increase in property taxes. In the last decade, the municipalities and unincorporated portions of Sarpy County have been one of the few areas in the state of Nebraska to see substantial growth. This growth ultimately benefits the entire state; however, it has required a significant investment on our part in infrastructure. In most cases, these improvements have been financed with long-term debt that our cities are now servicing. The financial commitments we have made were based on projected revenues. While a number of avenues would be considered to compensate for any revenue shortfalls, increased property taxes would most likely be one of our options. In conclusion, we respectfully request that your committee move LB357, as currently drafted, to the entire Legislature for consideration. While funding alternatives are very important for growing communities that have made significant investments to foster that growth, we are confident that most cities throughout the state would support giving local residents another option to help finance the needs of their community. And I'd like to add that the half-cent sales tax is going to give us a chance to grow. We're not all just going to pay our old bills with this. But I know in La Vista, as fast as we've grown, some of the cuts we've made has been a capital improvement request from our department heads of over \$2 million a year, and we've only granted \$300,000. So even though we've made cuts...and it's not just from the state aid cuts that you gave us this last month. It's been LB775; it's the increased medical costs; it's the increased fuel costs. So even though we haven't made a lot of cuts in La Vista, what we have done is we haven't replaced a lot of our old equipment. So to continue to grow, we ask that you support this bill, and I'll take any questions. Thank you. [LB357]

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SENATOR CORNETT: Senator Louden. [LB357]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. This is nothing new. You always...before when you wanted to raise your sales tax, you had to take a vote to the people. The only difference is this time you're supposed to describe what you're using it for, I guess, on the ballot. Is that correct? [LB357]

DOUGLAS KINDIG: Yes, it is. And we've done that in the past with some of the 1.5 cents, Senator. [LB357]

SENATOR LOUDEN: You've always usually had to have something on there, what you were going to use the sales tax for, in order to raise it. [LB357]

DOUGLAS KINDIG: Yes, sir. [LB357]

SENATOR LOUDEN: So that part is nothing new, as I think your previous one. Now will your town make out better with this, for moneywise, than what they did by losing the state aid to cities? [LB357]

DOUGLAS KINDIG: You know, Senator, I think if you were to look at just the state aid, that answer, we will make out better. And that's why I wanted to mention at the end that, you know, La Vista has been very beneficial, but also helpful to the state in fostering the growth of our state. We've got some major industries with Yahoo, Securities America, you know, Streck Labs, that have...through state incentives, La Vista has shared in those. So when you add the LB775 money, which comes off of our sales tax, and then a lot of the other programs that we have, we don't see it as a break-even, Senator. We see it as an option that we have in our toolbox to be able to continue to grow to build those infrastructures and to be able to help the state grow. And to be honest, the state receives a lot of financial benefits from the growth that La Vista has seen. So if you want to compare it just to the cut of the state aid, the half cent would generate more money. But if you look at the overall picture, I don't know if it's break-even or not, but it's not that huge gift. [LB357]

SENATOR LOUDEN: Okay. But it is an increase. And I mean, we've had this deal for the last year and a half or so, where we weren't going to raise taxes. And actually we, to the average citizen, yes, their taxes will go up, and it's...the state has pushed the taxes down to the local level, because we've taken... [LB357]

DOUGLAS KINDIG: Then I guess my answer to that would be, then let the local level make the decision on the tax increases. And by passing this bill, you'll allow us to take it to the voters and you'll put the impetus on the local elected officials... [LB357]

SENATOR LOUDEN: Well, agreed. It's up to the local people. But state taxes have

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been pushed down to the local level by what we've done, these different bills we've done. [LB357]

DOUGLAS KINDIG: Right. And I can tell you that, you know, my council wasn't all that crazy about me coming and talking today and supporting this. It took some persuasion to let me be here today, because I don't think La Vista is probably looking at running to the voters and saying: Give us this half-cent sales tax tomorrow. As a matter of fact, that will not happen. But it would be nice to have this in our toolbox, three years, five years, ten years down the road, that we can go back to our voters and say we need this because of this situation. It could be because we want to bring in a \$200 million development to the area, which would not only help us, but the state. So having that local control is what is important about this, and, you know, that is why I'm here today. [LB357]

SENATOR LOUDEN: Then you don't want a sunset clause on it? [LB357]

DOUGLAS KINDIG: You know what? We had a sunset clause on our...that's a good question and I think that would be something that when it's a vote of the local people. Right now, on our local 1.5-cent sales tax, Senator, we have a 15-year sunset. It's very important to our city council that the citizens, 15 years from now, can weigh in on that. So at least it's La Vista's concern. I wouldn't have an issue with that. [LB357]

SENATOR LOUDEN: Thank you. [LB357]

SENATOR CORNETT: Senator Fischer. [LB357]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Mayor, for coming in today. Appreciate it. Right now, on your five municipalities in Sarpy County, are they all at the limit on the local option sales tax? [LB357]

DOUGLAS KINDIG: Yes. Springfield just passed theirs this last year, so we are at the 1.5 cent. [LB357]

SENATOR FISCHER: Do you know what the total revenue is that's brought in? [LB357]

DOUGLAS KINDIG: I can tell you for La Vista it's approximately \$1.8 million to \$2.2 million a year on the 1.5. [LB357]

SENATOR FISCHER: On the 1.5. [LB357]

DOUGLAS KINDIG: So this would generate \$600,000 to \$750,000. [LB357]

SENATOR FISCHER: Okay. What did you think of Senator Utter's idea that he threw

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out about requiring a supermajority vote? [LB357]

DOUGLAS KINDIG: You know, I'm a firm believer that this nation was made on a simple majority, and I will agree probably with Senator Avery that unless it was something totally huge or changing the entire structure that we have, I would be comfortable with a simple majority. I will tell you that I did run our local option sales tax, 11 years ago in La Vista, and we did do a 77 percent to 23 percent, so. But I think that was a strong voice, but I'd like to see it stay a simple majority. [LB3 57]

SENATOR FISCHER: Senator Hadley brought up the fact that sales tax is regressive. It affects those with lower incomes more than it does middle- or upper-class people, because it takes a greater percentage of their income to buy the necessities in life. Do you have any concerns about that on increasing the sales tax to a half cent more in your area? And I see this, if it would pass, it would spread across the state. Do you have any concerns about that? [LB357]

DOUGLAS KINDIG: You know, of course, we do. But I think there's already some laws in place. And I'm not an expert on sales tax reform, so...but, you know, we already don't charge food--the necessities of life. And I believe Senator McGill mentioned that even though you don't own property, you are paying property taxes. That landlord is passing that on. So without studying it further, that would be a concern of mine. But I do think sales tax is also an issue that brings some benefits, because I know that a lot of out-of-state people pay sales taxes in Nebraska, and that is a benefit to our whole state and cities. [LB357]

SENATOR FISCHER: And I would agree with you on that. It's, as we say here, the fairest tax is the one that somebody else pays. [LB357]

DOUGLAS KINDIG: Exactly. We all like those. [LB357]

SENATOR FISCHER: Yes. Thank you, Mayor. [LB357]

DOUGLAS KINDIG: You bet. [LB357]

SENATOR CORNETT: Senator Hadley. [LB357]

SENATOR HADLEY: Senator Cornett. Mayor, where are you on your property tax--your mill levy in La Vista? [LB357]

DOUGLAS KINDIG: We're at approximately 50.8 cents. [LB357]

SENATOR HADLEY: Fifteen or... [LB357]

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DOUGLAS KINDIG: Fifty--5-0. [LB357]

SENATOR HADLEY: 5-0. And what's... [LB357]

DOUGLAS KINDIG: And I know that the city of Papillion is lower. They're at approximately 40, but then we also have some cities that are higher than us. [LB357]

SENATOR HADLEY: And do you know what the maximum that you could go to? [LB357]

DOUGLAS KINDIG: You know what? I think we are almost there, and I'd have to get back to you, Senator Hadley. [LB357]

SENATOR HADLEY: Okay. I was just curious. [LB357]

DOUGLAS KINDIG: But I know we don't have a lot of room there. I will say that we talked about what this sales tax could generate for La Vista, and it's somewhere between \$600,000 to \$800,000 for a half cent. That is approximately 7 cents to 8 cents of property tax in our city. [LB357]

SENATOR HADLEY: Yeah. And just one final point when we talk about regressive taxes. We have debated in this committee, and the state is spending about \$75 million a year for the homestead tax relief for the poor. So the poor do pay much less in property taxes because we have a mechanism in place to help the people of lower income when it comes to property taxes. [LB357]

DOUGLAS KINDIG: Yeah. Thank you. [LB357]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB357]

DOUGLAS KINDIG: Thank you all. [LB357]

SENATOR CORNETT: Next proponent. [LB357]

DON HERZ: (Exhibit 3) Good afternoon, Senator Cornett and members of the Revenue Committee. My name is Don Herz. The last name is spelled H-e-r-z. I'm the finance director for the city of Lincoln, and I'm here to testify in favor of LB357. I will ask the page to please hand out a letter of support from Mayor Beutler, who is out of town and regrets that he is not able to be here this afternoon. This has been a challenging session for both the state and the cities. The cities are willing to do their fair share, with the understanding that there's going to be some significant consequences to some of those actions. When I was here earlier this session actually testifying in front of you, I mentioned that the city of Lincoln has already made...we have reduced our work force

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by 116 positions in the last four years, which equates to an 8.1 percent reduction in our nonpublic safety work force, at a time when our community has grown by 6.2 percent. As our city continues to grow, now, more than ever, we need revenue tools available to help facilitate that growth. Now, more than ever, we need to invest in our existing public infrastructure. And now, more than ever, we need additional dollars for building new sewers, new water pipes, and new roads. The city of Lincoln is certainly not unique when it comes to the roads funding gap. Although Lincoln has leveraged local and federal stimulus dollars to resurface 15 miles of arterial streets over the past few years and are on track to complete another 8 miles in 2011, this was only a start, as you can probably tell by driving on our roads. We have more work to do on our existing streets, and even more work to ensure that we will have the infrastructure in place when new businesses come knocking. In short, our roads gap continues to grow each year as our state and federal revenue streams remain relatively flat. In fact, when inflation is taken into account, these revenue streams are actually declining. We need new tools and we need new revenue streams--revenue streams that can be afforded by LB357. LB357 presents us with an opportunity to allow the citizens of our communities to decide if they are willing to pay more for goods and services. The city of Lincoln supports that opportunity. It allows the city to work with its citizenry to determine where the greatest needs lie. Here in Lincoln, that may be roads. In Omaha, it might be other infrastructure. And in Grand Island, it may mean...it may have another need. In short, it affords communities maximum flexibility and local control while still ensuring accountability. City government must get voter approval before increasing the local option sales tax to 2 percent, and it also must explain what that additional money will be used for. In short, LB357 offers our communities a new tool and revenue stream at a critical time. The city of Lincoln supports local control, supports the additional revenue tools, and supports letting the people decide whether a half-cent increase in the local option sales tax is appropriate. With that, I'd ask the committee to advance LB357 to General File, and be happy to answer any questions. [LB357]

SENATOR CORNETT: Questions? Senator Hadley. [LB357]

SENATOR HADLEY: Senator Cornett. I had asked Senator McGill, but she didn't know. What is your current property tax mill levy? [LB357]

DON HERZ: Our property tax levy is slightly over 28 cents. [LB357]

SENATOR HADLEY: Twenty-eight. And the maximum that you could go would be...? [LB357]

DON HERZ: We can go to 45 cents, plus an additional 5 cents if we have interlocal agreements, which we do. [LB357]

SENATOR HADLEY: Okay. And one last question. Approximately how much do you

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bring in, in property taxes, per year? [LB357]

DON HERZ: I believe we bring in about \$35 million. [LB357]

SENATOR HADLEY: Thirty-five million. I guess I...you know, I'm really in favor. I like the idea of giving the cities the extra half cent. But I think if the state, a few years ago where we passed property tax relief, instead of...you know, we, in essence, had a surplus...or we had taxes. And we passed, you know, property tax relief. I think it's \$110 million that we've given back. Why wouldn't we use some of this--some of this increase of a half-cent sales tax--to give property tax relief, if that's what the people are so upset about? [LB357]

DON HERZ: Well, I think that is certainly an option and it's certainly something, and if this were approved and our citizens had that option, you know, that that would be part of the discussion. You know, our immediate needs are infrastructure and roads. But whether there's some additional property tax relief, that certainly could be a part of the discussion. [LB357]

SENATOR HADLEY: It just seems like we've consistently...for the last three years I've been on this committee, every...we haven't had a speaker come in yet and say property taxes are the greatest thing in the world. You know, nobody likes them. So maybe we should be looking at ways of trying to lower them if no one likes them. So I'll leave it with that. [LB357]

DON HERZ: Thank you. [LB357]

SENATOR CORNETT: Senator Utter. [LB357]

SENATOR UTTER: Mr. Herz, thanks for coming and testifying today. Can you give me an idea of what the half cent would raise in the city of Lincoln? [LB357]

DON HERZ: In the city of Lincoln it equates to about \$19 million. [LB357]

SENATOR UTTER: Okay. And of that \$19 million, how much do you estimate will be paid by residents of Lincoln as opposed to those who live outside of Lincoln and come into Lincoln? [LB357]

DON HERZ: I would think that a majority of it would be from within the city. I think at one time we had analyzed that, and there is some portion of that, that is coming from outside the city. But as you'll recall, I believe 3 percent of the sales tax that is collected goes into a municipal equalization fund which is distributed to other communities. So there is some balancing there. [LB357]

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SENATOR UTTER: Thank you. [LB357]

SENATOR CORNETT: Further questions? Seeing none, thank you. Next proponent. [LB357]

JIM SUTTLE: (Exhibit 4) Senator Cornett, members of the committee, my name is Jim Suttle. I'm the mayor of the city of Omaha. It is a pleasure to be before you today with an opportunity to testify in favor of LB357. I, too, want to thank Senator Brad Ashford for stepping forward and proposing this bill and having it as his priority bill. I'm here to reference the policymaking for the city and answer those questions from you. Pam Spaccarotella, our chief financial officer, will be next to testify, and she will have all the details on the numbers within our budget and our operations. I'm here today in solidarity with the cities across this state supporting the Nebraska League of Municipalities' efforts in promoting legislation allowing the residents of our individual city communities to vote on an additional half-cent sales tax in their particular locales. What we are asking for is simply a choice. The cities in this state, including Omaha, are asking the Legislature for the authority to raise our sales tax by an additional half cent, with a vote of the people. This legislation gives us the options we need to offset restrictions on our ability to collect fees for services and to balance budgets, in spite of cuts in state aid. It also offers cities like Omaha, faced with extremely large pension shortfalls, an additional choice in reducing the burden to local taxpayers. We understand the state's financial situation and we understand that it will affect Omaha's potential revenue with decisions being made. My administration has overcome a \$34 million budget shortfall since I took office some 23 months ago. We have streamlined city services in order to submit balanced budgets for 2010 and for 2011. Last year, we cut spending by \$16 million through significant staff reductions, wage and spending freezes. As mayor of the state's largest municipality, generating 52 percent of the state's economy, we have worked hard to set the example of doing more with less, and in many cases, doing less with less, while still providing essential city services to our residents. Omaha just started to gain fiscal stability. We are asking you to help our city in moving in a direction that allows us to pull out of this recession and continue the fiscal stability that we have put in place with this 2011 budget passed by the council. We have demonstrated our commitment to limiting spending by seeking out and implementing government efficiencies throughout our city operations, and we will continue to do that. We, as local officials, are offering to work with you to resolve budget deficits. I, along with the city of Omaha's finance director, Pam Spaccarotella, would encourage you to assist us in planning ahead so unexpected losses in revenue will not result in higher taxes for our citizens on the home front. With this half-cent sales tax, Omaha's restaurant tax would be repealed and we would be able to provide some measure of relief to the people in our community. You will hear from other cities across the state this afternoon who would like the same opportunity to give taxpayers in their locale a choice as well. I thank you for your time and I will be happy to answer any questions that you might have. [LB357]

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SENATOR CORNETT: Senator Adams. [LB357]

SENATOR ADAMS: Thank you, Senator Cornett. Mayor, you've already partially answered my question towards the end. But I was going to ask you, one of the items in this bill would require a description of how the proposed revenue would be used. You indicated a possible elimination of the restaurant tax. I realize probably your city council is going to have some say-so in whatever plan you develop. But I'm asking you, from your perspective, how would you use this additional revenue? What would be the plan that you'd put forward? [LB357]

JIM SUTTLE: Well, I'm a proponent, at this stage when we first started about this half-cent sales tax concept. And it did come from a commission, the Bates Commission, as we were looking at how to fund our pension plan reforms. But we said in there that we would take it to a vote of the people for specific uses. So I adopted that as my policy. And so as we began to put together things to get our 2011 budget in order and we enacted the restaurant tax, I parked in the language this sunset provision tied to the successful gaining of authority by the Legislature of the half-cent sales tax authorization and the passage of that by the people, that we would immediately sunset the restaurant tax. So what would we use it for? I think that's yet to be determined. I cannot sit here and tell you that we would put this in a place immediately. I don't think we would. I think we will continue what we set out to do when we made our decisions around this 2011 budget last September: stabilize the city's finances with what we're spending over here in this ledger, with the revenue that we need over here. Now our job, my job, the council's job, with the people, is to manage both our expenditures and our revenues, and we need to continue to do that. So that will take us through '11. That will take us into '12. At some point we will address the other problems that are still on our "to do" list, and we will pick out of those with the people on whether we would use the half-cent sales tax authorization or some other means. All we're asking today is, give us tools. Let us make the choices on the local scene with the elected mayor, the elected council, and with the people involved in a consolidated planning effort. [LB357]

SENATOR ADAMS: And I assume then that you would agree with this language, that "to describe." You wouldn't want anything more definitive. For instance, like the language that's in state statute for LB840 where you have to really specifically outline how the tax will be used, I'm assuming, based on what you're saying, you'd prefer the language that's here, because it's broader. [LB357]

JIM SUTTLE: It is broader, and I think that's what we need to stay with. And I'm basing this and answering your question on my experience as I certainly worked around the country with my former employer HDR as we looked at different voter initiatives that were taken to the people for all kinds of things, from transportation, to housing, to commercial, to water controls, etcetera. So I think you need to have the concept there that you're going to apply this to, because the details will have to be worked out later as

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you get into design implementation and specific specifications. [LB357]

SENATOR ADAMS: And, of course, the onus is going to be on you to try to sell it to your voters. [LB357]

JIM SUTTLE: That's correct, and that's where it should be--on the mayor and the council. [LB357]

SENATOR ADAMS: Fair enough. Thank you. [LB357]

JIM SUTTLE: Okay. Thank you. [LB357]

SENATOR CORNETT: Senator Fischer, then Senator Hadley. [LB357]

SENATOR FISCHER: Thank you, Senator Cornett. Hi, Senator...or Senator--I keep demoting you. [LB357]

JIM SUTTLE: Well, thank you for promoting me. (Laugh) [LB357]

SENATOR FISCHER: Hi, Mayor. How are you doing? You know, I happen to be a firm believer, whenever a tax is implemented it's never going to go away, and I think most people believe that. If you're going to put a tax on me, it's going to be there forever, no matter what is said. What do you think about a sunset on this? That you can take this to a vote of the people, you can have this half-cent sales tax for a certain period of time, and then if you want to continue with it, you're going to need another vote of the people? [LB357]

JIM SUTTLE: I personally would ask you not to do that. But if that is what you wish to do, in your wisdom, then we're going to work with it. If you talk about flexibility...and as I said here, I don't have any preconceived notions on where and how and when we would apply this authorization. I would want to approach it very carefully and very delicately. But let's assume, for the sake of discussion, we were looking at two options. One, that would take it into some item where it's a matter of our general fund--let's just say vehicle replacement schedule that we can stay with. Because we have horrific needs in this. But let's look at another one over here where we want to use that as a bonding mechanism. We're going to have difficulties in the bonding market if we've got a sunset and we can't begin to project, actuarially, where this is to satisfy the bonds, and we would have to look at some other mechanism in order to guarantee coverage. And that might come back to the wealth of... [LB357]

SENATOR FISCHER: But couldn't you, with bonding, guarantee another portion of your sales tax? [LB357]

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JIM SUTTLE: That's correct. And we would come and have to look at it in another direction. And so...but this is, again, a delicate balance and I think we want to make sure that we have fail-safe mechanisms in here. And this is one of the things we did on our new stadium, because when they originally were proposing it, the last resort coverage of the bonds was the city of Omaha property tax. And I and others worked hard to make sure that that was not the case, because we did not know where this was going. And so I would ask for the flexibility. And if we are going to have the sunset, let's have some strong debate about the pros and cons and make sure if we are going to have a tool here, that the tool gives us the maximum flexibility. That's what I would ask. [LB357]

SENATOR FISCHER: Okay. Thank you. [LB357]

SENATOR CORNETT: Senator Hadley, then Senator Utter. [LB357]

SENATOR HADLEY: Senator Cornett. Mayor, thank you for coming down. I appreciate your visiting us here, and I'm interested always in your comment that you talk about, you know, interested in policy. Let me give you a question that if this reaches the floor, I know that it's going to be asked of Senator Ashford or it may be asked of myself, if I'm standing up in favor of this bill, it will be: Is it good policy for the state to give away part of the tax base of this state in the form of an additional sales tax to cities, that the state may need at some time later, to balance its own budget? [LB357]

JIM SUTTLE: Great question, and I know that question has been there for a long, long time before any of us got into our elected positions. But I would have you look at today and look at how we solidify what we do at the state level and at the local level. We are partners. The argument should not be inside our borders. We need to be flexible and we need to cooperate. And your cities, now, need that flexibility. The competition is out there beyond our borders in the world marketplace. We are competing with the lowas. We're competing with Texas. We're competing with the Chinas and the Indias. So let's get ourselves stronger here and help each other and a plan that works for both parties. And, right now, let's put it together the way it's proposed here. I think it's fair to the state. I think it's fair to the cities to give an option where the people can vote, and that at another point in time we can come back and make adjustments and changes when it needs to be done, 10 years from now, 20 years from now, or some other point. [LB357]

SENATOR HADLEY: Okay. And one other question. I have to look at my tie, and if it was red. And rarely a day goes by here that we don't hear the term "border bleed," whether we're talking about gasoline taxes, cigarette taxes, implement taxes, whatever. Is this a concern in a city of Omaha, from a competitive standpoint, if you were looking across the river at a different state and its sales tax structure? [LB357]

JIM SUTTLE: Well, that's a great question. But you're asking a businessperson. And

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when I was in engineering at HDR I welcomed the competition into Omaha--come on. We'll duke it out. Because in my mind it would make us better. I'm not afraid of competition. I'm not afraid of having Omaha compete with our fellow cities in Sarpy County or across in "Pott" County or whatever. We will be competitive. It's the foundation of our nation as a free...with the free market principles. So give us the tools and then we'll figure out how to be more competitive. [LB357]

SENATOR HADLEY: Thank you, Mayor. [LB357]

JIM SUTTLE: Okay. Thank you. [LB357]

SENATOR CORNETT: Senator Utter. [LB357]

SENATOR UTTER: Well, thank you, Senator Cornett. And Mr. Mayor, thanks for coming and testifying on this bill. I want to pursue with you just for a moment, if I might, the idea that I broached earlier about whether this ought to be just a simple majority or whether it ought to be some other more elevated figure. The reason I'm asking this question, and I want you to address this in your reply, is that we all know that not 100 percent of the people in the city of Omaha ever come to the polls. [LB357]

JIM SUTTLE: I think we just tested that, didn't we? (Laughter) [LB357]

SENATOR UTTER: And in a certain respect I see the potential for this to be--I hesitate to use this word--but "gamed" a little bit, depending upon when we place it on the ballot...would place this on the ballot. And is there any thought in your mind that, number one, knowing that not 100 percent of the people show up to voice their opinion, and secondly, that depending upon whether this is placed on the ballot, actually a very small percentage of the people of Omaha would make the decision as to whether this is an added tax for all of the people of Omaha? [LB357]

JIM SUTTLE: It's a great question. But, you know, let's be candid. We're not going to cure voter apathy by just mandating a supermajority. We're still going to have that small turnout. We need to focus, I think, on a simple majority. This gives us the fairness and is the foundation of so much throughout our constitutional democracy. But let's take this other problem that you've clearly identified--the voter apathy that's just sad in this country--and work on it and get those voter levels up. It's one of the reasons we're going to take a fresh look, with Douglas County in a cooperative effort, to make sure we have more places for the election commissioner to have staffed in our city so more people have an opportunity to vote in that 15-day window or whatever it is before the actual election date. So we need to work on the two problems. But I think in answer to your question, I would keep it at a simple majority so we can work with it. The people will understand what the truth is and what the proposal is, and the majority will rule and that's what we need to focus on. [LB357]

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SENATOR UTTER: Thank you. [LB357]

JIM SUTTLE: Okay. Thank you. [LB357]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB357]

JIM SUTTLE: Thank you for letting me be here today. You all have a great weekend. [LB357]

PAM SPACCAROTELLA: (Exhibit 5) Senator Cornett, members of the Revenue Committee, my name is Pam Spaccarotella, S-p-a-c-c-a-r-o-t-e-l-l-a, and I want to thank you for the opportunity to come down here and testify on behalf of LB357. And I think what I would like to do is focus my testimony today here on the pressures the local cities are facing and kind of give you a backdrop, I guess, as to why we feel that the option of a local sales tax is important to us as cities. I do believe that healthy cities make healthy states, and healthy states make healthy cities, so it's important to keep that in mind. In 2010, the city of Omaha collected approximately \$131.5 million in sales tax. Sales tax receipts for the city of Omaha are our largest revenue source for the general fund, and they make up approximately 20 percent of our overall fund revenues. So the sales tax is a very important component of the city of Omaha's financial stability. We use these sales taxes for all of our city's day-to-day operations; various city administrative and service departments, such as our police, our fire, libraries, planning, parks, recs, law, finance; all of those things that make up a normal, everyday city government. The most important thing to understand is what's happening from a revenue perspective on the city level, and particularly with respect to sales tax. From 1992 to 2000, the Omaha sales tax revenue increased approximately 6.4 percent per year--a significant amount. And that amount was what enabled the city of Omaha to grow. However, from 2001 to 2009, that increase decreased dramatically and we have experienced approximately 2.2 percent growth in sales tax over the last ten years--significantly less than what happened two decades ago. The reason for this decrease is as a result of on-line sales, shifts in consumer spending, increased exemptions, and economic development refunds. So we definitely have a downward pressure on our revenue stream. In addition to sales tax declining, we've also seen a decrease in the property valuation growth, and that has also put downward pressure on the financial condition of the cities. Coupled with revenue decreases, we've also had increases in our operating expenditures, significant increases in personnel and nonpersonnel costs that have risen on an annual basis much greater than the sales tax and the property tax. In order to focus or in order to combat these problems of decreasing revenues and increasing costs, the cities have resorted to major expenditure reductions. And, in fact, the city of Omaha has seen a reduction in their work force of over 10 percent for their fire and police and civilians. We've had 0 percent wage freezes. We've had cuts in our roads and maintenance. And

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we've also, as the mayor mentioned, had a significant decrease in our fleets. Because of that, the city has been forced to find efficiencies, and we've sought after efficiencies and our consolidation of city/county services, and we've also been able to consolidate 911, purchasing, parks, jail, and information technology services. So we've basically cut services and we've consolidated where possible. LB357 is an important piece for us as far as providing us with alternatives. Voting for LB357 is not an automatic increase in sales tax, but rather, it gives each municipality the option to go to the vote of the people in order to get an increase in sales tax. National polls have consistently shown that people prefer the sales tax over the property tax. The polls have also shown that consumers perceive the sales tax to be more fair. A sales tax also allows a community to export taxes; in other words, provides opportunities to tax people that visit their city, not those that live in their city. For the city of Omaha, the increase in the half-cent sales tax is approximately \$43 million, although it will give us the sunset on the restaurant tax of \$14.7 million. So the economic impact to the city of Omaha is approximately \$29 million. I'd be happy to answer any questions that you may have at this time. [LB357]

SENATOR CORNETT: Let's go in order then. Senator Adams. [LB357]

SENATOR ADAMS: Thank you. All at the same time. Thank you, Pam, for being here, and I realize you're the person that's trying to make the numbers balance and maybe isn't a broad tax policy person, but given the regressiveness of sales tax and the demographics of your city, does it concern you that this increase may impose a burden on a good segment of your citizenry that might be unfair? [LB357]

PAM SPACCAROTELLA: Actually, Senator Adams, it does concern me, and I would agree with Senator Hadley who talked about the regressive nature of the sales tax. But I also thought that Mayor Kindig did a very good response with respect to that issue, and there are sales tax exemptions that are out there that make it less regressive. I don't know if that answers your question or not. [LB357]

SENATOR ADAMS: It...thank you. Yeah. [LB357]

SENATOR CORNETT: Senator Fischer. [LB357]

SENATOR FISCHER: Thank you, Senator Cornett. Director, I just wanted to thank you for coming in this year on a number of bills. I think you have certainly provided me with a lot of good information, and you did so again today and I wanted to thank you for that. Thank you. [LB357]

PAM SPACCAROTELLA: Well, thank you for having me. [LB357]

SENATOR CORNETT: Senator Utter. [LB357]

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SENATOR UTTER: Thank you, Senator Cornett. And Ms. Spaccarotella, thank you for coming in again. It seems like...it almost seems like we're old friends. [LB357]

PAM SPACCAROTELLA: You even said my name right. (Laugh) [LB357]

SENATOR UTTER: Let me just ask you a question that I posed earlier. Of the \$42 million, the half-percent increase that you're estimating the half-cent increase would bring in, how much of that do you expect will be paid by non-Omaha residents and how much would be paid by residents of Omaha? [LB357]

PAM SPACCAROTELLA: The number that we have is approximately 20 percent. I believe--and I'm going to look at Steve Oltmans who got that number for us--so approximately 20 percent. [LB357]

SENATOR UTTER: I'm sorry? Twenty-eight? [LB357]

PAM SPACCAROTELLA: Twenty percent. [LB357]

SENATOR UTTER: Twenty percent. [LB357]

PAM SPACCAROTELLA: Twenty-five? [LB357]

STEVE OLTMANS: (Inaudible) that's what you said. And where you draw the line is between 20 and 25. [LB357]

PAM SPACCAROTELLA: Okay. [LB357]

SENATOR UTTER: Thank you. [LB357]

SENATOR CORNETT: Senator Hadley. [LB357]

SENATOR HADLEY: Thank you, Senator Cornett. Pam, thank you for coming in. And I echo Senator Fischer. We appreciate you coming in and giving us good information [LB357]

PAM SPACCAROTELLA: Thank you. [LB357]

SENATOR HADLEY: It always does amaze me when people do think of the sales taxes as a fair tax. [LB357]

PAM SPACCAROTELLA: Yes. [LB357]

SENATOR HADLEY: And I think the reason is, is you buy a candy bar for \$1 and you

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don't pay any attention, and you have to write a check a couple times a year for property tax or such as that. It becomes a lot of money. You know, I think we do need to give cities more tools as we go along. What would your--and maybe it is a policy question on a sunset--would that cause problems in your planning for the use of this additional half-cent sales tax? [LB357]

PAM SPACCAROTELLA: I think it would depend on how long of a sunset it was. I know that one of the things that we are doing, as far as financial stability goes, is we're trying to set aside money for reserves and we're also trying to look further out. So rather than just looking at the next year, we're looking at the next 2-5 years to try to project out what our revenues are. And our expenditures...a lot of our things are long-term contracts, and so we have to take into consideration that our union contracts are five years; our bond payments, you know, are significant, between 10-20 years. So it would depend upon when that sunset provision would be. [LB357]

SENATOR HADLEY: I guess the reason I ask that and I think somebody else has asked it a couple times, is that, you know, we have a vote of the people to get it in but we don't have a mechanism to get it out, except for the city council... [LB357]

PAM SPACCAROTELLA: Right. But... [LB357]

SENATOR HADLEY: ...changing. [LB357]

PAM SPACCAROTELLA: Sure. And I think that, Senator Fischer, you had asked about taxes that never go away. But, in fact, the restaurant tax has a sunset provision on it and will go away if we get a sales tax, and the city's property tax decreased in the year 1999-2000 significantly. So there are chances or opportunities in which taxes do decrease. So sometimes they do decrease without a sunset provision. [LB357]

SENATOR HADLEY: Thank you. [LB357]

PAM SPACCAROTELLA: You're welcome. [LB357]

SENATOR CORNETT: Senator Pankonin...oh. Senator Fischer. [LB357]

SENATOR FISCHER: Thank you. You said the restaurant tax will go away if this...if we...if you would happen to implement a new tax. [LB357]

PAM SPACCAROTELLA: Yes. [LB357]

SENATOR FISCHER: So that's kind of an exchange of taxes, wouldn't you say, instead of one just going away? [LB357]

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PAM SPACCAROTELLA: You could say that. Sure. [LB357]

SENATOR FISCHER: We like to pick at that a little bit. Okay, thanks. [LB357]

PAM SPACCAROTELLA: You're welcome. [LB357]

SENATOR CORNETT: Ms. Spaccarotella, you said that the half-cent sales tax would bring in \$45 million? [LB357]

PAM SPACCAROTELLA: No, it's \$43 million. [LB357]

SENATOR CORNETT: Forty-three million. [LB357]

PAM SPACCAROTELLA: Um-hum. [LB357]

SENATOR CORNETT: And if the restaurant tax goes away, that's... [LB357]

PAM SPACCAROTELLA: We budgeted \$14.7 million. [LB357]

SENATOR CORNETT: So basically... [LB357]

PAM SPACCAROTELLA: Twenty-nine million. [LB357]

SENATOR CORNETT: Twenty-nine million. How much are you losing with the removal of a wheel tax, total? [LB357]

PAM SPACCAROTELLA: \$2.8 million. \$2.8 million for the wheel fee. [LB357]

SENATOR CORNETT: And the commuter fee...or the commuter and wheel tax into the ETJ. [LB357]

PAM SPACCAROTELLA: The ETJ is \$3.1 million. The state aid is \$3.3 million. [LB357]

SENATOR CORNETT: And I'm sorry, could you repeat the commuter tax again? [LB357]

PAM SPACCAROTELLA: Commuter wheel fee is \$2.8 million. [LB357]

SENATOR CORNETT: So in the end, you're not looking at that large of an increase if you were able to pass the half cent overall. [LB357]

PAM SPACCAROTELLA: That's correct. I think that the most important thing that I wanted to get across, though, is it's not just...you know, the legislative session has

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enacted quite a few restrictions against the city's ability to raise revenue. However, that's not the only force that cities are facing. The sales tax revenue itself is not growing as fast as its expenses are growing. The rate of inflation and the cost...for instance, our MUD water bill is expected to go up 17 percent over the next two years, and 10 percent for electricity. And, you know, fuel costs. We all know what those are that the city is facing. Asphalt, I think I've testified on that before. So, I mean, it's not just the restrictions that have come out of the legislative session. It's a lot of other things that cities are facing. We don't have what businesses have, is the power to raise our revenue in a very easy manner. I mean it's very difficult and comes with a very costly price. So I just want to make sure that it's not...we're not just facing...we're not just looking at the items that we're losing. We're looking at the whole picture: the decline of revenues and increasing costs. [LB357]

SENATOR CORNETT: Senator Fischer. [LB357]

SENATOR FISCHER: Thank you. Just...I had forgotten what I was going to ask you earlier because of the "if." That threw me. [LB357]

PAM SPACCAROTELLA: Because you had a very good point, huh? (Laugh) [LB357]

SENATOR FISCHER: I had a very good point and I think I remembered it. [LB357]

PAM SPACCAROTELLA: Okay. [LB357]

SENATOR FISCHER: I'm just curious. Omaha bonds. Correct? [LB357]

PAM SPACCAROTELLA: Yes. [LB357]

SENATOR FISCHER: How are those bonds backed? Are they backed with your current sales tax? Because that's not a stable revenue source. As you said, the sales tax is decreasing. So how do you back your bonds? [LB357]

PAM SPACCAROTELLA: The general obligation bonds are backed with the...they're paid with property tax. But then the city has the revenue bonds that are backed with a specific source of revenue. And then we have the CSO bonds. Of course, those are backed with the sewer revenue, so. But the one...with the general obligation bonds, what's important about the sales tax revenue is it goes to speak to the rating that's given to the bonds. If I have a stable revenue source for my general fund obligations then, generally speaking, I have a higher rating on my bonds--my general obligation bonds. [LB357]

SENATOR FISCHER: But if sales...I guess I'm looking at this bill specifically. Do you feel that you will be using that if you would take this extra half cent? Would you use it for

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bonding? I just don't think it would be a stable source of revenue that you would be able to use for bonding. [LB357]

PAM SPACCAROTELLA: No, we wouldn't be using it for bonding. And the mayor is exactly right. There is no decision yet to put it on a ballot. There is no decision yet as to how to use those funds. [LB357]

SENATOR FISCHER: Right. Right. [LB357]

PAM SPACCAROTELLA: So all I'm saying is it gives us another opportunity or another revenue source in the event that we need it. We don't want to face what we faced over the last two years, which is drastic cuts in order to balance the budget. [LB357]

SENATOR FISCHER: You mentioned on the sunset question that it could be a problem with regards to bonding, and that's why I'm asking you this, because you said some of your bonds go 10 years, some go 20 years. How would a sunset on this tax...say it's a 10 years, and then you have to take it to the vote of the people again. How would that affect it? [LB357]

PAM SPACCAROTELLA: It would depend on how that revenue was being used. If the revenue was being used in order to fund the pension obligation and in ten years it would go away, then the credit rating agencies would be less likely to say you're stable financially, I'm going to give you a AAA credit rating. They might downgrade me because they don't know what my actions would be when that revenue stream would go away. [LB357]

SENATOR FISCHER: But during that ten-year period, couldn't you take other action in order to improve the credit rating of the city without being dependent upon that half-cent increase in sales tax? [LB357]

PAM SPACCAROTELLA: Yes, we could. Um-hum. [LB357]

SENATOR FISCHER: Okay. Thank you. [LB357]

SENATOR CORNETT: Ms. Spaccarotella, let me ask you one other question. To what do you attribute the decline or the flattening of sales tax? To the economy? Or what are you losing...what do you project you're losing in on-line sales? [LB357]

PAM SPACCAROTELLA: I think it's a combination of a lot of things. I think it's a combination of on-line sales, although I will tell you I think we're getting better at collecting our sales tax on on-line sales. I think it has to do with consumer spending and urban sprawl. I think it has to do with sales tax exemptions. I think there are a variety of things that are impacting the sales tax revenue. [LB357]

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SENATOR CORNETT: When you said that you're getting better at collecting on-line sales, do you mean at the state level, or at the city level? [LB357]

PAM SPACCAROTELLA: Yes, I think it's at the state level. Yeah, I think they're doing a better job. At least that's my impression. [LB357]

SENATOR CORNETT: So it would be more the sales and use tax... [LB357]

PAM SPACCAROTELLA: Yes. [LB357]

SENATOR CORNETT: ...that you're referring to. [LB357]

PAM SPACCAROTELLA: Yes. [LB357]

SENATOR CORNETT: Not to the part that's contributed through streamline. [LB357]

PAM SPACCAROTELLA: Not the part that's...? I'm sorry? [LB357]

SENATOR CORNETT: That's contributed to the state through streamline. [LB357]

PAM SPACCAROTELLA: Yes, I think that's correct. [LB357]

SENATOR CORNETT: Senator Hadley. [LB357]

SENATOR HADLEY: I guess I'd like to make a comment rather than a question. It's interesting, there's four former mayors sitting on this side of the desk. And I want to say I think the cities are doing a good job across the state in trying to control costs. And I think that we need to make sure we don't spend all our time talking about decisions that were made 5, 10, 15, 20 years ago. There is nothing worse, from an accounting standpoint, than a sunk cost, because there's nothing you can do about it. So I just...I think across the state I think our cities are doing a good job and the counties at the local government level in trying to balance their budget. So I think we need to look at the tools to maybe help them with that job. [LB357]

PAM SPACCAROTELLA: Thank you. [LB357]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB357]

PAM SPACCAROTELLA: Thank you. [LB357]

ALAN MICHL: Chairperson Cornett and members of the Revenue Committee, good afternoon. My name is Alan Michl; last name spelled M-i-c-h-l. I am the chairperson of

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the Exeter village board. So we're going to go to the other end of the spectrum here. I represent small cities and villages. And a lot of them, and most of them, are up against or close to the lid in levy limits. I'm here in support of LB357, and I would also like to thank Senator Ashford for introducing this bill on behalf of the league. Just a little bit of history and tell you where we're at compared to some of the bigger cities that we've been talking about. Exeter, 50 miles west of here, has 590 people. We had a 17 percent decline in population from 2000; 121 people left. We have a valuation of \$23 million. Our levy is at 43.3 cents and we have a bond indebtedness of 20.5 cents. In 1996, we had five full-time employees and we had a levy of \$1.05. Right now, we have one full-time employee and a levy of .433. We have eliminated services, such as a full-time clerk, full-time librarian, and a full-time police department. Our city employees have no health insurance. We have a 125 retirement plan and...or a retirement plan and then (inaudible) retirement plan for them. Currently, we do have a 1.5 percent local option sales tax. As of 2008, we did not. Come (inaudible), you know, in a small town. Our swimming pool: 40 years old. It was a 20-year pool...it was supposed to last 20 years. Well, it was 40 years old; it was worn out. We visited with community leaders and everything. We felt that it was something maybe that the community needed. So what we decided to do is maybe propose the 1.5 local option sales tax, along with a bond issue for a new swimming pool. It was voted on. Passed by 75 percent margin. And, right now, the income from the sales tax generates about two-thirds to three-fourths of the bond payment for the swimming pool--\$1.3 million swimming pool. And that's just one...you know, and that's just one example of what sales tax can do for the small communities. As a small community we still have to try to continue to improve and expand our infrastructure, but it remains a difficult task because, as you know, you know, smaller population, more burden put on the people that have property in that community. I think this is a very important bill. Our revenue sources are being eliminated, and also this would allow communities to decide whether to increase our local sales tax to go up to 2 percent and we need to balance our loss of revenue with the option to get some of that revenue back without increasing property tax. As you can tell, we've cut about as far as we can cut. This would also put the increase in the hands of our constituents. It's their choice. You know, if they want the increase in sales tax, or they want the sales tax, to begin with, it was their decision. I've always felt that this was a responsibility of the local government to make the taxing decisions that pertain to our community. We're there. We're in the community. We see what people need. I felt that way...I've been on the council since 1988, and I still feel that way today. And I thank you for your time. Any questions? [LB357]

SENATOR CORNETT: Questions from the committee? Senator Adams. [LB357]

SENATOR ADAMS: Just out of curiosity, based on what you've said, you were able to sell your 1.5 on the need for a swimming pool, and the community could rally around that. [LB357]

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ALAN MICHL: Correct. [LB357]

SENATOR ADAMS: What would be your description of how you would use another half cent to your community, would you think? [LB357]

ALAN MICHL: Well, I would think, since it was, like we rallied around the 1.5, I think we would need to focus on another project, you know, or something that we felt that we would need--say, for instance, street improvements or sewer projects or water projects. Some of that bond indebtedness we have right now is water and sewer. But...and that's basically where, you know...and I think...and I know...that's where we would have to do it to try to sell it to the public that way. [LB357]

SENATOR ADAMS: Okay. [LB357]

SENATOR CORNETT: Further questions? Seeing none, thank you. Next proponent. May I see a show of hands for the number of proponents left? [LB357]

DONALD GROESSER: Chairperson Senator Cornett, thank you, and Senators on the Revenue Committee. My name is Don Groesser, G-r-o-e-s-s-e-r, and I'm the mayor of Ralston, Nebraska. I would also like to, first, thank you, each of you, for your service. This has probably been one of the most difficult legislative sessions that you've had in recent years, and with budget issues of far-ranging impacts, issues that not only impact the state, but impact education, our counties, and of course, in my case, the cities. I'd like to thank Senator Ashford for introducing this bill. I am not testifying in favor of a sales tax increase. I repeat: I'm not appearing in front of this committee to testify in favor of a sales tax increase. I'm appearing to support Senator Ashford's proposal of LB357 to allow the cities an optional increase in the sales tax base. Again, Senator Ashford's proposal provides an option to the cities; not a mandate to raise taxes. Senator Ashford's proposal of LB357 provides a pathway for cities to manage its finances, and I believe that the government--in my case, city government--cannot be run like a private-sector business, but government can be run in a businesslike way through responsible budgeting and local decisions. I see LB357 as another tool for local government and as citizens determine how to proceed from now on and into the future. I will close by saying that I have every confidence in the people that pay the taxes in making the right decision. I ask for your support of LB357 and would be happy to answer any questions. [LB357]

SENATOR CORNETT: Seeing none, thank you. Next proponent. [LB357]

STAN CLOUSE: Good afternoon. My name is Stan Clouse, C-l-o-u-s-e, current mayor of Kearney. So, Senator Cornett and the committee, thank you for having this opportunity to speak on this issue, and thanks to Senator Ashford for introducing this bill. The way I would like to approach this is the value of using the sales tax as a tool for

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each community to advance the needs in their community. And we went through this several years ago, almost exactly described as in this bill. Our sales tax generates approximately \$3 million a year for each half-cent sales tax. So a number of years ago, when we implemented the 1 percent, they reduced the levy from over 30 cents to down to around 7 or 8 cents. Over time, we started seeing creep. And then as we talked to our citizens, we said, well, we can keep increasing property tax, but we don't raise enough to provide all the needs and the wants of the community. We went out and had listening sessions and we talked to our citizens and said: What do you want in our community? And they gave us a laundry list. We said we can't just do that on property tax but we do have another tool, which is the sales tax. So we put a plan together, called it a capital improvement plan. We laid it out for our citizens, and said: If you vote on this, this is what we're committed to do. And our citizens approved it. And since then, we have used that \$3 million as almost another set-aside revenue stream, and we've met the needs and the wants of our community. We are currently going through that same process. Had approximately 40 listening sessions to any group that wanted to talk to us to see what are we after now, what's the next needs for the community of Kearney. And Kearney is one of those communities that we had 12 percent growth in population. Our sales tax, I think we had maybe one month in the last several years. It was flatlined. Every time it's been an increase. So sales tax is an important part of how we manage our city business. We also have gone through the municipal equalization tax. We get no funding on that. Municipal aid is approximately \$230,000, of which that would equate, if we were to take that out of property tax, about a 9 percent property tax increase. So we've been looking at, how do we offset that, how do we prevent ourselves from trying to have a property tax increase? So we've used these. And I've talked to Senator Hadley's comment about regressive tax. We've used our sales tax to build...help our parks, build new senior centers, build a new library, community centers, ride buses--it's all capital improvements. So that's how we've helped those with the lower income, so that everybody from every income level benefits from our capital improvements sales tax dollars. So it isn't an automatic tax, and I'm not sure that we would use it if we had to, but it's sure nice to have the ability to do that if we identify needs in our community and our citizens vote for it and they want it. So I would encourage you to support this bill. [LB357]

SENATOR CORNETT: Senator Hadley. [LB357]

SENATOR HADLEY: Senator Cornett. Mayor Clouse, is it true that all the heavy lifting was done by the former mayor, and you've just been able to come along and...(laughter)...reap all the benefits of this extra asset sales tax that Kearney has? [LB357]

STAN CLOUSE: I was going to make a comment that it's your birthday, so I wasn't going to say that the previous mayor had property tax increases every year until the current one got in there. We've gone four years without a property tax increase. [LB357]

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SENATOR HADLEY: Okay. I'll take my comments back. (Laughter) [LB357]

STAN CLOUSE: So ever since Senator Hadley's been out of office, we've had no property tax increases. (Laughter) [LB357]

SENATOR CORNETT: Well, I think we'll move on. (Laughter) Any further questions? I think we're done. Thank you. [LB357]

STAN CLOUSE: Okay. Thank you. [LB357]

LYNN REX: (Exhibit 6) Senator Cornett, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And if the pages would come forward, please, or the page rather. I, too, would like to thank Senator Ashford for introducing this measure. This is a very important bill for municipalities, not just every year but certainly this year especially, and I'd like to indicate to you that there are 189 municipalities currently with a local option sales tax; 76 of the 189 are already at the 1.5 percent cap, as you would say, on the 1.5 cent sales tax. And one of the things that I think is very important to note is that in 1986, when Governor Kerrey was the Governor of this state, we were successful in passing LB890 and LB890 allowed cities to put on the ballot how they would use the funds. And we really appreciate the way that Senator Ashford drafted this bill because it does indicate that you specify how those funds are used. We passed a bill specifically for that purpose back in the Kerrey administration so cities could, in fact, do that. We think that's very important. I will note that of that 189 municipalities that currently have a local option sales tax, there are a number of them that are no longer on that list because they had sales tax and it was sunset. It was for a specific project and it was sunset. But we do hope that you'll be kind enough to advance this bill to the floor. We would prefer not to have the sunset simply because the needs are so different from municipality to municipality. Of the 530 municipalities in the state of Nebraska, as I've testified before, over 240 of them are already up against their maximum levy limit and that levy limit is 45 cents plus 5 per \$100 of valuation. We have a large number of those that can't even raise the amount of money in restricted funds to get what you allow them to spend, which is the 2.5 percent plus 1 over the prior year restricted funds. And I do think it's very important to underscore the fact that when you have local option sales tax and an increase in local option sales tax, those constitute restricted funds. So obviously, if the pie gets bigger from a different area, the pie goes down someplace else, and that's what's important. Local option sales tax has been the single most important way in which municipalities in this state have been able to reduce property taxes and that for many, many, many years was the mantra that state senators had to local governments and the challenge that Senator Warner and others gave to local governments, which was please reduce property taxes. And that's why so many folks tried to do that. And in addition to that, especially for the gentleman that's here from Exeter, Nebraska, they

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had a very tough challenge back in 1996 because in 1996 the Legislature passed LB1114 and in that year you gave...the Legislature gave those municipalities two years to go from \$1.05 per \$100 of valuation down to 45 cents plus 5, and virtually all villages of this state, every one of them, was up against \$1.05. So not only did they make significant cuts in their levy; they've been struggling ever since. And that's why more and more villages are looking at local option sales tax as an opportunity. So in closing, I just want to thank you again for your patience this afternoon and I'd be happy to answer any questions that you might have. [LB357]

SENATOR CORNETT: Instead of us imposing a sunset, how about imposing a sunset requirement in the ballot initiative that the municipality, when they spell out the use, also spells out the time frame that they need it for; rather than us trying to pick a sunset date for everyone, to allow them to pick that date for themselves? [LB357]

LYNN REX: I think Mayor Suttle had a very good answer to that, Senator Cornett, which is that obviously we prefer not having the sunset, but if the committee was to have a sunset, that would certainly be one way to do it. I would tell you though that many of them would probably look at very specific types of issues. Some of them it would be more general. I could see some of them using this kind of revenue source to help with certain industries and other sorts of things, too, not to just give money to the private sector, because they're not allowed to do that, but to do the types of infrastructure needs that they need to do to attract industry. For example, when you get a major industry, you've got to make sure that you've got the wastewater treatment plants to accommodate them without having stranded costs. That's an issue that's happened in city after city where companies will come in, they need to have certain types of needs, and you've got to be able to meet those needs or you don't get those companies. But those are infrastructure-type costs. [LB357]

SENATOR CORNETT: Further questions from the committee? Senator Hadley. [LB357]

SENATOR HADLEY: Senator Cornett. Ms. Rex, thanks for coming in. As a general rule, and maybe it's hard to answer, how does Nebraska rate on local option sales taxes when we look nationwide? Are we generally higher than most states in allowing local option sales taxes, lower, or is there any data on that? [LB357]

LYNN REX: I will need to get back to you on that, but I will give you anecdotal information,... [LB357]

SENATOR HADLEY: Yeah. [LB357]

LYNN REX: ...just from talking to my colleagues at National League of Cities meetings and other types of environments like that, that basically we're about in the middle. [LB357]

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SENATOR HADLEY: In the middle? That's what I would... [LB357]

LYNN REX: I mean there are many states that allow local option sales tax much, much higher than what we have here. Colorado, for example, for years allow...I think they still do, they allow their municipalities to even determine what the base is. We don't think that's a good idea. We strongly support streamlined sales tax. We think it's very important the state itself set the base on that issue. [LB357]

SENATOR HADLEY: Okay. Thank you. [LB357]

LYNN REX: You're welcome. [LB357]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB357]

LYNN REX: Thank you for your patience. [LB357]

SENATOR CORNETT: There any further proponents? Opponents? [LB357]

RICHARD HALVORSEN: Thank you. My name is Richard Halvorsen, H-a-l-v-o-r-s-e-n, and I know you senators have done a pretty good job so far about cutting down the occupation tax, the old computer tax, aid to counties and local governments, but I say give it back. Because if you're for this, the taxpayer will be a net loser over all. Senator Hadley, you're right, the sales tax is the most regressive tax in the nation, hits the low-income families the hardest. And again, it's easy because most people don't pay attention to it. If you're buying a car or maybe a set of furniture, you know, it stands out. Again, like I say, people make a \$9 purchase, don't realize, you know, don't pay any attention to it. I notice we're not talking about a local option income tax. To me, that would be the more fair advantage, to have a local option income tax. And the bill does say that you have to state the reason for this on the ballot, but you state something like roads, what does that mean? Building roads? You know, I mean that's pretty vague. Is it building roads, maintaining roads, plowing roads, patrolling roads? So that could be pretty vague. I mean you could put money in that and, plus, money that goes there, that means they can take that money they would have spent and put it in the general fund. So I don't know if that makes a difference or not, unless you have specific language more like on a bond issue, you know, we'll build this sewer system, if that makes a difference. And again, Senator Utter mentioned about elections, yes, a lot of people, there's low turnout for elections. You can kind of manipulate them too. A few years back Lincoln had a school bond issue that got finally turned down, one that finally got turned down. Was in a general election. So next year they had a special election actually on Valentine's Day with one issue. And again, an election like that, you know, people who are really for it tend to turn out, and other people who are wishy-washy just stay home. So of course, it passed. And again, you say the people would have a vote. Well, we

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had, for example, we had a vote here on the Haymarket Arena here in Lincoln. Again, it's an occupation tax on food. Well, the proponents got all sorts of contributions from contractors and, you know, bond-issuing people and they had TV ads with Tom Osborne, you know, like I don't know how many times that thing was on. They had consultants. They had buses to bus students to the election office to vote because they'd be gone during the election, and the opponents, well, they had bake sales, you know, they had volunteers passing out little pamphlets. And I'm not...so the pro...and this I think again is the same thing as sales tax, again, like how many people here showed up, you know, for...to speak in favor of this. It's going to be the city or the citizens might...don't understand the full ramifications. Again, the Haymarket deal, some people still don't realize that this 2 percent of sales tax on food wasn't just for the Haymarket area; that if you're buying...eating at the Chinese buffet at 84th and O, you were still paying that percent. I know it was stated; again, a lot of people didn't realize that. So I say if you do, well, I hope you don't put this forward. Again, I think the...I, myself, am in favor of the property tax because I can easily deduct property tax. You know, I can't deduct the sales tax on food and things like that. So...and again, it's more in relationship to your income and, as I say, if it is put forward, again, I would hope a sunset clause be attached. Thank you. [LB357]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB357]

RICHARD HALVORSEN: All right. You're welcome. [LB357]

SENATOR CORNETT: Neutral capacity? [LB357]

DACIA KRUSE: Good afternoon, Chairman Cornett, members of the Revenue Committee. My name is Dacia Kruse, spelled D-a-c-i-a K-r-u-s-e, and I'm testifying in the neutral capacity on LB357 on behalf of the Greater Omaha Chamber. We are typically opposed to tax increases because they discourage businesses from investing, expanding, and locating in communities. They also discourage job creation and result in fewer people paying for important government services. However, we also believe there are times when it is important to take a step back and evaluate a community and our state's tax structure and policies, and now may be one of those times. Our research shows that the amount of money Omaha collects on all of its business licensing and occupation taxes is close to the amount a half-cent increase in the sales tax would generate, and I believe Omaha's finance director testified before this committee earlier this year to the...on a different bill to that same effect. As we have evaluated Senator Ashford's proposal, it seems that allowing the voters of Omaha to vote to increase the sales tax rate by a half cent is much more transparent than implementing several occupation taxes that many citizens do not even know they are paying. While we do not support giving the voters an opportunity to raise the sales tax in order to give the city increased spending capacity, we do think there is merit in giving the city increased

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flexibility to manage its tax structure. If the Legislature would provide Omaha and other cities with the opportunity to put this issue before its voters and the voters would support it, we would expect our local elected officials to offset this increase by lowering or eliminating other taxes in order to make for a more transparent tax structure. And with that, I'd like to end my testimony and be happy to take any questions. [LB357]

SENATOR CORNETT: Senator Utter and then Senator Fischer. [LB357]

SENATOR UTTER: Thank you, Senator Cornett. Dacia, I'm going to ask you the same question I've been asking others. Do you think this is a type of tax that should pass with just a simple majority of those who voted or should it be held to some higher standard? [LB357]

DACIA KRUSE: You know, we do not have a position or an opinion on that and if the Legislature believes it should be...there should be a simple majority or a super majority, either one, it would be up to the Legislature how they see that. [LB357]

SENATOR UTTER: Thank you. [LB357]

SENATOR CORNETT: Senator Fischer. [LB357]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Ms. Kruse, for being here. I believe I heard you correctly when you said that you would expect cities to lower other taxes if this tax would be implemented. [LB357]

DACIA KRUSE: We would expect our city to do that. I mean not...I mean we would not have a position on what other cities would do. [LB357]

SENATOR FISCHER: Would...you would expect then Omaha to lower another tax, an occupation tax, a property tax, some other tax that would equal the amount that they would be receiving from an increase in the sales tax? [LB357]

DACIA KRUSE: To help offset...I mean to help offset the increase in what the sales tax would generate. I mean Omaha officials have testified already that the restaurant tax would go away if... [LB357]

SENATOR FISCHER: But it wouldn't offset completely. [LB357]

DACIA KRUSE: No, no, that would not offset. That's correct. [LB357]

SENATOR FISCHER: But you would expect them to offset. So why would they even...if they were going to do that for you, why would they even implement this tax? [LB357]

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DACIA KRUSE: For us, this is about transparency and making a more transparent tax structure, not about generating additional revenue for cities to be...for our city to be able to spend but so that we would have a more transparent tax structure. [LB357]

SENATOR FISCHER: So, in effect, you're saying the Omaha Chamber is supporting sales taxes over occupation taxes. [LB357]

DACIA KRUSE: We believe that is more transparent to citizens of our community. [LB357]

SENATOR FISCHER: But the Omaha Chamber is not supporting any increase in revenue from a tax. [LB357]

DACIA KRUSE: We are not supporting tax increases for the sake of increasing taxes for spending. [LB357]

SENATOR FISCHER: Interesting position. Thank you. [LB357]

SENATOR CORNETT: Trying to find the right way to word this. [LB357]

DACIA KRUSE: Okay. [LB357]

SENATOR CORNETT: And it's Omaha specific... [LB357]

DACIA KRUSE: Okay. [LB357]

SENATOR CORNETT: ...because that's who you're representing. If you're talking about offsetting, there's an ordinance in place that eliminates the restaurant tax upon passage of a half-cent sales tax, correct? If you do not allow them the additional spending authority with the tax and you're faced with a situation of raising property taxes to fund the pension plan or going to a vote of the people for a half-cent sales tax, do you support then the ability to increase the sales tax so they don't have to raise the property tax? [LB357]

DACIA KRUSE: I'm sorry, Senator Cornett, will you ask the question, because I'm not sure I follow, and that's my fault. I apologize. [LB357]

SENATOR CORNETT: Okay. The city is facing an unfunded pension plan, correct? [LB357]

DACIA KRUSE: Uh-huh. [LB357]

SENATOR CORNETT: At some point, they're going to have to have money for that,

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correct? [LB357]

DACIA KRUSE: Okay. [LB357]

SENATOR CORNETT: If they have a choice, if they do this, they have a choice or the voters have a choice between sales tax or property tax, but what you're saying is you wouldn't...don't want to allow them any additional revenue for spending, correct? [LB357]

DACIA KRUSE: Correct. [LB357]

SENATOR CORNETT: How would you view the passage of a half-cent sales tax to fund the pension plan? [LB357]

DACIA KRUSE: I mean I guess we would say the pension plan should be dealt with in other manners with other legislation. [LB357]

SENATOR CORNETT: How would they do that without the property tax? I think you're talking about a half a billion dollars, aren't you? [LB357]

DACIA KRUSE: Pardon me? [LB357]

SENATOR CORNETT: How would they manage to do that without going to property tax? [LB357]

DACIA KRUSE: I mean and I know we haven't talked about it I guess in that aspect, so I don't have an answer to that specific question. [LB357]

SENATOR CORNETT: So maybe they should raise the property tax and then pass the half cent to lower the property tax? [LB357]

DACIA KRUSE: Like I said, we haven't talked about it in that specific, using it for pensions, and so I don't have an answer to your specific question. [LB357]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. Is there anyone else in a neutral capacity? Senator Ashford, you're recognized to close. [LB357]

SENATOR ASHFORD: Thank you, Chairman Cornett, and thank you to the committee. This is a great committee and the questions are super. Thanks to the mayors who came down. In 1969, I was actually working in the Legislature for Clifton Batchelder when the...I don't know, I've spent my whole life here I guess, (laughter) but at least in 1969 and Cliff Batchelder, we had the bill to allow for sales tax for cities and I think the last

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raise of that was in '78 when the sales tax authority went up to 1.5 percent. I wasn't there then actually...wasn't here then, but I was here when we did pass LB775 and it was Vard Johnson, obviously, as Chair of this committee, and Kay Orr that brought that bill to the floor and it was significant. It did have an impact on sales tax receipts because it was a credit against sales tax, but it also, in my view, went a long ways towards making Nebraska what it is today but at a cost. And it was at a cost to the cities and I think that point has been made. And the issue of the pension is a great question. I won't go into it in any depth, but I do want to thank Senator Hadley for all the work he's put in this summer, fall and winter on issues involving pensions and labor relations. He's done a lot of work with that. As far as how you structure this bill is really up to you. You have the expertise, clearly, to structure a proper approach to sales tax. I think the decision in the late '60s was made for the state to go to a sales tax to...over a property tax, certainly personal property tax. That was a policy decision made by the state many, many, many years ago. Where that rate should be, how much of that authority should go to the cities is in question for debate. It's been 33 years since we've given the cities any authority. I think that's an appropriate amount of time to wait. But again, I would leave it up to the expertise of this committee. Thank you, Madam Chair. [LB357]

SENATOR CORNETT: Questions from the committee? Senator Utter. [LB357]

SENATOR UTTER: I'd like to just pose my... [LB357]

SENATOR ASHFORD: Question? [LB357]

SENATOR UTTER: ...question to you, Senator. [LB357]

SENATOR ASHFORD: It's a great question. I, you know, we did this Qwest Center vote and I think it was 61 percent is what we...or 62 percent for the sale...for the Qwest Center bonds. You know, certainly I think a majority vote would be something that I would be...I would favor generally. I think a plan that would...but I absolutely get your question and I think it's well...it's a thoughtful question. I think the way that this...again, and I may sound...it may sound a bit silly, but I do think we're into the twenty-first century now, Omaha is one of the generators of economic growth for our state. We have to...Omaha really must have a vision to where it's going in the next 25 years. I think that we, if we have a discussion, I was asked this question on the radio last night (laugh), same question, and I think if we have a brisk discussion about the issue and how the tax...how our tax system interfaces with growth for our city, I think it will generate quite a bit of interest and activity in any vote and, therefore, I still think the majority vote is the right way to go. But I get your point. Thank you, Madam Chair. [LB357]

SENATOR CORNETT: Seeing no further questions, that closes the hearing on LB357. Why don't we take a five-minute break? [LB357]

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BREAK

SENATOR CORNETT: All right. Senator Haar. Why don't we go ahead and begin the hearing?

SENATOR HAAR: (Exhibit 7) That's fine with me. Okay. Well, thank you. It's actually the first committee hearing. When I walked in, everybody walked out (laugh), but I kind of like that. I kind of like that. This is a fix on a revenue bill that we passed several years ago. Next metering was passed two years ago to allow consumers to generate their own electricity through renewable resources and trade it one for one with the local utility, and basically, it's the diagram. When consumers generate electricity, they're going to probably almost certainly generate a lot less than they consume. Our intent was...the Revenue Department is saying that the sales tax has to be charged on A plus B, and the intent of the bill, and I believe of the body at the time was just to charge the sales tax on B, because it is a net metering and not a gross kind of situation. In terms of the fiscal note, we understand this will not be my priority bill, so, because there is a fiscal note, although it's small, it couldn't fit on the consent calendar. So I would just ask the committee to consider this, put it on hold till next year when we could debate it. That's it. [LB358]

SENATOR CORNETT: That's it. Okay, I was waiting. I'm sorry (laughter). [LB358]

SENATOR HAAR: No, I'm going to make it really short, because... [LB358]

SENATOR CORNETT: We appreciate short. Any questions from the committee? Seeing none, thank you. [LB358]

SENATOR HAAR: You bet. Thank you. [LB358]

SENATOR CORNETT: You are staying for closing, because you have the next bill up. [LB358]

SENATOR HAAR: Yes, I am. [LB358]

SENATOR CORNETT: Proponents? [LB358]

KRISTEN GOTTSCHALK: (Exhibit 8) I brought pictures, too. Senator Cornett, members of the Revenue Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the Government Relations Director and registered lobbyist for the Nebraska Rural Electric Association, and I'm here to testify in support of LB358. In fact, we brought this legislation to Senator Haar last year as a means to correct what we feel was an inappropriate ruling on the sales tax collection for net metering customers. The

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handout that I provided is very similar to Senator Haar's. It gives a background on what net metering is. Essentially, it allows somebody with renewable energy to generate their own electricity to offset their energy use, and we allow them to do this one on one. And it was our intent or it was an unexpected result that the Department of Revenue would rule that for every kilowatt hour of energy we delivered to a consumer, regardless of how much energy they generated to offset that use, that we would have to charge sales tax on that. It was our assumption we would be charging sales tax on the number of kilowatt hours that we billed at the end of the month rather than what we delivered in an offset. For an example, if a customer generates, over the course of the month, a hundred kilowatt hours, and let's say the utility delivered a thousand kilowatt hours by the consumer, and we delivered a thousand kilowatt hours, which essentially would make their bill zero, we still would be required to collect sales tax on that 1,000 kilowatt hours. Now, the Department of Revenue ruling is not something that we agree with. We don't agree that the ruling was correct, but we do know that it's in place and a fix is needed. We did work with the Department of Revenue. The legislation you have in front of you was actually drafted by an attorney at the Department of Revenue, so that we would be assured this would be the appropriate fix. The Department of Revenue ruling actually created some problems for a number of the member systems...my rural electric systems and other utilities that have net metering customers. When we originally introduced the bill, it was the thought that you could have a single meter that could run forward and backward and just give you the net at the end of the month. Well, with the ruling, it does require that there be at least two meters or a smart metering system that is capable of reading the energy going both directions. And for some systems, that added an additional cost. Another problem that we've recently run into is the billing software that's used by utilities, doesn't anticipate collecting anything other than what you are billing the customer for at the end of the month, not what we gross delivered, but what we net billed the customer for. So for those utilities, it will also mean that there will be an additional cost to have a custom fix made to billing software or those customers are going to have to be pulled out individually, hand calculated, and bills delivered kind of in the old-fashioned way rather than allowing us to use technology in place. We do believe that those costs are going to far exceed the revenues generated as a result of collecting sales tax on the gross. One of the other issues is I want to point out that we don't think that the fiscal note accurately represents. The fiscal note is not that large, although this year it doesn't take a large fiscal note to cause some grief. But many net metering installations are actually in ag situations where those consumers are already exempt from sales tax collection, so no sales tax would be collected on those. And I'm not sure that the fiscal note accurately reflected that. So, with that, that would be...conclude my testimony. I'd be happy to answer questions. [LB358]

SENATOR CORNETT: Questions from the committee? Senator Louden. [LB358]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, Kristen, this is...this actually is, I guess, a matter of opinion from the Department of Revenue, because on

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the part where they are furnishing gas, electricity, and all that stuff, it's a gross income receipt. Now, the question is, is that the gross income even after your net metering, or should you have taken that off, because that wasn't the gross income that you received from that net metering? So, there was no way that the Department of Revenue would come up with a different understanding of that? [LB358]

KRISTEN GOTTSCHALK: As I said, we disagree with the Department of Revenue's ruling and feel that the way you describe it is more accurate. We do not receive revenues for the kilowatt hours we deliver if they are offset by the customer's own energy use. They see those as two separate transactions. They're actually kind of converting what we did as a net metering bill to a net billing bill, treating our delivery of energy as one transaction, their delivery of energy to the system as a separate transaction, and that we had to handle those separately, so we don't agree with that. We feel that that's a... [LB358]

SENATOR LOUDEN: Yeah, and they were receiving...they did receive sales tax money now? [LB358]

KRISTEN GOTTSCHALK: They are receiving...I will say, though, yes, for those utilities that have taken the ruling to heart, they are receiving sales tax on the gross energy delivered, not on gross revenues, but the gross energy delivered. I would expect that there are probably a few systems, maybe a small municipal system that has net metering that may not be aware of the ruling or has not applied it correctly. [LB358]

SENATOR LOUDEN: Well, are there that many generation...residential generations out there that are doing this? I mean, a \$5,000 fiscal note and 11 and 22 and all that. I mean, that's anticipating that they can stick it to people for the next five years or so, and there can't possibly be that much generation out there. [LB358]

KRISTEN GOTTSCHALK: And we would agree with that, that we do think that the fiscal impact is overestimated in the fiscal note, that a number of facilities out there does not match that. And it's unfortunate we use the information provided to the Power Review Board as a matter of annual reporting on net metering. Gross kilowatt hours delivered was not one of the things requested by the Power Review Board, so that was not included in their report. So, for a good portion of that, those numbers would have been estimated, and generation capacity may have been overestimated as well. [LB358]

SENATOR LOUDEN: Okay. Thank you. [LB358]

KRISTEN GOTTSCHALK: Um-hum. [LB358]

SENATOR CORNETT: Senator Pirsch. [LB358]

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SENATOR PIRSCH: Thank you. And getting back to the original bill that was passed, the... [LB358]

KRISTEN GOTTSCHALK: LB436? [LB358]

SENATOR PIRSCH: Yeah, LB436... [LB358]

KRISTEN GOTTSCHALK: Um-hum. [LB358]

SENATOR PIRSCH: ...the...that electricity which is returning from the customer, that...are solar electric generators possible... [LB358]

KRISTEN GOTTSCHALK: Um-hum. [LB358]

SENATOR PIRSCH: ...and is it just...how is it defined in terms of permissible types of electricity the customer is returning...? [LB358]

KRISTEN GOTTSCHALK: I think in that handout you have, it's listed. I believe it's solar (laugh) biomath. I don't have the list in front of me. I'm going to...but it's the... [LB358]

SENATOR PIRSCH: Oh, does it...? Okay. But in any case, these are all the renewable...or the...right. [LB358]

KRISTEN GOTTSCHALK: Right. Anything that we have defined in statute is renewable so...wind, etcetera. [LB358]

SENATOR PIRSCH: Well, I think that, you know, what this is, is just...and the way in which you want to decide to interpret it. Is it two transactions or one...pardon me, one transaction, and, clearly, that's a policy issue to be decided by the Legislature as I see it. And, I guess, those...I appreciate your testimony, because when we're talking about, you know, things then that would be relevant with respect to setting policy, I suppose we're...on the front end of this issue, it's such a negligible amount that it will have important ramifications in 20, 30, 40, 50 years. It will build up to significant sums. [LB358]

KRISTEN GOTTSCHALK: It will build up. And, Senator, it's important to note that in a state like Nebraska where your energy rates are low, net metering is hard to balance out as a benefit to the consumer, because when your electric rates are low, you're not offsetting a lot with your renewable generation. And then to further, you know, diminish the return to the consumer with the net metering installation by charging them sales tax for energy they're not paying for...it seems to be counter to the process that we went through. [LB358]

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SENATOR PIRSCH: Well, it seems that to not go with this way, you'd be somewhat negating the effect that the Legislature had originally attempted to take with the underlying bill. Thank you. [LB358]

SENATOR CORNETT: Senator Hadley. [LB358]

SENATOR HADLEY: Senator Cornett, and I'll make this very brief. The last time the bill came, I had some concerns about whether or not it was one or two transactions, and those were met, and I have no concern now. I do believe that they need to be offset and sales tax on the net amount. [LB358]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. Next proponent? [LB358]

JOHN HANSEN: Chairman Cornett, members of the committee, for the record, my name is John K. Hansen, J-o-h-n Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union, and appear before you today as my organization's president and lobbyist. We are in support of LB358. We thank Senator Haar for bringing this technical correction bill forward again this year. But from our viewpoint, as we look at the kinds of things that we do for big wind, this is a small wind issue, primarily. It's also solar. The unintended consequences of the Revenue Department's ruling wastes the utility's time to do something that is complicated and stupid, yet is a miscarriage of justice relative to the small wind folks, who are being whooped over the head unfairly, based on the Revenue Department's ruling, which is not consistent with what the Revenue Committee or the Legislature had intended. So, we would take issue with Senator Haar, and we would say to you, that there is an injustice here relative to the little guys. And it doesn't amount to much except that per capita for the little guys, it is viewed as a poking in the eye with a stick. And it comes up time and time again when we talk to the small wind folks, and they say, you know, this is kind of a no-brainer, should have been fixed before. It should have never happened before--they're right. So I have some urgency in that I would like to see...I was disappointed; you did the right thing last time. We just didn't get it to the finish line, so this time, we'd like to try to find a way into a package to be able to move it forward. It's a small amount of fiscal impact, but it makes a big difference to the little guys. And so, relative to big and small wind, and we represent both, we would say that the small wind guys are being unfairly taxed. That amount of excess capacity that's in the commercial channel, that's fair game for sales tax. But you should not have to pay a sales tax on your own electricity that you produced and consumed. And so, it's a real fairness argument that they have. So, based on that, we enthusiastically support LB358, and would encourage you to do that which you have done before, which is to seek the necessary and appropriate remedy to give the Revenue Department the kind of guidance that they apparently need, although for those of us who have been working on this issue for a long time, we're not really quite sure how we got here, but we're here. And so, the fact that we are here, then we need to find

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a quick and as painless and as sure of a remedy as possible. So, with that, I will close my testimony and be glad to answer any questions if you have any. [LB358]

SENATOR CORNETT: Mr. Hansen, do you have an issue with the Revenue Department's interpretation of the law or the law the way it is written? There's two separate things there, because the Department of Revenue can only narrowly interpret sales tax, and if the bill or the law that is currently in place is not drafted to specifically address your concern, then I don't see that it's malfeasance on the part of the department, but rather an interpretation, and we need to remedy that. [LB358]

JOHN HANSEN: The Revenue Department argument and they're my friends, they're arguing the law, and based how they see it. But in terms of normal practice, and how a lot of other states have interpreted... [LB358]

SENATOR CORNETT: We're not talking normal practice here. We're talking about how...and what other states do. We're talking about how the current statute is written. [LB358]

JOHN HANSEN: Right. So, what I'm saying is if there is a problem, and Revenue is doing...is interpreting the law correctly, it is not consistent... [LB358]

SENATOR CORNETT: Then we need to change the law. [LB358]

JOHN HANSEN: We need to change the law. It is not consistent with what was intended, and so, whether the law was defective or whether the interpretation was defective is, you know, depending on how you read and interpret the law, I guess. But, you know, I just assume that whatever Revenue does, is. And so if...I know what was intended, and I know where we're at, and we're not where we intended. And so, therefore, I think a change in the law is appropriate, and if this bill is what Revenue is saying that they need in order to do it as intended, then we're all for it. [LB358]

SENATOR CORNETT: Thank you. Further questions? Seeing none. [LB358]

JOHN HANSEN: Thank you. [LB358]

SENATOR CORNETT: Next proponent. [LB358]

CHRIS DIBBERN: Good afternoon, Madam Chairman, members of the committee. My name is Chris Dibbern, and that's C-h-r-i-s D-i-b-b-e-r-n. I'm the general counsel and also a registered lobbyist for the Nebraska Municipal Power Pool. And I am here today on behalf of NMPP and the Nebraska Power Association. Two years ago, LB436, the net metering bill, passed the Legislature, and we thank Senator Haar and Senator Dubas for that legislation, which the NPA supported. The Nebraska Power Review

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Board has been tracking the numbers of applications, and there are 82 applications known in the state today. Net metering existed before the law passed with mutual cooperation. But the bill that passed allowed for standard rules and better understanding of interconnections. NMPP offers a net metering service to our members to help them to establish net metering policies, the application, the installation, and we do this in four states that we operate. There are many reasons that customers choose net metering. It's independence off the grid; it's new technology, and it's kind of the lure of innovation. They support green renewable applications, and Senator Pirsch was right...it's hydro, wind, solar, biomass. So this is specifically not just electric generation, but renewable generation. And there's also the perception of saving money. Utilities have worked with these self-generators, and the industry is growing. LB358 clarifies that it's the net energy generated that's the subject of the sales tax. I have heard accounts from our utilities. They are processing this in different manners. As you heard, if you had a smart meter, one may know the net amount, and you could simply charge the sales amount on the net and not the gross. If you had a meter that ran backwards, you may or may not know the net amount. If you had two meters, you might have charged it on both of the accounts as you've heard in the past. All of these metered systems are allowed under the law, but the interpretation is taxing them differently. LB358 is a right tax policy, and it's fair to the state, and net metering generators...we want to thank you for your help with these new generators, and the Nebraska Power Association supports renewable applications and fairness to net meters. Any questions? [LB358]

SENATOR CORNETT: Senator Louden. [LB358]

SENATOR LOUDEN: Yes. Thank you, Senator Cornett. And Chris, what's your interpretation of the law? [LB358]

CHRIS DIBBERN: Well, I'm not a tax expert, but I do appreciate the questions that the chairman asks here. If you look at the exceptions for gross receipts the way LB358 is listed, it tells you, here are some things accepted, and we're just trying to...I think what you're doing is telling them the policy...the policy as we think they should be accepted, too,...accept the gross income received from furnishing of electricity to a customer generated as defined in Section 70-2002. So you're just really clarifying all the exceptions that you always look at, and say, this one, too, is what we mean you should tax. [LB358]

SENATOR LOUDEN: Well, the difference is, if it was misinterpreted, you don't have to go through the whole process of getting this bill passed. You could start in immediately with not charging or not charging for the sales tax. That's what I'm wondering about is has anyone else challenged the interpretation that the Department of Revenue come up with. Did anybody challenge that? [LB358]

CHRIS DIBBERN: Not that I'm aware of, but the role of the utility and the role of the net

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meterer is a little different. But we did...it was news to us that Senator Haar said, maybe delay it, and I agree with Mr. Hansen. If you could possibly look to correcting this, it would be helpful. [LB358]

SENATOR LOUDEN: Okay. [LB358]

SENATOR CORNETT: I understand you said you were not an attorney. [LB358]

CHRIS DIBBERN: I am an attorney. [LB358]

SENATOR CORNETT: You are an attorney. Okay, I thought you said you weren't. [LB358]

CHRIS DIBBERN: No, I'm not a tax attorney. Sorry. [LB358]

SENATOR CORNETT: Tax attorney. Okay. I just heard attorney. Do you feel that the current existing law is unclear enough that we need this legislation? [LB358]

CHRIS DIBBERN: Yes. [LB358]

SENATOR CORNETT: So, you do not dispute that the Department of Revenue can interpret it the way it has been under existing law. [LB358]

CHRIS DIBBERN: I feel, as you mentioned, the Department of Revenue is very narrow on how they... [LB358]

SENATOR CORNETT: Well, isn't that the way it has been set up for sales tax, that it is very narrowly defined, and if the current law does not meet that definition, it has to be interpreted as taxable? [LB358]

CHRIS DIBBERN: Right. I mean, I don't disagree with...I don't want to disagree with my fellow supporters of the bill. I just understand how you interpret it too, that they narrowly... [LB358]

SENATOR CORNETT: So you feel this clarification is necessary. [LB358]

CHRIS DIBBERN: Yes. [LB358]

SENATOR CORNETT: Thank you. Further questions? Seeing none, thank you. [LB358]

CHRIS DIBBERN: Thank you. [LB358]

SENATOR CORNETT: Next proponent? Opponent? Neutral? [LB358]

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SENATOR HAAR: Well, thanks very much for the folks who came to testify. If there's some way to do this, this year, I would be more than happy to see that happen, because it's created a great deal of confusion, and I think a lot of extra cost for the utilities that are trying their best to comply with the law. I said, hold the bill if there's no other way to get...I would say advance it, and then we could go with it next year would be my suggestion. [LB358]

SENATOR CORNETT: Senator Hadley. [LB358]

SENATOR HADLEY: Senator Cornett, thank you. Senator Haar, when I read Part C which is, I think, the part that we're dealing with, do the utilities send a bill that just...can they send a bill that just shows the net amount? [LB358]

SENATOR HAAR: Yes. [LB358]

SENATOR HADLEY: Well, you know, maybe I'm not an attorney, but it says in the furnishing of gas, electricity, sewer, and a lot of services, the gross income received from the furnishing of such services, upon billings or statements rendered to consumers for such utility services. So I just wonder, you know, if they just give them a bill that doesn't list the gross and, you know, just lists an amount, whether that would satisfy. You know what I'm saying? [LB358]

SENATOR HAAR: Well, I think there may be some ways to sort of mess around with this that might work or might not, but I think the bill that we've introduced would clarify to the point where there would be a clear and consistent way to do it. [LB358]

SENATOR HADLEY: Well, I understand that,... [LB358]

SENATOR HAAR: Yeah, yeah. [LB358]

SENATOR HADLEY: ...but it may be hard to get it on the floor and you've got some timing issues. That's...okay. [LB358]

SENATOR HAAR: Yeah, yeah. [LB358]

SENATOR CORNETT: Further questions from the committee? Seeing none, were you ready to close on that and start on LB359? [LB358]

SENATOR HAAR: Yes, yes. Yeah. And my closing would just be, you know, I hope...if there's a way to get this through, if the committee sees a way to get it through this year, that would be nice, and if not, I would ask you to advance the bill, and we could vote on it next year. And that's it. I'll also make my next bill short. LB359, again, comes out of...I

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believe with what are almost some promises made years ago to Danny Kluthe when he set up his methane digester. And he is currently the only one in the state doing such a thing. But LB359 changes the zero emission tax credit to the renewable energy tax credit, and the glitch in this which was before I came to the scene, this allows methane digesters to take advantage of the tax credit, because technically, burning methane--there is an emission, and that's been the glitch in that part. So this would change it from zero emission tax credit to renewable energy tax credit. There is no fiscal note connected with this, and so, I believe that we would try to put this on the consent agenda to just get it dealt with. [LB359]

SENATOR CORNETT: Senator Fischer. [LB359]

SENATOR FISCHER: Thank you, Senator Cornett. I see Senator Haar, that you have taken out the sunset on this. It was...this was going to sunset, I think, in January of 2018? [LB359]

SENATOR HAAR: Okay. And... [LB359]

SENATOR FISCHER: Why did...I'm just curious why you took out a sunset. [LB359]

SENATOR HAAR: I do not know. [LB359]

SENATOR FISCHER: I kind of like sunsets so. [LB359]

SENATOR HAAR: Yeah. I don't know. [LB359]

SENATOR FISCHER: Okay. [LB359]

SENATOR HAAR: I'll blame my legislative aide for that (laughter). [LB359]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB359]

SENATOR HAAR: Thank you. [LB359]

SENATOR CORNETT: First proponent. [LB359]

KRISTEN GOTTSCHALK: (Exhibits 9, 10, and 11) Senator Cornett, members of the Revenue Committee, my name is Kristen Gottschalk, K-r-i-s-t-e-n G-o-t-t-s-c-h-a-l-k. I'm the Government Relations Director and registered lobbyist for the Nebraska Rural Electric Association. I am here today providing testimony in support of LB359. I have also submitted testimony on behalf of Danny Kluthe, who we heard mentioned before. He is attending our national annual meeting. He's also one of my directors for Cuming County Public Power District, so he is a methane aficionado, the first and only

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independently operated methane digester in the state. I would be happy to answer any questions you have on that. I did provide some background information--a couple of articles. Danny is not here to toot his own horn, but his project is fairly amazing, and I wanted you to have that information without taking the time up during the hearing. As Senator Haar mentioned, we did pass renewable energy tax credit bill, and we passed that way back in 2006. And, in fact, when we passed it in 2006, we acknowledged that methane digester should be included, and that was in the original legislation. Unfortunately, there was an oversight in that process of adding methane in that we did not strike the language that required zero emissions. So, as the Department of Revenue interpreted this legislation with respect to an application by Danny Kluthe for that tax credit, they could not authorize that to him, because methane does go through a combustion engine. So, it was a technicality. And what we were hoping to do with this legislation then, is to go back to the original intent, which was to allow for methane digesters, and in order for us to do that, so that the Department of Revenue could authorize the tax credit, we needed to remove the language that says zero emissions. With that, I can end my testimony and answer any questions that you may have. [LB359]

SENATOR CORNETT: It may be that legislative years are blurring together, but I remember the 2006 legislation, and I distinctly remember a discussion on the zero emission or methane production. Was that a separate bill that came after that? [LB359]

KRISTEN GOTTSCHALK: This is the...no, this is the second time we've brought this bill to you. [LB359]

SENATOR CORNETT: This bill. [LB359]

KRISTEN GOTTSCHALK: So you may be recalling that. [LB359]

SENATOR CORNETT: What happened the first time? [LB359]

KRISTEN GOTTSCHALK: It just sat in committee. No, actually, I take that back. [LB359]

SENATOR CORNETT: No, I was sure we passed it. I was going to say, I was sure it went out. [LB359]

KRISTEN GOTTSCHALK: We advanced the bill, but it was late in session, and we couldn't attach it on the consent calendar. So that was our situation last year. [LB359]

SENATOR CORNETT: Last year or the year before? [LB359]

KRISTEN GOTTSCHALK: Last year. Try to remember (inaudible)... [LB359]

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SENATOR CORNETT: Okay. Senator Louden. [LB359]

SENATOR LOUDEN: Yes. I remember when we did some of this, and that was a glitch that was put in there, and they finally decided that it was...because it uses a reciprocal engine or a...to run a generator with. It burns methane, and there was a little bit, and somebody, along the line, decided there was zero emissions, so they couldn't give the tax credit. Now, the...for clarification where they took out January 2018 out of there, but for one thing, the credit...you can only get it for ten years, and that's it, no matter...and right now, he's the only one that started. So it isn't something that's going over big time. Is that correct? [LB359]

KRISTEN GOTTSCHALK: That's correct. And the additional part of that, that the reason the sunset provisions were taken out there, is the total amount of money that's allowed under this renewable energy tax credit is capped. So you can't go beyond that regardless of a sunset. So there really is no need for a sunset with the cap on the dollar amount as well. [LB359]

SENATOR LOUDEN: Now, is you had to get something going before January 2018. Is that...? [LB359]

KRISTEN GOTTSCHALK: Yes. [LB359]

SENATOR LOUDEN: ...in order to receive some of those five-cent credits, and they change around and that sort of thing. [LB359]

KRISTEN GOTTSCHALK: Right. [LB359]

SENATOR LOUDEN: And yet he's still the only one that's using any type of stuff like this? [LB359]

KRISTEN GOTTSCHALK: He is the only one that has applied for the credit, and I believe his credit amount would have been a total of \$382 out of the \$750,000 authorized over the life of the program. [LB359]

SENATOR LOUDEN: Okay. Thank you. [LB359]

KRISTEN GOTTSCHALK: You're welcome. [LB359]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB359]

KRISTEN GOTTSCHALK: Thank you. [LB359]

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SENATOR CORNETT: Next proponent. [LB359]

CHRIS DIBBERN: Good afternoon. My name is Chris Dibbern, C-h-r-i-s D-i-b-b-e-r-n, and I'm the general counsel and registered lobbyist for the Nebraska Municipal Power Pool, and I'm here today on behalf of NMPP and the Nebraska Power Association. The NPA supports LB359. Our mission, in the past, has always been low-cost, reliable energy. The Legislature has altered our mission to also include more renewable options for ratepayers and greater support for renewable projects. LB359 encourages renewable energy in a small, but important way. The bill changes the term, zero emissions facility, to the term, renewable electric generation facility. And as you heard, in 2006, when this bill first passed, the term of art was zero emissions. But today, we know that great projects like methane digesters have some emissions, but accomplish a great deal of good in producing electricity, in reducing odors, and in recycling animal waste. The bill also eliminates the requirement that the Department of Environmental Quality adopt rules and certify, and I believe that's because it's already been done. It keeps the existing language in the statute which limits the tax credit available to a total of \$750,000. By passing the bill, it creates greater incentives to invest and operate renewable technology. It has a minor impact on tax revenue, because of the modest amount of tax credits, and it's capped in the state. And in your fiscal note, the Department of Revenue estimates the fiscal impact to be minimal. There's no basis to disagree with the Department of Revenue's estimate on fiscal note impact, and LB358 is a good bill, and should be advanced. Any questions? [LB359]

SENATOR CORNETT: I actually have a couple of questions. I just trying to clarify something. To receive this credit, you have to apply for it by... [LB359]

CHRIS DIBBERN: Well, there's a stairstepping here of when you can apply for it, and how much you get. So if you had generation before 2006, you got .075 cents per kilowatt hour, so that's, you know, less than a penny per kilowatt hour. If you generated after 2010, you got...let's see, 2013 you would get .05 cents, so a half a cents per kilowatt hour. And then it ran for ten years, so it just stairsteps. And I do not know why they took off the sunset clause. I don't...I noted that too, and I don't know. [LB359]

SENATOR CORNETT: But the \$750,000 that is set aside for this for the tax credit is not being used. [LB359]

CHRIS DIBBERN: No. We are currently...the NMPP energy and our members under me are currently looking at a methane production out of Des Moines, but it takes a very large solid waste... [LB359]

SENATOR CORNETT: Wouldn't there be better uses for that \$750,000 than one person with a three hundred and some dollar credit that he's not currently receiving? [LB359]

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CHRIS DIBBERN: I'm sorry, I couldn't... [LB359]

SENATOR CORNETT: Wouldn't there be better utilization of that \$750,000 in some other form of renewable...? [LB359]

CHRIS DIBBERN: The only thing about that...I've heard about this methane digester. It is really a good project. I mean, one...one project. [LB359]

SENATOR CORNETT: One. Since I've been here. That's... [LB359]

CHRIS DIBBERN: I...only one. So I think you want to incentivize and encourage those kind of technologies. I mean, it does do a lot of good things in an (inaudible)... [LB359]

SENATOR CORNETT: That's a lot of money that's not getting used. [LB359]

CHRIS DIBBERN: Oh, absolutely. \$750,000 is a lot not being used. I'm not quarreling about your comment on that. We just want to encourage innovation and... [LB359]

SENATOR CORNETT: And my point is, isn't there a better way to encourage innovation with that money than leaving it sit there with nobody using it? [LB359]

CHRIS DIBBERN: Point well taken. Maybe we should look at other opportunities like this to encourage it. But this one is not a bad suggestion. [LB359]

SENATOR CORNETT: Just a lot of underutilized money with a lot of people needing money right now. No further questions. Thank you. [LB359]

CHRIS DIBBERN: Thank you. [LB359]

SENATOR CORNETT: Next proponent. [LB359]

JOHN HANSEN: Madam Chairman, members of the committee, again, for the record, my name is John Hansen, J-o-h-n Hansen, H-a-n-s-e-n. I am president of Nebraska Farmers Union, and appear today as our president and lobbyist. We are in support of LB359. It is consistent with what we have intended to do, and so, this is a minor technical correction...just something that's apparently required and necessary in order to be consistent with the intent and our regret is that we don't have more of these kinds of projects. It's an excellent project. It's a great project. It does lots of good things all at one time, and we just wish we had more of them, and we don't. But with that, I would close, urge your support, and answer any questions if you have any. [LB359]

SENATOR CORNETT: Seeing none, thank you. Next... [LB359]

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JOHN HANSEN: Thank you very much. [LB359]

SENATOR CORNETT: Next proponent. Opponent. Neutral. [LB359]

SENATOR HAAR: Well, it's come to my attention...we talked back there for a moment that perhaps other projects are...could use this tax credit. We'll look into that, that it just hasn't been sold the way it should have been. I also realized as I was sitting down, I made that great mistake of not just talking to your question, instead of saying, I don't know (laugh). But we got that answered, so thank you very much. [LB359]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB359]

SENATOR HAAR: Thank you. [LB359]

SENATOR CORNETT: Senator Utter, you're recognized to open. [LB385]

SENATOR UTTER: Thank you very much, Senator Cornett and members of the Revenue Committee. I'm Senator Dennis Utter, representing District 33. That's spelled U-t-t-e-r. I just want to tell you that today I'm a loyal messenger. I'm introducing this bill on behalf of the Governor. LB385 would repeal the Low-Income Home Energy Conservation Program. LB385 is also a part of the Appropriations Committee preliminary budget. The Low-Income Home Energy Conservation Program authorizes certain public power entities to designate a portion of the sales tax remitted to the Nebraska Department of Energy for certain energy-related home improvements for low-income Nebraska residents. Some of these improvements include insulation and ventilation improvements, replacement of storm or thermal doors or windows, caulking, weather-stripping, or furnace efficiency modifications. Each public power provider participating in this program must match the state contribution with matching funds. However, the program has been underutilized by both utility providers and low-income Nebraska residents. LB385 would result in a savings of approximately \$4,652,000 in the fiscal year 2011-12. I would be happy to answer any questions that you might have. However, there will be a testifier to follow me that is probably much more capable than I am. I would also just in support of the fact that this has been underutilized, call your attention to the letter that was addressed to Senator Cornett by Doug Ewald, the Tax Commissioner, that points out just how...what a small amount of this that has been used in the past. With that, I'd be happy to answer any questions--reluctantly happy to answer any questions. [LB385]

SENATOR CORNETT: (Exhibit 12) Senator Utter, just...before we go any further, I want to read into the record the letter from the Department of Revenue and have that admitted into the record. Questions from the committee? Seeing none, thank you. [LB385]

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GINGER WILLSON: (Exhibits 13 and 14) Good afternoon, Chairwoman Cornett, members of the Revenue Committee. My name is Ginger Willson, G-i-n-g-e-r W-i-l-l-s-o-n, and I'm the director of the Nebraska Energy Office. I appear before you today to testify in support of LB385, which would repeal the Low-Income Home Energy Conservation Program. This program duplicates many efforts of the Low-Income Weatherization Program administered by my office. The federally funded Low-Income Weatherization Assistance Program is a program designated to increase the energy efficiency of homes, reduce energy expenditures, and improve health and safety. The Energy Office distributes grants to eight community action agencies and one nonprofit corporation throughout the state. These subgrantees accept applications, determine eligibility, and provide weatherization services, including performing energy audits and implementing recommended energy savings or health and safety measures. The Energy Office's primary responsibility is inspecting the weatherized homes and monitoring the weatherization improvements to ensure program compliance and quality of work performed. In 2009, maximum household incomes were revised from 150 percent to 200 percent of the federal poverty guidelines. This means a family of four with a household income of \$44,100 or less can qualify for weatherization assistance. Conversely, the Low-Income Home Energy Conservation Program income threshold is 150 percent of the federal poverty guidelines. The agency receives funding for this program through three sources. In 2010, the agency received \$3,862,690 from the U.S. Department of Energy's Low-Income Weatherization Assistance Program and \$5,057,492 from the Low-Income Home Energy Assistance Program, also known as LIHEAP. On an annual basis, the Nebraska Department of Health and Human Services transfers a portion of the funds received to pay utility bills to the Energy Office to weatherize homes. With these funds, this program helps reduce, and sometimes even eliminate, the need for bill paying assistance. From July 2008 through June 2010, 2,684 homes have been weatherized with the federal funds described. This funding comes to the agency in federal formula grant dollars. In 2009, Congress passed the American Recovery and Reinvestment Act to scale up existing weatherization efforts in the state, create jobs, reduce carbon emissions, and save money for low-income families by improving energy efficiency. The Energy Office received \$41,644,468 over 36 months, and submitted a plan to weatherize 4,000 homes across the state using these ARRA funds. The state plan for the use of these funds and updated monthly production and funds expended appears on the agency's Web site. The Energy Office also utilizes some of the ARRA funding for weatherization training and development at Metro Community College and Central Community College. As of December 31, 2010, 2,039 homes have been weatherized utilizing the ARRA funding. The agency is on schedule to have 4,000 homes weatherized by the end of this program in 2012. This concludes my testimony and I would gladly answer any questions. [LB385]

SENATOR CORNETT: Questions from the committee? Senator Pirsch. [LB385]

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SENATOR PIRSCH: Can you comment...thanks for your testimony. Can you comment on the savings that would take place? I think the...let me see, maybe that was in your testimony, your written testimony. You said that there would be a savings, right? Is there a savings? [LB385]

GINGER WILLSON: There is definitely a savings. We are actually in the process of using some of our ARRA dollars to actually calculate the actual energy efficiency savings done in the ARRA homes weatherized. We would hope to expand that to all the homes weatherized, just as kind of an availability of funding, and also availability of getting the utility bills from the people who have utilized the weatherization program. It's a rather complicated process to do the evaluation, but we are doing that and we hope to have some of that information reportable. [LB385]

SENATOR PIRSCH: Was this the program that was kind of a...required a joint operation with a public power district or something like that? Am I thinking of the right one (inaudible)? [LB385]

GINGER WILLSON: In some cases, yes. What we normally do is we have the formula dollars from the U.S. Department of Energy. We have LIHEAP dollars and then we have ARRA dollars. All of those dollars are allocated out based on population and some other formulas to our community action agencies across the state. Community action agencies really work to utilize those dollars in every way possible to get the people who meet income requirements and their homes weatherized. There's certainly a partnership with the utilities in that regard to help reduce their overall utility bill, and that's certainly what we're trying to do, so it saves those individuals utilizing the program the dollars from the energy savings, as well as improvements to health and safety in some cases. [LB385]

SENATOR PIRSCH: Okay. So it was sales tax collected up to 5 percent, which would then be matched to earmarked amounts to fund conservation improvements for low-income customers. So...and...so these have gotten into big dollar amounts then, or...? [LB385]

GINGER WILLSON: The dollar amounts that we have received in our office have dramatically increased. Otherwise, the formula dollars we received have stayed fairly stable (inaudible) as formula dollars that the federal sets every year when they do their federal appropriations. With the passage of ARRA in 2009, I believe, we received \$41 million, which was a drastic increase from what we originally had, which then allows us to, again, scale up the existing weatherization program. So we added more people to the pool of people who could be eligible to have their homes weatherized because of the income requirements that were raised to 200 percent of poverty. So our plan to utilize this \$41 million is to weatherize 4,000 homes. [LB385]

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SENATOR PIRSCH: Okay. Thank you for your testimony. [LB385]

SENATOR CORNETT: Further questions? Senator Louden. [LB385]

SENATOR LOUDEN: Yes, thank you. Now your funding, though, came from this American Recovery part--federal money. [LB385]

GINGER WILLSON: Forty-one million dollars came from the ARRA funds. [LB385]

SENATOR LOUDEN: Then did you get...then you didn't get any money or very little from this bill that we were trying to do away with, this Energy Office from this state...the state monies? [LB385]

GINGER WILLSON: I don't believe that that money was given to the Energy Office. I guess I would have to double-check that. I believe my understanding is that it was actually money that was given to the community action agencies, and the community action agencies worked with the utilities to get the homes weatherized. I'm not exactly sure on the process of that, but I'm not certain that the money was given to our office to weatherize the homes. [LB385]

SENATOR LOUDEN: Now this American Recovery money, is that still happening? The tax part of it was discontinued, what, December 31 or something like that, the tax credits you got for doing energy work on your home. [LB385]

GINGER WILLSON: Tax credits have expired. However, the ARRA-funded weatherization program will continue. It continues on for 36 months, and we anticipate the program ending in 2012. [LB385]

SENATOR LOUDEN: Then that will be the end of it. [LB385]

GINGER WILLSON: Yes. And that will be the end of the, kind of the ramp up, if you will, dollars for weatherization. What will continue on after that will be continued program formula dollars and LIHEAP dollars. [LB385]

SENATOR LOUDEN: And that's federal money you'll be receiving? [LB385]

GINGER WILLSON: Federal dollars, yes. [LB385]

SENATOR LOUDEN: Do you know if you'll get that federal money then? [LB385]

GINGER WILLSON: Right now, the federal budget is uncertain. They are operating on a continuing resolution. I think they should have that resolved, but these have been longstanding formula dollars given to us by DOE. So I'm not sure how...Congress will

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probably decide that. At this time, I guess we don't have a certainty as to what those future dollars will hold. [LB385]

SENATOR LOUDEN: And the ones that are eligible for it, the people are 200 percent of poverty is where (inaudible). [LB385]

GINGER WILLSON: Yes. [LB385]

SENATOR LOUDEN: Okay. Thank you. [LB385]

SENATOR CORNETT: Further questions? Seeing none, thank you. Next proponent. Opponents? [LB385]

TOM RICHARDS: Chairman Cornett, members of the Revenue Committee, my name is Tom Richards. I'm a registered lobbyist for the Omaha Public Power District. I'm here on behalf of OPPD and the Nebraska Power Association in opposition to the repeal of the provisions of LB1001, the Low-Income Home Energy Conservation Act. What I'll do is I'm going to read my testimony and then I'm going to try to separate out for you how this is different than the weatherization and some of the federal funds that were described to you a little bit earlier. OPPD serves approximately 340,000 rural and urban customers. OPPD strives to maintain reliable low-cost energy in an effort to reduce energy costs, for our low-income customers in particular. OPPD takes part in the provisions set forth in LB1001. Energy conservation plays a key role in reducing energy costs, and reduces the amount of money spent on imported energy sources, lessens the need for new power plants and other energy infrastructure that helps mitigate the impact of energy generation on the environment. The Low-Income Energy Conservation Act...through the Low-Income Energy Act, OPPD was able to help approximately 60 low-income customers with their weatherization needs in 2010. OPPD was reimbursed approximately \$67,000 for the cost of these weatherization upgrades. The cost of this assistance was a minimal expense compared to the savings to our customers. The Low-Income Energy Conservation Act is funded by state sales tax collected. This fund is also accompanied by matching funds from the public power district. The total amount designated for this fund in a calendar year cannot exceed 5 percent of the prior calendar year's sales tax collected. To date, OPPD has been the only public utility in Nebraska to use the funds. However, when federal stimulus dollars run out in the state of Nebraska, there will be an increase in the demand for these funds. In closing, as it may seem that the dollars used for this fund is significant, the actual dollars spent is low in comparison with the matching funds from the public utilities. Much of the cost will be absorbed through the utilities. With the information I have provided, I respectfully request that the committee indefinitely postpone this bill and at this time I'll answer any of the questions you may have. Before I do that, if I could, this bill was introduced for OPPD and the Nebraska Power Association on our behalf. And these funds actually sit outside the weatherization programs and sit outside some of the programs that Ginger

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was describing. And part of what was going on is it was felt that the utilities would have a better contact with their customers and a better way to identify the low-income people in their jurisdictions. So what happened was, a formula was put in place where, you know, if we put up x amount, the state would put up x amount. Part of what went on was it was during the wind development debate, and there was a lot of focus on developing wind energy projects, but nobody was looking at energy conservation. So this program was a partnership that was created. And while the funds can be administered by the Energy Office, they can also be administered by community action agencies around the state of Nebraska. So you have the flexibility of using a community-based program or you can use the Department of Energy as it is here in the state of Nebraska. It was a unique approach to making things go. And one of the reasons why it hasn't been utilized is because we have been waiting, the utilities particularly have been waiting for the stimulus dollars. We have been partnering with the Energy Office to do that and we have a great relationship with them, and those dollars will soon run out. So part of it was waiting for that to occur. So far, to date, I saw the fiscal note. It says the first year it was \$4 million; the next year it was \$8 million or \$9 million. The total that's been spent since the inception of the program is \$67,000. That was matched by the utility that I work for in addressing some energy efficiency upgrades. The other thing it does is it gives some flexibility in what can be used. It's not just weatherization. It can be heat pumps. It can be other types of things that are highly energy efficient. With that, I'll stop and I'll answer questions. [LB385]

SENATOR CORNETT: Questions from the committee? Senator Adams. [LB385]

SENATOR ADAMS: I'm trying to get around the...how this works. So I'm picturing two buckets of money. One is money that comes from the utilities, okay? And then the other bucket of money is state sales tax that has been drawn off of utility bills. [LB385]

TOM RICHARDS: That's correct. [LB385]

SENATOR ADAMS: Up to no greater than 5 percent. [LB385]

TOM RICHARDS: That's correct. [LB385]

SENATOR ADAMS: Okay. And so anywhere from 0 to 5 percent, the money comes into there based on, what, the number of applications that qualify? Is that it? [LB385]

TOM RICHARDS: That's how I would think that it would work, but what you're seeing is...I'm guessing what you're seeing in the fiscal note is if every utility utilized this to the maximum amount of every year. And what I'm saying to you is at this point OPPD has been the only one that's utilized it, to the tune of \$67,000, with the understanding at some point, others--not only just OPPD--but others were going to utilize it because we've been working with the Energy Office, drawing down on those stimulus dollars.

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[LB385]

SENATOR ADAMS: Thank you. [LB385]

TOM RICHARDS: You've described it perfectly. [LB385]

SENATOR ADAMS: Thank you. [LB385]

SENATOR CORNETT: Senator Pirsch. [LB385]

SENATOR PIRSCH: So since it's only had a limited application thus far, OPPD, \$67,000 I think you said. [LB385]

TOM RICHARDS: Correct. [LB385]

SENATOR PIRSCH: How many people did that... [LB385]

TOM RICHARDS: Sixty customers. [LB385]

SENATOR PIRSCH: Sixty customers. [LB385]

TOM RICHARDS: Sixty low-income customers from primarily the eastern part of the city but also the western part of the city. [LB385]

SENATOR PIRSCH: And two other things. What's the basis again by which you qualify if you're...low-income is the general category, but I mean if you know the... [LB385]

TOM RICHARDS: It has to be 150 percent of the federal income level, which is lower than what the current 200 percent is. But at the time that we wrote the bill, that's what it was. It was 150 percent. In fact, there was some thought to this year raising the poverty level to 200 percent. But given that at this point we're struggling to keep the program alive,... [LB385]

SENATOR PIRSCH: Yeah. What type of projects for...you said 60 customers, so \$67,000, so you're talking about... [LB385]

TOM RICHARDS: Most of them, heat pumps. Most of them converting from old furnaces to heat pumps. [LB385]

SENATOR PIRSCH: And the split is 50-50, right? [LB385]

TOM RICHARDS: That's correct. [LB385]

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SENATOR PIRSCH: And is it up to...we give a broad authorization up to 5 percent. But is it really up to...the determining factor, really, is going to be, you know, power districts such as yours, than saying this is a project that we're willing to do. And when you do that, then it almost certainly brings in the state funds. [LB385]

TOM RICHARDS: That's correct. We have to be willing to take...we would have to be willing to take on millions of dollars. I can't guarantee you that that wouldn't happen. But I do not think that that would happen. So part of it is on the incumbent utility to...I mean, if you're going to put \$2 million up, that means we, OPPD, would have to put \$2 million up and the state would have to put \$2 million up. I can tell you, based on the experience that we've had so far, that's not what's happening. [LB385]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB385]

TOM RICHARDS: Thank you. [LB385]

SENATOR CORNETT: Neutral testimony? Senator Utter waives closing. That closes the hearings for today. [LB385]