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Revenue Committee
February 15, 2017

[LB380 LB452 LB461 LB468]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 15, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB380, LB468, LB452, and LB461. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Tyson Larson; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SMITH: Good afternoon and welcome to the Revenue Committee public hearing. My name is Jim Smith and I'm the Chair of the committee and I represent the 14th Legislative District in Sarpy County. The committee will be taking up the bills in the order posted on the outside of the room today. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceeding I ask that you abide by the following procedures. Please turn off your cell phones and other electronic devices so as not to interfere or interrupt the person testifying. Please move to the front of the room as you are preparing to testify and to move into that chair. The order of testimony will be introducer of the bill at hand, proponents, opponents, those testifying in a neutral capacity, and then closing remarks by the introducer of the bill. If you will be testifying please complete the green form and hand that to the committee clerk when you come up to testify. If you have written testimony or exhibits for the committee and you would like to have those distributed, please hand them to the page when you come up to the front of the room and we will get those distributed for you. We will need 11 copies for committee members and for staff and if you need assistance in making those copies, again please let us know and we're more than happy to help you out with that. When you do testify we will need you to start out by stating and spelling your name for the record so we can get the spelling correct into the record. We...let me just see a show of hands of people that are looking to testify on the first bill today. Okay. How about those that are looking to testify in general today. All right, we have a fair number. We will use the light system today. We will use five minutes for testimony. The light on the table will be green for four minutes of your testimony, after which time it will turn to an amber color for one minute. During that period of time we ask that you try to wrap up your testimony so by the time that light turns red you will have concluded your remarks. If you would like your position to be known but do not wish to testify, please sign the white form at the back of the room and it will be included in the official record. The microphone on the table is not for amplification of your voice, it's simply to record your testimony so it can be transcribed for the record. So if you're looking for it to amplify your voice, it will not do that for you. Let me introduce the committee staff with us today. To my immediate right is legal counsel, Mary Jane Egr Edson. To my immediate left is research analyst Kay Bergquist. And to my left at the end of the table is committee clerk, Krissa Delka. Committee members with us today will introduce themselves, but I know that we are going to have...Senator Groene will be absent for the hearings today. He has hearings in front of another committee today. And I believe

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for a portion of today's meeting Senator Harr is going to be absent as well. Please forgive us for coming and going. We do have obligations in other committees that take us away sometimes. And with that, I'm going to start with Senator Larson introducing himself.

SENATOR LARSON: Tyson Larson, District 40.

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

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

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

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

SENATOR HARR: Burke Harr, Legislative District 8, representing Jim Vokal and parts of Dundee and Benson.

SENATOR SMITH: All right. I'm glad to see that someone is representing Jim Vokal. Our pages today with us and that will be helping us and helping you today are Alexi Richmond from Milwaukee, Wisconsin, and Sarah Wearne from Topeka, Kansas, and we appreciate them being with us today and helping us. And with that, we're going to begin with our first hearing today, LB380, to be introduced by Senator Harr. It relates to changing income tax rates, itemized deductions, and standard deductions. Welcome. [LB380]

SENATOR HARR: Thank you. Senator Smith, fellow members of the Revenue Committee, my name is Burke Harr, H-a-r-r, Legislative District 8. This bill is very simple. I take the top rate from 6.84 percent to 5.99 percent. And the idea is to separate the spread between the marginal and the effective rate. And the idea was to eliminate deductions to pay for that lower rate, right? So it's a common broaden the base, lower the rate. Now I wanted to do it in a revenue-neutral way. This was an idea I first had with a lobbying group and with Senator Smith at a Granite City in Omaha. This is based on a federal program, the Pease--P-e-a-s-e--amendment. Look at the fiscal note. There is a fiscal note. This idea was hatched over a year ago. I got it yesterday. It's not revenue neutral. This is not any way to make legislation. Mr. Hansen, Ms. Fry, sorry to waste your time. Everyone in the audience, I don't care about this bill. This bill isn't going anywhere; it has a fiscal note. This is an exercise in futility. I'm wasting everyone's time. But this was the only

way under our current system that I could find out how much this would cost to do. And what did I find out? I found out the cost. I found out the net effect of what I wanted to do. Do you know how much it costs to go from 6.84 percent to 5.99 percent? Either do I, it's not on the fiscal note. Do you know how much it costs to lower each...to eliminate the deductions for each bracket that I have in there? I don't know either, it's not in the fiscal note. How are we supposed to make policy if we don't know what anything costs? This is ridiculous, folks. I called Doug Gibbs this morning. And I appreciate what Revenue did, they were...or Fiscal Office, they were helpful, but their time is limited, because again the way we do fiscal notes we only have 24-hour notice. And he gave me what it cost for the total for the phase out, but he couldn't do it by each bracket. There's no way to know. I introduced this bill for the sole fact to figure out how much everything cost, because I was told that was the only way I could figure it out. And then I'm not even given the information. I don't know what to do. I don't know how to make policy. The Governor and the Fiscal Office have all the information. They're holding onto it pretty darned tight. They're not giving it to us. I have a bill in front of Exec Committee right now that says we get that information. You can cleanse it of the taxpayer information, but we need to house all the information. So we live in the era of big data. We need to be able to have access to that data so we can play with those numbers and we can find out how much anything costs. I don't know what to do. This bill has too huge of a fiscal note. I know it can't go anywhere, we have a \$900 million shortfall. Any bill with a fiscal note is not going anywhere. There's no way I can reasonably vote for any bill with a large fiscal note, especially one like this where I'm prepaying for future Legislatures. But I wanted to do it in a revenue-neutral manner. Can't do it. With that, I would entertain any questions you may have, with the understanding I will probably waive closing and I'll probably ask for this bill to IPPed because I only introduced it to get information and I didn't even get it. [LB380]

SENATOR SMITH: Questions from the committee? Senator Friesen. [LB380]

SENATOR FRIESEN: Thank you, Chairman Smith. All I was looking for was to see where the property tax relief was and I didn't see it. [LB380]

SENATOR HARR: Right. Well, it was supposed to be revenue neutral. Right? So it wouldn't have to abide by property taxes. Didn't happen. [LB380]

SENATOR FRIESEN: That's okay. Thank you. [LB380]

SENATOR HARR: Thank you. [LB380]

SENATOR SMITH: Senator Schumacher and then Senator Larson. [LB380]

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SENATOR SCHUMACHER: Thank you, Chairman Smith. And thank you, Senator Harr, for again highlighting this problem. So the basic difficulty you have with this fiscal note is you don't know how the bottom line was computed, how much was from the tax reduction to 5.99 percent and how much by doing away with the exemptions in each of your various brackets? [LB380]

SENATOR HARR: The fiscal note does not tell us that, that is correct. And that's the whole purpose I introduced this. Now, I did talk to Mr. Gibbs this morning and I know he's very busy. He was able to find out the reduction in revenue from the loss of the phase-out implementations. He was able to give me that total, but I don't know how much comes from each bracket. And I don't know if...let's say right now I have it at \$125 for a family is the...or \$150 is when it starts to phase out. I don't know what it would cost if I made it \$125. We wouldn't know. I'd have to introduce another bill next year. [LB380]

SENATOR SCHUMACHER: What was that figure that he was able to give you? [LB380]

SENATOR HARR: For the total? In '18-19, it would be \$16 million. [LB380]

SENATOR SCHUMACHER: Let's just go to the last year. [LB380]

SENATOR HARR: Last year it would be \$54 million. [LB380]

SENATOR SCHUMACHER: So you save, under this language supposedly, in total \$54 million. And it cost us...the fiscal note is what, \$200-and-some million at the end of the cycle? [LB380]

SENATOR HARR: Yep. [LB380]

SENATOR SCHUMACHER: Okay. So the difference between those two numbers... [LB380]

SENATOR HARR: Two hundred and fifty eight (million) would be the total in year 2024. I don't know what it would be in... [LB380]

SENATOR SCHUMACHER: Any given year between now and then. [LB380]

SENATOR HARR: Yeah. I suppose I could figure some of it out by just subtracting it backwards. [LB380]

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SENATOR SCHUMACHER: And this doesn't figure all the economic growth we'll have by having this lower tax bracket. [LB380]

SENATOR HARR: No. [LB380]

SENATOR SCHUMACHER: So that may more than offset it and it'll just be about growth. [LB380]

SENATOR HARR: Could. [LB380]

SENATOR SCHUMACHER: Thank you. [LB380]

SENATOR HARR: We don't know. [LB380]

SENATOR SMITH: Senator Larson. [LB380]

SENATOR LARSON: I appreciate your attempt to find out how much something would cost. So you've asked us to IPP it and you're going to waive closing. So are you asking right now to essentially discontinue the hearing moving forward and IPP it? [LB380]

SENATOR HARR: If someone wants to come and testify it's their right to. And again,... [LB380]

SENATOR LARSON: I just know some introducers will say, I know this bill isn't going anywhere so I'd ask it be done, so. [LB380]

SENATOR HARR: And I feel badly for those coming to testify on this bill, because they took time out of their busy schedule to prepare a statement and to come down here and testify. But this was the only way I could find out what the cost is under the way we do things now. [LB380]

SENATOR LARSON: But you have no intention of pushing it or caring about this at all? [LB380]

SENATOR HARR: Not at this point. It has a fiscal note. We can't do anything with a fiscal note. [LB380]

SENATOR LARSON: Thank you, Senator Harr. [LB380]

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SENATOR SMITH: Senator Harr, so there's maybe some folks behind you that are here today that don't understand what the issue is. And how long in advance did you receive this? [LB380]

SENATOR HARR: I received this yesterday...my fiscal note yesterday afternoon. I introduced the bill in early January and I didn't know...and I wrote the bill even prior to that. But we didn't know how much it was going to cost until yesterday afternoon or not cost. [LB380]

SENATOR SMITH: And so for the public, when we introduce a bill there has to be a fiscal study on it to determine how much it's going to cost. And they are obligated to return it to us how long before the public hearing? [LB380]

SENATOR HARR: Twenty-four hours before the public hearing. [LB380]

SENATOR SMITH: Twenty-four hours, which doesn't give enough time to really dig in and say, hey, break this down for me, help me understand this. [LB380]

SENATOR HARR: That is correct. Nor does it give me time to adjust my legislation so that I can do it in a revenue-neutral manner. [LB380]

SENATOR SMITH: Right. But just in general what your bill was attempting to do would be to phase out these exemptions and deductions as income levels get higher and higher and higher and take those revenues that would come from that phase out and deliver it back into relief of those brackets. [LB380]

SENATOR HARR: The idea is...yep. There are certain organizations--and Mr. Henchman is here and is probably one of the more looked tax foundations, one of them--and what they do is they look at our marginal rate, which is the advertised rate, not the effective rate, which is...as I say there's a sticker price and a price you actually pay for the car. Most...when...groups when they do their rankings look only at the marginal rate, the sticker price, and not what you pay. When you look at the effective rate in Nebraska, for instance, our top rate is 6.84 percent. But...and the most recent year I have data from 2012, the top 500 returners, it's for their effective rate so what they pay is 4.62 percent. And the ninth percentile is 3.81 percent and the eighth percentile--I think there are 11 percentiles--is 3.16 percent. So no one pays that high rate because we are a very generous...we use tax policy to incentivize certain behavior. And by doing that, we give tax breaks or deductions or credits. And the question is, should we be doing that or should we just lower the rate...broaden the base, lower the rate and use that as a way so that we can rise in certain surveys? And so I was looking to see what would it cost to do it. And I don't know how to

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do it. I really...at this point, I'm in my seventh year, I've never figured out how to do it. I have one more shot in the dark to figure it out. [LB380]

SENATOR SMITH: Senator Schumacher. [LB380]

SENATOR SCHUMACHER: Thank you, Chairman Smith. This is a little follow up, though. I mean, the assertion that the top one, two, three of the slices that you describe, don't pay 6.84 percent, some people...I mean, if you're a wage earner basically, not the...you're an engineer, an... [LB380]

SENATOR HARR: Yep. You don't have any deductions. [LB380]

SENATOR SCHUMACHER: ...you're a lawyer and you maybe bought a house a few years ago, don't have most of that paid off, surely you're paying somewhere near that 6.84 percent. [LB380]

SENATOR HARR: Well, as you know and I know, lawyers and accountants don't...are not in the top 500 returners. [LB380]

SENATOR SCHUMACHER: No, but... [LB380]

SENATOR HARR: But, yeah, they're paying closer to it, that's exactly right, because their equity is what's between their ears. Their capital is what's between their ears. And that's...so you can't write that off. [LB380]

SENATOR SCHUMACHER: So if the number then for the overall slice at the top is 4.6 or whatever percent,... [LB380]

SENATOR HARR: Yeah. [LB380]

SENATOR SCHUMACHER: ...somebody in that group is paying a whole lot less than 4.6-something percent in order for that average to come out... [LB380]

SENATOR HARR: Possibly. Oh, yeah, to get that average, sure. Yeah. I don't know about a whole heck of a lot, but yeah, less. [LB380]

SENATOR SCHUMACHER: Well, it... [LB380]

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SENATOR HARR: They're not paying, yeah. Because I don't know, I don't even think in the top 500 returners there are lot of doctors and lawyers. [LB380]

SENATOR SCHUMACHER: Right. But in the top...you go down one, two, or three tiers... [LB380]

SENATOR HARR: But you're right, it's the ninth percentile it's...decile, excuse me, it's 3.81 percent. So yeah, there are a lot that aren't. [LB380]

SENATOR SCHUMACHER: Sure. So somebody, if there's quite a few high income earners--and I know there are--that are pushing over 6.5 percent up toward 6.84 percent, then in your research and your work have you figured out who's the lucky cat on the other side of that 4.6 percent that's paying a whole lot less than that to make the average come down that far? [LB380]

SENATOR HARR: It's those who work in industry that have a lot of deductions, like... [LB380]

SENATOR SCHUMACHER: What about incentive credits? [LB380]

SENATOR HARR: Some may be incentives. Not necessarily. Well, all of them are incentives. A tax credit is an incentive, right? A tax deduction is an incentive. So it could be something who has...an industry that has a lot of capital. [LB380]

SENATOR SCHUMACHER: And in your seven years here you've not been able to get the data that gives you a good clue as to where to point a finger? [LB380]

SENATOR HARR: Nope, can't get that. That's all protected by Revenue. I can't tell you who it is. I'd love to be able to tell you this industry or that industry. I can't even tell you industry numbers, because we don't have access to that raw data, cleansed or uncleaned. [LB380]

SENATOR SCHUMACHER: Have you been able to discover then why it is that the executive branch of government has access to that data and the...is it a law we passed that we don't have access or...? [LB380]

SENATOR HARR: It goes to what federal policy is. So federal law says that--and Senator Brasch is shaking her head and she worked for the Department of Revenue--we have to protect the taxpayers' identity. Don't disagree with that. I just find it strange that we have 249 school districts and we can find out, without telling who the student is, what every student's score is on

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a test, but we can't do it for every taxpayer where there are a lot more. And there are school districts where there are very few kids; their numbers get reported. Right? I don't know why. But...so I think the statute...it's my personal belief the statute is being read a little too--how do I say this nicely, correct--that they are protecting the taxpayer probably more than they need to. How's that? [LB380]

SENATOR SCHUMACHER: Or are they protecting a tax policy more than they should? [LB380]

SENATOR HARR: I think they're...I don't know if it's a policy or data, because that is...you know, knowledge is power and so they can lord that over us now. I don't have access to that number. I mean, I can't tell you. I mean, like I said, I don't know how they came up with these numbers and I don't even know if they're right or not because I can't go back in...can't even review their math to say, oh, you made a mistake adding this number and this number. [LB380]

SENATOR SCHUMACHER: Thank you, Senator. [LB380]

SENATOR SMITH: Senator Friesen. [LB380]

SENATOR FRIESEN: Thank you, Chairman Smith. When you're talking about tax, what you're dealing with here is not the corporate rate, it's all just individual income tax? [LB380]

SENATOR HARR: This is individual rate, that's correct. [LB380]

SENATOR FRIESEN: Okay. I just wanted to make...clarify that to everybody, because a corporate tax rate and any of those tax credits are a totally different picture than what the small businesses are, so to speak. Now, we have different levels of tax credits. Corporate level is a whole different... [LB380]

SENATOR HARR: Yeah, we have different...we have very...we're very nice on the types of tax credits we have out there. We like to incentivize activity... [LB380]

SENATOR FRIESEN: Thank you. [LB380]

SENATOR HARR: ...economic activity. So with that, I will waive my closing. And like I said, I will be probably asking for this to be IPPed. Like I said, I was just trying to find out numbers. [LB380]

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SENATOR SMITH: Well, Senator Harr, I know you're upset about that. And I was looking forward to having some information as well, because I don't recall that it was at Granite City-- you have a better memory than I do--that we had this discussion, but I know we've had this discussion many times. And I really do believe that this should be part of the discussion we have on tax reform. So thank you for bringing this bill. [LB380]

SENATOR HARR: Thank you. [LB380]

SENATOR SMITH: And with that, we will move through proponents of LB380. Anyone wishing to testify in support of LB380? Seeing none, those wishing to testify in opposition to LB380. Those wishing to testify in opposition to LB380. [LB380]

LARRY STORER: I'm sorry, did you say proponents? [LB380]

SENATOR SMITH: Oh, I'm sorry. Yes, did you...Ms. Fry, if you could hold on just a moment, please. Let's go back to proponents, those wishing to testify in support, in support, of Senator Harr's bill. [LB380]

LARRY STORER: I expected there to be more people (inaudible). Good afternoon. [LB380]

SENATOR SMITH: Welcome. [LB380]

LARRY STORER: My name is Larry Storer, that's S-t-o-r-e-r, from 5015 Lafayette, Omaha, Nebraska, in Douglas County, District 8. That is my senator. Lived in Nebraska since 1965. I've paid property taxes on houses since 19--probably-68. And I've been going to some of the meetings down at the Douglas County Board of Equalization. You know, of all those years I've paid all those property taxes and I've never made it to a tax exemption on property taxes. My comments down there the other day was, well, you know, board of equalization, they want to pass it back and forth between you and the county assessor. But two weeks ago, one of the commissioners said, well, the state's doing this to us. I think we need a constitutional amendment. But he didn't say state constitution versus federal. But, obviously, the taxpayers are upset per yesterday's testimony, which I was there and I heard; a lot of upset taxpayers because things aren't very equal. I noticed on my own that they didn't reassess every year, and so there was somewhat of a surprise for me. So on terms of the income tax thing, I'd like to see something changed in there for people that are not quite qualifying for property tax exemption because the income is just over the line, like a dollar or two. Most of us, particularly over 65, are not getting Social Security increases, but we're seeing increases by property tax, substantial. Well, who actually does that? Do you do that? Do you tell the county assessor to do that? Do you

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tell the public school districts to set the income tax, because that seems to be a disagreement as to who has the power and authority on this? But we know that the schools can tell them apparently what mill levy they're going to have, but we don't have any direct input on that either, do we? So please, in your deliberations change the income tax rules somehow to equal us out. If not anything else, charge apartment owners, trailer courts, all of the new town condos all around the living areas, particularly in Omaha, the park areas. Everybody celebrates there, but they're not paying a property tax directly. Maybe they should be. Thank you. [LB380]

SENATOR SMITH: Okay. Thank you, Mr. Storer, for your testimony today. Questions from the committee? I see none. Thank you for coming in today and testifying. [LB380]

LARRY STORER: I get out of here early for a change. [LB380]

SENATOR SMITH: Other proponents, supporters of LB380? Seeing none, we now move to opponents of LB380. Welcome, Ms. Fry. [LB380]

RENEE FRY: (Exhibit 1) Thank you. Good afternoon. Chairman Smith, members of the Revenue Committee, my name is Renee Fry, R-e-n-e-e F-r-y, I'm the executive director of OpenSky Policy Institute. In light of Senator Harr's comments, I will keep my comments very brief. But since it sounded like there were a lot of questions about itemized deductions and it could become part of some bill that would move forward, I thought I should come up and just share our thoughts about limiting itemized deductions. I would mention that Nebraska is 1 of 17 states that offer the same package of itemized deductions as the federal level. If LB380 were to pass or you phased those...the itemized deductions down, we would join six states, California, Hawaii, Kentucky, Maine, Minnesota, and New York, plus the District of Columbia, who phase down deductions. Itemized deductions are regressive in that they provide the largest benefit to highest income families. In fact, according to 2014 statistics from the Nebraska Department of Revenue, which is the most recent year available, 63 percent of itemized deductions were taken by those with more than \$1 million in federal AGI. So limiting itemized deduction is a progressive tax reform. I also handed out our Nebraska taxpayers that I plan to talk about in our testimony in LB452, but they seem to pertain to some of the questions that were taking place earlier with Senator Harr. If you look on the second page, these are real Nebraska taxpayers. They were given to us by our accountant. And you can see here that Darren and Stephanie, for example, who have \$1.4 million worth of income, their effective income tax rate is 3.88 percent. And so you can see, Senator Schumacher, you had some questions about who is paying that 6.84 percent. You can see here that George and Peggy, who are a family who earn \$164,000, they paid 5 percent of their income in income tax. So you can see, if you look at our taxpayers, there's quite a bit of variance with our highest earning taxpayers who have a effective tax rate of 3.88 percent. So with that, I'd be happy to answer any questions. [LB380]

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SENATOR SMITH: Thank you, Ms. Fry, for your testimony. Senator Schumacher. [LB380]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Just one quick question. On your handout here, looking at the last two columns which would show the two different bills' impact, do those have calculated into them the fact that a dollar in state tax loss due to a tax reduction will only net you out about 70 cents, because you're going to pay 30 percent more to the federal government? [LB380]

RENEE FRY: Yes. These are after the federal offset. [LB380]

SENATOR SCHUMACHER: This is after the federal offset? [LB380]

RENEE FRY: Yes, correct. [LB380]

SENATOR SCHUMACHER: Okay. Thank you. [LB380]

SENATOR SMITH: All right. Very good. Thank you, Ms. Fry, for your testimony. Oh, I'm sorry. Senator Brasch. [LB380]

SENATOR BRASCH: Thank you, Chairman Smith. And thank you, Ms. Fry. I'm just looking at your models that you created from real situations. [LB380]

RENEE FRY: These are...yeah, these are real taxpayers in Nebraska. [LB380]

SENATOR BRASCH: And when you mentioned here George and Peggy who earn from farm income and the taxes they have on their side, there isn't anything about personal property tax, that farm income also they pay personal property tax, ag land value, their real estate. It just is broken into scenarios like those in urban areas, however, their taxes are unlike those in an urban area. Am I correct? [LB380]

RENEE FRY: So I can certainly e-mail our accountant. For example, I just...this is how he provided it to us. If you look at Ken and Kim, for example, they have a significant amount of property tax... [LB380]

SENATOR BRASCH: But there's also on equipment they need to operate the farm is personal property tax paid on that annually, on that same piece... [LB380]

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RENEE FRY: So I don't know their particular details. I don't know if they're renting. So for the folks that you are asking about...in particular, you were asking about George and Peggy. That was farm income. I'm not sure that they actually farm. So I can clarify that with our accountant. [LB380]

SENATOR BRASCH: Okay. All right. And I was just trying to clarify that there are more taxes for those who do actively farm. (Inaudible.) [LB380]

RENEE FRY: Yes. And for purposes of this, we're really focusing on... [LB380]

SENATOR BRASCH: On certain... [LB380]

RENEE FRY: Yeah, the income tax bills. But I can certainly get more detail from our accountant about their particular situations. But these are real... [LB380]

SENATOR BRASCH: Okay. It is nice to see the breakdown... [LB380]

RENEE FRY: Yeah. [LB380]

SENATOR BRASCH: ...as you've done it. Thank you. [LB380]

RENEE FRY: Yeah, absolutely. [LB380]

SENATOR BRASCH: I have no other questions. [LB380]

SENATOR SMITH: Thank you, Ms. Fry. And the handout that was being referenced, there's nothing related there to this particular bill but rather to LB337, a previously heard bill, and then LB452 that would be heard two down the schedule today. [LB380]

RENEE FRY: Yes. [LB380]

SENATOR SMITH: Thank you. [LB380]

RENEE FRY: Thank you. [LB380]

SENATOR SMITH: All right. Very good. Thank you, Ms. Fry. [LB380]

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RENEE FRY: Thank you. [LB380]

SENATOR SMITH: (Exhibit 2) Next opponent of LB380? Anyone else wishing to testify in opposition to LB380? Seeing none, anyone wishing to testify in a neutral capacity, in a neutral capacity on LB380? Seeing none, I know Senator Harr has already said he would waive closing, so that concludes our hearing on LB380. We now move to our next hearing, LB468. Oh, yes, yes. Just a moment. I do have a letter for the record. Let me go back to LB380. We do have one opponent that sent a letter in for the record, opposition to LB380. It was Mike Marvin, representing the Nebraska Association of Public Employees. So now back to LB468, with Senator Bob Krist to introduce LB468. Is Senator Krist present? We will stand by for just a moment in the event that Senator Krist is on the way. If he's not here momentarily, we're going to...there he is. Senator Bob Krist is the introducer of LB468. We invite him to open and his bill relates to changing revenue and taxation provisions. Welcome, Senator Krist. [LB380 LB468]

SENATOR KRIST: (Exhibit 1) Thank you, Senator Smith. Chairman Smith and members of the Revenue Committee, for the record, my name is Bob Krist; that's B-o-b K-r-i-s-t. I represent the 10th Legislative District in northwest Omaha along with the north-central portion of Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB468. And to be perfectly honest, during the interim period I worked with several concerned including OpenSky, to look at a positive revenue increase to the state in the event that we absolutely needed it. And with a \$900 million shortfall, I think it's time to start looking at all the potential loss of revenue and potentially reversing it into an increase in revenue. So I've given you a copy of the expanded version of my testimony. I do not intend to read the whole thing. I will highlight a couple of things for you but the background information, I think, in that testimony should be useful to you as a committee as well as addressing some of the individual issues. And again, this is a philosophically what have we given away in the past few years and what can we afford to give away given the shortfall that we have. LB468 is intended to temporarily freeze specific revenue and tax provisions for two years only, two years only, in order to direct revenues to the General Fund in the 2017-2019 biennium. The tangible personal property exemption, the special capital gains election, the indexing of income tax brackets for inflation, the sales tax on sale and lease of motor vehicles is redirected to the General Fund instead of the Highway Fund and the Highway Allocation Fund. It would give discretion to the Appropriations Committee for the amount that would be directed to the Property Tax Credit Program rather than requiring \$224 million annual appropriation and would delay the \$224 million annual appropriation and additional credit for agriculture and horticulture land until tax year 2019. The bill is structured in a way so that there are sections that deal with the actual freezing of the taxes in terms of making a positive flow of cash. It would terminate a sales tax earmarked for the Department of Game and Parks for the sale and lease of motorboats, personal watercraft, ATVs, and utility vehicles on 6-30-2017 instead of 6-30-2019. So it applies the pain evenly across the board. I think it's reasonable to expect that there will be a lot of opposition to

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this bill just in terms of what incentives are there and which ones are being targeted. LB468 talking points are reviewed below and I think that's probably the most interest to...during your Exec Session as a...when you go into Exec as a Revenue Committee. Through earmarks and credits, significant portions of the state's spending have escaped the regular review of Appropriations process. This spending now occurs automatically going unchecked. This bill addresses sales tax transfers that are automatically transferred from the General Fund to cash funds with no regular legislative review of their magnitude or merit. Example: Nebraska Department of Roads receives \$114 million in support from sales tax on the sale and lease of motor vehicles, 2016; and cities and counties receive \$121 million. This does not include \$63 million in General Fund sales tax support to the state and \$11 million in support of local government from the Build Nebraska Act. So I think you can see that without regular review, we have...we're not watching the dollars that are escaping from the revenue pot and creating other issues. Game and Parks stated...started receiving a sales tax earmark in 2014 which amounted to \$4.2 million in fiscal year '16. The bill would terminate the transfers two years early, so the currently scheduled sunset date. These levels of transfers should be reviewed on a regular basis. And I...that's the theme I think you'll read throughout here--we should be reviewing those things on an annual basis, or at least on a biennial basis to make sure that what we have done we will continue to want to do. I'm going to stop there. The testimony is well written. I've had a lot of help. And I think it will be good for you to review. I'll make just a few comments. With the example of certain taxes, keeping people in the state. You've heard the argument about military exemptions. You've heard the argument about capital gains elections. If not for those things, people would probably not stay in the state upon retirement age, yet as you...as we cannot dive down and say how many people who are military retirees would stay in this state if we exempted them, we also can't really dive down and find the metric that says for the capital gains how many people actually stay. Is it an advantage to us? I think the Performance Audit Committee audit of the Advantage Act proves that we cannot find the money. We don't know where the money has gone or where it's going. And it's not available to us to audit on a regular basis. This bill is not intended to create hardship. It is intended to point out that there is revenue that we were given a fiscal note for some 10, 12, 13 years ago that we would be spending \$40 million to \$50 million to \$60 million that we're now losing \$100 million, \$150 million on that same project. So we're not reviewing how it has escalated over the years. I bring it for your attention and also for public discourse. But I think that as we stare a billion-dollar deficit in the face that all of these issues should be examined in terms of the asset that it brings to the state or the liability that it brings to the state. And with that, I would take any questions. [LB468]

SENATOR SMITH: Thank you, Senator Krist, for your opening on LB468. Do we have questions from the committee? I see none. I do appreciate this because the information, I think, especially the fiscal notes and some of the numbers are very helpful to us. [LB468]

SENATOR KRIST: Thank you. [LB468]

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SENATOR SMITH: Thank you. [LB468]

SENATOR KRIST: And, Chairman, I would like to waive closing. I have to get back to Judiciary and I may have to present in one other committee. [LB468]

SENATOR SMITH: Very good. [LB468]

SENATOR KRIST: So thank you very much. [LB468]

SENATOR SMITH: Thank you. That concludes the opening on LB468 by Senator Krist. We now move to proponents of LB468, those wishing to testify in support of LB468. Welcome. [LB468]

RENEE FRY: (Exhibit 2) Thank you. Good afternoon again, Chairman Smith, members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y I'm the Executive Director of OpenSky Policy Institute. As you know, in every odd-year legislative session, the Legislature drafts a biennial budget which appropriates funds for each state agency. Over the last several years, some portions of state spending have escaped the regular review of the appropriations process and now occur automatically, similar to tax expenditures. About a decade ago, all sales tax other than that collected from motor vehicle sales was deposited in the General Fund. Today, millions of dollars in sales tax proceeds are automatically transferred from the General Fund to cash funds with no regular legislative review of their magnitude or merit. For example, rather than collect sales tax on the sales of ATVs and motorboats, we deposit those proceeds in the General Fund, and make an appropriation to Game and Parks based on needs and competing priorities, the sales tax proceeds are automatically directed to a Game and Parks cash fund. No decision is made on a biennial basis to renew this commitment of sales tax dollars to Game and Parks. At this time, many agencies are being asked to make cuts in response to the budget shortfall. However, many of the transfers and tax expenditures in LB468 are being overlooked in the budget process and should be considered just like other General Fund-supported programs. If these transfers and tax expenditures are left whole while other General Fund-supported programs are forced to take cuts, the cuts will fall disproportionately on programs that receive support through the appropriations process rather than those that receive support through transfers or through the tax code. Due to my limited time, I will touch on just a few of the provisions of the bill. The special capital gains election was enacted as part of LB775 in 1987. It was expanded in 2013 to include ESOPs. The exemption targets and benefits a very small segment of Nebraska taxpayers. Based on Nebraska Department of Revenue average statistics of income data for returns filed between 2010 and 2014, the latest years available, only about 0.1 percent of income tax returns filed claimed this election, and about 91 percent of this benefit was claimed by taxpayers whose AGIs are above \$500,000. Only 2.7 percent of the benefit went to taxpayers

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with incomes at less than \$200,000. The 2016 Tax Expenditure Report estimates that the election costs the state about \$21 million per year. There is also concern that a recent Nebraska Supreme Court decision may force the state to be more permissive in the approval of the election. In FY '16, the total sales tax on the sale and lease of motor vehicles was about \$235 million. An additional \$74 million was collected from sales tax transfers pursuant to the Build Nebraska Act, totaling \$309 million in sales tax support for transportation. The Governor's proposed budget would just slightly cut the state's highway funds but are also scheduled to receive funding through the infrastructure bank. One argument at the time for including leased vehicles in the sales tax earmark was that the high price of gasoline was resulting in less motor fuels tax being generated for the Highway Trust Fund. However, not only have gas prices fallen since then but the Legislature has passed several measures to increase funding for roads, including LB84, the .25 cent of sales tax for Build Nebraska; LB610, the 6 cent incremental increase in the gas tax; and LB960, creating the infrastructure bank, which received an infusion of \$50 million from the Cash Reserve last session. Game and Parks received an earmark in 2014, which amounted to \$4.2 million in FY '16. Then LB745 was passed in 2016, allowing Games and Parks to raise their user fees, which is raising another \$5 million per year. According to the Department of Administrative Services, in the last ten years, the Nebraska Department of Roads' expenditures increased 62.6 percent and Game and Parks' expenditures increased 51.2 percent. In comparison, Corrections spending grew 41.7 percent over this time and state budget spending grew 42.2 percent as a whole. I want to stop and say that we believe that spending on transportation should absolutely be a high priority for our state and that good roads are critical to a strong economy, and Game and Parks are important as well. We simply have concerns that when we create earmarks or other tax expenditures, it becomes difficult to evaluate the whole budget picture. While Nebraska is heavily reliant on property taxes to fund vital services, the Property Tax Credit is far from perfect. First, the program is not targeted to assist Nebraskans who have a difficult time addressing their property taxes. Second, the Institute on Taxation and Economic Policy estimates that as much as 44 percent of the property tax credit flows to out-of-state landowners. Among resident beneficiaries of the credit, about 48 percent of the credit flows to the wealthiest 20 percent of Nebraskans. So if we are looking to reduce property taxes, we believe there are better alternatives. We believe the resolution to the state's budget shortfall lies with both the Revenue and Appropriations Committees, and we hope the two committees will proceed as the two have during past budget shortfalls--working in collaboration to close the shortfall. With that, I'd be happy to answer to questions. [LB468]

SENATOR SMITH: Thank you, Ms. Fry. Do we have questions for Ms. Fry? Senator Harr and then Senator Schumacher. [LB468]

SENATOR HARR: Thank you. And I appreciate you coming to testify today. I would take exception to, on your first page, there's testimony...you say there's a concern that a recent Supreme Court decision may force the state to be more permissive in its approval of the election.

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It's my understanding, because I've read that, is that there is a one-year holding period that wasn't found in statute that was created in rules and regs...I'm not even sure if it was found in rules and regs. It was just denying tax breaks. And I don't know if that holding period was ever enforced, do you? How many of the diversions...of the claims were denied by taxpayers? [LB468]

RENEE FRY: So my understanding is that the court decision that we're referring to is Stewart v. Nebraska Department of Revenue and it had to do with the expansion of the number of shareholders. So the court decided whether a transaction could be structured to expand the number of shareholders and qualify for the special election by selling one share to three individuals who subsequently planned to buy the entire firm. And it was after the election was first disallowed by the Department of Revenue. And so the opinion, as I understand it, so the Department of Revenue denied that election. They were sued and came back and the court basically said the Legislature structured a situation where there is a loophole and that's allowed. [LB468]

SENATOR HARR: I don't think it's a loop...we'll disagree with that. There was a one-year holding period. Whether that needs to be...whether there needs to be a one-year holding period or not was the issue to see if you had enough nonqualifying owners. I get that. But I'm not sure that that...and what they said was based on the statute. And I think it was a recent revenue change that led to and I think that change occurred after I'll say 2012, but I think even as late as 2014, where they reinterpreted--and I'll put it in air quotes--the statute and read into it something that wasn't there before. So I would just take exception to whether there will be an increase. [LB468]

RENEE FRY: So our comments are based on a discussion that I had and that our fiscal analyst had with a former staff person at the Department of Revenue who was very high up. So that was...the concerns that we heard were expressed to us by someone (inaudible) at the department. [LB468]

SENATOR HARR: And I will only speak as a practitioner in the field. [LB468]

SENATOR SMITH: Senator Schumacher. [LB468]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, Ms. Fry, for your testimony. In looking over your testimony, the one thing that really kind of stands out is the topic of this special capital gains election--tiny number of people apparently are involved and most of it goes to folks that have income over \$500,000, very little to people with income less than \$200,000. Now so that I have a concept of what's going on here and maybe some of the people new to the committee, what is a special capital gains election and is there any history as to how come we have it? [LB468]

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RENEE FRY: So as part of the LB775 package...and essentially what happens is you have an employee who is an employee of a corporation and they acquire shares of ownership in that firm during the course of employment and may choose to sell these shares at the time that they retire or leave that corporation, at which time they are able to subtract the capital gain realized from their federal AGI at the time of the sale of these shares, which is why you can have one individual who is receiving a huge amount of capital gains in a single year. It was part of LB775. There was a fair amount of debate on the floor about this particular provision looking back at past legislative history. Senator Warner at the time actually tried to have this provision removed from the LB775 package, was unsuccessful. I think he had about 20 votes, if I remember correctly, to remove this provision. But it passed and has been in statute ever since. [LB468]

SENATOR SCHUMACHER: So if somebody works for one of these companies that is qualified--I assume there's some regulatory way to qualify a company--and as a result of that work they get stock and then when it's time to move on they sell the stock, they don't pay income tax on the stock, basically. [LB468]

RENEE FRY: On their capital gains, correct. [LB468]

SENATOR SCHUMACHER: On their capital gains. So basically to the extent this was a savings program by giving them stock, what's happening is that part of their wage becomes tax exempt. Okay. And is there any indication that you found, how much of the total fiscal note and fiscal impact here is due to this? If we just did this alone, what would we bring in? [LB468]

RENEE FRY: Yeah, so the most recent estimate, the 2016 tax expenditure report estimates that the election costs the state about \$21 million per year. I will tell you that when we've looked at this issue in the past, there's quite a bit of fluctuation. And I think that this number is reported every other year, but it can range anywhere from, you know, \$20 million to \$38 million I remember in one year. So I think that there is a fair amount of range year by year. [LB468]

SENATOR SCHUMACHER: So if... [LB468]

RENEE FRY: And I would also say if I could, that number I don't think reflects the expansion of the program that included ESOPs. So I think that's that number reflects the original special capital gains election but does not include the expansion. [LB468]

SENATOR SCHUMACHER: So a few years ago we expanded this so that folks with an ESOP...what is an ESOP stand for? [LB468]

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RENEE FRY: Employee... [LB468]

SENATOR SCHUMACHER: Stock ownership plan. [LB468]

RENEE FRY: Stock ownership program...plan. [LB468]

SENATOR SCHUMACHER: So we expanded it so those people, in getting some of their compensation from a company having one of those plans, also get this tax benefit upon severance. Now if any one of us on this committee opens up shop, you hang out a stockbroker license or a law license or set up a company of some kind and we work hard and we...the company becomes worth money. And then we sell that company while we are young enough to sell it and we get money for it, capital...our stock went from worth very little to worth quite a bit because we worked hard for two, three, four decades. Do we qualify for this, does such a person? [LB468]

RENEE FRY: If you have five shareholders is my understanding. [LB468]

SENATOR SCHUMACHER: So just mom and pop or most of Nebraska's businesses doing the same kind of work, we have to pay tax, and if qualified under this you don't? [LB468]

RENEE FRY: Although the concern that was expressed to me from a former employee of the Department of Revenue was that it would be pretty easy for someone to quickly expand their number of shareholders for the purposes of this election. And so it could be their feeling that reason that they denied it was because they felt they it could be abused. But, yes, people would not go that route would not be eligible for this... [LB468]

SENATOR SCHUMACHER: I hope they write a manual as to how you do that. [LB468]

RENEE FRY: I'm sure there will be someone who will be (laugh)... [LB468]

SENATOR SCHUMACHER: Well, I think we probably just inspired one. Thank you. [LB468]

SENATOR SMITH: All right. Further questions for Ms. Fry? I see none. Thank you, Ms. Fry. [LB468]

RENEE FRY: Thank you. [LB468]

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SENATOR SMITH: (Exhibits 3-6) All right, next proponent. I forget where I was. Next proponent of LB468. I see no additional proponents, supporters of LB468. We do have some letters for the record in support of LB468: Mike Marvin representing Nebraska Association of Public Employees; Mike Lucas representing York Public Schools; Traci Bruckner representing Women's Fund of Omaha; and Jason Hayes representing NSEA. We now move to opponents, those wishing to testify in opposition to LB468. Welcome, Director Schneweis. [LB468]

KYLE SCHNEWEIS: Thank you. [LB468]

SENATOR SMITH: Never expected to see you in Revenue. [LB468]

KYLE SCHNEWEIS: (Exhibit 7) Well, I missed you. (Laughter) Good afternoon, Chairman Smith and members of the committee. My name is Kyle Schneweis, spelled K-y-l-e S-c-h-n-e-w-e-i-s. I'm the Director of the Nebraska Department of Roads. I'm testifying in opposition to LB468. Freezing motor vehicles sales tax provisions for two years in order to direct those revenues to the General Fund would severely impact Nebraska's highway construction program. NDOR would lose approximately \$228 million in tax receipts from the sale or lease of motor vehicles during that two-year period. The effects would be drastic. Because of the time it takes to build highway projects, funds for this construction season mostly are already committed. So in order to absorb the savings required by LB468, for every \$1 reduction in funding, we would need to cancel up to \$5 in scheduled project construction. This would force us to look at other obligations to make the cash flow work. For example, we might have to delay payments to local governments. We might have to stop work on construction projects that are already underway. And so I ask you to ponder this impact this would have on our partners' and our efforts to grow the state's economy. I'll gladly take your questions. [LB468]

SENATOR SMITH: Thank you, Director. Do we have questions? Senator Schumacher. [LB468]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Just one question. When this financial problem that we have started showing its ugly head and the Governor sent out letters to folks and saying give me your scenario, if you cut 8 percent or 4 percent... [LB468]

KYLE SCHNEWEIS: Sure, sure. [LB468]

SENATOR SCHUMACHER: ...were you on the list that had to make those recommendations? [LB468]

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KYLE SCHNEWEIS: We did do that exercise, yes, and that's where we find that because of the length of time it takes to do a construction project we're often signing a contract and paying that out over the years at a time. So the obligations were the coming summer and fall have been made in the years past already. And so to get the savings that you want here, you have to cut significantly on the projects that you would be putting out to new construction. [LB468]

SENATOR SCHUMACHER: And in your report, your scenario of the taking an 8 percent hit, what was eliminated? [LB468]

KYLE SCHNEWEIS: For the 2017 fiscal year? [LB468]

SENATOR SCHUMACHER: In order to come up with the... [LB468]

KYLE SCHNEWEIS: Sure. So...well, we've been operating under a hiring freeze like everyone else across state government. We currently have 111 vacancies at the Department of Roads. That's over 5 percent of our FTE count. Taking a very critical eye towards a lot of other parts of our business. We have delayed, for example, purchasing computer equipment on our regular schedule to save, I believe, the number was \$300,000 for this year by not purchasing new computers for employees this year. So there are things like that that we are undertaking. [LB468]

SENATOR SCHUMACHER: And what's the consequence of not purchasing the equipment, of not having 117 employees? How is that impacting your ability to build new roads, to fix old roads, and to do all the stuff you need to do so we don't have to drive in snow after a blizzard? [LB468]

KYLE SCHNEWEIS: Sure, well, we certainly are...our goal at the Department of Roads is to take every penny we can and put it into the pavement...the...whether it's to preserve our system or plan for the future. And, Senator, as you know, there are needs all over the state. We've talked frequently about a few needs in your district. And to try to get to those needs, our goal is to lower that administrative cost and get it all in the pavement. And so if we can save \$300,000 in computers, we're going to put it on pavement. [LB468]

SENATOR SCHUMACHER: But \$300,000 doesn't buy much pavement. [LB468]

KYLE SCHNEWEIS: Well, highway construction is expensive. Our annual construction program is around \$500 million. [LB468]

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SENATOR SCHUMACHER: So when you said, well, Dear Governor, we'll cooperate. Here's our 8 percent cut list in our theoretical world, what did you cut? [LB468]

KYLE SCHNEWEIS: Well, so that's one example is the computers. Like I said, we're not hiring at nearly the rate... [LB468]

SENATOR SCHUMACHER: That's a long way from 8 percent of your budget though. [LB468]

KYLE SCHNEWEIS: Well, and I believe that when it comes to the enacted...so the savings we realize, we put back into construction and that's our goal. [LB468]

SENATOR SCHUMACHER: So you really didn't basically say here's our way of coming up with 8 percent less. [LB468]

KYLE SCHNEWEIS: I would disagree with that. We came up in theory what it would take for us to do that. The decision was made to keep those investments in the transportation system. [LB468]

SENATOR SCHUMACHER: Did you respond with a letter or something like that? [LB468]

KYLE SCHNEWEIS: It was a series of conversations with the Fiscal Office. [LB468]

SENATOR SCHUMACHER: Okay. And that was not accompanied by any written proposal of any kind? [LB468]

KYLE SCHNEWEIS: No. No, sir. [LB468]

SENATOR SCHUMACHER: Okay. Thank you very much. [LB468]

KYLE SCHNEWEIS: And I guess I would add, you know, the way we fund roads in Nebraska is very common with how they're funded all over the country and even nationally through the Highway Trust Fund. And it's done this way because of the length of time it takes to do these projects and the commitments you have to make to be able to continue to preserve the system and plan for the future. And if you're sliding the pieces around all the time, you can't plan and you can't get...make the best use of those dollars. And we're doing everything we can to be as efficient as we possibly can in how we expend those. Two years ago the Department of Roads carried a cash balance in excess of \$150 million. And we have done everything we can to get that

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balance down. And today we...our goal is to keep it between \$10 million and \$50 million. And that allows us to make sure we're getting that money on the pavement. And it sounds like a lot. I can tell you some of my sister organizations in other parts of the country carry cash balances of \$600 million plus. Here in Nebraska we get the money on the road. And we're constantly trying to manage that cash level to be as efficient as we possibly can. And so the one advantage is that we're getting road work done. A disadvantage is that we don't have a lot of flexibility when it comes to trying to move pots of money around. [LB468]

SENATOR SCHUMACHER: Thank you. [LB468]

SENATOR SMITH: Very good. Senator Brasch. [LB468]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Director Schneweis. And I do believe that you are putting the funds wisely as they're needed. And I did want to thank you that after one of our late Revenue evenings and on a trip back to the farm, there was a highway lighted marquee. I was moving along pretty good, ran out of daylight. The marquee is flashing icy patches. And I thought, oh, icy patches. Sure enough, icy patches (laugh). I would have been sliding along, but your sign did make me take my foot off the pedal and made it back to the farm safely. So don't cut those lights, please. I have no questions. I just wanted to commend you and your team. [LB468]

KYLE SCHNEWEIS: I appreciate that. The winter operations is a very professional operation at the Department of Roads. We have a lot of people take a lot of pride in making sure that when you get on our highways in the winter, they're going to be safe. [LB468]

SENATOR BRASCH: Very good. Thank you. [LB468]

SENATOR SMITH: Thank you, Director Schneweis, for your testimony. Appreciate it. I don't see any further questions. [LB468]

KYLE SCHNEWEIS: Sure. Okay. Thank you. [LB468]

SENATOR SMITH: Next opponent of LB468. Welcome, Ms. Rex. [LB468]

LYNN REX: (Exhibits 8 and 9) Thank you. Senator Smith, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. I'm here today testifying on behalf of the League. I'm also testifying at the request of NACO, the Nebraska Association of County Officials. Larry Dix sends his regards. However, he's over at Judiciary and

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cannot be here today. In addition, I'm testifying on behalf of Nebraska Economic...Nebraska Expressways for Economic Development, which is also known as NEED. And I've also been asked to submit a letter on behalf of the city of Lincoln. Hopefully this will cut the testimony down for all the other groups that wanted to be there. Larry has specifically asked that I read his letter into the record verbatim, so I will do that rather quickly. Chairman Smith, among other things, LB468 would suspend the receipt of funding for the Highway Trust Fund beginning July 1, 2017, to July 1, 2019. Ceasing the receipt of money for this time frame to the Highway Trust Fund will be disruptive to the existing transportation infrastructure of the county. The Highway Trust Fund is required to be spent building, repairing, or maintaining county roads. Daily, monthly, and annual repairs are essential to the upkeep of county roads for safe travel of our constituents. A delay in the many projects that counties oversee for roads projects impacts such things as uneven pavement and roads which are unimproved. The counties' roads are very essential in Nebraska. In addition to normal everyday travel, well-maintained roads are beneficial for economic reasons such as transporting his or her produce from farm to market. For the above stated reasons, we encourage you and your committee members to oppose LB468. We really do hope that the committee will kill LB468. This bill would have a devastating effect on infrastructure across the state of Nebraska. In terms of funding for municipalities, I think it's very important to underscore the importance of LB610 that passed in 2015. It was important when it passed, but it's even more important now because of the loss of revenue that municipalities and counties are experiencing due to the fact that our wholesale price of gas is tied into the distribution. So we're losing roughly that amount. LB610 gave \$25.4 million roughly when it's in full effect to counties, the same amount to cities, the same amount to the state of Nebraska. Cities and counties are really using that money to offset the tremendous losses because we're tied to the wholesale price of gas. In fact, when LB846 passed in 2008...that passed in 2008 took effect July 1, 2009, cities and counties lost \$14.7 million right off the bat. So this funding is critically important and I can't underscore enough what that Director Kyle Schneweis was saying, which is basically for planning purposes these funds, you need to be able to have the funds in place for planning. If you don't, it's going to cost you more down the road, literally down the road. So we really hope that you will kill LB468. I understand and appreciate the intent with which Senator Krist introduced this measure. But we just cannot emphasize enough the importance of this for completing expressways, the importance of this for just maintaining streets and providing public safety and economic development across the state of Nebraska. With that, I'd be happy to respond to any questions that you might have. [LB468]

SENATOR SMITH: Thank you, Ms. Rex. Senator Schumacher. [LB468]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you for your testimony, Ms. Rex. But the roads section of this is only a fraction of this bill. So why are you calling for the death of the entire bill? [LB468]

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LYNN REX: Let me rephrase that we are...we think that this, that it's all related. That's the way that I think that he proposed it. If you want to simply separate out the part relating to the Nebraska Department of Roads and that part relating to motor vehicles and the leasing of motor vehicles and sales tax, that would be fine too. That would accommodate our interest as well. [LB468]

SENATOR SCHUMACHER: So you are not opposed, just for the record here, to suspending the personal property tax exemption for two years to help us with this problem of the revenue shortfall? [LB468]

LYNN REX: None of the organizations I'm here representing have a position on that. Certainly the League does not and I don't believe the counties do. [LB468]

SENATOR SCHUMACHER: And the same case, you're not opposed to suspending the income tax bracket adjustments for inflation for two years, at least leaving it alone for two years so it's like it used to be for two years. [LB468]

LYNN REX: The League has no position on that. [LB468]

SENATOR SCHUMACHER: And you're not opposed to suspending this special capital gains deduction which a tiny, tiny percentage of the people get the benefit. [LB468]

LYNN REX: We have no position on that. [LB468]

SENATOR SCHUMACHER: Okay. And so to that extent when you say kill the bill, you're saying excise this one provision of the bill. [LB468]

LYNN REX: That would accommodate...either way would accommodate our interests, Senator. [LB468]

SENATOR SCHUMACHER: Thank you. [LB468]

LYNN REX: But the...we just cannot emphasize enough the importance of having this funding available for streets and cities across the state, as well as counties. And again, you have a letter from the city of Lincoln. [LB468]

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SENATOR SMITH: Okay. Ms. Rex, for your members, and I know you read a letter into the record from Larry Dix representing NACO and for his members, I appreciate what you folks do at the local government level to provide for the essential services to our citizens. So thanks for what you guys do. [LB468]

LYNN REX: Well, we thank you for the votes on LB610. And we thank you most importantly for the largest infrastructure bill in the state of Nebraska which passed last year without one negative vote and that was LB960, the Transportation Innovation Act introduced by Senator Smith on behalf of the Governor. And I cannot emphasize the importance of that bill to the future of this state. And so we thank you for that. [LB468]

SENATOR SMITH: Thank you, Ms. Rex. [LB468]

LYNN REX: Thank you. [LB468]

SENATOR SMITH: We continue with opponents of LB468, opponents. Welcome. [LB468]

DOUG WILLIAMS: (Exhibits 10-13) Chairman Smith and members of the committee, my name is Doug Williams, D-o-u-g W-i-l-l-i-a-m-s. I'm testifying today on behalf of the Associated General Contractors-Nebraska Chapter. Just a little background, this is the 40th year that I've been involved in the construction industry. I've worked for a bridge contractor. I've worked in positions ranging from laborer to superintendent to area manager to vice president of the company. I've been involved with the Associated General Contractors nearly that long. Served on a variety of committees and task forces. I've chaired committees, served on the board of directors, and I'm presently serving my second term as president of the Nebraska Chapter of the Associated General Contractors. The Associated General Contractors is a trade association of Nebraska highway contractors who perform bridge, highway, and municipal utility infrastructure work. My members don't build Nebraska alone but depend on the 47,000-plus construction workers statewide who build the state of Nebraska. Leading up to the advent of LB84 in 2011, Nebraska's revenues for roads had flattened out and there was only enough money available to simply provide for maintenance of our existing infrastructure. No funds were available for new capital construction to build additional lanes on crowded dangerous roads or to complete the expressway system long ago promised to Nebraska taxpayers. The Legislature at this time courageously passed LB84, the Build Nebraska Act which directs .25 cents of the state's existing sales tax towards new road construction. The Associated General Contractors opposes the provisions of this bill redirecting transfers from the Highway Trust Fund and the Highway Allocation Fund from the sale and lease of Motor Vehicles to the General Fund in fiscal years 2017-18 and 2018-19. The amount of such transfers are estimated to be in the range of \$214 million per year for those two years. And on the basis of that, we are opposing that. I have also

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submitted to enter into the record opposition to LB468 from the American Council of Engineering Companies, the Nebraska Trucking Association, the Nebraska Farm Bureau Federation, and the Professional Engineers Coalition. So I believe you have received those documents. To date, there have been 17 capital improvement projects totaling \$600 million that have been selected for the first ten years of the Build Nebraska Act. Five of those projects have already been completed. Six projects are presently under construction. One project is expected to be let in the fall of 2017. And that leaves five more to be programmed somewhere between now and 2013. It would be very costly to the state if LB84 funding were to be paused for two years. This would impact the 12 major projects currently in process or in the development stage. These projects are places like Hastings, Grand Island, Plattsmouth, Murray, Lincoln, and Omaha. And for the projects presently under construction, funds most likely would have to be taken away from other proposed projects in order to pay off those jobs that are already under way, so infrastructure development would be severely restricted. For projects in the development phase, the project development would most likely cease without the funding there to do the project development. And once the funds were then available to develop again, you wouldn't be able to start right up at the end of two years because you would have to finish development of those projects. So you would be looking at even a greater pause in your program than what you have now. Another thing you need to consider, there's a shelf life to the environmental permitting process. The permits are only good for a certain amount of time. So if you've got projects that are developed now and have the permits, two years from now those permits may no longer be valid. So the taxpayers' money that has been spent getting those permits is out the window and has to be spent all over again to repermit. These are things like the Corps of Engineers and Fish and Wildlife and NDEQ and NESHAP, all the NEPA permits that have to be taken care of. Additionally, if LB84 funds were suspended, there's 15 percent of that that goes to the counties and the municipalities. And there's been a lot of discussion the past couple of years about the dire straits municipalities and counties are in as far as repairing their roads and their bridges. And you would be taking that money out of the works as well. AGC is concerned about the loss of jobs that this bill would bring about. I alluded earlier to the rough times we had in the construction industry back in 2008, 2009, and 2010. And during that period of time, we lost an awful lot of construction workers and they have never returned. And if you'll indulge me for just a few moments, I want to kind of put a face on this. In 2009 and 2010, my firm did not build one project in Nebraska. So I lost some crews, I lost people that never returned. We had to go do work in Kansas and in Iowa. And I'm sure Kansas and Iowa were quite happy to have us to buy all our parts and supplies in those states and have our guys buy their food and motel rooms. And I'm sure that they were kind of happy to see the guys pay their income taxes in those states at that time too. So the...we really...to keep our infrastructure going, we need to make sure that the construction companies are working here and able to give some input into the Nebraska economy. And just the last point I'd like to meet is there's really a ripple effect for construction dollars that are spent. And I'll just give an example. [LB468]

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SENATOR SMITH: Mr. Williams, I'm going to ask you to have to conclude your remarks.
[LB468]

DOUG WILLIAMS: Okay. There's a huge ripple effect. Money that is spent is spent on girders and rebar and other things in the state that goes above and beyond what we have here. So, Chairman Smith, members of the committee, I can't stress enough the importance of the Build Nebraska Act to our state. We've put some of these dollars to work. We need to continue putting them to work. We urge you to kill at least the portions of this bill that would interfere with the LB84 dollars. [LB468]

SENATOR SMITH: Okay. Thank you, Mr. Williams. Do we have questions from the committee? Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you for your testimony today. Just so we're clear, what organization do you represent? [LB468]

DOUG WILLIAMS: I represent the Associated General Contractors-Nebraska Chapter.
[LB468]

SENATOR SCHUMACHER: Okay. And so from the perspective of those two organizations, do you oppose the suspension of the personal property tax exemption for two years? [LB468]

DOUG WILLIAMS: We have no position on that. [LB468]

SENATOR SCHUMACHER: And do you oppose the suspension of the income tax bracket, suspension for two years? [LB468]

DOUG WILLIAMS: We have no position on that. [LB468]

SENATOR SCHUMACHER: And do you oppose the suspension of the special gains, capital gains subtraction? [LB468]

DOUG WILLIAMS: We have no position on that. [LB468]

SENATOR SCHUMACHER: And do you oppose limiting the property tax credit to using available revenue? [LB468]

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DOUG WILLIAMS: We have no position. [LB468]

SENATOR SCHUMACHER: So you're just basically on the highway stuff. [LB468]

DOUG WILLIAMS: Correct. [LB468]

SENATOR SCHUMACHER: Now let me ask you just one, and it's kind of an esoteric question. But you just explained the problem with a disruption in funding when you're building highways. [LB468]

DOUG WILLIAMS: Correct. [LB468]

SENATOR SCHUMACHER: And that you end up maybe in the end, if you do such a thing, paying more to get the job done. [LB468]

DOUG WILLIAMS: That is correct. [LB468]

SENATOR SCHUMACHER: Do you suppose in the disruption in the funding of educating preschool kids would have the same effect there? [LB468]

DOUG WILLIAMS: I don't know that I would be an expert on that. I know I want good education for our state's children. I will say that. [LB468]

SENATOR SCHUMACHER: Or the suspension in the delivery of mental health facilities to people who might end up in the penitentiary if they didn't get that care, that...the same kind of phenomenon that occurs when you borrow from the future by suspending something right now is...occurs in a lot of things that we...that increase the cost if we suspend them or break the rhythm. And that's really part of the problem that we're just trying to struggle with. Thank you. [LB468]

DOUG WILLIAMS: I appreciate all of you people's dedication to struggling with that problem. [LB468]

SENATOR SCHUMACHER: Thank you. [LB468]

SENATOR SMITH: I see no further questions, Mr. Williams. Thank you for your testimony. [LB468]

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DOUG WILLIAMS: Thank you. [LB468]

SENATOR SMITH: Next opponent of LB468. Welcome. [LB468]

JOHN HANSEN: Mr. Chairman, members of the committee, good afternoon. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. And this should end any speculation as to whether or not OpenSky and Farmers Union are always on the same page on everything. And I appreciated Renee Fry's summary of...every time she testifies, I learn something more about the tax system. And this bill is one that we struggle with in terms of are we for it with a bunch of caveats or are we against it with certain provisions? And the two areas that cause us heartburn are for members of the committee I'm sure fairly easy to identify for us. And the one is the roads section. And we think that is a, you know, penny wise pound foolish bargain and that we agree with all of the comments that have made relative to that. We don't really save any money. We just...it costs us more money by the time we get it done. So we agree with that. And then the other one is, as I suppose was fairly easy to figure, was the section that deals with Property Tax Credit Act delays to 2019. And so those two sections caused us enough heartburn to decide to testify in opposition. But, you know, at the end of the day we have to be able to balance income and expenses. And so depending on what the mix of other cuts are and other revenue enhancers and other ways to reduce those things that we've done in the past that has cost us money, then I think we appreciate as Senator Krist bringing this forward because this is...this kind of bill with these kinds of things in it are I think going to potentially be a part of the mix, because it does have to balance out. Our view generally, when we get into these kinds of financial binds which happen as we go through, we have historically supported strategic belt tightening and cuts along with some increase in revenues on both income and sales along with a use and proper strategic use of the state's rainy day fund. And that's why we support keeping that fund at higher levels, because we know that there is going to be without doubt these ups and downs in the economy and that if you're simply going to just cut in order to be able to meet the bottom line, that is almost always the most painful and is if you consider what the actual cost-benefit ratio is, is almost always the most expensive in the long run way to do it. So with that, I would end my comments. [LB468]

SENATOR SMITH: Thank you, Mr. Hansen. Senator Schumacher. [LB468]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Just a couple of questions. So your opposition is not targeted at the suspension of the income tax bracket adjustment or the suspension of the special capital gains exclusion, is that correct? [LB468]

JOHN HANSEN: No, no. It is just those two sections that I identified. [LB468]

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SENATOR SCHUMACHER: Thank you. [LB468]

SENATOR SMITH: I see no further questions. Thank you, Mr. Hansen, for your testimony. [LB468]

JOHN HANSEN: Thank you. [LB468]

SENATOR SMITH: Next opponent to LB468. Opposition to LB468. Welcome. [LB468]

TIMOTHY McCOY: Thank you, Chairman Smith, members of the committee. My name is Timothy McCoy, T-i-m-o-t-h-y M-c-C-o-y. I am the deputy director of the Nebraska Game and Parks Commission located here in Lincoln, Nebraska. I'm going to be testifying very specifically on the section of this bill that relates to the capital maintenance fund that was put in place in 2014. That fund was part of an effort that we were involved with that took a couple of years with deferred maintenance activities in our park system. At the time we were facing and we're still working on a \$44 million backlog in deferred maintenance within our park system and our park system includes many things. Many of our parks are like small towns. We have water systems. We have sewer systems. We have...you know, we have lodging. We have camping areas. So we have a wide variety of those challenges and we had through years of delaying those really built a backlog. And so that was put in place. I will make some specific comments to that fund because it was specifically a capital fund. That does mean it is not used for operating. It can only be used for those capital projects. It also did not create any additional authority. That capital authority, it still has to be spent out of the authority provided through appropriations for capital projects for the commission. So just to put that out there, that it is a little different, some of those other funds. There also is, I would say, a pretty large check on that in terms of that funding being provided with the five-year sunset which will be in 2019. Some of the activities that we've been using these dollars for, we have some we're working on: a requirement that we need to completely change our sewer system at Two Rivers State Park to move it to a lagoon system to basically protect, you know, any chance of anything getting in the Platte River, where that's located. That's a very important one that we're working on. It is taking a large amount of time with the permitting and you heard that with other projects. Most of these capital projects take a considerable amount of time. With the dollars that came from boat...sales taxes on boats, we have been focused on trying to do upgrades and replacements for boat launch facilities, boat ramps, boat docks, especially in our state park system, but throughout the state. And those again are projects that require significant amount of engineering and permitting to put in place. So those are really the...you know, I wanted to focus a little bit on the history and how we've used that. And we would hope you would find a way to allow us to continue that to continue to meet those needs because those needs...that list doesn't get a lot smaller. Nothing seems to go down in

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price to be able to complete. And so it's very important in our terms of looking at the capital and protecting those investments that have made the park system. [LB468]

SENATOR SMITH: Thank you, Mr. McCoy. Questions from the committee? Senator Brasch. [LB468]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. McCoy. And I believe I was on the Natural Resources Committee at that time. And I didn't hear you say it but I thought the parks were terribly behind in meeting federal requirements for Americans with Disabilities Act. Has that work been...? [LB468]

TIMOTHY McCOY: That's another piece of what we've been doing is actually updating to meet, you know, both federal and state requirements. Many of the requirements we deal with, you know, that are probably the most stringent are the water quality in terms of our water systems and the sewer systems. But, yes, we are also using these funds to make sure that we are fully up to the ADA standards. [LB468]

SENATOR BRASCH: Because I thought there was a fine or something pending years ago. [LB468]

TIMOTHY McCOY: There are...there have not been but there's always...you know, that's always a potential issue out there. [LB468]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB468]

SENATOR SMITH: Senator Schumacher. [LB468]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you for your testimony. Were you asked to participate in the 8 percent simulation of exercise? [LB468]

TIMOTHY McCOY: We absolutely were. [LB468]

SENATOR SCHUMACHER: And did you submit a response in writing or was it just like the Department of Roads, verbal? [LB468]

TIMOTHY McCOY: We submitted a written proposal that showed specifically where in our budget if we had to take those cuts in our general funds, which are--I'll throw in a plug here--are

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about 16 percent of our total budget. We are largely based on user fees, the work of our agency is. [LB468]

SENATOR SCHUMACHER: Is there some reason that the work your agency that's based on user fees shouldn't be reviewed under that 8 percent standard too? [LB468]

TIMOTHY McCOY: We did submit it in the budget, an 8 percent reduction. That would be our operating funds. [LB468]

SENATOR SCHUMACHER: And so your budget that you're asking for now is 8 percent less? [LB468]

TIMOTHY McCOY: We...our budget...that was a requirement of everybody, to submit that as part of their budget. And we submitted that along with the request of what our requested budget would be for this biennium. [LB468]

SENATOR SCHUMACHER: And your cut is going to come out to what? [LB468]

TIMOTHY McCOY: Well, our cut is, you know, still subject to what the Appropriations Committee is going to do. It looks like...I think we're looking at about 3 percent looking at what at least the initial proposals that have come out are. [LB468]

SENATOR SCHUMACHER: Thank you. [LB468]

SENATOR SMITH: I see no further questions. Thank you, Mr. McCoy, for your testimony. Next opponent of LB468. Welcome. [LB468]

JOE NEUHAUS: Thank you. Chairman Smith, members of the Revenue Committee, my name is Joe Neuhaus, J-o-e N-e-u-h-a-u-s. I am the policy and research director for LIBA, the Lincoln Independent Business Association. And we oppose LB468 for one main reason: We're concerned about the safety of Highway 2 in south Lincoln. And while the bill doesn't expressly affect the Build Nebraska Act, we're concerned based on previous testimony that funding going to the Build Nebraska Act could be seriously in jeopardy if things need to be shifted around. LIBA opposed LB671 in 2016 which would have repealed the Build Nebraska Act completely. To reiterate a few main points from that testimony, a truck accident on Highway 2 on Husker game day a few years ago involving 34,000 pounds of radioactive waste could have been disastrous. Fortunately, no one was injured and the waste was fully contained. But the high percentage of heavy truck traffic on Highway 2 makes it especially dangerous. So dangerous, in fact, that in the

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past 15 years, 21 people have been tragically killed in 18 car accidents on Highway 2 within the city limits of Lincoln. And the South Beltway project is funded by the Build Nebraska Act. We need safe and reliable roads in Nebraska and there is just one...and there's one just a few miles south of where we're sitting right now that's not safe. Accordingly, we respectfully ask the Revenue Committee not to advance LB468. [LB468]

SENATOR SMITH: Thank you, Mr. Neuhaus, for your testimony. Appreciate it. Senator Schumacher. [LB468]

SENATOR SCHUMACHER: Thank you, Chairman Smith. I'll quickly just go through this litany to make sure I know whether you're testifying against this principally because the effect on the roads sections, do I have that right? [LB468]

JOE NEUHAUS: Sure. If I can base my response on questions you asked previous opponents then... [LB468]

SENATOR SCHUMACHER: Okay. [LB468]

JOE NEUHAUS: ...I will just say generally that we are supportive of tax relief, very supportive. But to do it in the mechanism that it's been presented is problematic in our estimation. And the other issue is that if we're creating this property tax relief fund, it's essentially a drop in the bucket. [LB468]

SENATOR SCHUMACHER: So I want to just go through here so we can move. Your testimony is does not apply one way or the other to the personal property tax exemption line, is that right? [LB468]

JOE NEUHAUS: No, not with regard to this bill. [LB468]

SENATOR SCHUMACHER: Okay. Regard to the suspension for two years of the inflation adjustment on the income tax? [LB468]

JOE NEUHAUS: Not with regard to this bill. [LB468]

SENATOR SCHUMACHER: Okay. It does not apply to the suspension of the special capital gain subtraction mechanism? [LB468]

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JOE NEUHAUS: Same answer as before. [LB468]

SENATOR SCHUMACHER: All right. And does not apply to limiting Property Tax Credit Act to using available resources? [LB468]

JOE NEUHAUS: Well, that's...you know, I think the Property Tax Credit Act was...kind of just to dovetail on what I said previously, I think if we're trying to create a credit to this fund to the Property Tax Relief Fund then I think there are better ways of providing property tax relief. [LB468]

SENATOR SCHUMACHER: Thank you. [LB468]

JOE NEUHAUS: Thank you. [LB468]

SENATOR SMITH: Thank you, Mr. Neuhaus, for your testimony. [LB468]

JOE NEUHAUS: Thank you. [LB468]

SENATOR SMITH: (Exhibits 14-16) Next opponent to LB468. We do have letters for the record in opposition to LB468. We have one letter that was jointly signed by Wendy Birdsall from the Lincoln Chamber, David Brown from the Greater Omaha Chamber, and Barry Kennedy from the Nebraska Chamber of Commerce. Again, that letter was in opposition to LB468. Also in opposition: Josh Moenning representing 4 Lanes 4 Nebraska; and Troy Stowater from the Nebraska Cattlemen. Again, those letters were introduced for the record in opposition to LB468. We now move to those testifying in a neutral capacity on LB468, neutral capacity. Welcome. [LB468]

NATHAN LEACH: Mr. Chairman, members of the committee, thank you for your time and attention. My name is Nathan Leach; that's spelled N-a-t-h-a-n L-e-a-c-h. I reside in District 27 but grew up in Kearney, Nebraska, and graduated from Kearney High School in 2015. I'm speaking strictly on behalf of myself and I'm speaking in a neutral capacity. LB468 was an interesting bill to look over and I felt that there was a number of comments that ought to be submitted into the record relevant to the handling of this committee and the way it deliberates on this bill. And if the bill is to move forward to the full Legislature, I felt that there was also some comments that, again, ought to be put in the record related to the procedure. The late U.S. Senator George Norris on the opening day of the Unicameral in 1937 skipped the opening of the U.S. Senate to come and speak before the body. And in part of that speech he said, and I quote, you are members of the first Legislature of Nebraska to hold your positions without any partisan

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obligation to any machine, to any boss, or to any alleged political leader. Your constituents do not expect perfection. They know that it is human to err, but they do expect and have the right to expect absolute honesty, ultimate courage, and a reasonable degree of efficiency and wisdom. The people of Nebraska will not condemn you even if they do not agree with your official actions. We realize that honest disagreements on things which are not fundamental is an evidence of courage and independence. We expect an economical and efficient administration and, above all, an honest administration free from any partisan bias, political prejudice, or improper motives. Mr. Chairman, members of this committee, I am extremely concerned that this Legislature has demonstrated a level of partisan dysfunction that it has never witnessed in its entire 80 years as a Legislature. And even to this day the body has been incapable of adopting a motion even to adopt its permanent rules. And many Nebraskans I think are looking on this issue and they are...well, I personally am quite appalled at that kind of dysfunction. So I feel that there is some commentary that ought to be put into the record so that when Nebraskans in the future look back on this bill, they will know that something has changed and they will know that that change occurred this year and not before. After I graduated from Kearney High, I had the experience to move to Phoenix, Arizona, and work as a humble page in the Arizona State Senate and there I watched every single day as a legislature that was so partisan that there was absolutely no debate on any bill that came before the body. And as a young parliamentarian that I claim to be, I left that legislature with a knot in my stomach every day and I pined after the remarkability of our Unicameral here in Nebraska. And so after the Senate adjourned sine die, I returned here to Nebraska found myself wrapped up in a campaign in South Dakota for nonpartisan elections. And I knocked on thousands of doors and I told folks about how we do things here in Nebraska and how remarkable that system is. And then I returned here in Lincoln and I watched on the first day as that institution was seriously damaged by partisanship that I don't think this Legislature has ever seen. And so I feel it is my obligation as a young person and it is the obligation of my generation to hopefully rectify the damage that members of this Legislature have caused. So again, I thank you very much for your time and I feel that these statements are important to be read into the record for future Nebraskans to have. So thank you again. [LB468]

SENATOR SMITH: Thank you, Mr. Leach, for your testimony. You seem very knowledgeable of Nebraska history and I applaud you for that. Very well said. Questions for Mr. Leach? I see none. Thank you. [LB468]

NATHAN LEACH: Thank you. [LB468]

SENATOR SMITH: (Exhibit 17) Others wishing to testify in a neutral capacity on LB468. We do have one letter in neutral on LB468 and that is from Diane Battiato representing the Douglas County Assessor and Register of Deeds Office. And Senator Krist waived closing on LB468. And that concludes our hearing on LB468. As Senator Lindstrom makes his way to the testifier table, again, let me get another show of hands how many we have that are testifying on this next

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bill in total. Okay, we have a number of people that are testifying. We're still going to stick to the five minutes but I do recognize the number of new faces in the audience. And those of you who have not testified before, it can be a little bit nerve wracking and if you're not accustomed to it, if you wish to just be as simple as giving us your opposition or support or whatever that is to the bill and your name. If you want to make reference to someone who has already testified and has already said something very similar to what you wish to testify, you can refer to that to get your name into the record. And you do not need to take the full five minutes but you're welcome to take the full five minutes if you need to. So I just want to get that clarification out there for those of you who are new to this process. And with that, we are going to open on LB452, a bill introduced by Senator Lindstrom that relates to imposing sales tax on services and changing income tax rates and personal exemption amounts. Welcome. [LB468]

SENATOR LINDSTROM: (Exhibit 1) Thank you, Chairman Smith and members of the Revenue Committee My name is Senator Brett Lindstrom, B-r-e-t-t L-i-n-d-s-t-r-o-m, representing Legislative District 18 out of northwest Omaha and I'm bringing LB452 for your consideration. I did provide a handout on behalf of the Greater Omaha Chamber of Commerce in support of LB452. LB452 addresses tax restructuring in three ways: eliminating sales tax exemptions, individual and corporate income tax bracket and rate reductions, and a phaseout of personal exemption credit. First, certain services and items are added to the list of gross receipts which are subject to sales tax. Newspapers, laundromats, and lottery tickets are no longer exempt from sales tax. Motor vehicle maintenance and repair services; personal care services; storage and moving services; dry cleaning and other laundry services; and taxi, limousine, and other transportation services will now be subject to sales tax. Second, LB452 simplifies our tax brackets. It reduces the number of individual income tax brackets from four to three, effectively collapsing the lower two brackets into one. The first bracket rate of 2.46 percent and the second bracket rate at 3.51 percent combine to create a first new tax bracket of 3.1 percent which covers Nebraskans with an AGI of \$0-18,000. Many Nebraskans who fall under the new first tax bracket qualify for the Federal Earned Income Tax Credit which also triggers the Nebraska Earned Income Tax Credit. We combine the brackets to help out working families and give the majority of Nebraskans income tax relief. LB452 also reduces the top marginal tax rate of 6.84 percent to 5.99 percent beginning in tax year 2018 over a minimum period of eight years for those Nebraskans making \$29,000 or more. On the corporate side, LB452 eliminates the distinction between the first \$100,000 of taxable income and taxable income in excess of \$100,000 and creates one tax rate for all taxable income. Starting with the January 1, 2018, tax year the corporate tax rate begins at 7.58 percent and is reduced to 5.99 percent. Both the individual and corporate income tax reductions are subject to certain triggers. Starting in November of 2019, if the Nebraska Forecasting Advisory Board finds that the expected rate of growth does not exceed 3.5 percent for the upcoming year, the individual income tax reduction is deferred. And if the expected rate of growth does not exceed 3.7 percent, the corporate income tax reductions are deferred. From the years 2020 to 2026, this deferment continues for individual

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income tax reductions until revenue forecasts meet or exceed 4.2 percent and for corporate income tax rate reductions until forecasts meet or exceed 4.5 for 2027 and beyond. The individual income tax reduction is triggered as long as the revenue forecasts for the upcoming year reaches 3.5 percent and the corporate income tax reduction is triggered as long as revenue forecasts for the upcoming year reaches 3.7 percent. Based on previous testimony in this committee from the Department of Revenue, our projected rate of growth in Nebraska has averaged north of 4 percent. Finally, the personal exemption credit will be phased out starting at 10 percent reduction in credits for those married filing jointly with an AGI of \$150,000, and \$75,000 for all other filers. The reductions in personal exemption credit increase until those married filing jointly with an AGI of at least \$250,000 or more or for all other filers an AGI of at least \$125,000 receive no personal exemption credits. I appreciate what the Governor and Chairman Smith have done with LB337, but LB452 takes things a step further to work on reducing both individual and corporate income tax. As we discussed last week during our hearing of property tax relief, more needs to be done before. LB452 should be in the discussion with the other tax bills as part of a comprehensive package and, as a prudent step forward, using triggers as a method of responsible tax relief. And with that, I will be happy to take any questions you have. [LB452]

SENATOR SMITH: Thank you, Senator Lindstrom, for your opening on LB452. Questions from the committee? I see none. I know you're going to be here for closing. [LB452]

SENATOR LINDSTROM: I will. [LB452]

SENATOR SMITH: And so we will probably have some questions for you towards the end if they're not answered during the other testimony. [LB452]

SENATOR LINDSTROM: Very good, Chairman. [LB452]

SENATOR SMITH: All right. Thank you. [LB452]

SENATOR LINDSTROM: Thank you. [LB452]

SENATOR SMITH: We now begin with proponents of LB452, those wishing to testify in support. Welcome. [LB452]

JIM VOKAL: (Exhibit 2) Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Jim Vokal, J-i-m V-o-k-a-l, and I'm the CEO of the Platte Institute. LB452 builds upon the strong foundation offered by LB337 and provides many valuable

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elements the Legislature should consider including its final tax reform this year. LB452 closely aligns with recommendations the Tax Foundation made in its report "A 21st Century Tax Code for Nebraska." The personal income tax reforms in this bill are structurally the same as LB337, but go further in reforming the state's two bottom tax brackets. The bottom two income tax brackets would be immediately replaced with a rate of 3.1 percent, cutting the tax rate on incomes between \$3,000 and \$18,000 for an individual or up to \$37,000 for joint filers. The bill also aims to simplify and unify the entire state income tax system. By eliminating unneeded tax brackets, LB452 would eventually create a standard top tax rate for all businesses in Nebraska, whether they file as pass-through entities or C corporations. Our neighbors in Colorado are a good example of a state that have already done this through their flat tax. To offset this personal and corporate income tax relief, LB452 would close a set of loopholes in our sales tax base, modestly increasing the number of services and goods that would collect sales tax. The Tax Foundation has noted that the exemption of services from sales tax is an accident of history. Sales taxes were largely established in the United States when most businesses only provided goods for sale. Today we have an increasingly service-based economy, and the sales tax base needs to be updated to account for this change. Including more services in the sales tax base makes the sales tax fairer and raises state and local revenue that can be used to address other fairness or efficiency concerns in the tax system. This principle of including services in the sales tax base is agreed to across the philosophical spectrum among tax policy experts. Where the disagreement begins is when deciding what to do with the new revenues. Research shows that taxes on income are generally more harmful to wealth creation than taxes on consumption. Of the five states that have gained the most income from Nebraska since 1992--Texas, Florida, Arizona, Colorado, and Missouri--all have lower top marginal income tax rates. Missouri is working to lower its personal income tax rate to 5.5 percent on a trigger, and Arizona has just completed a phase-in to reduce its corporate income tax rate to 4.9 percent. LB452 provides many tools for building a tax system in Nebraska that collects needed revenue for core government services at the lowest possible rates. By closing loopholes and reducing rates, the Legislature can provide a sound argument for resisting future attempts at tax carve-outs. The tax reforms included in LB452, which broaden bases, lower rates, and treat similarly-situated taxpayers the same, can help remove barriers to economic growth in Nebraska. By reducing the price government imposes on working, investing, and participating in entrepreneurship in our state, the Legislature can help improve Nebraska's economic competitiveness. And I'd be happy to answer any questions. And I know the Tax Foundation is here in a neutral capacity as well. [LB452]

SENATOR SMITH: Thank you, Mr. Vokal, for your testimony on LB452. Questions from the committee? Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you for your testimony, Mr. Vokal. If you'd elaborate a little bit more on that you're going to make the top bracket for

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individuals, for all businesses the same, for corporations and regular C corporations and sub S corporations, LLCs. Does that mean that if I pay...if I have a C corporation and I pay the, what, 5.99 percent at the corporate level that I can then take that dividend out tax free? [LB452]

JIM VOKAL: I'm not sure that's the case. [LB452]

SENATOR SCHUMACHER: Well, I mean if it's a Sub S corporation, clearly... [LB452]

JIM VOKAL: Correct. [LB452]

SENATOR SCHUMACHER: ...you can take that out. [LB452]

JIM VOKAL: Correct. [LB452]

SENATOR SCHUMACHER: So is the statement you made accurate then, or do I have to pay twice? Do I have to pay 5.99 percent at the corporate level, when I pull it out as a dividend, another 5.99 percent? [LB452]

JIM VOKAL: I don't believe so, but I'm not a tax economist or an accountant. [LB452]

SENATOR SCHUMACHER: Okay. [LB452]

JIM VOKAL: I see what your question is, if it does provide an advantage for C corps, is that correct? And that conflicts with the... [LB452]

SENATOR SCHUMACHER: Disadvantage for a C corp. If I... [LB452]

JIM VOKAL: Disadvantage, I'm sorry, based on the statement I made. [LB452]

SENATOR SCHUMACHER: Okay. And there was a study done I think by the Commissioner Ewald just before he left the Tax Commissioner's Office that indicated that if we were going to do a tax cut and look for economic stimulus from the tax cut, that \$100 million worth of the sales tax cut would stimulate the economy far more than \$100 million worth of income tax cut. How do you reconcile that with the preference in this bill for an income tax cut? [LB452]

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JIM VOKAL: We base our research on the research of the Tax Foundation. And if you look...and Joe Henchman will be here and talk about the hierarchy of the most damaging taxes to a state's growth, the corporate income tax is the most damaging tax and is the greatest catalyst if you want to see growth into a state. [LB452]

SENATOR SCHUMACHER: But the Ewald study was specific to Nebraska and our tax structure. And it pretty clearly concluded: Cut sales tax; you can get more bang for your buck than cutting income tax. [LB452]

JIM VOKAL: And the Tax Foundation's study "A Twenty-First Century Tax Code for Nebraska" was also specifically Nebraska. [LB452]

SENATOR SCHUMACHER: Okay. Thank you for your testimony. [LB452]

JIM VOKAL: You're welcome. [LB452]

SENATOR SMITH: Seeing no further questions, thank you, Mr. Vokal, for your testimony. [LB452]

JIM VOKAL: Thank you. [LB452]

SENATOR SMITH: Next proponent of LB452, next proponent of LB452. Okay. We're now moving to opponents, those wishing to testify in opposition to LB452. [LB452]

KEN ALLEN: Good morning, Chairman...good afternoon, Chairman and members of the committee. Appreciate your time. My name is Ken Allen; that's K-e-n A-l-l-e-n. I am here on behalf of the Board of Barber Examiners and myself. My position and the board's position is to oppose the section of this particular bill, LB452, the section that deals with taxation on hair products...hair services I should say. As Senator Schumacher pointed out, sales tax is not noted for being a progressive, it is a regressive. States have shown it. We have states like Florida and Massachusetts who passed a sales tax, later to rescind it. Michigan and Maryland back in the their time, they proposed a sales tax on services, later to rescind that. This is...the source was Capitol Weekly by George Runner back in September 30 of 2010. I realize this is old data, but this is not old news. Sales tax on services does not benefit the lower income or those on fixed income. Case being people...let's say the average person comes to a barbershop, gets a haircut 12 times a year on average. If you impose a 7.5 percent sales tax on the average haircut and that person comes in 12 times a year, they're paying for 13...roughly almost 13 haircuts in a 12-month period. Not getting the 13th haircut. How fair is that on the lower income? Yes, I can see the

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higher income brackets can handle this, but is this tax a fair tax? Is it really a fair tax? I'm looking at all my constituents, all 93 counties, all 49 districts. I'm hearing a lot of rebuttal on this particular one. Another case that I'd like to bring up is the fact that there's a lot of cities, Omaha being one, McCook, Sidney, Scottsbluff, Falls City, these are border cities on other states, other states that will or do not currently propose sales tax on services, to my knowledge anyway. If we impose a sales tax on hair services, I can see people traveling to these other states. Our hairstylists will lose their clients and have to relocate in other cities outside of the state. That does not promote good economic business for the state. It doesn't promote competitiveness, as the Governor wishes us to see. So that being said, I think...well, let's go back to that. There was a perfect example in Iowa. When Iowa had the cheaper gas tax than Nebraska, we saw not just a few, we saw lots of Omaha people driving to Council Bluffs to refuel their tanks to save a few pennies. Yeah, a few pennies, they add up over the years. Okay. So that being said, I believe and my licensees believe that haircuts are thing of necessity. To start taxing things of necessity is not the proper direction to go. If we start taxing things of necessity, let's go across the gamut. Let's catch lawyers, let's catch doctors, let's catch dentists. Let's catch all professionals. This bill seems to fall short on that particular instances. And I'm not pointing out those, but I'm saying to be fair let's catch the whole gamut. Let's don't stop right at the lower profession which some people consider barbers and cosmetologists. So I have a couple three questions to ask of you when considering this particular bill. Will implementation of sales tax on hair services help grow Nebraska, making it more competitive? Will sales tax on hair services create growth in the hair industry? Why propose sales tax on select professional services and not all professional services? Isn't this discrimination? That concludes my testimony. [LB452]

SENATOR SMITH: Thank you, Mr. Allen. And I will say that for some of us, it's a lesser necessity (laughter) than others. [LB452]

KEN ALLEN: I fit that mold. [LB452]

SENATOR SMITH: Yes, but to clarify in your testimony, you specifically stated that your opposition is really kind of specific to this area of the bill dealing with hair care. [LB452]

KEN ALLEN: Very correct. [LB452]

SENATOR SMITH: Okay. Very good. Thank you. Other questions from the committee? I see none. Thank you for testifying today. [LB452]

KEN ALLEN: All right. Thank you, Chairman. [LB452]

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SENATOR SMITH: Next opponent of LB452. Welcome. [LB452]

PAULETTE GENTHON: (Exhibit 3) Thank you. I am Paulette Genthon, Paulette is P-a-u-l-e-t-t-e, Genthon is G-e-n-t-h-o-n. Good afternoon, Senator Smith and other senators and aides. I appreciate this opportunity. I've been a massage therapist in Nebraska for 40 years and I've been teaching for 30 years in the massage education. I've written curriculum for three schools and I've been with the Universal College of Healing Arts in Omaha since 1995. I want to say that massage therapy...oh, I also have a master's degree in adult education and my bachelor's degree is in health education. I want to say that massage therapy is not beauty and personal care services as stated in LB452. It's a healthcare modality. Lack of awareness, as LB452 demonstrates, still exists about massage. It is not unusual for a new student to come to our school and say to us, I had no idea of the amount of studying that was needed for this profession. I just thought that I was going to come, have a quick way to get an easy job. I was going to put our textbooks up on the table but I thought that would go into my five minutes. So these are our required textbooks in our program. I'm trying to make a point that this is a healthcare modality. In its wisdom in the 1980s, the Unicameral designated a 1,000-hour program as a benchmark for state licensing, ensuring that massage school graduates would be fully qualified for employment in hospitals, clinics, hospices, as well as self-employment. Medical doctors write prescriptions for massage therapy. Yesterday was a typical day in our clinic. I went and looked at the case notes from the therapist. We write case notes. And the people that sought therapy yesterday were people that dealing with diabetes, joint replacement, Bell's palsy, plantar fasciitis, shoulder pain, and pregnancy. Massage therapists want to work in Nebraska because of its high standards in recognizing Massage Therapy as a healthcare modality. Just two weeks ago a young woman visited our school. She had just relocated to Nebraska from the Kansas City area. In her words: I just continuously had people expecting sexual gratification and not what I was offering for healthcare. I want to work in Nebraska. Now this is not the first time I've heard this from somebody from another state that relocated to Nebraska. Nebraska's schools lead in placement where graduates of a 1,000-hour clock program are sought out by professional sport teams, Olympic athletes, College World Series, hospitals, health clubs, and stand-alone massage clinics. We set up makeshift clinic at the College World Series every year. We're at the Swim Trial Olympics. We set up a makeshift clinic there. There is no way that the Olympic people or the College World Series are going to let us work if things are...if our requirements are less and we're asking for sales tax. Taking it out of the healthcare modality. Massage therapy is healthcare where there should be no sales taxation. And then taxation can also cause issues with us with insurance companies' insurance claims. I urge you and the entire Unicameral to consider the importance of maintaining the current high standards and withdraw any plans to change school curriculum requirements or impose taxation on such a vital healthcare necessity. Thank you. [LB452]

SENATOR SMITH: Thank you, Ms. Genthon. Did I pronounce that correctly? [LB452]

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PAULETTE GENTHON: You did. Excellent. Thanks. [LB452]

SENATOR SMITH: Okay. Questions from the committee? I see none. [LB452]

PAULETTE GENTHON: Thank you. [LB452]

SENATOR SMITH: Next opponent of LB452, next opponent. Welcome. [LB452]

STEVE CARPER: Hello. Thank you, Mr. Chairman and committee members. My name is Steve Carper, Steve is S-t-e-v-e, and Carper is C-a-r-p-e-r, and I represent the State Massage Therapy Board of Nebraska. We prepared a statement, so I'm just going to read the statement for you. We, the Nebraska Board of Massage Therapy, are writing to you in opposition of LB452. We do not feel that massage therapy should be taxed as a personal care service because we feel the profession belongs in the category of alternative and complementary medicine. Massage therapy gained a foothold in American medicine almost 200 years ago, in 1817 when Dr. Cornelius DePuy, who is considered the father of massage in the United States, published a journal on the subject. From 1854 to 1920, the field of massage in America rose from an obscure, unskilled trade to a specialty in medical healthcare. In 1919, Swedish massage was used for rehabilitation of injured soldiers. In 1955, Nebraska began licensing massage therapists. The Mayo Clinic states, massage is generally considered part of complementary and alternative medicine. It is increasingly being offered, along with standard treatments, for a wide range of medical conditions and situations. Since 2002, the Mayo Clinic has been a leader in integrating massage therapy into the hospital experience. Mayo researchers performed multiple studies proving the safety and benefit of massage therapy for many different types of surgeries and procedures. U.S. News and World Report states: once viewed as a luxury, massage is increasingly recognized as an alternative medical treatment. According to a recent consumer survey sponsored by the American Massage Therapy Association, 77 percent of respondents said their primary reason for receiving a massage in the past year was medical or stress related. The American Hospital Association recently surveyed 1,007 hospitals about their use of complementary and alternative medicine therapies and more than 80 percent said they offered massage, upwards of 70 percent said they used massage for pain management and relief. We, as the State Board of Massage Therapy, feel that opposing...imposing a tax on massage therapy would be doing a disservice to clients that rely on those services for pain relief. Many clients use HSA and FSA accounts with a doctor's referral to help alleviate pain from various sources. To be considered a qualified medical expense, the IRS regulations state that medical care expenses must be primarily to alleviate or prevent a physical or mental ailment. We fear that if massage therapy is taxed and classified as a personal service clients will lose the ability to use these funds. As of 2014, only five locations tax massage therapists as personal or luxury service. These are Ohio, New Jersey, Minnesota, New York City, and Connecticut. We, in Nebraska, do not tax medical services such as

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acupuncture, physical therapy, chiropractic care, or other alternative and complementary medical practices. We, the board, feel that massage therapy fits into the same categories as these practices and for that reason should not be taxed. [LB452]

SENATOR SMITH: Thank you, Mr. Carper, for your testimony. Questions from the committee? I see none. [LB452]

STEVE CARPER: All right, thank you. [LB452]

SENATOR SMITH: Thank you. Next opponent of LB452. Welcome. [LB452]

BEVERLY RILEY: (Exhibit 4) Thank you. My name is Beverly Riley, B-e-v-e-r-l-y, Riley, R-i-l-e-y. I am here for the American Massage Therapy Association along with myself as a massage therapist out of Omaha, Nebraska. You've heard the other testimony. You've heard the things that we have come across with what we work with. I wanted to give you a little example of what my day entails as a massage therapist. I am also a physical therapist assistant, so that ties in with massage and I can verify that what you learn as a medical professional in physical therapy is also what you learn as a massage therapist. The intricacies of the human body, you have to know that as a physical therapist assistant as well as massage therapist. One of the things that...one of the places I work is at QLI, Quality Living Institute out of Omaha. It is one of the top rehabilitation centers in the country. They deal with brain injury, spinal cord injury, as well as pain management programs. They have asked me to come out there to offer my services to their clients and help to reduce their pain, reduce their spasming, and improve their function. I've been out there for four years now and I work with a wide variety of clients with the brain injuries, spinal cord severing, Brown-Sequard, sarcoidosis, MS. Today I even worked with a gentleman who had Ehlers-Danlos syndrome. And yesterday morning after trying to get strong by working on the stationary bike for five minutes he dislocated both of his hips. The one thing that decreases his pain is massage therapy. Massage therapy is not a personal care. It is a medical healthcare entity. We should be recognized as a healthcare profession and not a taxable service. We have come a long way since 1980s to become recognized as a medical healthcare service. We are recognized in hospitals, private practice, skilled care, hospice, and rehab centers. When you ask us to be a taxable entity, you decrease the quality of what other healthcare providers look at us. You decrease our ability to work with clients in the greatest need for their pain management. To have us be a taxed entity we can no longer allow our clients to bill their insurance or use their HSA cards or their FSA cards. Medical care is described by the IRS as medical care primarily to alleviate, prevent physical, mental ailments. This is what it takes to use these cards and bill insurance. This is what the massage therapy offers. Another point to look at, I am also the court...the chair for the community service massage team and the emergency response team. To give you another view of what massage therapy can offer, our teams were on the ground after

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9-11 at the Twin Towers, Ground Zero as well as the Pentagon. We were there giving our men and women who were there trying to take care of those in trouble at this disaster relief from stress, pulled muscles, strains, and pain. Again, I urge you to disregard massage therapy as a personal care service. Allow us to be recognized as a medical healthcare service and be tax exempt. Thank you. [LB452]

SENATOR SMITH: Thank you, Ms. Riley, for your testimony. Do we have questions from the committee? I see none. Oh, I'm sorry, Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony. Across the river in Council Bluffs, do they charge sales tax on massage therapy? [LB452]

BEVERLY RILEY: I am not familiar with state law in Iowa. I'm familiar with Nebraska where I live. [LB452]

SENATOR SCHUMACHER: Okay. Thank you. [LB452]

SENATOR SMITH: All right. Very good. Thank you. Next opponent of LB452. Welcome. [LB452]

JOHN DAVIS: Good afternoon, Chairman Smith, members of Revenue Committee. For the record, my name is John Davis; that's J-o-h-n D-a-v-i-s. I'm director of operations for the Happy Cab companies and I'm here to provide testimony on behalf of the Happy Cab companies in regards to our concerns with LB452. I don't...I guess to be specific or concise, I really want to speak to the tax being applied to taxi cab trips. This presents a concern to us. As we know, we've gotten a lot of additional competition into the marketplace in the last few years. We certainly welcome that. That's what makes, you know, this country great is we can do that. I think that it certainly forces companies to be more progressive, to provide better services, to run their businesses more leaner. We've certainly done that. We've got a lot of pride in the Happy Cab companies and the five authorities that we operate. We're the first transportation company to offer a seamless secure in-car credit card transaction process. We were the first company...transportation company in the state of Nebraska to offer a smartphone ordering years before some of the other companies that are operating in the state do that. We were the first, and still the only that I'm aware of, company that offers Web booking so that was something that really businesses use a lot for ordering cabs where you can order a cab, a traveling secretary may order several cabs for business folks that are coming in and out. And the Web booking feature allows them to track each person's cab individually with GPS so that if they have an inquiry they can specifically identify where that person's cab is. But that being said, I gave testimony to the Transportation, Telecommunication Committee yesterday in reference to LB460 that over the

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last year we've looked at our revenues. Even though we've done things progressively to again make sure that we're running a business leaner and that sort of thing is that we have our comps from 2016 to '15 are comping negatively over \$400,000. And the taxi business is not a business that has that amount of margin in it. Our trips, if we broke out the trips that we do that are, for instance, based on contracts that we have for entitlement care and if we just looked at our trips that we did to folks that are either flag downs or people that are calling in for service, then we'd see that our trips are down about 35,000 trips for 2016 as compared with '15. We took 85,000 less phone calls for service in 2016 over 2015. My point in pointing all that out is, is that our concern is that adding a tax to a taxi trip, for a lot of the folks that we transport, it's not transport for leisure. It's transport for necessity whether it's going to a doctor's appointment, whether it's going to a pharmacy, whether it's sometimes going to work. And again, we do a lot of trips in areas of the metro area. For instance, in Omaha we do a lot of transportation in northeast and southeast Omaha which is just quite frankly disproportionately unemployed. And so we're providing transportation to all areas of the community and not providing just a boutique service that services entertainment districts and that sort of thing. So it certainly is a concern that the company and the drivers that we contract with to provide transportation for everyone, that we're able to continue to provide that transportation, and the folks that we rely on to contract with us to...as drivers are able to make an honest day's living. And certainly we're concerned that our trips will continue to decrease if folks are having to pay the sales tax on top of what they're already paying for fare. So that is the end of my testimony. I tried to be as succinct as possible. Certainly available for any questions. [LB452]

SENATOR SMITH: Thank you, Mr. Davis, for your testimony. I know a couple years ago I think I had a chance to work with you a little bit when we were dealing with the Network Transportation Act. And I learned a little bit more about the innovative advances you guys have made with smartphones and Web-based applications. So your industry is coming a long way and very interesting. I don't know if many people know about that. But any further questions for Mr. Davis from the committee? I see none. Thank you for your testimony. Next opponent of LB452. Welcome. [LB452]

MARCIA HARPER: Good afternoon, Senator Smith...Chairman Smith and members of the Revenue Committee. My name is Marcia Harper; it's M-a-r-c-i-a H-a-r-p-e-r. I am the director of health wellness, safety, and community action for Garbos Salons in Omaha. I'm also...have been a registered cosmetologist for nearly 40 years and I am licensed by the Department of Health and Human Services, the reasons I think partly are because of the nature of our business. We carry malpractice insurance. We have CPR. We have continuing ed. I'm not going to go on. Everything was addressed that I had to say by the two massage therapists and Ken Allen of the barbers department. But I have done volunteer work with the Cancer Society for 26 years. They require...I work in two hospitals. I work in Bergen Mercy and I also work at Midwest Cancer. I work with women who are undergoing treatment to, a, learn how to keep everything clean of

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the...they're provided cosmetics. I teach them to put them on. But mostly I teach them how to keep cosmetics clean because they're very vulnerable. They can get an infection during a treatment. So this is something I do. They require you to be a licensed cosmetologist. They do not let anybody unlicensed do this. We are there for a part of the health services and I shudder to think that next will be doctors appointments, dental appointments. I just don't see why you would put a burden on a health professional like this. In days past there was a thing called a barber pole which was bandages and blood because the doctors and barbers were one in the same; it hasn't changed a lot. We send people...it's not a frivolous...it is a...people feel good when they come in. But I cannot tell you how many times I have sent someone to have lumps checked on their head they can't see that many times are not cancer but many times are. And I just think it's crossing a line to put a sales tax on a department that's in Health and Human Services. Senator Lindstrom, you are my senator and I implore you to not do this. This is not a battle we haven't fought before. It's happened many times before and it's not happened. So I would hope that you reconsider this and not pass this tax. Thank you. [LB452]

SENATOR SMITH: Okay. Thank you, Ms. Harper. Do we have questions from the committee? I see none. [LB452]

MARCIA HARPER: Thank you. [LB452]

SENATOR SMITH: Thank you for your testimony today. Next opponent of LB452. Welcome. [LB452]

MARK BROHMAN: (Exhibit 5) Chairman Smith, members of the Revenue Committee, my name is Mark Brohman. I'm the executive director of the Nebraska Environmental Trust. That's spelled M-a-r-k B-r-o-h-m-a-n. I'm here today to testify in opposition to LB452, but only one small part of the bill. You'll see in the handout that I'm passing around, it's only page 23 of the bill. And the second to last line, it's line 17 we object to Section 77-2704.38. And that's being repealed by this bill. And you'll see below that I've inserted 77-2704.38 so you can see what that's involving. It's a section of law that exempts sales and use taxes from being imposed on the sale of lottery tickets. And of course, the Nebraska Environmental Trust is one of the four beneficiaries and we receive 44.5 percent of the proceeds from those proceeds from the lottery. I do want to make a correction on the fiscal note that was passed out. We inserted the impact of a full year rather than a half of a year. I discovered the operative date was January 1 of 2018 and not starting July 1. And so we overestimated on the first year on the fiscal note. It should have had about \$2.2 million instead of \$4.4 million for the first year, but \$4.4 million would be the correct amount in the second year. The fiscal note is 12 pages. I've got a copy of the fiscal note here and you probably have looked at it. It's quite confusing, especially when we're just one small part of it, but we're mentioned in there. But we believe that we're probably impacted, the

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trust, directly between \$1.4 million and \$5 million. The reason we don't know exactly--we don't know how those taxes would be paid by the lottery. There's a lot of confusion on how that would come about, but that could represent about one-fourth of the funds that the Environment Trust receives and puts out in grants across the landscape of the state of Nebraska. We didn't ask our constituents to come in today because I knew this hearing would be large with a lot of other folks coming in. Some of you veteran senators they have been around for a few years have seen the supporters of the trust come in and we just wanted to wait and see how this bill came out. We're hoping that it can be amended in committee or at least looked at strongly and we wouldn't have to try to have all those folks take up your valuable time down here. We believe this is a new tax and a tax increase. We also think there may be some constitutional issues. I believe you've got a couple letters from a couple other state agencies that have come in and they discussed the constitutional issue so I'm not going to go into that. There are 44 states that have lotteries. None of them currently charge taxes. Some people see lotteries as being all tax, that is taxing the people. So maybe you're taxing a tax. But in closing we would ask that 77-2704.38 be struck from LB452. And with that, I'd be happy to answer any questions. [LB452]

SENATOR SMITH: Thank you, Mr. Brohman, for your testimony. Questions? I see none. Thank you. [LB452]

MARK BROHMAN: Thank you. [LB452]

SENATOR SMITH: Next opponent of LB452. Welcome. [LB452]

CHRIS KIRCHER: (Exhibit 6) Thank you, Chairman Smith. Thank you, members of the committee. My name is Chris Kircher, C-h-r-i-s K-i-r-c-h-e-r. I'm chairman of the Nebraska State Fair Board. I appreciate the opportunity to talk with you today. I'd like to make things very clear here, that we are really neutral on all pieces of this bill except for one in particular that you just heard about and that's the proposed taxation of lottery sales. So I just want to say that we appreciate all of the work that Senator Lindstrom has done on this bill and appreciate all of the difficult issues that you all have to grapple with, but we're here just to talk about that one piece of the bill. I'm not sure if each committee member is aware of the good works of the Nebraska State Fair, but if not we encourage you to come out and visit us. We think you'll be impressed and we know you'll have a great time. Our commitment to agriculture and educating the state's young people and providing a safe, fun environment for families across Nebraska is unwavering and we look forward to continuing to deliver on this commitment this year and well into the future. In 2004 when Nebraska voters said yes to the Nebraska State Fair receiving 10 percent of lottery proceeds, it marked a major milestone for this affair, providing the foundation for the significant growth and success that we've seen since moving to Grand Island, Nebraska. We believe that's just what the voters had intended. A tax on lottery sales will seriously damage our ability to

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continue providing a first-rate event that Nebraskans have come to expect. In looking at the facts, the Nebraska Department of Revenue's 2016 tax expenditure report estimates that the, quote, lost sales taxes, unquote, from the exemption status of the Nebraska Lottery to be about \$9.9 million. As a result of the Nebraska Lottery's requirement to meet Section 9-812(2) which requires that at least 22 percent of sales to be paid to beneficiaries, the Fair could potentially receive \$342,318 less in funding. So what does that mean to fairgoers? A potential reduction in sales programs both educationally and agriculturally; a possible raise in State Fair ticket prices that won't allow all Nebraskans to enjoy the fair; future capital expenditures will be sidelined in favor of cost cutting to make up for the lack of lottery revenues, the loss of funding will slow down our payment of the debt we incurred to build the new fairgrounds in Grand Island; and inevitably, the measure will reduce any disposable cash we have at year end, stifling any further development in programming and projects. We anticipate our 2017 budget to be \$9,205,448. With a loss of \$342,318 in funding, the Fair stands to lose just short of 4 percent of this budget. Ultimately, we view these impacts to be less about how much the State Fair will lose, and more about what the folks of our great state will lose. We've welcomed over two million visitors since moving to Grand Island and we want to continue building on this momentum to provide a secure place for agriculture and education for generations to come. We join the other Nebraska Lottery beneficiaries--the Nebraska Environmental Trust, Nebraska education, and Compulsive Gamblers Assistance--in asking that the proposed tax on Nebraska lottery ticket sales be removed from LB452. Thank you. [LB452]

SENATOR SMITH: Thank you, Mr. Kircher, for your testimony. Questions? Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony. [LB452]

CHRIS KIRCHER: You bet. [LB452]

SENATOR SCHUMACHER: So as I gather it effectively, how much of every dollar bet goes to these either government or quasi-government functions of education, environmental trust, and the State Fair, and gamblers assistance? [LB452]

CHRIS KIRCHER: Well, I know that we received 10 percent. I don't know that number. [LB452]

SENATOR SCHUMACHER: You receive 10 percent of what? [LB452]

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CHRIS KIRCHER: I'm sorry, lottery...of lottery dollars...lottery...funding from the lottery, we're 10 percent of the recipients. We receive 10 percent of the funding that's divided among, you know, 90 percent of which is divided among the other recipients. [LB452]

SENATOR SCHUMACHER: But what percent...let's just assume that the things that I just mentioned are essentially government functions. [LB452]

CHRIS KIRCHER: Yeah. [LB452]

SENATOR SCHUMACHER: What percent of the dollar bet, of that gross receipt goes to these functions? [LB452]

CHRIS KIRCHER: I don't have that number in front of me. I only know how the money that is taken in is divided up and what percentage the State Fair gets. [LB452]

SENATOR SCHUMACHER: The 22 percent figure, I thought I heard you mention a 22 percent figure. [LB452]

CHRIS KIRCHER: Yeah, okay, so the 22 percent figure is in Section 9-812(2). There's a requirement that at least 22 percent of sales be paid to beneficiaries. [LB452]

SENATOR SCHUMACHER: But that's not...I mean that's at least that much. But in fact then, and that's a minimum number, there is already a 22 percent sales tax on the sale of that wager. [LB452]

CHRIS KIRCHER: Ummm, okay. [LB452]

SENATOR SCHUMACHER: Thank you. [LB452]

CHRIS KIRCHER: You're welcome. [LB452]

SENATOR SMITH: I see no further questions. Thank you, Mr. Kircher, for your testimony. [LB452]

CHRIS KIRCHER: Thank you. [LB452]

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SENATOR SMITH: Next opponent to LB452. Welcome. [LB452]

WILLIAM LANGE: Thank you, Senator Smith, members of the Revenue Committee. My name is William Lange, W-i-l-l-i-a-m, Lange, L-a-n-g-e. I am the president of the Nebraska Self Storage Owners Association. I am here in opposition to the sales tax proposed on storage facilities. Number one, rental of storage unit is not a service; it's are rental of real estate. The owners...the occupants or lessees that come in are renting a piece of real estate, a spot in a facility of real estate. By this token, it's no different than renting an apartment or a house. It is the poor people's garages. It is the apartment owners' space that they don't have room for their stuff if they have to downsize. It is when your grandmother goes into a nursing home, it is space for her cherished items. Fifty percent of all the renters make less than \$50,000 a year per family income. In that respect, it's not a service. Number two, we are taxing, again, the poor...the poorer people again for things that they really can't afford. You're hitting people at the worst time in their life and you're trying to tax them again. Three, it's double taxation. The people have already paid sales tax on the items that are stored there and then you're going to make them pay a sales tax every month thereafter. It's also almost double taxation. Twenty-three percent of the owners' bills or expenses at the end of the year is real estate taxes. Every owner that has a storage facility is paying out about 23 percent of their income in sales tax. Basically, that's what I have to say in a nutshell. Are there any questions? [LB452]

SENATOR SMITH: Thank you, Mr. Lange. Do we have questions from the committee? I see none. Thank you for your testimony today. Next opponent. Welcome. [LB452]

ASHLEY MAYFIELD: Hello. My name is Ashley Mayfield, A-s-h-l-e-y M-a-y-f-i-e-l-d, and I made the drive from North Platte today to be with you. I'm a massage therapist and I own my own business. I've been in business for approximately three years and I'm a twice graduate of the Universal College of Healing Arts. And you met Paulette a little bit ago. And I am a twice graduate, once through the diploma program and I had the wonderful opportunity to return and earn my associate of applied science through the school as well. So I...the thought that I wanted to share with you today was what \$4.55 would mean to my clients. That is approximately the amount of sales tax that would be added to my services for a one-hour treatment with my prices as they stand. When I heard about this proposed bill, I had asked several of my clients what that would mean to them. A few of them said that at \$4.55 they felt like they could still continue treatment as it were. Several of them said that it would make them reconsider how frequently they could come. I currently see clients for a variety of reasons from cancer care to nerve pain to realignment of the body and all sorts of other ailments. I have a client who chooses to come and see me every two to three weeks for her mental health, as she says that seeking a counselor is less effective for her and she enjoys the benefits and the relaxation of the massage therapy. Four dollars and fifty-five cents, to me, in lost revenue would be tremendous. The majority of massage therapists that I am connected with are just like me: single business owners. We don't have...we

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don't employ other therapists and several of them are single or, like me, that we run the household off our income. And so this would be incredibly, incredibly detrimental, possibly if we had to do that. Additionally, for those who come to see me twice a month, they may consider having to reduce back to once a month. Once a month may make those clients feel as though the therapy that they are receiving is ineffective because of the time between treatments and may seek out or return to more invasive procedures that they are able to avoid by seeking massage therapy or as well as prescription therapy. So I just wanted to share those thoughts with you. And I do appreciate you. This is the very first time I've been to a Senate hearing and it's given me an entirely new appreciation of the hours that you put in to represent our state. So thank you. [LB452]

SENATOR SMITH: Thank you, Ms. Mayfield. Your first time being here to testify, you did a very, very nice job. [LB452]

ASHLEY MAYFIELD: Thank you. [LB452]

SENATOR SMITH: So you're from North Platte. [LB452]

ASHLEY MAYFIELD: I came here from North Platte. [LB452]

SENATOR SMITH: Senator Groene is your senator? [LB452]

ASHLEY MAYFIELD: He is. [LB452]

SENATOR SMITH: Okay, now he's on our committee but he's tied up in other committees, so I know he would have liked to have been here to meet you. So you did a very nice job. Are you testifying very specifically on just the portion of this bill related to taxing of massage therapy? [LB452]

ASHLEY MAYFIELD: Correct. [LB452]

SENATOR SMITH: Okay. All right. Very good, thank you. Do we have questions from the committee? I see none. Thank you for traveling here today. [LB452]

ASHLEY MAYFIELD: Thank you. [LB452]

SENATOR SMITH: Next opponent. Welcome. [LB452]

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CARLA JACOBS: Thank you, Chairman Smith, members of the Revenue Committee. Thank you for the opportunity to testify today on LB452. My name is Carla Jacobs, C-a-r-l-a J-a-c-o-b-s, and I lead public affairs for Uber Nebraska. Uber is a ride-sharing app that connects passengers with drivers at the push of a button. Over the past two and a half years since we first started operating in Nebraska, this technology has enabled Uber to improve mobility and the quality of life for people across the state. The bill before you today would add sales tax to new industries including ride-sharing. This change would have significant negative impacts on Nebraskans who have come to rely on ride-sharing as a way to earn money and get around the state safely. Implementing this bill could require additional state government resources to determine specific tax rates and processes for new industry. As you may know, ride-sharing companies in Nebraska are already required to pay a high annual fee to the state in order to operate. The fee is several times higher than what has been imposed in many other states. In Nebraska, ride-sharing companies also pay property tax for driver support centers, and drivers pay income tax though 1099s. With regard to sales tax, states neighboring Nebraska have not imposed sales tax on ride-sharing. Adding sales tax would negatively impact people who have come to rely on Uber for safe and affordable rides. Nebraska residents use Uber to get to and from work and doctor's appointments and also as a way to ensure safe transportation on weekends and late at night. Unlike traditional transportation, Uber's rush hour is around the time bars close. We see trips spike during game days, weekends, and bar closing times. Not surprisingly, these are the same times that many DUI incidents occur because it's typically hardest to get home. According to Channel 10/11 Now Reports and Lincoln Police data, DWI rates have gone down 32 since right-sharing has become available in the state. And according to a recent poll conducted by a Benenson Strategy Group of Uber riders in select U.S. cities, 88 percent of respondents over 21 agreed with the statement: Uber has made it easier for me to avoid driving home when I've had too much to drink. On the other hand, as you may know, Uber and Lyft no longer operate in Austin, Texas. According to local studies using police data, within the first few months of Uber's and Lyft's absence in Austin the number of DUI arrests increased by 7.5 percent over the previous year. The progress made to date and Nebraska is significant and should not be put at risk by imposing additional fees on ride-sharing trips. Adding tax will increase fares and will impact the number of people who are able to use this service. Thanks again for the opportunity to testify. As I stated, I urge you to continue to support ride sharing in Nebraska and protect earning opportunities and safe rides by not imposing sales tax. [LB452]

SENATOR SMITH: Thank you, Ms. Jacobs. Questions from the committee? I see none. Thank you. Welcome. [LB452]

RENEE FRY: (Exhibits 7-10) Thank you. Good afternoon. Chairman Smith, members of the Revenue Committee, my name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. We're testifying today in opposition LB452. LB452 would provide large income tax cuts to wealthy Nebraskans and do little to nothing for the middle-class or

small business owners. Furthermore, many low- and middle-income Nebraskans and many C corporations would actually pay more in overall taxes and would deplete the state of revenue when we are facing a \$1.2 billion shortfall. Low- and middle-income earners pay more of their incomes in sales taxes than income taxes. Therefore, the sales tax expansion in LB452 would contribute to a tax increase for the 40 percent of Nebraskans who earn less than \$43,000. The bracket and rate changes also increase taxes on some low- and middle-income families, who will see their rate on most of their taxable income increase from 2.46 percent to 3.1 percent. The next 20 percent of Nebraska earners who make between \$43,000 and \$67,000 would see average annual tax cuts of \$14 while the wealthiest 1 percent of Nebraskans who make more than \$509,000 annually with an average income of \$1.57 million would receive average tax cut of \$5,831. When we look at the taxes paid by several real Nebraska taxpayers that we handed out in earlier testimony, we find that many middle-class families won't receive any tax cut under LB452. In fact, of our real taxpayer examples, the three families with AGI between \$14,816 and \$73,865 would actually see a tax increase under the bill. Meanwhile, a Nebraska family with an AGI of \$1.4 million would receive a tax cut of \$3,368. In 2012, 90 percent of C corporations with Nebraska taxable income had less than \$100,000 in taxable income. Under LB452, these businesses would see tax increases as their income that was previously taxed at 5.58 percent rate would be taxed at higher rates. Furthermore, a whopping 43 percent of the income tax cuts would leave Nebraska; 16.4 percent would go to the federal government because Nebraskans would have less state tax to write off on federal income tax returns and another 26 percent would go to nonresidents with income from Nebraska sources. This is because 83 percent of the corporate income tax cut would go to non-residents who own stock in multi-state companies that do business in Nebraska. We continue to be concerned about the use of revenue triggers, which would set tax cuts on autopilot based on arbitrary levels and don't allow lawmakers to respond to state needs. We also find that LB452 would do little to help small business. The average small business subject to the individual income tax has \$27,484 in taxable income. Such a business would receive no tax cut under this bill. Take our taxpayers, Ken and Kim, who are small business owners. They would actually pay more in taxes under LB452. Cutting income taxes also is unlikely to help the state attract new businesses as site selector data show companies are more concerned with infrastructure and other factors than with state taxes. The revenue losses created by this bill, however, would hinder investments in infrastructure, schools, public safety and other services businesses care about. In his research of the effect of tax cut and budget cuts on economies, Wichita State University professor, Ken Kriz who you heard from last week, found the negative effects of funding cuts typically significantly outweigh any positive economic impact of tax cuts. I wanted to turn your attention to a couple of charts I had planned on handing out on LB380 and waited to share them now. The first one which did take a look, just out curiosity, at the best and worst states that were designated by the Tax Foundation's 2016 state business tax climate. And I would note that the worst states on their business tax climate index all had personal income tax rates of over 8 percent and we were curious how many Fortune 500 companies the best states had versus the worst states. And what we find is that the five worst

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states for business according to the state tax business climate index had 145 Fortune 500 companies, and the three worst states had 128 Fortune 500 companies. When we look at the best states for business we find that the five best had 19 Fortune 500 companies, and the three best had none. And we just use this to reinforce that businesses look at more than tax rates when they decide where to locate. I also handed out a chart. In the top of the chart--it's a color chart--and it says at the top when you look at state and local taxes as a share of personal income and you compare those to the median hourly wage, we do not see a significant correlation between overall tax levels and high-wage economies. Contrast that with the bottom chart which shows a very strong relationship between education and wages. So when we think about experts like SRI International who did a report on economic development for the Governor as well as Dr. Timothy Bartik who also was here and presented on economic development strategies for states, they both stressed that when you're looking at economic development strategies, we should, in Nebraska specifically, should be really focused on increasing our wages in Nebraska. And so I hand this out to show that if we're really focused on having a high-wage economy, there is no correlation between taxes and a high-wage economies. However, there is a very strong relationship between education and high wages. And so I raise that as an issue because as we saw with the fiscal note on this bill, this bill would necessitate additional cuts to education and roads and other things that businesses care about. So with that, I would say we generally do support broadening of the sales tax base as good policy, but not as an offset to reducing the income tax. With that, thank you for your time and I'd be happy to answer questions. [LB452]

SENATOR SMITH: Thank you, Ms. Fry. So just in that very last closing, moment of closing you just gave there... [LB452]

RENEE FRY: Yes. [LB452]

SENATOR SMITH: ...you had started off earlier talking about that you...it sounded like you, in the beginning of your testimony, that you're opposing the imposing sales taxes on services or removing exemptions. And then in your final moments of your closing, you mentioned that you really don't have a problem with broadening the base. It's just that you don't want to see it applied towards reducing income taxes. [LB452]

RENEE FRY: Correct. [LB452]

SENATOR SMITH: So reconcile those two for me, please. [LB452]

RENEE FRY: So we're concerned about the regressive nature of this proposal that would raise taxes... [LB452]

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SENATOR SMITH: But not enough that you would oppose using it elsewhere other than reducing income taxes. [LB452]

RENEE FRY: Correct. For example, there are other bills that have been introduced that you will hear us come in and testify on. [LB452]

SENATOR SMITH: Okay. Thank you. Further questions for Ms. Fry? Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Ms. Fry, thank you for your testimony. There seems to be a thought, a sentiment, a repeated reference to a phenomena that if you even lower income taxes a fraction of a percent, that that makes an effect on business decisions, where a business will locate, where they will increase their investment, increase their numbers of employees, it just it makes things grow--even an itty, bitty bit like less than a percent. In the work that you've done over the last several years--I know you've appeared before this committee and other symposium things--is there any evidence of that? [LB452]

RENEE FRY: The academic research does not find any consensus on tax rates and economic growth. The more recent research that actually looks at the spending cuts that are necessitated by tax cuts--and that's more recent research where you pair the couple--find that there's actually...it leads to negative economic growth, which is what Dr. Kriz found and others have found as well. And there was a really good article in Bloomberg recently that really questioned the ability of policymakers to be able to effectuate, you know, economic growth by making changes and tax cuts. And I would encourage you to take a look at that article; that was very well done. So if you look at site location surveys, if you look at...UNL does a survey of businesses and asks their top concerns, taxes regularly come in about fifth in terms of the concerns of businesses in Nebraska. Site location surveys look at several factors. Infrastructure comes in higher than taxes from site location surveys when businesses are looking where to locate. Quality-of-life factors are a consideration as well, public safety being number one, followed by education being number two. And so I think to suggest that cutting income taxes is all of a sudden going to make Nebraska this beacon for economic growth is not realistic. In fact if that's all it took, we would see him lots and lots of businesses located in South Dakota which is a lower tax state than Nebraska. If you look, again, part of the reason why we thought it was interesting, if you look at the states that have the lowest income tax rates, by and large they are not meccas for economic growth and not booming business locations. But instead when you think about a state that has a number of vibrant companies, you know, you think of New York, you think of California. And those are higher tax states than we are. It's just...that's a very small, small piece of the total overall consideration. [LB452]

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SENATOR SCHUMACHER: And then a follow up, have you done any analysis, just for easy figuring or easy work, if we do a 1 percent income tax cut...and let's just...although the bottom brackets pay very little tax. But if we do a 1 percent income tax cut in what is now our top tier of tax brackets, how much money will that result in us having to send more to the federal government because we lose a federal tax deduction? Is there an aggregate number of how many hundred of million or tens of millions? [LB452]

RENEE FRY: Generally in terms of the personal income tax it's about 25 percent, which is either going to nonresidents or going to the federal government. In this bill it's much higher because of the corporate income tax which I mentioned 83 percent of that goes out of state. [LB452]

SENATOR SCHUMACHER: So if we would collect a couple billion of dollars...well, it wouldn't be that less I guess. That's what our whole tax thing is. But if we would bring a quarter of a billion dollars less, we could basically figure on writing a check to D.C. for \$50 million, \$60 million? [LB452]

RENEE FRY: Yes. [LB452]

SENATOR SCHUMACHER: Thank you. [LB452]

SENATOR SMITH: Senator Brasch. [LB452]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Ms. Fry. The one thing I am wondering is when the comment is made that lowering income tax even a small percentage is ineffective, is that what you're saying? Or did I hear...is that what...? [LB452]

RENEE FRY: So I was responding to Senator Schumacher's question about whether that lowering that rate will make us automatically attractive to businesses from out of state. That's specifically the question that I was responding to. And my suggestion would be, no. I mean the academic research does not find that lowering our rate is going to be more attractive. And if you look at states such as Wyoming and South Dakota, you would think people would be flocking to them if that was the case. So in...go ahead, please. [LB452]

SENATOR BRASCH: Then on the other side of the coin, on the previous bill...issue of sales...imposing a sales tax, you know, even though it's not an income tax, even a \$5 savings to everyday people will affect their spending. So maybe we're not talking about attracting, you know, big corporations or technology businesses but those who do live here and work here that even a small drop whether it's in income tax where they have an extra \$5 in their pocket to pay

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\$5 in sales tax on something does make a difference in the commerce, the flow of cash from a person's personal liabilities for taxes and ability to make ends meet. Am I making...? [LB452]

RENEE FRY: Yeah, you are. And I will tell you, I remember in the late '90s and early 2000s I was a legislative aide here and legal counsel and just out of law school had a pretty significant law school debt. And it was, you know, it was tough. I mean I pinched my pennies. But if you look at this bill, this bill...this legislation is going to raise taxes on those folks. And so I really think you need to think about what your ultimate goal is, right? [LB452]

SENATOR BRASCH: Sure. [LB452]

RENEE FRY: So if you're...if what you're wanting to do is to reduce taxes on middle-class families, this bill isn't going to do it. Cutting the top income tax rate is not going to help those folks. And so the question that Senator Schumacher was asking is different than the question you're asking. But if you're concerned about middle-class Nebraskans and the amount of money that they have in their pocket, this is going to make it worse for them. And... [LB452]

SENATOR BRASCH: On the income tax side as well as on sales tax. [LB452]

RENEE FRY: Well, on low income when you collapse the two bottom brackets, you are going to have lower income folks are going to pay more in income taxes. And when you cut the top rate, it disproportionately impacts higher income families because they're paying more of that higher income tax rate. And so that's why you see the distribution, for example, on the tax...real taxpayers that I handed out you can see the difference of LB337 and LB452 where LB337 was just those top rate cuts versus LB452 that also would collapse the bottom brackets and have a sales tax base expansion. But I would suggest if you're concerned about middle-income families, then neither this bill or LB337 are going to address your concerns. These bills would by and large help the wealthiest Nebraskans. [LB452]

SENATOR BRASCH: Thank you. I have no other questions. [LB452]

SENATOR SMITH: Ms. Fry, going back to your exchange with Senator Brasch and then your original exchange with Senator Schumacher, my interpretation of that initial exchange was that you quoted theory and studies about whether reducing taxes, income taxes by as small as a percent would have an impact on economic growth. I don't think that that question or that exchange was limited to attracting businesses from outside the state. So you quoted those theories and you established those theories and you established as a basis for your response. How many small ag businesses and how many small nonag businesses did you consult with and ask

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them, a reduction in the taxes that they paid, what they would do with that money? Would they invest that back into our economy? How many did you speak with? [LB452]

RENEE FRY: I've talked to a lot of farmers. [LB452]

SENATOR SMITH: Can you share...can you...farmers, but I said ag and nonag alike. So can you share with me some of those businesses? [LB452]

RENEE FRY: Some of those businesses? [LB452]

SENATOR SMITH: Yes, that said that they would be no gain if they had more money to reinvest to buy equipment. [LB452]

RENEE FRY: I never said that they would have no gain. [LB452]

SENATOR SMITH: Okay. [LB452]

RENEE FRY: And to Senator Schumacher's earlier point about the tax burden study, what it finds is there is some small amount of economic activity that is...comes about from that... [LB452]

SENATOR SMITH: So there is a... [LB452]

RENEE FRY: ...from that theoretical... [LB452]

SENATOR SMITH: So you're saying there is a small amount. [LB452]

RENEE FRY: Yes, but...correct, but it doesn't nearly pay for itself and academic research would find that when you couple the spending cuts that are necessitated, then it's actually... [LB452]

SENATOR SMITH: All right. Thank you. [LB452]

RENEE FRY: ...creates negative economic growth. [LB452]

SENATOR SMITH: Thank you. Further questions? Senator Schumacher. [LB452]

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SENATOR SCHUMACHER: Thank you, Chairman Smith. Just a little bit of a follow up, let's say that you have a...well, let's just look at the folks making \$81,000 a year on your chart here-- \$39. Okay, that \$39, is there any difference in economic impact? We do this, they save the \$39 a year which is about \$3 a month. And they take that down to the local supermarket and buy something with that \$3 that may be made locally, may be made in China or whatever. And have you studied the tracing of that money versus the fact if that \$3 went to partially pay a mental health worker's salary and then that mental worker went down to the local store and spent that \$3, which is better, which generates more activity: the customer going directly to the mart store and spending it on that thing or running it through the social worker who goes to the store and spends it on the thing? [LB452]

RENEE FRY: I don't know the answer to that question, a very theoretical question. I assume what you're getting at is the added benefit of it going to the social worker, but I guess I'm not exactly sure if I'm following your train of thought. [LB452]

SENATOR SCHUMACHER: If we take that \$3 times enough people, we generate new job. [LB452]

RENEE FRY: Oh, I see what you're saying. Yeah, it would it would take a lot of...(laugh) it would take a lot of people seeing that social worker, the same social worker in order to generate a job, if that's what you're getting at. I mean I think the reality is that the point that I'm getting is that, yes, this tax cut does not create enough of a tax cut for businesses to actually create jobs. And usually jobs are created because of demand not because there's a little extra money in their pocket. But certainly Darren and Stephanie who have an AGI of \$1.4 million, their \$3,000 tax cut is not going to be enough for them to create any kind of job. But more likely I would think that they would either take a trip out of state or were put it in their bank. [LB452]

SENATOR SCHUMACHER: I think I may have even gone over my head with that question. (Laughter) [LB452]

RENEE FRY: I'm glad to hear that. [LB452]

SENATOR SCHUMACHER: Thank you. [LB452]

SENATOR SMITH: Final questions for Ms. Fry? So in the last number of years, I've seen studies by I think it's chambers of commerce that have indicated that Nebraska has lost population to South Dakota and to Wyoming. Would you venture to guess as to why would we lose population to climates that are comparable, colder than ours? [LB452]

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RENEE FRY: So I haven't looked at the data recently. The last time I looked at that migration data, the loss is negligible if there is in fact a net loss. I mean you're talking about very, very few people. But I can look up that data and get that back to you. But I remember the last time I looked at it, it was practically nothing. [LB452]

SENATOR SMITH: I'd be very interested hearing your thoughts on that. [LB452]

RENEE FRY: Yeah, it was a fraction, the total populace. [LB452]

SENATOR SMITH: Thank you very much for your testimony today. [LB452]

RENEE FRY: Thank you. [LB452]

SENATOR SMITH: Oh, I'm sorry. Did you have a question? No? Okay. Welcome, Mr. Neuhaus. [LB452]

JOE NEUHAUS: Good afternoon, Chairman Smith and members of the Revenue Committee. Thank you for hearing me today. On behalf of...oh, my name is Joe Neuhaus, J-o-e N-e-u-h-a-u-s. I am the policy and research director for LIBA, the Lincoln Independent Business Association. On behalf of its approximately 1,350 members, especially those who provide storage and moving services, personal care services, local ground transportation services, and dry cleaning and laundry services, LIBA offers its opposition to LB452. While we appreciate Senator Lindstrom's effort to reduce income taxes, we believe shifting the tax burden is not the ideal solution to the problem. Nebraska's tax policy has numerous exemptions. Some argue that there are too many and although there is reasonable debate about whether some should be extinguished, that is not the basis for our position today. Instead we maintain that the best way to reduce taxes is for the government to appropriate less and spend less. Otherwise the result is merely a tax shift and shifting the burden does not lower the burden necessarily. As it turns out, we also have concern that some of our members will be adversely affected by this bill. LIBA strongly supports reducing income tax rates. We supported and will continue to support LB337 because it addresses the need for income tax relief without raising other taxes or creating new ones. Again, we thank Senator Lindstrom for his efforts but we respectfully ask the Revenue Committee not to advance LB452. Thanks. [LB452]

SENATOR SMITH: Thank you, Mr. Neuhaus. I do have a question for you. So I appreciate your testimony on behalf of LIBA. And I think towards the end of your remarks you said a new tax or shifting a tax. I know that LIBA did come in, in support of remote seller taxes. [LB452]

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JOE NEUHAUS: Sure. [LB452]

SENATOR SMITH: Can you reconcile to that testimony in support of a remote seller tax?
[LB452]

JOE NEUHAUS: Sure, that's...thank you for that question. That's simply a tax that already exists but it's not being collected because it's not being reported by many out-of-state vendors. And a lot of have decided to start reporting that. Additionally, the burden is obviously on the consumer and many of those don't report that on their income tax returns. [LB452]

SENATOR SMITH: For an organization that I have a lot of respect for, again I do appreciate your view on this because I have heard some say that a tax that you're not paying today and that you're paying tomorrow is a new tax. [LB452]

JOE NEUHAUS: Right. We, you know, we...I think philosophically you and I might be on the same page. But I think that from a philosophical standpoint, and we can get down to the weeds about that, the reality is that there are numerous taxes and you could cut them all and what would happen? So there's a continuum there. But I think the main point is that we have to look at government spending and reduce it to the core functions of what government is supposed to do and go from there. And so that's why we appreciate the reasoned approach with LB337. And you know, this is one of those situations, too, where we have members that are adversely affected. So that determines a little bit of our decision. [LB452]

SENATOR SMITH: Thank you, Mr. Neuhaus. Senator Friesen. [LB452]

SENATOR FRIESEN: Thank you, Chairman Smith. I wasn't going to ask the question but you kind of brought it up when you talk about tax shifts. LIBA is small business friendly, correct?
[LB452]

JOE NEUHAUS: Right. [LB452]

SENATOR FRIESEN: So in agriculture I consider myself small business. And we've recently had a tax shift on to us which in the end saved businesses here in Lincoln a tremendous amount of money because you got a lot more state aid to schools that put on our backs. Were you against those tax shifts too? [LB452]

JOE NEUHAUS: If I could clarify which particular bills you... [LB452]

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SENATOR FRIESEN: Well, it wasn't bills. It was TEEOSA formula, would have been in the school aid formula, which by the increased value of land it shifted a tax burden onto property tax owners which then changed the TEEOSA formula to take away all state aid to rural school districts and shifted it to Lincoln and Omaha. [LB452]

JOE NEUHAUS: You know, I'd have to review what our position statement was on that particular issue. I will say that for Lincoln specifically, being in Lancaster County which has a very small percentage of ag land for that valuation, that certainly is driving our discussion on those issues. [LB452]

SENATOR FRIESEN: So I mean it is affected the state budget in 2014. For instance, if our calculations were right we saved the state \$133 million in TEEOSA because of the tax shift that happened. [LB452]

JOE NEUHAUS: Sure. Maybe I wasn't clear enough on what I meant by tax shift, but I think that if we go back to the basis for why I'm here on this bill is we need to look at the core functions of government and how those can... [LB452]

SENATOR FRIESEN: I was just...I know you mentioned something about tax shift and I just wanted to clarify where you were on tax shifts. [LB452]

JOE NEUHAUS: Sure. I appreciate that. I can certainly update you on that if you'd like. [LB452]

SENATOR FRIESEN: Okay. I appreciate that. Thank you. [LB452]

SENATOR SMITH: Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony. Now you're with the Lincoln Business Association, is that...? [LB452]

JOE NEUHAUS: Independent Business Association, correct. [LB452]

SENATOR SCHUMACHER: You've been here most of the day? [LB452]

JOE NEUHAUS: I've been here most of the day, yeah. [LB452]

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SENATOR SCHUMACHER: Okay. And your organization has kind of studied the predicament that we're in financially? [LB452]

JOE NEUHAUS: With regard to the...I assume you're talking about the budget shortfall, yeah. [LB452]

SENATOR SCHUMACHER: Okay, so just today we've heard from one major farm organization say that we really want \$600 million out of this legislative cycle. We've heard testimony, gee-whiz, if we could just cut a percent off the income tax, even if we have to spread that over a number of years, it will be a good thing. We've heard the sales tax people say, listen, you tax our industry and it's going to be bad. Sales tax doesn't fit our situation. And we've had at least Governor Johanns, Governor Heineman, and now Governor Ricketts who've been pretty...well, they've been swinging the axe a lot and chopped out a lot of expenses resulting in the prison, resulting in the mental health issues, resulting in until we did the gas tax some road shortage issues. And we've had that situation. And now we're looking at, largely because of some fairly liberal tax incentive programs, the downturn of the ag economy, a pretty humongous revenue shortfall. Suggestions? How do we make something out of nothing here? [LB452]

JOE NEUHAUS: I think that's probably above my pay grade. But no, I...that's a great point. I think the...what I'm hearing from you is kind of illustrative of my point, that essentially it amounts to don't tax me...don't tax you, don't tax me, tax the man behind the tree. You know, everybody is looking out for their own their own best interests. But I think if we really take a look which is...which we do appreciate the fact that there have been cuts already. We need to continue to be fiscally responsible in terms of how government is involved in everyday life. [LB452]

SENATOR SCHUMACHER: Well, it's a really big tree and we're still looking for that guy behind the tree. So if you find him, will you tell us where he's at? [LB452]

JOE NEUHAUS: I will, yes. [LB452]

SENATOR SCHUMACHER: Okay. Thank you. [LB452]

SENATOR SMITH: Well, since that falls on our shoulders, I would say it's probably beneath your pay grade. (Laughter) All right, thank you, Mr. Neuhaus, for your testimony. [LB452]

JOE NEUHAUS: Good point. Thank you. [LB452]

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MARK CANFIELD: I am not the guy behind the tree, just to clarify. Well, my name is Mark Canfield, M-a-r-k C-a-n-f-i-e-l-d, and this is my first time here as well. I'm glad I sat for a few hours and kind of watched everything get a little bit of the nervousness out. But I have the utmost respect for what you guys do. I serve on a couple of very small boards and I soon figured out digging through Nebraska Legislature stuff that, wow, you guys have your plates full. So I'm here in opposition to LB452 but a very, very narrow slice. And as you pointed out, everybody has got their reasons and their slice and mine happens to be coin laundromats. So I understand from what I've read that this bill would repeal a section, specifically 77-2704.14, if I'm correct, which provides an exemption for coin-operated machines used for laundering. A quick clarification on laundries, I'm a third generation laundry owner here in Lincoln, Nebraska. My grandfather, Richard Canfield worked here for many years at Back to the Bible and other places and opened the first coin-operated dry cleaner in the fifties. So I have a little family history with that. So about 60 years of coin laundry and I personally own three coin laundromats right now. That's my primary business. One clarification I'd like to make, you know, in the service industry and we're providing a machine for people to come in and do the work themselves because our customers can't afford washers and driers. So when you talk about all the different levels of income, I've heard \$40,000 from Ms. Fry was it, and she blows me away with all of her numbers and knowledge, but her...the numbers used, we're at the bottom of that because our industry average is...not average, median household income is \$23,000. So we're really dealing with the bottom of the bottom of this whole scale that we're talking about. Most of the families and individuals that use our laundromats are low income, students, senior citizens, people that either can't afford one altogether. There are a few that, you know, your washer breaks and you come in and we can spot you because you're really annoyed that your laundry is soaking wet and weighs a hundred pounds. But our service is different than that of like a dry cleaner in that they may be doing bulk stuff or suits and things like that. We're different from a laundry big processor of lots of towels from a hospital or lots of uniforms, rugs, stuff like that. We are the customer coming in carrying their laundry basket, you know, doing their laundry for the week. And if you came in one of our stores you would find that most times you probably couldn't speak to everyone in there because we have so many spoken languages and different people that frequent our businesses. So it's quite a diverse, quite an interesting place. I do my own repairs. I have for basically 20 years. So I was born into it. I kind of learned it but it's more a necessity than anything. I say that because we're not a high profit margin kind of business. In the last two years the minimum wage went up, it was pretty hard to make that adjustment. We had to raise prices in quarter increments. It's makes it very hard to balance different sizes of machines. We're passing on to people that absolutely flip out when they lose a quarter, let alone one when they spend five or ten more dollars coming in the store. But ultimately I just want to paint a picture that...again, don't we all feel like we're unique? But I feel like we're really talking about a sliver of our community that really is the most challenged when it comes to finances. And you talk about the extra \$5, I've seen it time and time again every day where somebody says I've only got five bucks. Can I get a washer and a dryer for all this laundry? And we're trying to help them. Well,

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maybe you can wash these and air dry these and such. But just not people that have a lot of disposable income. I could talk to you all day about the challenges for me personally if this happened. Being a quarter business, people come in clinking quarters one at a time makes it very hard for me to go, here's a couple pennies on this one, here's a couple pennies on that one. And if you walk in or somebody walks in and only has \$5, I don't know the difference between the two of you. I can't differentiate what your needs are financially. I'm rambling but I'm really trying to get a lot for that light turns red. I just want you to know that our customer base and our clients, even Salvation Army, CenterPointe, people that are helping those in need, that's who we help. They come to us and we give them discounts for using our services so they can help people. And that sales tax portion would actually cut away percentages of even those needs for those people that are really on not even a budget just a survival mode from, you know, from each dollar. So there's the light. I'll quit, if you have a question. [LB452]

SENATOR SMITH: Thank you, Mr. Canfield. Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony. Now you basically bill in quarters that go into the machine. [LB452]

MARK CANFIELD: Yep. [LB452]

SENATOR SCHUMACHER: So that's where you get the 25-cent increment. [LB452]

MARK CANFIELD: Right. [LB452]

SENATOR SCHUMACHER: Okay, and what is the normal cost to run a load of laundry in a machine? [LB452]

MARK CANFIELD: Okay, that would depend on how much laundry you brought in. If you brought in one load and you use a standard top loader which would be like you have in your house, uses a lot more utilities, a lot more water, it's very inefficient, it cost \$2.25. If you were to use our largest machine, which is by the way a \$12,000 washer, it would cost you \$9 but you would be able to wash eight loads all combined. And that's what we find these families doing. They saw the big comforter washer and said I'm going to save money and pack it all into one washer. And so then it's like \$1.12 or something like that per load. So you can really reduce your cost by combining. So anywhere from \$1.12 to \$2.25. [LB452]

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SENATOR SCHUMACHER: So if we put a 7 percent--that's what the sales tax would be--tax on there and it now costs \$2.25 in the simplest case you described, and you raised it to \$2.50, we'd actually be making you 14.25 cents. [LB452]

MARK CANFIELD: I wish. I say that tongue in cheek because I went through this just the last two years with the minimum wage hike. It was such a...we have a very thin profit margin and when that happened it was very big chunks because labor is our number one expense. And so what happened, we tried to make these adjustments by picking which machines, you know, can you put a quarter here or do you do a fifty cent here? And what happens is your overall volume just drops. People just find other places to do it. They go to their...I've had people say I'm going to my mom's now because I just can't afford it. I'm doing...just doing what they have to to survive. I hope nobody is turning their clothes inside out and wearing them extra long. But they just...it's that cycle. We always try to make an adjustment when utilities or something hits and we always notice a turnover drop, fewer customers, so you're squeezing more out of fewer people is what ends up happening. [LB452]

SENATOR SCHUMACHER: So basically you feel there's about a fixed amount of money that's going to be put into your machines. And if you raise the rate per load some of that business will just evaporate to mama's... [LB452]

MARK CANFIELD: Yeah, right. [LB452]

SENATOR SCHUMACHER: ...washing machine or... [LB452]

MARK CANFIELD: Yeah. We notice that a lot. [LB452]

SENATOR SCHUMACHER: ...wash in the bathtub or something. [LB452]

MARK CANFIELD: Yeah, because generally it's very common just to talk to somebody and be talking about, well, this is all I've got left is just what they have. And most...I've seen a lot of people take laundry back out to their car simply because they can't afford. So we're trying to do things bigger and bigger equipment to make it cheaper and cheaper. But when the volume drops that makes it harder because you're squeezing more out of fewer people. [LB452]

SENATOR SCHUMACHER: Thank you. [LB452]

SENATOR SMITH: Thank you, Mr. Canfield. Very good job with your testimony. [LB452]

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MARK CANFIELD: Thank you. Thanks for your time, guys. I appreciate it. [LB452]

SENATOR SMITH: Next opponent of LB452. Welcome. [LB452]

DAVE PALADINO: Welcome. My name is Dave Paladino I am a commercial real estate broker and have been for 20-plus years and I'm also vice president of the Nebraska Commercial Property Owners Association. [LB452]

SENATOR SMITH: Let me ask you to spell your name for me. [LB452]

DAVE PALADINO: Sorry, I forgot about that, sir. Thank you. My name is Dave Paladino, D-a-v-e P-a-l-a-d-i-n-o. And I'm also...like I was saying, I'm also president of the...vice president of Nebraska Commercial Property Owners Association and as well as the reason I'm opposing this bill, owner of 12 storage facilities. And I just wanted you to think about you know something that I really kind of been reflecting a lot lately. Nebraska is a great state and I went to school at MIT at the Center for Real Estate and there's always unintended consequences. And one of the things to kind of think about as we think about taxing self storage is obviously we'll pass the tax on to the customer. And one of the things that is great about self storage is it allows people to buy less of a house because they can, you know, use a room in our storage facility as opposed to a bedroom or a garage. And that really helps the economy out in general because it really drives down people's cost because it's much less expensive to rent a room at our storage facility than is to for them to build another room in their house. Another thing that I want you to think about is we really want to encourage people to come to Nebraska. You all probably don't know that. A lot of people in the room don't know this but we're a little bit of rock stars coming from Nebraska. We live in a great state that people in other parts of the country and the world think very highly of. And if we just layer in more taxes such as self-storage and some of the other services that are added to this bill, that's just going to just make it one more reason for people not to come here. You know, the reason...one of the reasons that we're dealing with this problem is that you know the farm economy is you know significantly impacted by the price of commodities. But really what we want to see as more people come here. And by adding one more tax, you know, it just makes us less and less competitive with the states around us. And I mean this problem would completely be fixed if we had much more migration from other states into Nebraska. And we want to really try to encourage that. [LB452]

SENATOR SMITH: Thank you, Mr. Paladino. Do we have questions from the committee? I see none. Just to clarify because you're talking about that taxes are a burden to attracting businesses and growing businesses. [LB452]

DAVE PALADINO: I think so. [LB452]

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SENATOR SMITH: So your opposition is not necessarily to reducing taxes, but it's you don't want to see the taxes increased on these services to pay for it. [LB452]

DAVE PALADINO: Well, you know... [LB452]

SENATOR SMITH: Am I correct in saying that? [LB452]

DAVE PALADINO: That's correct. I think...another thing, I really think that the role of government is to, you know, really keep our borders safe which is really up to the federal government and keep the playing field level as possible. And I don't think that this tax really does that. So it just makes it one more expense for the consumers here. And I really think that taxes should be kept to an absolute minimum. And once you add a tax, is it impossible to take it back? [LB452]

SENATOR SMITH: Now are you the Paladino with Dino's Storage? [LB452]

DAVE PALADINO: Yes, I am, sir. [LB452]

SENATOR SMITH: All right. So you invest a lot in our communities across... [LB452]

DAVE PALADINO: I invest a lot in our community. I'm building one in Lincoln right now. I have approximately 60 employees. I love Nebraska. And when I say that we shall be proud of Nebraska I am not kidding you. People think we are rock stars that we live here and are so envious that we're...we just are blessed enough to even be born here. So I think that we just need to keep the tax burden to a minimum and adding any extra tax is just...doesn't make us as competitive with other states. Iowa charges sales tax on self-storage. I mean if you look at our performance of our storage facilities compared to the ones in Nebraska to the ones in Iowa. We're much more incentivized to do something in Nebraska because Nebraska is a pro-business state. We need to keep it that way. [LB452]

SENATOR SMITH: Very good. Thanks for coming in and testifying today. [LB452]

DAVE PALADINO: Thank you, sir. [LB452]

SENATOR SMITH: Appreciate your testimony. Next opponent of LB452. Welcome. [LB452]

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MIKE BAUMGARTNER: Thank you. Good afternoon, Chairman Smith and committee members. My name is Mike Baumgartner, M-i-k-e B-a-u-m-g-a-r-t-n-e-r. I'm the executive director of the Nebraska Coordinating Commission for Postsecondary Education. Like the Environmental Trust and the State Fair Board, I am opposed to one little piece of LB452. Among our duties, the Coordinating Commission administers multiple scholarship and grant programs on behalf of the state including the Nebraska Opportunity Grant. This grant provides scholarships to students from low-income Nebraska families attending college in Nebraska. A combination of General Fund and lottery proceeds fund the program. During fiscal year 2015-16, the Nebraska Opportunity Grant received \$10.5 million in lottery proceeds and provided scholarships to 13,740 low-income students, which is a third of the eligible students, with an average scholarship of \$1,225. For a low-income student, \$1,225 can mean the difference between staying in school or dropping out. Section 9 of LB452 repeals a statute, 77-2704.38, that provides a state sales tax exemption for lottery ticket sales. We're uncertain of the mechanics of how the sales tax would apply to lottery ticket sales, so we've estimated a range of effects. Our low estimate is a loss of \$859,000, which is 8.2 percent of the NOG fund. At the average award amount, that would mean a reduction of 700 students receiving scholarships. Our high estimate, which was included in our fiscal note, is a loss of \$2.6 million, or 25 percent of the amount received from lottery funds in fiscal year 2015-16. That would be a reduction of 2,130 students at the average award amount. We are pleased that Governor Ricketts' recommended 2017-19 budget recognizes the value of the Nebraska Opportunity Grant by flat funding it in each year the biennium. That recommendation, however, reduces the General Fund appropriation for the program by \$300,000 and increases the appropriation for the Lottery Fund by the same amount--\$300,000. As a result, if the Governor's recommended budget is adopted, the repeal of sales tax exemption will have an even greater effect on the NOG program because we will have lost the lottery money that was going to keep the funding flat for the year. The commission also administers a community college gap assistance program which was created by the Legislature in 2015. This program provides funding to community colleges to pay educational expenses of low-income students enrolled in noncredit programs leading to jobs in high-need fields such as fiber optics technicians, production manufacturing technicians, professional truck drivers, and EMTs. Because these students are not enrolled in for-credit courses, they are not eligible for federal Pell grants or further financial aid. During fiscal year 2016-17, we estimate that the gap program will receive \$1.5 million in lottery proceeds. If the sales tax exemption were repealed, we estimate that gap program funding from the lottery would decrease by a minimum of \$125,000 up to a maximum of \$400,000. Both of these programs are instrumental in making the work force...postsecondary education affordable to Nebraskans and meeting the need for an educated work force. So I ask that you remove the section that repeals 77-2704.38 from LB452. In the interest of saving time at your future hearings, we have the same concerns with LB312 and LB563 which also repeal the lottery exemption from sales tax. Thank you. [LB452]

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SENATOR SMITH: Thank you, Mr. Baumgartner, for your testimony. Questions from the committee? I see none. Thank you. [LB452]

MIKE BAUMGARTNER: Thank you. [LB452]

SENATOR SMITH: Next opponent of LB452. [LB452]

JOHN HANSEN: Chairman Smith, members of the committee, good afternoon again. For the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n, and I am the president of Nebraska Farmers Union. We are pretty much opposed to the whole darn bill. We think it has a lot of technical problems. We have heard a bunch of those. We knew that the lottery was going to be a problem and it has. We, in agriculture, are in crisis mode. And I want to relay a conversation I had with two of my members that I think really kind of speak to our position on why we're opposed to reducing income. And one of them said, you know, he said I have been waiting for the Nebraska Legislature for a very long time to fix my property tax problem and I'm done waiting because I'm selling my land and I am moving and I'm buying land in Kansas. And he said I don't have that far to go. I farm land on both sides of the line. And he said I'm just done with it. I just...I've given up hope. And so that's one conversation. The other conversation which was someone I suspect that Senator Schumacher might well know up in that neck of the woods and he called up and he said, they don't seem to get it. But he said, from an economic development standpoint he said the difference in our property tax bill is for a lot of folks the difference whether or not they make any money or not, are able to stay in farming or not, are able to pay their bills or not. And he said, I have got a great problem because my land is paid for. And he said, I have a big income tax bill and I think that's a great problem because two things are going to happen. I'm either going to pay my income taxes which is good for the state of Nebraska and the infrastructure I depend on or I'm going to go buy a new tractor. And he said, that's good because it creates economic activity. He said, the point is, he said, when income taxes are in play, he said, you know, people make business decisions because all of the risk has been taken. All of the investment has been made. The work has been done. The product has been produced. And he said, hooray, we made money. He said, now we get to make a business decision about what we do. And he said, it's a much more fair tax than the other taxes and he said the focus ought to be on property tax reform which is the most regressive. So this bill reduces the use of income taxes which we as a policy in our organization oppose. It's...we're...that...there is a time in a place to tax. That is what we think the most fair way to do it. And I have to tell you about my...briefly about my long experience and unsuccessful career in the very dangerous work of trying to help put together different kinds of packages to expand the sales tax base so we could lower the rate and develop a different and expanded sales tax base in the state. And so I think I've worked on three of those efforts now through the years. I looked at this list and I said this is a pretty regressive list. It will be easily picked apart because it is regressive in my opinion. And that reflects all the input from all the folks I've talked to, including

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an expert on the hair and cosmetology business, my wife, who said if you think that people have unlimited amounts of disposable income, you're wrong because they will ration how many haircuts they get and how many hair products they buy and whether or not they color their hair or not based on how much it costs. And if they don't have enough money, they use it less. And so as I look at this list, and it is tough sloggng to dramatically expand the sales tax, but we ought to...if we're going to do it, we ought to do it right. We ought to really study what the demographics are of the folks and what that list actually means for folks and we ought to get it to the point where we're actually looking at enough total services that we actually lower the rate. And so this particular approach we believe is problematic. And so with that, I would end my testimony and do a teaser for tomorrow. Tomorrow I bring more data relative to farm income to the committee that I promised I would do last week. Thank you. [LB452]

SENATOR SMITH: Questions from the committee? Seeing none, thank you, Mr. Hansen. [LB452]

JOHN HANSEN: Thank you very much. And again, good luck. [LB452]

SENATOR SMITH: Next opponent of LB452. Welcome. [LB452]

MARK INTERMILL: (Exhibit 11) Thank you. Good afternoon, Senator Smith and members of the Revenue Committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP. I had to think about that for a second. I'm going to be very brief. I'm circulating a statement. There are four paragraphs and I'll just quickly touch on each of them. The first paragraph I've just put together an example of a tax situation for a hypothetical couple in Lincoln that I think gives you some insight as to why we oppose this bill. Somebody...a couple with \$60,000 of income and the average value of single family residential property in Lancaster County would...in just running the figures on these assuming a certain amount is Social Security income and the rest is taxable income, the income tax would be about \$1,500 whereas their property tax would be about \$3,300, which indicates to me that we may be looking at the wrong problem here by looking at a bill that is heavily focused on income tax. We see that when we look at the distribution of the taxes that are collected by state and local government in Nebraska, about 36 percent is property tax, 30 percent sales, and 24 percent income. I think with this bill we would exacerbate the...reduce the amount of income tax that's collected and probably increase a bit the sales tax. So that's one of the issues. The second problem: that we just have a concern about LB452 and LB337 in that we don't believe we can afford it. Today we just learned that we came up another \$3 million short from our estimate, revenue estimate mostly in individual income taxes. I look at the third page of the fiscal note and see lost revenue when this is fully phased in of about \$341 million. We're facing \$1.18 billion shortfall at the end of FY '21. I don't think that...we support tax reduction when we can. We supported some of the tax

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reductions two years ago. In 2006 we were at the signing ceremony for the tax cuts then. When we can, we will support tax cuts. I don't think we can afford this tax cut right now. And finally just a technical concern about the...there is a...the sales tax, broadening the sales tax base including personal care services which I think are indicated that it's hair care, those types of things. But for long-term care, personal care has a specific meaning in terms of providing assistance to people who have a disability in terms of helping them move from one location to the other, to assist with bathing and dressing. I want to make sure that those services are not included in this. So I just would appreciate some consideration to make sure that if you do go ahead with a sales tax on personal care services that we do exclude those services that are part of the long-term care system. So with that, I will conclude and be happy to try to answer questions. [LB452]

SENATOR SMITH: Okay. Seeing any questions from the committee? I see none. Thank you for your testimony. [LB452]

MARK INTERMILL: Thank you. [LB452]

SENATOR SMITH: Mr. Beermann, good to see you. [LB452]

ALLEN BEERMANN: (Exhibit 12) Chairman Smith, members of this committee, thank you for the courtesy of letting me appear today. My name is Allen, A-l-l-e-n, Beermann, B-e-e-r-m-a-n-n. I represent the Nebraska Press Association which represents the newspapers of this state. I have handed out a letter that is being distributed to all of you today. I make just two or three points because the time is getting late and the letters will speak for themselves. One of the problems that we have is the mechanics and we're talking only about the sales tax part of this bill. We have a lot of newspaper carriers yet in this state in the various communities. And many of them use young people ages 14, for example, or 13 to collect sales tax from various households that are people that subscribe to papers. And they have no idea what the correct amount is to collect or in many cases the subscriber doesn't. And then they're carrying around sales tax change all weekend until they have someplace later on to deposit it. So that becomes a real problem in terms of collection of this tax. Also another problem in the collection of sales tax of newspapers are the single copy sales. We have a lot of racks, news racks and a lot of boxes and a lot of single copy sales. In fact, that makes up a large percentage in some places. And in this case, there is no way for the ultimate buyer of the newspaper to pay the sales tax because there's no way to put it in the racks or the boxes and so the newspaper has to eat that sales tax and pay for those copies. So instead of the subscriber paying, the user of the paper, it's the production of the paper, for example, the Omaha World-Herald would have to pay for the sales tax on these single copies sales. Also, we've learned from our...especially our weekly papers that this sales tax would cause probably, especially among the smaller weeklies, a 10-15 percent loss

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in subscribers. In fact, I quote Mark Rhoades from Blair, Nebraska. They publish ten weekly papers. They're in the midst of finishing a survey and if they just add any amount to the subscription cost, either a sales tax or up the paper rate for 25 cents a copy, they would lose a significant number of subscribers to their papers and thus cutting their margin. And in some cases for small papers they may have to close. So that's our testimony, why we're opposed to the sales tax part of this bill, mainly because of the mechanics of collecting it. For example, there's a paper in another state when they instituted this not far from here, a South Dakota paper in trying to comply with their new sales tax on newspapers a few years ago that paper spent \$11,000 programming their computers and they collected a minimal amount of tax. So the expense was more than they collected and that's not a good way to do business. The other problem that some of our larger papers would have, in fact quite a few papers, for example, the Omaha World-Herald is in 80-some counties and I forget how many communities, all having differing sales tax rates. And trying to compute somehow all of the differing sales tax rates for these various communities for the same product and keeping track of all that and making the proper remittance would be beyond a nightmare and a headache. And so those are some of issues that we face and why we think it would not be proper for us to be in this bill. Be happy to answer questions. [LB452]

SENATOR SMITH: Thank you, Mr. Beermann. Senator Brasch. [LB452]

SENATOR BRASCH: Thank you, Chairman Smith. And I'll be brief. I'm just sitting here thinking that...and I would agree that subscriptions would drop to the papers. And how would this committee or any committee of the Legislature get our printed notices into the hands of the second house with less paper subscriptions? We'd have to resort to social media of notices for public hearings. I do believe that there's an important function there to make sure that newspapers remain available and affordable. And I don't know what other option we'd have. [LB452]

ALLEN BEERMANN: Thank you for your commentary. May I quote you? [LB452]

SENATOR BRASCH: It's in print now. Thank you. Thank you, Chairman. [LB452]

SENATOR SMITH: Senator Schumacher. [LB452]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you, Mr. Beermann, for your testimony. What if we just taxed fake news? (Laughter) [LB452]

ALLEN BEERMANN: Now you're making revenue. [LB452]

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SENATOR SCHUMACHER: Thank you. [LB452]

SENATOR SMITH: Further questions from the committee? I see none. [LB452]

ALLEN BEERMANN: Thank you for your courtesies. [LB452]

SENATOR SMITH: Mr. Beermann, it's always good to see you. [LB452]

ALLEN BEERMANN: Thank you. [LB452]

SENATOR SMITH: (Exhibits 13-20) Thank you for your testimony. Next opponent of LB452. All right, we do have some letters for the record that were sent in opposition to LB452: Greg Adams representing Nebraska Community College Association; Traci Bruckner representing Women's Fund of Omaha; Mike Marvin, Nebraska Association of Public Employees; Brian Wallace representing Coin Laundry Association; Rebecca Gould representing Nebraska Appleseed; David Geier representing Commission on Problem Gambling; Terry Werner, National Association of Social Workers; Kaitlin Reece, Voices for Children in Nebraska. And those letters were sent for the record in opposition to LB452. We now move to neutral testimony, those wishing to testify in a neutral capacity. Welcome, Mr. Henschman. [LB452]

JOSEPH HENCHMAN: (Exhibit 21) Thank you, Chairman Smith. My name is Joseph Henschman, J-o-s-e-p-h H-e-n-c-h-m-a-n, and I'm vice president for state projects at the Tax Foundation in Washington, D.C. I've e-mailed a statement in advance. Hopefully you have that in front of you. If not, we'll send copies later. Appreciate the opportunity to speak to you on LB452. We take no position on the legislation, but I did want to give an overview of our research into similar policies across the country and provide our analysis on the likely effects. So I'll summarize a few highlights from the written statement and some general comments. I'm certainly no stranger to Nebraska. I've studied the state's tax code since 2013, been before you many times before, been in Nebraska quite often, spoken to a lot of businesses, a lot of individuals both in and out of Nebraska about what makes Nebraska successful and then what are areas of weakness that a tax reform might compensate. Four general...three general comments I wanted to make today, first, on the use of revenue triggers. I've heard at least one witness describe it as a tax shift. I don't think that's an accurate characterization. Revenue triggers are taking a piece of revenue growth in the future and using it for tax relief. So this is revenue you don't have now. And at a 3.5 percent trigger, it means you'd have to have significant economic growth in order to generate the revenue for tax relief. And unless...I think another witness said this would have to result in programmatic cuts. That's only true if you think inflation is going to exceed 3.5 percent consistently over that time period. If not, think of it as a larger pie where the state gets some of it and taxpayers get some of it. So I wouldn't call that a

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tax shift. Tax triggers have been tried in a number of states. We have a longer paper on that and I summarize a bit of it in my testimony--something like a dozen states, blue and red, different types. And in fact if I were to compare the proposed trigger in LB452 with any particular state's it would be with the one adopted by the District of Columbia which involved using surplus revenue in future years from revenue growth to pay down the individual income and corporate income tax rates, so a lot of similarities there. I'd note that that had broad support in a jurisdiction that, let's just say, had a few more Democrats than the Nebraska Legislature does. And even Ms. Fry's counterpart organization, the D.C. Fiscal Policy Institute, was supportive of the change there, particularly because of the revenue trigger approach as a responsible way of reducing taxes. Ms. Fry, in her written statement, referenced Oklahoma as a negative example of triggers. I would agree with her. Oklahoma's structure was based on a base year of 2014. And how that worked is the minute you had an extra dollar over 2014, the full tax cut went into effect. That's obviously not how this one is structured. The...if I were to kind of summarize our view looking at the proposed trigger with the triggers used in other states, I'd look at the relatively lengthy time frame of implementation in this trigger, the relatively high level of growth required for the trigger, and the relatively modest level of tax reduction reducing the overall income tax rate by about 12 percent. These combine to make Nebraska's proposed trigger very cautious and incremental relative to the others that have been adopted in other states. The second broad point that I would want to make is why it'd be important to reduce Nebraska's individual and corporate income tax rates. I think Senator Harr made the point very well earlier before he had to leave. The rates are very high compared to the revenue they raise. Kansas and Colorado have...collect about similar amounts in income tax, but with rates far lower. And the same would certainly be true of the corporate rate as well. We certainly have done a lot of research on individual tax rates and corporate tax rates and find a strong relationship of decisions being made at the margin. So that's why that marginal rate matters more than the average tax rate or the average effective tax rate. Third general point that I'd make is on sales tax base expansion, I wouldn't...I think it'd be a mistake to consider the Nebraska sales tax to be a tax on luxuries. It's not. It's meant to be a tax on consumption. And the inclusion of a service in that base is not meant as a punishment or as a disparagement or as a conclusion that it's not important but just that it's part of Nebraska's economy. The services that are laid out in the proposal are ones that are generally taxed by a lot of other states. We have a table in our statement on page 12. Dry cleaning service is taxed by 23 states including three of Nebraska's neighbors. Massage service is taxed by eight states including two of Nebraska's neighbors. Newspaper is taxed by 15 states including three of Nebraska's neighbors, and so on and so on. The only one that wouldn't fall in that category would be lottery tickets. There are no other states that tax lottery tickets. Plenty more including lots of pictures in our statement. And I'm happy to answer any questions that you have. [LB452]

SENATOR SMITH: Thank you, Mr. Henchman. Senator Schumacher. [LB452]

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SENATOR SCHUMACHER: Thank you, Chairman Smith, and thank you for your testimony, Mr. Henschman. In the work that the Tax Foundation has done or maybe even our...have you become aware of or yourself done any type of polling which would ask general members of the population what the tax rate is that they are paying and how that response differs from a high-tax state like New York to a no-tax, income tax state like Florida? Do they even know? [LB452]

JOSEPH HENCHMAN: That's a very good question, Senator. One of the reasons for our organization's existence is a need for more awareness and knowledge among the general public on public finance issues. When you ask people percentage questions or, you know, how much do you think this group pays or how much do you think you pay, people are generally pretty way off from the actual numbers. As far as popularity of taxes, the property tax and the gas tax tend to be incredibly unpopular; the cigarette tax and the...tends to be the most popular. And that's pretty much in proportion to the percentage of people that pay it. So I mean I would almost say it's equivalent to asking somebody, do you pay this tax or do you not pay this tax? It's the same as asking whether a tax is popular or not. [LB452]

SENATOR SCHUMACHER: So as far as in all this review and research and everything else, basically the person on the street is way off on what their estimation of an income is and probably hates the property tax because it's an in-your-face tax. [LB452]

JOSEPH HENCHMAN: I don't want to generalize. Obviously there's a lot of smart people and there's a lot of busy people who don't have time to learn everything about tax policy. But I would say generally that's the case. [LB452]

SENATOR SCHUMACHER: Then one follow-up question, what would be the policy reason for a state on a Subchapter S or LLC tax situation to not tax income earned from an out-of-state LLC or Subchapter S by one of its residents? Why would you not want to tax that income? [LB452]

JOSEPH HENCHMAN: I'm sorry, could you clarify? [LB452]

SENATOR SCHUMACHER: Right, let's...if a state has a provision that says we won't tax, we'll allow an exclusion from our residents' income taxes of income earned by an LLC or Subchapter S corporation that is not materially gotten from Nebraska, what would be the policy reason for that? [LB452]

JOSEPH HENCHMAN: One potential policy reason would be to avoid double taxation, so... [LB452]

SENATOR SCHUMACHER: Let's say it's even...there's no... [LB452]

JOSEPH HENCHMAN: No other state taxes it? [LB452]

SENATOR SCHUMACHER: ...that we don't care whether there's another state tax or not. [LB452]

JOSEPH HENCHMAN: Well, whether you care or not, the Supreme Court has held that if there's...if a person is being taxed more for engaging in an out-of-state activity than an in-state activity that that's a violation of the U.S. Constitution. It's the Wynne decision from a couple of years ago. So that might be one policy reason. Are you getting at Kansas as the...? [LB452]

SENATOR SCHUMACHER: No, I'm just getting at if there's a provision that says we won't tax you on your income from an out-of-state LLC or Subchapter S, exclude that when you figure your Nebraska income tax, what would be the policy reason for such an exclusion? [LB452]

JOSEPH HENCHMAN: I'm not sure. [LB452]

SENATOR SCHUMACHER: Okay. Thank you. [LB452]

SENATOR SMITH: Mr. Henschman, I provided you a copy of a spreadsheet that Ms. Fry distributed and referenced some studies that you had done. And I guess I'm just going to kind of open that up if there's....I know you just now are taking a look at that, but if you wanted to make any reference to any of the comments that were made there and then I have some specific questions. [LB452]

JOSEPH HENCHMAN: Sure. I think Senator Schumacher asked Ms. Fry a very direct question on that point of kind of...I'm going to do a disservice to Senator Schumacher's question, but essentially what's the evidence out there on the effect of taxes and economic growth? And Ms. Fry correctly said that...she pointed to no consensus in the literature. If the question were framed differently, are there studies out there that...by reputable, peer-reviewed journals that heavily studied this problem that found a strong relationship between taxes and economic growth, between income tax and economic growth, the answer would be yes. Are there studies out there that find weak relationship? The answer is yes. Are there studies that find other things matter? The answer is yes. We've put together studies...a study of studies, so to speak, that looks at all of them and finds especially strong relationship between the corporate income tax and individual income tax and economic growth and especially strong relationship from recent studies as opposed to ones long ago. There's also anecdotal evidence. There's also comparative state

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evidence. I'm always impressed by the example of Illinois and Indiana which have very similar climates, very similar ethnic backgrounds, very similar...they're similar location in the country, and up until 2011, very similar tax policies. And that's when they diverged: Illinois significantly increased taxes; Indiana significantly reduced taxes. And for the first time in I think the history of the United States, Indiana is now stronger in a lot of its fundamental economics than Illinois is. North Carolina did a comprehensive reform in 2013. They're one of the leading states in the country on economic growth. So there's a lot of strong data out there that supports these contentions. You know, I've worked in a number of these...I've worked in six of the ten states listed here. And I mean let me assure you, nobody in Vermont, Minnesota, California, New York, New Jersey says they're in the states because of the tax code. They're there despite the tax code. There are other redeeming features that compensate for the tax code that allows somebody to be in those states. And I know there's people out there that go from state to state providing the same prescription to every state. This is what you need to do. You need to get your income tax. This is what you need to do. You need to have a high income tax. We don't do that at the Tax Foundation. Our prescriptions for each state are tailored to each state because that's how the tax code should work. It should compensate for weakness or it should accentuate a strength. And the high sticker rate of Nebraska's tax rates and the challenge Nebraska faces just in the perception of the Midwest are strong deterrents. There are many strengths too. Ms. Fry mentioned Fortune 500 companies. You've got a great airport. You've got great transportation, got great people. But you still have outmigration. You still have people reluctant to stay here and move here. And from our evidence, from our discussions, from our...we've talked to lots of site selection people too. We've talked to lots of businesses both in Nebraska and out of. And the high tax rates matter. [LB452]

SENATOR SMITH: So the people that are watching us by live feed, the people that are here in this room that may not know Tax Foundation, I know it it's rare that we have a chance to have someone with your background and knowledge as to what's going on in other states here in front of us so we're going to take some advantage of asking you some questions about this. But Tax Foundation, generally you understand that tax burden on businesses and individuals is a bad thing. So we're...we probably have a kindred spirit in terms of we don't like property taxes. And I agree with the folks that have testified; they don't like property taxes. We don't like sales taxes. Agree with that. Don't like income taxes. What the Tax Foundation does is that you try to provide studies that help states to determine how to structure the necessary tax policy to provide for the greatest opportunity for economic growth in the state and bring overall tax burden down for those states, is that right? [LB452]

JOSEPH HENCHMAN: Generally, I would agree, yes. [LB452]

SENATOR SMITH: And then...and so your study of studies, you talk about corporate. Talk a little bit about why if we were going to--I think Senator Schumacher brought this up--if we were

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going to spend another \$39, would we spend it on a private sector purchase or we would spend it on a social work...I think example you used was a social worker's salary. I mean what's...what do we do here? [LB452]

JOSEPH HENCHMAN: Sure. Well, it's a very big question, so I will try to have a focused answer, Senator. [LB452]

SENATOR SMITH: I apologize for the broadness of that. [LB452]

JOSEPH HENCHMAN: Oh, no, no no. Why don't I start with the Ewald study; Senator Schumacher brought it up earlier. Ewald's study was let's cut taxes by \$100 million these two ways and see what happens. That was what's known as a demand side study. It's out of the Keynesian school which is one of the schools of economics which focuses on multiplier effects. So you take that \$100 million and you run it through the economy. As a sales tax reduction versus an income tax reduction and the Ewald study found economic growth from both of them, but different...slightly different results of economic growth from the two taxes, sales tax generating a little bit more. And that primarily being it's almost a very technical view of the economy as just levels of production and steps. It's been a long time since I've read the Ewald study. It came out a while ago. But I don't remember whether he incorporated dynamic conclusions in his analysis, that is assuming...and I doubt he did because the assumption is just reducing revenue by \$100 million. It's not, what are we changing to the tax rates? What are we changing to the structure? And you know, as you mentioned, we view taxes as important for funding services that society wants, but structure matters a lot. And as I always say in every testimony I ever do, how you structure your taxes matters almost as much as the aggregate dollar amount because \$100 million collected one way can be more or less economically destructive than \$100 million collected another way. So what I think the Ewald study at least did not purport to try to answer was, what can Nebraska do structurally to its taxes to keep more people in the state, to bring more people in the state, to make a difference for that next dollar of investment, for that next purchase of equipment, for that next construction of a plant, for that next store to open. That's what we tried to do in our studies on Nebraska where we focus on the incentive effects. And the evidence is large and goes back quite a bit, that taxes do have an impact on behavior and especially income and corporate taxes at the margin. And I can certainly provide our study of studies to the committee. It's on our Web site at taxfoundation.org and can certainly dig deeper into any aspect of that. But that's just kind of maybe a broad overview to your question. [LB452]

SENATOR SMITH: Appreciate that. Further questions for Mr. Henchman? Senator Schumacher. [LB452]

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SENATOR SCHUMACHER: Thank you, Senator Smith. In the study of studies that you mentioned, was there a date on that? And what studies were included and omitted from that study of studies? [LB452]

JOSEPH HENCHMAN: Yes, we put it out I believe...do you remember? I want to say 2012, maybe 2013. I'll have to see. [LB452]

JIM VOKAL: 2013. [LB452]

JOSEPH HENCHMAN: Twenty thirteen. And then Center on Budget and Policy Priorities, which is another group out there, put a response out and they said they found more studies on both sides of the question. And then we put out a response to their response finding even more. So I mean there's always new studies coming out. And you know, if you kind of, quote unquote, waited for all the studies to be out you would never publish the thing. And I don't know if you've ever worked with academics, but they're always like waiting for more before they publish and sometimes you just have to make them release the thing. But there's always more evidence out there and we're always eagerly digesting it when it's out there. But it hasn't changed our general conclusions yet. [LB452]

SENATOR SCHUMACHER: But you're talking a...if you look at all the tax plot graphs and things and you run a mean and standard deviation on our income tax, we're well within one standard deviation, even less than a standard deviation of the mean of taxes. We're certainly not an outlier. And... [LB452]

JOSEPH HENCHMAN: And our state business tax climate index would agree with that. [LB452]

SENATOR SCHUMACHER: So I mean...and what we're looking at in, for example, this bill is...and other bills like it is you have this assumption once you hit 3.5 percent increase that you've got extra money to deal with. It doesn't look at what impact that has on our Cash Reserve, whether or not we have high inflation, we could have inflation at 4 percent arguably which means our expenses will probably go up by about 4 percent and we'd be hitting triggers. And then we'd be in the box where, oh gee, do we undo the trigger, in effect, raise taxes and you know the political consequence of that, not that it's going to bother me or most of the members of this committee because we're going to be out of here. But somebody is going to face that music. So isn't it better that we look at a situation, see that our economic realities of inflation, of baby boomers hitting the point where they run out of revenue and are looking for a safety net, of how many kids that maybe are coming from single homes and don't have adequate preschool and have a live and in-person Legislature on the scene to make those judgments as to how much tax

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reduction we can afford or maybe tax increases we need rather than lock us down into something that's politically hard to get out of if it turns out to be a wrong guess for ten years from now? [LB452]

JOSEPH HENCHMAN: Senator, that's a very good question and I think that's...the concerns you've raised which are absolutely legitimate and are ones that have been faced by some states are the reason why triggers have been developed as a policy tool. Rather than immediately cutting your tax rate and hoping it works out, this only takes effect if you have strong economic growth. So it...I mean what you said is almost an argument for triggers because that...the mechanism allows you to only have the tax cuts take effect as you have the economic growth in order to pay for them. [LB452]

SENATOR SCHUMACHER: Well, am I wrong in thinking that if we had 3.5 percent inflation, we'd come up with close to 3.5 percent increase in revenue? If it was no increase in GDP, it was all inflation and it was offset by an increase in costs. We'd be triggering this trigger. [LB452]

JOSEPH HENCHMAN: I don't think that's the intent of the bill and but there will be future legislators to deal with that issue if that comes up in the very unlikely scenario that we have inflation that high. [LB452]

SENATOR SCHUMACHER: Well, you know, target inflation on the Federal Reserve is a little over 2 percent. They easily could... [LB452]

JOSEPH HENCHMAN: Two or under. [LB452]

SENATOR SCHUMACHER: ...easily could overshoot that target. There are people that are afraid that with all the money that's been generated in credit, we'll see humongous inflation. [LB452]

JOSEPH HENCHMAN: They've been saying that for about six or seven years now. [LB452]

SENATOR SCHUMACHER: And that's true and the truth is no one knows what type of black swan event could trigger that event. So why not...why are we trying to restrict...what's the advantage of future Legislature from addressing the expenditure needs and taxing needs and why are we kind of putting this robot on Mars and...with a program in it rather than putting a pilot on that robot? [LB452]

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JOSEPH HENCHMAN: This bill does not prevent future legislators from altering the speed or the number of the phased...of the triggers. And in a number of states where they haven't...where they had second thoughts or they've changed their mind they've been able to change it. So this doesn't lock Nebraska into anything. It's a law that can be changed just as this Legislature can pass it. [LB452]

SENATOR SCHUMACHER: But the political reality is it's awful, awful hard to pull back on a tax break that's programmed. We're seeing how hard it would be to pull back on...we put in a few years ago a deal where we automatically adjust the brackets for inflation. Okay, really hard to back out of that because that's viewed as a tax increase if you say, wait a minute, let's suspend or get rid of that provision even though we're looking at hundreds of millions of dollars of revenue shortfall and a real pickle. It's hard to undo those kind of things. And politically at any given time really, really suicide for somebody to do it. [LB452]

JOSEPH HENCHMAN: Well, I would say that's the position Nebraska's has been in since it's adopted the current tax code in the late 1960s. And there's always been people saying we shouldn't change it. We should keep it the way it is and it's now gotten to the point where in a lot of respects, it's uncompetitive with other states. [LB452]

SENATOR SCHUMACHER: But we are in the middle of the graph of the plots of our taxes. We're not an outlier. We've gone...you know, and I don't think we've had anybody come before us in the several years I've been on the committee and say, you guys are way out of whack on something. [LB452]

JOSEPH HENCHMAN: Not on tax policy but as I pointed out in I think a question to Senator Smith...a question from Senator Smith, the tax code can compensate for other weaknesses or can accentuate strengths. And while Nebraska is average at its tax code it's not average, it's below average in a number of other respects. And the tax code can help compensate for those. [LB452]

SENATOR SCHUMACHER: Okay. Well, I've consumed too much time. Thank you. [LB452]

JOSEPH HENCHMAN: Thank you, Senator. [LB452]

SENATOR SMITH: Good questions. I don't see any further questions from the committee. Thank you, Mr. Henchman. [LB452]

JOSEPH HENCHMAN: Thank you, Senator. [LB452]

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SENATOR SMITH: Appreciate your time with us. And we would very much like...I think you gave us a reference for that study on studies. So I think... [LB452]

JOSEPH HENCHMAN: I will send that. And certainly if you have any other follow ups from the written statement, happy to provide it. [LB452]

SENATOR SMITH: Thank you. Next person in a neutral capacity on LB452. Welcome. [LB452]

KORBY GILBERTSON: (Exhibit 22) Good evening, Chairman Smith, members of the committee. For the record, my name is Korby Gilbertson; it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a lobbyist on behalf of Radcliffe and Associates to actually deliver a letter. In interest of saving the committee time, the letter is signed by 32 different organizations that have concerns regarding the taxes on services and goods that are proposed in LB452. You have heard from some of these groups in opposition to the bill today. Some groups have not opposed the bill in total and that's why I'm sitting here in a neutral position. And so I'd ask that you make this letter part of the record and I'd be happy to answer any questions. [LB452]

SENATOR SMITH: Questions for Ms. Gilbertson? I see none. Thank you. [LB452]

KORBY GILBERTSON: Thank you. [LB452]

SENATOR SMITH: (Exhibits 23-27) Next person in a neutral capacity. I see none. We do have some letters for the record in a neutral capacity: Adam Millsap of Mercatus Center, George Mason University; Lynn Widdifield from Grand Island, Nebraska; Brian Rockey from Nebraska Lottery; Jason Hayes, NSEA; Steve Nelson, Nebraska Farm Bureau. All those are in a neutral capacity. Senator Groene has joined us and he missed his constituent that was here from North Platte that came all the way just to see Senator Groene. [LB452]

SENATOR GROENE: I was in Natural Resources. I don't know where I'd rather been. (Laughter) [LB452]

SENATOR SMITH: But we spoke very well of you. So we invite Senator Lindstrom back to close on LB452. [LB452]

SENATOR LINDSTROM: Thank you, Chairman Smith, and thank you to the members of the committee. I appreciate all the testimony that was discussed today, both proponents, opponents, and neutral. Obviously, tax policy and tax changes are always hard. There's really no easy way to

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do it, whether it's property tax, individual, corporate income tax, veterans' pensions, and tax on Social Security income. It's what we want to address and I think this committee has a lot of its plate to address. When it comes to this particular bill, LB452, really it's a matter of philosophical differences and how do we spur economic growth in Nebraska whether it's our small business. I heard several opponents today that discussed dealing with their profit margins and possibly adding \$1 to \$6, thereabouts, on to some of the services they provide. And I would just point out that a lot of the owners are typically pass-through entities that would be getting a tax cut in the form of the individual tax rate going from 6.84 percent down to 5.99 percent over a time frame. It was talked about whether or not the competing with other states when they look at our corporate tax structure and individual tax structure, cutting it by going from 6.84 percent down to 5.99 percent is not going to necessarily compete with the South Dakotas, the Wyomings of the world. I think more importantly is the organic growth inside of those businesses. And for those Subchapter S those pass-through entities, if they are bringing in revenue of several hundred thousand, no, this tax cut is not going to be able to hire one new person at \$35,000 a year. It was talked about, the middle income, this would hurt middle-class folks. I'll just point out again that \$29,000 is the highest tax income in the state of Nebraska for a single filer. And based on the federal income level, we range anywhere from \$9,000 to \$37,000 at 15 percent as the lowest. So to say that it's a tax cut for the wealthy, I don't think if you asked somebody making \$29,000 a year if they felt wealthy, I just don't think they would say yes. So again, I know we'll have a lot of discussions within the committee about how we go moving forward. LB452 probably is not going to look the same coming out. I think there will most likely be some discussion and possibly some changes, so. But again, I do appreciate all the folks that came out and discussed LB452. And with that, I'll answer any questions that you may have. [LB452]

SENATOR SMITH: Thank you, Senator Lindstrom. Remaining questions for Senator Lindstrom? The hour is late and... [LB452]

SENATOR SCHUMACHER: Is that a hint? [LB452]

SENATOR SMITH: Yes. So thank you for your closing on LB452. [LB452]

SENATOR LINDSTROM: Thank you. [LB452]

SENATOR SMITH: And I know the room is going to transition here. We have one more bill that I am going to introduce and it will be short, hopefully. [LB452]

SENATOR FRIESEN: Okay. We will now open the hearing on LB461. Welcome, Senator Smith. [LB461]

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

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SENATOR SMITH: Thank you. Senator Friesen and members of the Revenue Committee. For the record my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I'm here to introduce LB461. As drafted this bill corrects a reference to a federal act. Simply put, LB461 is a shell bill and doesn't really do anything of substance. It's there for our further consideration this session if we need it. Thank you. [LB461]

SENATOR FRIESEN: Thank you, Chairman Smith. Are there any who wish to testify in favor of this bill? Are there any proponents who wish to testify in favor of LB461? Seeing none, are there any who wish to testify in opposition to LB461? Seeing none, are there anybody who wishes to testify in a neutral capacity? Seeing none, Senator Smith, do you wish to close? [LB461]

SENATOR SMITH: I waive. [LB461]

SENATOR FRIESEN: Senator Smith waives closing. We will close the hearing on LB461 and we'll close the hearing... [LB461]

SENATOR SMITH: And that concludes our hearings for the day, yes. Thank you, everyone. [LB461]