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Revenue Committee  
January 18, 2018

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[LB881 LB882 LB884]

The Committee on Revenue met at 1:30 p.m. on Thursday, January 18, 2018, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB881, LB882, and LB884. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Brett Lindstrom; and Paul Schumacher. Senators absent: Tyson Larson.

SENATOR SMITH: Welcome to the Revenue Committee public hearing. My name is Jim Smith. I represent the 14th Legislative District in Sarpy County, and I serve as the committee chair. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on proposed legislation that is before the committee today. To better facilitate today's proceeding I ask you to abide by the following procedures. Please turn off your cell phones and other electronic devices, or put them to vibrate so as not to disturb others in the room. Whenever you are about to testify, if you would move towards the front of the room so that you can move into the testifiers chair fairly quick. The order of testimony is the introducer of the bill, proponents of the bill, opponents of the bill, neutral, and then closing remarks by the introducer of the bill. We do not have a large number of people in the hearing room today, so we are just going to follow the normal procedures. If you have written materials...oh, and 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 material that you would like to distribute to the committee, please hand them to the page to distribute. We will need 11 copies for all committee members and staff. If you need additional copies, please ask the page to make those copies for you and in advance, if possible. When you do come to the table to testify, you will need to both state and spell your name so we can get it correct in the record. The microphone is not for amplification. It is to catch your testimony for the transcribers, so you will need to speak loudly enough for others in the room to hear. Let me start now with some introductions. To my right is legal counsel, Mary Jane Egr Edson, and to my left is research analyst, Kay Bergquist. And at the end of the table to the left of me is committee clerk, Krissa Delka. And I'm going to allow my colleagues to introduce themselves. Senator Harr.

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SENATOR HARR: Thank you. Senator Burke Harr, Legislative District 8, representing midtown Omaha.

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

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

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

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

SENATOR GROENE: Mike Groene, District 42, Lincoln County.

SENATOR SMITH: Our page today is Heather Bentley from Miller, Nebraska. She is a junior at UNL and she is majoring in agricultural economics. Please be mindful that senators will come and go from this meeting. They have other responsibilities in other committees, so please be patient with us and understand. And with that, we're going to begin our hearings today and it looks like this is Senator Schumacher and Harr day in Revenue Committee and we're going to start with Senator Schumacher, and he will begin by introducing LB881, which is to change the inheritance tax provisions relating to life insurance proceeds. Welcome, Senator Schumacher. [LB881]

SENATOR SCHUMACHER: Thank you, Senator Smith, and members of the committee. My name is Paul Schumacher, representing District 22 in the Legislature, and I'm here today to introduce LB881 which deals with inheritance taxes and life insurance proceeds. I'm here just long enough to realize that when somebody asks me to carry a bill, it's because they know that I'm less likely to ask questions about it. And the bar association has asked me to carry this legislation. The downside of the theory of I won't be asking many questions about it, is that I get to pontificate on it just a little bit and I always have hesitancy in doing that when it's a bar association bill because I know that following me there will be somebody who actually knows

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what he's talking about. So, this bill is interesting however, and a little background on it. When you pass property to an heir, usually an heir, in Nebraska, there is a small inheritance tax and it's on real estate, it's on stocks, it's on cash, it's virtually everything, except if the passing is done through a life insurance policy, and it just...you buy a policy and you put somebody on as a beneficiary and when it goes to the beneficiary and the beneficiary picks up the life insurance check, unlike when they pick up a CD from the bank, they have to pay inheritance tax on it. Don't have to pay if it's a life insurance policy. Hard to say what the distinction is in those assets. Somebody may have had a very good lobbyist or well-paced political contributions, but they're exempt. So if the life insurance, you make the mistake of having it paid to your estate, then bingo, there's tax on it, and that's well-established law and really this law is probably not needed except that it got confusing of world who isn't entirely made up of lawyers. So what has been happening is people make their life insurance payable to their personal family trust and then instruct the trustee, hey, take the cash and divide it whichever way and here's what you do with it. And the issue has come up, well, when you run it through this middleman of a trustee, is it subject to the inheritance tax? Is it like you put it in your estate or is it like, you know, you just had it payable direct to the heirs? And that's created some questions. The correct answer is, it is not taxable if you run it through a trustee, but that's not crystal clear. And so lawyers have been arguing, and judges have been understanding, but some other parts of the system doesn't quite understand how that can be. And so this bill basically makes it clear that if you have on your life insurance policy, payable to my family trust, that that is treated as though it were payable to your heirs directly, no tax. Except if you say in the family trust, take my life insurance and put it back in the estate, then it's triggered. Very simple provision. Now I always cringe when somebody who knows what they are talking about follows me, but that's my opening. [LB881]

SENATOR SMITH: Thank you, Senator Schumacher. Thanks for making that clear for us. Do we have questions for Senator Schumacher? I see none. I imagine you'll be around. [LB881]

SENATOR SCHUMACHER: I won't go very far. [LB881]

SENATOR SMITH: All right. We now begin with proponents of LB881. Proponents, those wishing to testify in support of LB881. Welcome. [LB881]

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WILLIAM LINDSAY, JR: Thank you, Senator. My name is William Lindsay, L-i-n-d-s-a-y. I'm here on behalf of the Nebraska State Bar Association. Senator Schumacher mentioned that the State Bar brought this bill to him and we appreciate his bringing it in front of the Legislature. It seems like in various county attorneys offices throughout the state, from time to time they lose their institutional memory as people die or retire. That's the genesis of this bill. There was a case that actually went to trial over this issue. It's generally been the way we practiced from my 40 years in practice and I believe in my father's many years before me. So it has been life insurance paid to anybody other than the probate estate has been nontaxable. The county attorneys office involved brought this up and going to some other sections, and so this is just trying to make it clear so that when we lose institutional memory again, we don't keep running into the same problem. So by putting it into statute we make it clear and that's the purpose of this bill is to make sure that the statutes reflect what the law has been throughout many, many years. The inheritance tax was started in 1901. I don't know how long this has been part of it, but probably most of that time. Thank you. If you have any questions, I'd be happy to answer them. [LB881]

SENATOR SMITH: Thank you, Mr. Lindsay. Questions from the committee? Senator Harr. [LB881]

SENATOR HARR: Thank you. Thanks for coming down, Mr. Lindsay. I guess my question is...and it's from a point of ignorance, so there's case law. Is it district court, has it never gone to the Supreme Court, is that why we need a statute to revise it? [LB881]

WILLIAM LINDSAY, JR: Well, it's county court. [LB881]

SENATOR HARR: Or county court... [LB881]

WILLIAM LINDSAY, JR: ...is the only case law that I'm aware of. Most inheritance tax cases never get beyond the county court. If you actually look, you'll find very few inheritance tax cases because they're generally 1 percent rate and they're not worth appealing. [LB881]

SENATOR HARR: And so how does it, it goes to county court, and let's just assume it's appealed up, who would appeal it, Department of Revenue or...? [LB881]

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WILLIAM LINDSAY, JR: It would actually be either the estate or the county attorney. [LB881]

SENATOR HARR: County attorney. Okay. [LB881]

WILLIAM LINDSAY, JR: The money from the inheritance tax goes to the county, not to the state. [LB881]

SENATOR HARR: Fair. Okay. Thank you. [LB881]

SENATOR SMITH: Senator Groene. [LB881]

SENATOR GROENE: Make it simple, will you? So if I put my life insurance policy, it goes to my heirs... [LB881]

WILLIAM LINDSAY, JR: Yes. [LB881]

SENATOR GROENE: ...my estate, that's the beneficiary. They pay... [LB881]

WILLIAM LINDSAY, JR: The fee is...I'm sorry. I apologize. [LB881]

SENATOR GROENE: All right. If I give it to the estate, there's inheritance tax. If I write that it goes to my daughter, there's no inheritance tax. [LB881]

WILLIAM LINDSAY, JR: That's correct. [LB881]

SENATOR GROENE: Why don't we just say there's no inheritance tax? [LB881]

WILLIAM LINDSAY, JR: Wasn't trying to change the law, just trying to make it clear what has always been. [LB881]

SENATOR GROENE: There's people that pay 13 percent tax on because they were second time removed. So it could be more than 1 percent. [LB881]

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WILLIAM LINDSAY, JR: Oh, it certainly could be. You're absolutely right, Senator. I wouldn't have a problem if you did that. I think the counties might have a problem. [LB881]

SENATOR GROENE: Well, yeah. Thank you. [LB881]

SENATOR SMITH: And Mr. Lindsay, you're just focused on insurance proceeds? [LB881]

WILLIAM LINDSAY, JR: Yes, just life insurance proceeds, nothing else. [LB881]

SENATOR SMITH: You're not making a comment on inheritance tax beyond insurance proceeds. [LB881]

WILLIAM LINDSAY, JR: Not at all, but I'm actually not trying to make any comment either way on inheritance tax. [LB881]

SENATOR SMITH: Very good. Okay. Thank you. Any further questions from the committee? Seeing none, thank you for your testimony. We will continue with proponents of LB881, proponents. Welcome. [LB881]

SARAH CURRY: (Exhibit 1) Thank you. Good afternoon. My name is Sarah Curry, S-a-r-a-h C-u-r-r-y, and I'm the policy director for the Platte Institute. I'm here to testify in support of LB881. My grandmother is 90 years old and she was just recently hospitalized for an illness. My family started discussing what we would do if she got out of the hospital and, you know, heaven forbid, what we would do if she passed away. Unfortunately, our discussion left her medical care and went to her estate and taxes and what our family would do. Only six states in the country have an inheritance tax and this bill proposes to exempt those life insurance policies from the state's inheritance tax, which I think is a reasonable request since the IRS does not tax life insurance proceeds as income. Only two states that levy an inheritance tax also tax the life insurance proceeds. That's Nebraska and Kentucky. All the others exempt life insurance from the inheritance tax. Several proposals have been fielded by the Legislature in recent years to tackle the inheritance tax. In every case, these tax relief bills were opposed by the counties who protested the inheritance tax revenue is important to their bottom line. I wanted to share with you

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that over the summer the Platte Institute reviewed county budgets and we looked at the inheritance tax. And we saw that over an eight year period, some counties received zero dollars, well, not all eight years, but in some of those years they received zero dollars. In some years, counties received up to \$10 million in inheritance tax revenue. So it's an irregular revenue stream and when we talked to the county treasurers we asked them how they spent this money since they can't rely on it from year to year. And they said, mostly ad hoc. They fill in shortfalls with other funds and the majority go to funding shortfalls in the road's funding. So I feel like LB881 is a compromise. Counties cannot rely on the inheritance tax money that they receive on an annual basis because it's an irregular revenue stream, and yet those families that have a large inheritance will still have to pay the tax if this bill were to pass. But this bill carves out just a little bit to allow those families some tax relief. The Tax Foundation has reported that inheritance taxes are among the most hostile to economic growth and have high compliance costs. A study by George Mason University found that states would gain more revenue in the long run by eliminating the inheritance tax due to its economically destructive impact on capital formation and investment. In Nebraska, those most impacted by the inheritance tax are farmers, ranchers, family businesses, as the inheritance tax makes it difficult to pass property from one generation to the next. Many Nebraska farms and ranches are family owned. The negative effect on the inheritance tax on family farms and family traditions cannot be ignored. Agriculture is key to Nebraska's economy. This became very evident when the Bureau of Economic Analysis showed that there was a contraction in the agriculture sector and it actually had an impact on Nebraska's entire state GDP. According to the Department of Agriculture, the net income of agricultural households tends to be higher than the average American household, yet much of the wealth from the farm and ranch-related assets make them land rich but cash poor. This means that on paper, agricultural household income is high, making them very susceptible to inheritance tax liability. For many, the only way to pay the tax liability is to sell equipment, land, or even the entire ranch or farm. Small businesses are also saddled with the same situation with their wealth tied up in business capital and it would have to be liquidated in order to pay the tax in some situations. In both, for business, farm, if they survive the tax, it might put a tax on their productive capital, making it less productive or leaving it with fewer resources in which to expand its business or create jobs. I know this committee is going to hear a lot of bills about changing the property tax and the income tax this session, and clearly, the government is getting a good amount of revenue from these families and businesses in other ways. The inheritance tax

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is an additional layer of taxation on top of everything else. When a family member dies, there should be a simple ownership transfer to the next generation, and exempting life insurance proceeds would make that transfer a little bit easier. Thankfully, my grandmother is back home and recovering, but she lives in Florida so my family doesn't have to worry about the inheritance tax. But it did make me think about all the people in Nebraska that have to worry about it. I ask you support LB881 in an effort to make death a little less stressful for those family members in Nebraska, and to support good tax policy. Thank you, and I'm happy to answer any questions. [LB881]

SENATOR SMITH: Thank you, Ms. Curry. Do we have questions from the committee? I see none, thank you for your testimony today. [LB881]

SARAH CURRY: Thank you. [LB881]

SENATOR SMITH: Next proponent of LB881. Welcome. [LB881]

JAMES DOBLER: Senator Smith, members of the committee, my name is Jim Dobler. That's D-o-b-l-e-r. I am a registered lobbyist and I appear today on behalf of the Professional Insurance Agents of Nebraska. This is an organization of independent insurance agents. Our membership is a little over 1,000 agents and we're located throughout the state of Nebraska and I appear today in support of LB881. As I'm sure you can appreciate, many of our member agents write a significant amount of life insurance here in Nebraska, and there's been a little bit of discussion about this issue. And from our perspective we really appreciate the clarification here so that when the agent is talking to his or her client, there's some assurance as to how the inheritance tax will apply to that life insurance product. With that, I'd be happy to answer any questions. [LB881]

SENATOR SMITH: Thank you. Questions from the committee? Senator Groene. [LB881]

SENATOR GROENE: So you're a bachelor, and you have a life insurance policy. Do you just put...if you put on there to my heirs, is that direct? When does it end up into the estate? What has to be the beneficiary...what's the wording that says it's going to the estate? [LB881]



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JAMES DOBLER: If it...it has to show the estate as the beneficiary. [LB881]

SENATOR GROENE: It has to say that. [LB881]

JAMES DOBLER: Yes. [LB881]

SENATOR GROENE: So, if it says, to my heirs, the insurance company splits up the...finds out who the heirs are, splits up the check and sends them out to each person. [LB881]

JAMES DOBLER: Yes, so ordinarily it wouldn't say heirs, it would list those individuals as beneficiaries. And the distinction here is that with the life insurance contract, it's essentially a contract between the person that takes out the contract and the insurance company. And the contract speaks for itself and it operates automatically according to the terms of the contract. So, it's that contractual transfer and that's what keeps it out of the estate of the deceased and that's why it isn't subject to the inheritance tax because it never gets in the estate and it never gets in the probate process. [LB881]

SENATOR GROENE: So no agent who knows what they're doing would recommend just putting to your estate. [LB881]

JAMES DOBLER: Yes, I agree. [LB881]

SENATOR GROENE: So this happens very rarely. [LB881]

JAMES DOBLER: I don't think it's what usually happens. How often it happens, I don't know. [LB881]

SENATOR GROENE: Thank you. [LB881]

SENATOR SMITH: I see no further questions, thank you for your testimony today. [LB881]

JAMES DOBLER: Thank you. [LB881]

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SENATOR SMITH: Next proponent of LB881. Seeing no additional proponents, we move to opposition, those wishing to testify in opposition to LB881. Seeing none, anyone wishing to testify in a neutral capacity on LB881. Seeing none, Senator Schumacher, you're invited to close on LB881. [LB881]

SENATOR SCHUMACHER: Thank you, Senator Smith, and members of the committee. I think it's safe to say that if this was any change for up or down on the inheritance tax, we would have heard NACO here today. This basically is no change from the way it's been interpreted and practiced for as long as I've been practicing law, and probably as long as Mr. Lindsay's been practicing law. This is the way it's always been, but sometimes it's just as helpful to have it spelled out clearly so that you don't have to ask a lawyer whether or not that's the way it has always been. And apparently that ran into an issue that brought this to the bar association's attention. Take any questions, but that's my story and I'm sticking to it. [LB881]

SENATOR SMITH: Senator Friesen. [LB881]

SENATOR FRIESEN: Thank you, Chairman Smith. So, I'm following the process here a little bit but I...you know, a life insurance policy has very little value until you die, right? [LB881]

SENATOR SCHUMACHER: Well, you can have different kinds. You have some that have cash value built up, but basically they're basically cashed in or paid to the beneficiaries, I should say, on death. That's a lot of them, yeah. [LB881]

SENATOR FRIESEN: So is this just a fancier way of getting a stepped-up basis on cash and no inheritance tax? [LB881]

SENATOR SCHUMACHER: I don't think there is...life insurance doesn't have a basis. We're not talking the income tax. [LB881]

SENATOR FRIESEN: I'm just saying increase in value. It increases in value when you die? [LB881]

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SENATOR SCHUMACHER: Well, no, you actually pay for the gamble that you're going to live or die. [LB881]

SENATOR FRIESEN: Oh, so this is gambling? [LB881]

SENATOR SCHUMACHER: Absolutely. It's gambling if there's insurance involved. (Laughter) [LB881]

SENATOR FRIESEN: There's odds that you don't die? [LB881]

SENATOR SCHUMACHER: Well, you're betting that you're not going to die. They're betting...the insurance company is betting you're not going to die for longer than the tables says you... [LB881]

SENATOR FRIESEN: Thank you, Senator Schumacher. [LB881]

SENATOR SMITH: Well, unfortunately, Senator Larson wasn't here to enjoy that question, Senator Friesen. (Laughter) I see no additional questions on LB881, so that concludes our hearing on LB881. And we invite Senator Schumacher to move on to LB882 which is a change in provisions relating to certain inheritance tax proceedings. [LB881]

SENATOR SCHUMACHER: Thank you, Chairman Smith, and members of the committee. My name is Paul Schumacher. I represent District 22 in the Legislature and I'm here today to introduce LB882. Again this bill was brought to me by the bar association. Technically there probably shouldn't be any need for the bill because it's the way everybody has kind of has practiced, but apparently there's some effort sometimes by county officials to be helpful and interpret the law themselves and then tell somebody this is what you've got to do, and like it's confusing unless you put in very simple terms on black and white. The inheritance tax is done, a little bit unusual in that a court determines it. It's not a form that you file with the Department of Revenue and have an accountant do it. The court actually determines it. And in order to get the court to tell you what the tax computation is, you have to ask the court and you've got to give the court a basis for your calculation. Here's what there is, here's the number of heirs, here's the

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number of exemptions they're entitled to, multiply it usually times 1 percent and here's the check. Sometimes the judge approves it and that typically is done in the context of a probate where there is a farm or there is some cash or some other, a house, that is not passed by joint tenancy with survivorship or payable on death. And so there's a will that's read that says, okay, these are my kids who get the property. And anything in my estate give to the kids, or the wife, or the girlfriend, or boyfriend, whoever, in this particular way. And during that probate while...and probate is really just proving up what the will says that it's an accurate will and distributed according to what the will says. It's not a big complicated thing. And in that process, the lawyer will file an inheritance tax petition saying, okay, judge, we're in probate, we're asking you to determine the heirs and allow us to pay any bills and pay off the heirs. And we need to do the inheritance tax in order to get clear title to the land and everything else. So, judge, determine the inheritance tax. The probate law say when you open a probate you've got to send out notice to everybody who is interested and the everybody who's interested includes DHHS, and that's been on the books for probably longer than I have been here. And so you send out...DHHS already has a notice that there's a probate happening. And they have the notice, so if there's a bill with DHHS, they know that there's money involved and they have a chance to chase it. So you already did it in the normal probate case. But what happens if there is no probate case? What happens if the land is in joint tenancy with the heirs, or it's in a CD that's in joint tenancy? And our inheritance tax law says, you have to pay the inheritance tax on that kind of property. So our law a few years ago was amended to say, if you don't have to open a probate because it's in this joint tenancy or things that you don't need to probate on, it's an automatic transfer to the heirs. And you go to court and you ask the judge, hey, determine the inheritance tax. I don't need a probate because there's nothing to probate, it's all in joint tenancy or payable on death or whatever. Our law says, when you file that paper, you have to let DHHS know that you're filing the paper so they know if there is some bill with them they can chase it. And the way the thing is worded now apparently is confusing to some people because they're saying, listen, even though you already filed a notice to tell DHHS that there's a probate going on, you've got to file another notice that you're doing the inheritance tax proceeding. And that's totally unnecessary. You filed one, they know about, if they can't figure it out, that's their problem. And so this basically makes it clear that if it's in...when you have one of these standalone proceedings, and the only proceeding is to ask the court not to determine heirs, not to read a will, not to do any of that, but just approve your computation of inheritance tax, that you don't have to do a second one. And again, it's

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pretty much common sense, but if you want to have somebody split hairs over it, you could see how they could argue, well, you need two letters to DHHS and that's what this tries to clear up. So, I hope I haven't confused you. If I have, Mr. Lindsay will clear it up. (Laughter) [LB882]

SENATOR SMITH: Thank you, Senator Schumacher, for the introduction on LB882. Questions? So how did this come to your attention? [LB882]

SENATOR SCHUMACHER: The bar association brought that to me. [LB882]

SENATOR SMITH: Very good. All right. [LB882]

SENATOR SCHUMACHER: They'd sooner have that chair empty. (Laughter) [LB882]

SENATOR SMITH: Thank you, Senator Schumacher. [LB882]

SENATOR SCHUMACHER: Thank you, Senator Smith. [LB882]

SENATOR SMITH: We invite proponents of LB882. Welcome back, Mr. Lindsay. [LB882]

WILLIAM LINDSAY, JR: Thank you, Senator. I hope you all don't get sick of seeing me here today, so. My name is William Lindsay, L-i-n-d-s-a-y. I'm here on behalf of Nebraska State Bar Association. Senator Schumacher's introduction explained basically the purpose of the bill. There have been clerks or courts that have said, you can't get the inheritance tax order until you've sent the notice to the department. Well, as Senator Schumacher pointed out, you've already done it in the full probate. So where the proposed bill uses the word "independent proceeding", I've always called it standalone, but it means the same thing. So if you're doing one where there's no probate, you'll still give notice to the department just as we've had to do for the last number of years. If you do a probate, the statutes already provide that at the beginning of the probate, you must notify the Department of Health and Human Services. So, in fact, the Legislature last year gave the authority for us to send those notices by e-mail. So we can get the notice out and then the time runs. If after four months they haven't filed a claim, they're barred. So why would you send them notice if they can't collect anything. So it's just to get rid of some

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confusion that is out there in the various court offices so that we are able to do this a little smoother. So that's the reason for the bill. [LB882]

SENATOR SMITH: Very good. Thank you. Questions from the committee? I see no questions. [LB882]

WILLIAM LINDSAY, JR: Thank you. [LB882]

SENATOR SMITH: Thank you for your testimony. We continue with proponents of LB882. Anyone else that would like to testify in support of LB882? Seeing none, we move to opponents, those wishing to testify in opposition to LB882. Seeing none, those wishing to testify in a neutral capacity. Seeing none, we invite you back, Senator Schumacher, to close on LB882. [LB882]

SENATOR SCHUMACHER: Thank you, Senator Smith. I'd just like the record to reflect that there were actually people testifying in favor of my bills. That may be my last opportunity in my career at the Legislature to be able to say that. (Laughter) Anybody has any questions, I'd be happy to answer them. [LB882]

SENATOR SMITH: Remaining questions for Senator Schumacher? Thank you for taking the time to explain those bills. I think you did a great job and appreciate it very much. [LB882]

SENATOR SCHUMACHER: Well, thank you, Senators. [LB882]

SENATOR SMITH: All right, that concludes our hearing on LB882. We now move to LB884, to be introduced by Senator Harr relating to change and eliminate provisions relating to county sales and use taxes. Welcome, Senator Harr. [LB882]

SENATOR HARR: Thank you, Chairman Smith. My name is Burke Harr, H-a-r-r. I represent Legislative District 8, and let the record show, this bill will have someone testifying against it and hopefully it will be the last of my bills to have anyone testifying against it. (Laughter) LB884 was brought to me by NACO and LB884 amends the provisions of statute that allow a county to impose a sales or use...excuse me, and use tax. Under current law a county may not

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collect sales tax on any transaction that occurs inside any incorporated municipality which has adopted a local sales tax. This bill would allow a county to collect sales tax on any transaction within the county. Currently, county sales tax may be imposed for public safety uses. This would add two new uses as well, economic development, and manufacturing or industrial site development. This would require a vote of the people. If this were to happen, similar to what happened out in Millard earlier this year, you can't have an increase without the people saying yes to it. And the real reason I think this bill is important is, last spring, as we all know, we had an opportunity to bring a large manufacturer, car manufacturer to this great state. And when you're bringing someone in, first thing in economic development you look for is, do you have the work force. Are there people there that if we come here, we'll have workers because we all...what we want to avoid is a situation like what's happened with our prisons in Tecumseh where we have a need for workers, but no workers. So that's the first thing, but the second thing, these economic developers look for, is there a site, is there a shovel-ready site that we know where we can build. And sometimes there is within a municipality, but oftentimes there isn't. For instance, this large manufacturer was looking at land outside and there wasn't any land under control. And so what this bill does is allows land to be under control for an area that's not a part of a municipality. And I think that's important because as we continue to grow the state, we want to encourage more large manufacturing and large new businesses to come here, more likely than not those are going to occur outside the city limits of a municipality. And that is the reason why this bill was brought to me by NACO. I want to thank them for bringing it to me. And with that, I would entertain any questions you may have. [LB884]

SENATOR SMITH: Thank you, Senator Harr. Questions from the committee? So what are the restrictions on the use of those funds that would come through this new tax? [LB884]

SENATOR HARR: Currently? [LB884]

SENATOR SMITH: In years, yes. [LB884]

SENATOR HARR: Well, so currently, I think this is important for us to realize we are not...counties can already impose a sales tax and that started in 1996. What we are doing is expanding what they can use that sales tax revenue for if they do impose a sales tax, whether

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that's a half-cent penny or a penny and a half. And what this bill adds is economic development as defined in the statute, and also for industrial and manufacturing sites. [LB884]

SENATOR SMITH: Good. Thank you. Senator Schumacher. [LB884]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you, Senator Harr, for bringing this to us. What happens in the case where a city has already done one of these tax boosters and gotten the sales tax up to seven and seven a half percent and then the county comes across and essentially is imposing a tax on the stuff within the city. So are we looking at a possibility of an eight, nine percent effective sales tax rate? [LB884]

SENATOR HARR: With the approval of the voters, yes. [LB884]

SENATOR SCHUMACHER: Can this voter...can this be at a special election? [LB884]

SENATOR HARR: No, it has to be at the time of a general election or a primary. [LB884]

SENATOR SCHUMACHER: And so basically, we've already committed to the cities a couple percentage of the state's sales tax base and now we're... [LB884]

SENATOR HARR: Let me take a step back. I apologize. Yeah, I do think it can be a special election, sorry. [LB884]

SENATOR SCHUMACHER: Okay, so it's fourteen below, we'll have those special elections to prove this, given that's a possibility doing it where people don't show up. So, I mean I'm concerned that we're giving away another chunk of our sales tax base and if you have a county getting in a war with another county trying to have a new industrial site development thing, and you have cities in war with other cities trying to have their own sales tax and LB840's and all those things, we're looking at the possibility that we're authorizing the sales taxes of eight and nine percent. [LB884]



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SENATOR HARR: It's a valid argument that you make. You know, and I hope that our counties...well, I mean, the economic development world is cutthroat. There's no ifs, ands, or buts about that, but I would hope our counties would get together and look and see what areas fit best. So for instance, when this large manufacturer wanted to come, or was contemplating at the great state of Nebraska, we didn't try to give them two or three sites. If we really want to bring large manufacturing in, what we're going to have to do is be able to give them one site and have a united front because they're probably going to pull from more than one county anyway. Now, that's not to say you couldn't have a situation with an ethanol plant that may want to go in different locations. I'm not denying that, but the idea is if they are fighting against each other, I would hope one county would stand up and say, we're not going to go for that. Why don't we let Sarpy County pay the additional tax and we'll get the benefit in Douglas County of this new manufacturing location. [LB884]

SENATOR SCHUMACHER: And how does this stop that, I mean, if... [LB884]

SENATOR HARR: It doesn't stop. [LB884]

SENATOR SCHUMACHER: ...Douglas County is going to throw on the extra percent, or percentage of tax, and I'm Sarpy County and the plant is physically in Douglas County and I'm getting my employees in my county, I'm going to say, you know, fine with me. I mean, we're not forcing them to do any interlocal agreement... [LB884]

SENATOR HARR: No. [LB884]

SENATOR SCHUMACHER: ...or, you know. And I do notice we did not make the cut on Amazon today. [LB884]

SENATOR HARR: We did not make the cut on Amazon either, right? [LB884]

SENATOR SCHUMACHER: Right. [LB884]

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SENATOR HARR: And so we continue to lose a large...a lot of large...and, you know, you're right. And you hope that your elected officials and you hope that the voters are well-informed enough so that we don't have that happen. Nothing guarantees that. You know, that's what I've said and I've tried to legislate common sense and I have been woefully unsuccessful. But what I do want to do is to give our counties the tools so that if we do have the opportunity and is right, that hopefully they'll have the ability to take advantage and to grow because we can sit back as long as we want and say, I'm worried about abuse and nothing ventured, nothing gained. And that's worked for a long time but the world is passing us by and as I look at our GDP and our jobs that we're bringing in, they aren't the high-level, high-skilled jobs and we have to do something different. And this is a piece of the pie, not all the answers by any sort, but it is a piece. [LB884]

SENATOR SCHUMACHER: We don't set in the language for the purposes here, any requirement that these are anything but rum, dumb jobs, (laughter) that they meet some certain standards or anything. [LB884]

SENATOR HARR: And obviously all bills are amendable and I think that's a valid concern. And if you're willing to work with me, I'm willing to work with you to make sure that we do put in some criteria as for what the type of jobs that it can be used for economic development, because I do think that is a valid concern. [LB884]

SENATOR SCHUMACHER: Thank you, Senator Harr. [LB884]

SENATOR SMITH: Senator Groene, then Senator Friesen. [LB884]

SENATOR GROENE: Is there any counties in the state right now that have a levy sales tax?  
[LB884]

SENATOR HARR: Yes. [LB884]

SENATOR GROENE: Which are? [LB884]

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SENATOR HARR: I know Douglas County, we had a bond issue...oh, that was a bond issue. I don't know. There are those kind of after myself that can...there's one, I think, but I can't remember which county. [LB884]

SENATOR GROENE: And if I read this right, they can only do it in rural areas. [LB884]

SENATOR HARR: If the city has a local option sales tax already. [LB884]

SENATOR GROENE: But everybody does, don't they? [LB884]

SENATOR HARR: Not every...I mean, some of the smaller towns don't because they surely don't have enough sales to be worthwhile. But I would concede a large number do. [LB884]

SENATOR GROENE: So this would be a double taxation, it will be a tax on top of the city tax. [LB884]

SENATOR HARR: Well, it wouldn't be a double taxation that like an occupational tax is where it's on top of the sales tax. It would be an additional sales tax but not a tax on a tax, if that makes sense. [LB884]

SENATOR GROENE: So, now the economic development of manufacturing, does that got to be in the rural area or if it's in the city, is it adjacent to the city and then we're going to have TIF, plus the Local 640, plus the county tax, and we're going to have all sorts of money. [LB884]

SENATOR HARR: Well, I guess the answer is if the city wants to take it over, they're more than free to do that though. [LB884]

SENATOR GROENE: But it has to be in the rural area, the economic development and the manufacturing? [LB884]

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SENATOR HARR: I think what you're asking me, does it have to be out of a municipality. And the answer is, I don't think it does, but if you want to make it that it has to be outside the municipality, I'm, again, free to...I'm more than willing to do that. [LB884]

SENATOR GROENE: The city already has it. If it's inside the city, the city already has LB840 and they TIF everything to death, so they have... [LB884]

SENATOR HARR: Yeah. [LB884]

SENATOR GROENE: ...they have, so where is the county in this? [LB884]

SENATOR HARR: The city already has a number of tools for economic development that is not available to the counties, that is correct. [LB884]

SENATOR GROENE: Thank you. [LB884]

SENATOR SMITH: Senator Friesen. [LB884]

SENATOR FRIESEN: Thank you, Chairman Smith. I like the idea of raising money through something other than property taxes and that's where counties have always been focused. A couple of questions. I mean when I look at this, so you...you're looking at economic development, the county wants to be prepared because you have to have the site, you have to have it ready, you can't just implement it when you hear about something, you need to prepare. So, say you implement the sales tax and you start collecting funds and nothing shows up and you keep collecting funds, how...is there a limit as to what you can collect and stockpile or...? [LB884]

SENATOR HARR: Not...not in the bill and I'm more than willing to talk with them and figure that out. You know the other concern I was expecting from Senator Groene is, what happens if the county buys this land and now it's off the property tax rolls. And we can address that issue too. I think this is an opening and a chance to figure out how do we want to mold this and I want to work with the committee on the best way to do that so that we can encourage and incentivize

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the economic development outside of our municipalities and having our counties involved. And so that's a great question and I don't have an answer to that. [LB884]

SENATOR FRIESEN: And I think now you have now businesses right outside the city limits that don't pay the one and a half-cent sales tax when the municipality has it and it creates a one and a half percent difference there when citizens go to shop. So, this would kind of level the playing field and bring in revenue other than property taxes, so. [LB884]

SENATOR HARR: And like I said, I don't know the answer to, is there a limit. And I don't know if I do it based on population or based on land size, and that's something I'd be interested for your input on how to do that as well. [LB884]

SENATOR FRIESEN: I was just concerned. I mean, if all of a sudden you had a place in mind and it falls through, you've got a big pot of money collected and it's just sitting there and it is limited to what you can do with it. I mean, it's... [LB884]

SENATOR HARR: Yeah. [LB884]

SENATOR FRIESEN: How large do you get it to grow because you don't want to take it on and put it off? [LB884]

SENATOR HARR: And another concern I'll bring up is, I used to do real estate development for a large retail store and they liked to go outside of city limits. Right. And that was their bit. And then they would play the city against the county a lot of times as far as who would pay. Do they become a part of the city, pay that sales tax, what we allow ourselves to be annexed or don't fight it, are you going to pay for the lights, are you going to pay for some of the roads? And so, there's some work and some craftsmanship that needs to go into this because I do see some businesses taking advantage of it and instead of making an incentive or being ready, it...just like Senator Groene will complain about TIF, it becomes an expectation. And so I think we have to lay some parameters in there. Again, I'm more than willing to work with everybody on this committee to figure out, and with NACO, and with the League of Municipality who I think is going to come in against this about, hey, what are the limitations and how should we do this. [LB884]

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SENATOR FRIESEN: Thank you. [LB884]

SENATOR SMITH: So would...do you think this would have been used for any of the more reason projects we had looked at as a state and I guess also, if it has to go to a vote it would be a...it probably would need to be a special election in order to have a timely understanding and knowledge of that, the money is being available. [LB884]

SENATOR HARR: You know, each project is unique and some counties may decide, hey, we're going to have this area here by the Interstate, we know this is an Interstate exit, we know this is a prime location. Maybe not today, maybe not tomorrow, but five years from now for an industrial site. And they may choose to take...use a tax to acquire that earlier or it may be someone out of the blue calls us and says, hey, we want this but we want this land secured. And hopefully there would be enough time to have a special election to secure the land to do the whole due diligence and to make that sale. But I don't think it would ever be used all the time in the same way. [LB884]

SENATOR SMITH: Very interesting. I don't see other questions. [LB884]

SENATOR HARR: Thank you. [LB884]

SENATOR SMITH: We now move to proponents of LB844, those wishing to testify in support of LB844. Welcome. [LB884]

DEB SCHORR: (Exhibit 1) Good afternoon, Senator Smith and members of the Revenue Committee. For the record, my name is Deb Schorr, D-e-b S-c-h-o-r-r. I'm a member of the Lancaster County Board of Commissioners and vice president of NACO, Nebraska Association of County Officials, and I'm appearing here today on behalf of NACO in support of LB884. I'd like to thank Senator Harr for introducing this bill on behalf of NACO. It would be nice if we could continue Senator Schumacher's history of no opposition, (laughter) but I don't know if we're going to be that lucky this afternoon. We view this bill as another tool in the toolbox for counties for economic development. This year, especially, when property tax relief is on everyone's mind, expanding counties ability to use sales tax to implement new development is

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another piece of the puzzle. I want to stress that under LB884, a county- wide sales tax would only be enacted after a vote of the people, with appropriate time restrictions, as possibly mentioned earlier. And to reinforce, there would be no impact on the city sales tax structure. Currently, counties may impose a sales tax only on areas of the county that are not already covered by a municipal sales tax. In Lancaster County, the cities of Lincoln, Bennet, Hickman, Malcolm, and Waverly, all of various sizes, have implemented a municipal sales tax. If Lancaster County chose to put the issue of the county sales tax on the ballot under existing law and the voters approved it, it would only be collected in areas outside of those municipalities that had not previously enacted sales tax. Counties already have the authority to spend property tax dollars on economic development. Under Nebraska Revised Statute 13-315, counties can spend an amount equal to four-tenths of 1 percent of the taxable valuation of the county for purposes of encouraging new immigration, new industries, investing and carrying on a public campaign conducted for the purposes of advertising the various agricultural, horticultural, manufacturing, commercial, and other resources of the county. That same definition of economic development you will find in this bill, but the difference is how funds are generated. Under a county-wide sales tax, everyone making a purchase, county residents and our visitors alike, would contribute. Under Section 13-315 only county property taxpayers foot the bill. Historically, the Legislature enacted a limited local option sales tax for counties in 1996. At that time the Legislature had enacted a package of property tax bills that set levy and budget limits for political subdivisions. The county sales tax provisions were intended to supplement the county resources under the 50-cent property tax levy limit. And Senator Groene, in answer to your earlier questions, since then a number of counties of all sizes and in all parts of the state have considered it, Hall, Sheridan, Red Willow, Cherry, and others. Sarpy County and Deuel County have put it on the ballot, but it was defeated by voters in both counties. To date, only Dakota County has successfully implemented a county sales tax under existing law. In 2004, voters approved a half-cent county sales tax to help pay for a new jail. A small portion went to pay for improvements at the joint city-county law enforcement center. Collections exceeded expectations and the ten-year bonds were paid off a year early. Finally, if LB844 is adopted and counties have the opportunity to implement a county-wide sales tax, the state would see a slight revenue increase. As with other taxes, the state would receive a 3 percent commission for its work in administering the collection and distribution of a county-wide sales tax. And in response to an earlier discussion, I think that you will see municipalities and counties working together. Douglas County, Sarpy County, and

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Lancaster County have worked together in several economic development opportunities. You've seen Lancaster work with our six and eight surrounding counties in cooperation with projects and, of course, we've seen Lincoln and Lancaster County work together. So I would hope that this would open the door for increased cooperation. I encourage your support of LB884 to allow for a county-wide sales tax geared towards economic development. [LB884]

SENATOR SMITH: Thank you, Ms. Schorr. Senator Groene. [LB884]

SENATOR GROENE: Maybe I'm reading this wrong, but doesn't it strike in page 3, line 18, "other than in municipalities which you pose a local option sales tax." It strikes the present law, doesn't it that says you can't tax inside the city? You said it would not be... [LB884]

DEB SCHORR: We don't have the ability now to tax a sales tax inside... [LB884]

SENATOR GROENE: Well, this strikes that. This bill strikes that. [LB884]

DEB SCHORR: I'm sorry, I don't have in front of me what you're referring to. [LB884]

SENATOR GROENE: But it does strike that. [LB884]

DEB SCHORR: It would be a county-wide sales tax, right. It would be a sales tax, right, on top of a city-wide sales tax. [LB884]

SENATOR GROENE: Why...this is a philosophical question. [LB884]

DEB SCHORR: Again, I don't have it in front of me. [LB884]

SENATOR GROENE: Why does every entity from NRDs to cities to the state to counties now think their mission is economic development. It's for roads, public safety. Why do we have everybody thinking that they're venture capitalists, that are elected to every board in the state. [LB884]



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DEB SCHORR: I think because... [LB884]

SENATOR GROENE: Do you have an understanding why this is an epidemic? [LB884]

DEB SCHORR: Because I think we want to see our city, our county, and our community grow and we need progressive...we need progressive in how we're looking at recruiting new businesses into our community. [LB884]

SENATOR GROENE: But now we've got the state competing with the county and the county competing with the city, and everybody is getting taxed. That's... [LB884]

DEB SCHORR: Well, I...I... [LB884]

SENATOR GROENE: Excuse me. [LB884]

DEB SCHORR: ...I'd love to think that's it not competition but more cooperation because what's good for Lancaster County is certainly good for the city of Lincoln, and what's good for Lancaster County certainly will benefit Saline, Butler, Gage, and the surrounding counties. [LB884]

SENATOR GROENE: Well, a state senator lives here and he's paying a restaurant tax and a JPAC tax and now he's going to help the county and an entertainment center tax, and I'm starting to think, I don't want to be here. Thank you. [LB884]

SENATOR SMITH: Senator Schumacher. [LB884]

SENATOR SCHUMACHER: Thank you, Senator Smith. And thank you for your testimony today. I'm helping to work through the thoughts of this. States have got themselves into a terrible fix by trying to distort the natural economy and their natural advantages by sweetening the pot with this incentive or that discount, and got into a competition with each other which has turned out to be a race to the bottom. And while one state may be well-suited for a chicken plant and the neighboring state not so well-suited, maybe it moves to the neighboring state because somebody

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has gotten a freebie in taxes in a neighboring state even though the economy of folks is much better to have it in this state where it functions the best, closest to the grain and water or whatever. We've then seen it happen with the cities. They've gotten this TIF business, they've gotten LB840 kind of programs, and this city says, we'll give you TIF and the city down the street says, we'll give you LB840, and the next...the first city says, well, we'll double that, we'll give you TIF and LB840, plus we'll give you a water park or something. And so we've got all these people in a race to the bottom of trying to distort a business decision of whether or not it's a good place to open a whatever facility. Now, we're going to add the counties to it and say, okay, the counties can now get in competition, not only with other counties, and not only with other states, but with the cities within themselves. And when we do studies of these programs, there's yet to be one that conclusively says, it's a great thing and we don't lose money on it. And we can't, once we institute these programs because they are long-range, we can't back out of them very easy. And so we're stuck with this thing of our own making that is nothing but an economic distortion, and this looks like we should have learned a lesson rather than get deeper into the game. [LB884]

DEB SCHORR: But right now, counties don't have the ability to TIF. We have nothing other than property tax to help any company that might be interested in coming in. But if we're outside the...if someone is interested in property outside the city limits, counties have nothing to offer. [LB884]

SENATOR SCHUMACHER: But that is to Senator Groene's point that he just raised. Where is it the counties are in the impact development business and where, realistically, we know that the bulk of our communities under 5,000 population are going to continue to depopulate no matter what economic thing is going to happen, with rare exception. We know the growth rate of our towns of about 20,000, it's going to run between three and five percent over a decade. We know those things. Why are we undercutting the general revenue source in the name of this elusive economic development? [LB884]

DEB SCHORR: Well, first of all, it's only voter approved, so... [LB884]

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SENATOR SCHUMACHER: But we've seen those things, right? And we've seen school bonds where it's voter approved and what do they do, they bring an election, usually a special election, usually when the proponents forces are up to speed, and they lose. Six months later they bring it back again and they do until the slot machine pays off and they get the bond issue or whatever through. So, you know, if a general election restriction, maybe, but special election they'll just keep bringing it back again. There's no restriction is there. [LB884]

DEB SCHORR: Certainly and I've heard discussion and you asked why counties would be interested. If we have an employer, an improved facility that is generating additional commercial development or additional residential development in part of the county. we do benefit on the property taxing. [LB884]

SENATOR SCHUMACHER: Thank you. [LB884]

SENATOR SMITH: I see no additional questions, thank you for your testimony. [LB884]

DEB SCHORR: Thank you, Senator Smith. [LB884]

SENATOR SMITH: Next proponent of LB884. Welcome. [LB884]

JAMES PETERSON: Chairman Smith, and members of the committee, for the record, my name is Jim Peterson, J-i-m P-e-t-e-r-s-o-n. I'm a Cass County Commissioner, three terms, and recently finished serving six years on the southeast district representative for the NACO board of directors, and I'm here in support of LB884. First, I'd like to thank Senator Harr for introducing LB884 on NACO's behalf. LB884 would allow counties to impose a half-cent cent or a one and one-half cent sales tax on sales within the entire county. Under existing law, a county sales tax can only be implemented in areas that are not already subject to a municipal sales tax. In addition, LB884 would allow the county-wide sales tax to be used for economic development in manufacturing an industrial site development. As Commissioner Schorr said, counties have looked at implementing a county sales tax but it hasn't been feasible when it only applies in a small area with few taxable sales. In Cass County, we first considered presenting the question to voters when we were looking for a way to fund the Cass County Emergency Medical Services

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program. But over half of the cities and villages in Cass County already have a sales tax. Ultimately, we developed a solution that serves our needs but we continue to struggle and constantly discuss the benefits of a county sales tax. LB884 would expand...it would expand the use of the sales tax to economic development and manufacturing an industrial site development. Nebraska has lost out on opportunities for major economic development because we don't have the ability to provide what the developer is asking for. I'm not talking about tax incentives. I'm talking about preparing the land for a site and getting ready for improvements. Last fall, 480 Interchange on the I-80 express between Omaha and Lincoln, commonly called the Greenwood area in Cass County, was being considered for a Toyota manufacturing plant. It would have created a host of well-paying manufacturing jobs. A coalition of public and private partners worked together but we weren't able to be competitive enough to make the final cut. Now on the Toyota plant when we were originally notified about their interest in coming to Nebraska, there were, I believe, four sites that were under consideration, one in Saunders County, one in Cass County, one in Otoe County and one in Sarpy County. All of these sites had to be outside of a current municipal jurisdiction. All of these sites needed to have at least between 1,000 and 2,000 acres of land. When a plant of that size has a desire to come in our state, it isn't possible in most cases, or any cases ever, for a municipality to be competitive and have that kind of land available for them. Counties need to be proactive and competitive. A county sales tax could be used first to sell our brand. Come to Cass County, we're close to the cities, the Interstate, the airports, the work force. Then once we have their attention, the sales tax could be used to help develop the site. Whether to enact a county sales tax would be up to our local voters. There would not be any fiscal impact unless local voters saw a need for a county sales tax. The ballot question could include terms and conditions such as a termination date, or a specific purpose for the tax, so voters could enact as broad or narrow of a plan as they seem appropriate. A county-wide sales tax like the one in LB884 would be another tool in the counties toolbox if an opportunity like the Toyota plant comes along. I encourage you to consider the possibilities and vote to advance LB884. Be more than happy to take additional questions on it. [LB884]

SENATOR SMITH: Thank you, Mr. Peterson. Senator Brasch. [LB884]

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SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Mr. Peterson. I'm just curious, when your county commissioner and this would bring additional revenue to economic development in projects on a limited basis as the voters...do I understand that correct? [LB884]

JAMES PETERSON: Yes, this would expand the current statute which is currently limited to public services. [LB884]

SENATOR BRASCH: And what is the population of Cass County? [LB884]

JAMES PETERSON: Approximately 26,000. [LB884]

SENATOR BRASCH: 26,000 and can you do the math, how much would this bring potentially, a range...because with sales tax there's no guarantee people will be out shopping if you don't get a plant. [LB884]

JAMES PETERSON: Exactly. And my work that I've done on the using the county sales tax for this current statute the way it's written, the Department of Revenue has a very difficult time establishing how much money we would bring in for our emergency medical services, but we think it's approximately \$200,000. On a county-wide basis, I don't have those figures available, Senator. I apologize. I'm not even going to take a...I have those figures but I don't have them with me. I'm sorry. [LB884]

SENATOR BRASCH: Okay. What's running through my mind is we just heard a bill about inheritance tax being used ad hoc. How much inheritance tax does Cass County have? [LB884]

JAMES PETERSON: You know the inheritance tax varies on a year to year basis, of course, but our average throughout the last 15 years is approximately four hundred to four-fifty. [LB884]

SENATOR BRASCH: Okay. [LB884]

JAMES PETERSON: The inheritance tax is how we've been able to pay for... [LB884]

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SENATOR BRASCH: \$450,000 a year. [LB884]

JAMES PETERSON: \$450,000 a year, yes. It has been able to pay for our emergency medical services program. We funded it with the inheritance tax for the first four years and now this year we've moved it over to property tax. This has been a discussion within our board about taking the increase with the sales tax for public services. In this year we haven't made a decision whether we're going to follow up on it or not. [LB884]

SENATOR BRASCH: Okay. And the reason I ask is I'm thinking, now, you're using inheritance tax for emergency, but isn't that what the current county sales tax...I thought the statute provided for... [LB884]

JAMES PETERSON: After it's been voted on by the people and approved. We haven't had that balanced yet. [LB884]

SENATOR BRASCH: Okay. You have not... [LB884]

JAMES PETERSON: No. [LB884]

SENATOR BRASCH: ...but you have the ability to do that. [LB884]

JAMES PETERSON: We have that ability. [LB884]

SENATOR BRASCH: Yes. And if elected not to, instead you've used inheritance tax. [LB884]

JAMES PETERSON: Yeah, I think you find that when you take issues such as this to the vote of the people, it's rather political in nature and just as a school bond issue I think it has to be valuated carefully. [LB884]

SENATOR BRASCH: Okay. Very good. Thank you for your willingness to come and testify and I have no other questions. [LB884]

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JAMES PETERSON: Thank you. [LB884]

SENATOR SMITH: Senator Groene. [LB884]

SENATOR GROENE: I caught...so your view of economic development would be to first hire an economic development director, start printing pamphlets, attending trade shows instead of those beside the state of Nebraska and the city of Omaha and Lincoln, and then compete for, try to attract industry to come to your county. You said something about first step would be to attract people. [LB884]

JAMES PETERSON: Well, we already do that in Cass County. [LB884]

SENATOR GROENE: So you already do that. [LB884]

JAMES PETERSON: Yes, we have an economic development director and most of the communities as well as the county government are members of that economic development. We all support it. [LB884]

SENATOR GROENE: And you do that out of your General Fund, your property taxes. [LB884]

JAMES PETERSON: That's correct. [LB884]

SENATOR GROENE: I missed it, I had to leave, but you said you're one of the counties that had a sales tax? [LB884]

JAMES PETERSON: No. No. I don't believe at this time in the state of Nebraska is there any counties that have a sales tax. [LB884]

SENATOR GROENE: I've never seen it. That's what I wondered. [LB884]

JAMES PETERSON: No, and the reason for that and that's the reason for LB884 is that the current statute limits the use of those funds for public services only. [LB884]

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SENATOR GROENE: Would that include building a new jail, safety services? [LB884]

JAMES PETERSON: Yes, it could be. [LB884]

SENATOR GROENE: So when Senator Friesen said they could relief property taxes right now. When you had a jail bond election, you could ask for a sales tax could you not, instead of burdening the property taxpayer? [LB884]

JAMES PETERSON: I guess they could. [LB884]

SENATOR GROENE: Somebody would build a new...sheriff's office or a... [LB884]

JAMES PETERSON: Right. Yeah, I believe that the jail itself would fall underneath public services. [LB884]

SENATOR GROENE: You said something about when Toyota came, that they wanted...what I heard if they wanted a turn-kit ready to go. [LB884]

JAMES PETERSON: No. No, I don't believe that's true. I think in the initial stages when any international company comes into a state, their first concern is being able to find a large enough body of land in one place that's a development and can go forward. All the areas that were examined in the state of Nebraska, Sarpy, or wherever, none of them had whatever your definition of turnkey happens to be, but it was most of the time it was basically farm ground. [LB884]

SENATOR GROENE: So you would have a pool of money and then you would go out and buy a farm when they told you they were coming. [LB884]

JAMES PETERSON: I think at this stage because we really don't have approval of the statute, the counties and the communities in the county would have to sit down and set up their own strategic plans and develop a business plan which way they were going to go. So it would always depend upon that particular area. You couldn't just say that as a general rule. [LB884]



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SENATOR GROENE: Right now, can you use property taxes, go out and buy 2,000 acre farm? Are you restricted from doing that? [LB884]

JAMES PETERSON: Right now, we don't have enough property tax revenue that we even would consider it. [LB884]

SENATOR GROENE: So then would... [LB884]

JAMES PETERSON: We have a lot of state mandated functions we perform. [LB884]

SENATOR GROENE: So you do your...your public duty and your mission, wouldn't it be better to have a sales tax to fix the bridges and fix the roads instead of start getting in the economic development? [LB884]

JAMES PETERSON: Well, I believe that in any manner that a county can receive funds to properly take care of the needs for their citizens, is always going to be appreciated. [LB884]

SENATOR GROENE: Thank you. [LB884]

SENATOR SMITH: Senator Schumacher. [LB884]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you for your testimony. Conceivably, on the city limits in your county, people could see an eight and a half percent sales tax. [LB884]

JAMES PETERSON: Correct. [LB884]

SENATOR SCHUMACHER: Okay. Now, we've heard before this committee in the past a number of occasions that people respond what they call border bleed. How far is... [LB884]

JAMES PETERSON: I'm sorry, sir. [LB884]

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SENATOR SCHUMACHER: Border bleed. [LB884]

JAMES PETERSON: Okay. [LB884]

SENATOR SCHUMACHER: How far are you guys from Iowa? [LB884]

JAMES PETERSON: Well, the only thing that separates us from Iowa is the Missouri River.  
(Laughter) [LB884]

SENATOR SCHUMACHER: Where you can get to over a bridge. You have to go past casinos in order to get there. [LB884]

JAMES PETERSON: You cross into Iowa, you have a bridge in Plattsmouth and in Sarpy.  
[LB884]

SENATOR SCHUMACHER: Okay. I mean, if you have an ought to, what's Iowa's sales tax, seven and a half, eight percent? [LB884]

JAMES PETERSON: I don't know. [LB884]

SENATOR SCHUMACHER: If you have an option on any big purchases, sales tax becomes an item as we're learning with the Internet's sales tax issue. Do we then get into competitive wars between counties as to what sales tax you have to pay in this county or another one? And to the extent we chase business across the river, the state loses the entire five and a half percent on the businesses chased across the river because of high city and county sales taxes. [LB884]

JAMES PETERSON: I really don't have an answer for your question because it's really hypothetical. It would depend upon the type of business and the needs of new business that would be coming into your area. So I really don't have an answer looking into a crystal ball at it.  
[LB884]

SENATOR SCHUMACHER: Thank you. [LB884]

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SENATOR SMITH: I see no additional questions. Thank you, Mr. Peterson, for your testimony. Next proponent of LB884. Welcome, Mr. Dix. [LB884]

LARRY DIX: Good afternoon, Senator Smith, and members of the committee. For the record, my name is Larry Dix. I'm executive director of Nebraska Association of County Officials appearing today in support of LB884. Let me...as the discussion has gone on, one...the discussion has gone on much longer than I thought it would, which is great. I think this is a discussion that we really, really need to have because we need to understand the world is changing out there a little bit. We're finding more and more companies that are talking about coming to the state. They're not necessarily saying, we're going to come to the state and move into a large city. Now, when Toyota made their discussion, I had a number of calls from a number of counties, and I think they were mentioned, Otoe, Saunders, and Cass saying what can we do? Toyota wants to know. What can we do because they're looking at a thousand acres? There isn't a city that I'm aware of in the state of Nebraska sitting on a thousand acres inside the city limits. And if we want to continue down this path and continue to tell these companies, no, that's fine because that's where we're at today. There are no tools for the counties to solve that question. Now, I would ask the Legislature, I'd ask all of you, what's your solution? We brought forth an idea but if you have a better idea, if you would say this is better at the state level, that the state has some latitude or some taxing authority to go out and buy these thousands of acres, great, fine. We're not jumping up and down saying, counties are going to be the end all, be all to economic development. We're just saying when they came, they didn't approach the little towns in Cass County, they came to the Cass County board. They came because they were looking at Exit 420. And so I don't want that to be lost on anybody here when we're having this discussion because these companies are looking for different things than what traditionally we have. Now, two or three years ago we lost a grain shipment facility in Keith County. Senator Groene, that's close to your area. They wanted to locate on the UP Railroad, they wanted to locate outside the city limits, they wanted to go to the county board, they wanted the county to be able to participate in purchasing land to put the shipping facility on there so it could get grain to the West Coast faster. And the county board contacted me and said, what can we do? I said, you are so limited. You can build them a turn lane, you can build them a road, and you're done. That's about what we have. And if we want to continue and if we want counties to be limited to that type of assistance with economic development, that's fine. You know, we're there. But when we

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talked to Senator Harr, we were trying to think, okay, we've got to start thinking a little bit in a little bit broader, bigger perspective. And as opposed to, you know, constantly saying, well, here's why we can't do it, we can't do it, we can't double tax, can't triple tax. Hey, look, we're going to work with every city. We already have economic development directors that work with the cities. We're not trying to take away any taxing authority of cities. If somebody has an idea that's better than sales tax, man, we are so open to it, you can't believe it. But right now, the limitation when you look at...Senator Friesen brought it up, we are limited to property tax as counties. And if...were looking at it, I don't think...as long as I've been here, we've never had a year that we haven't talked about property taxes and the fact that they're too high. So we're bringing an idea that says, hey, let's think about this. Let's think about it. Maybe we can do something. Senator Groene, you're talking about the jail. If you are to pass a sales tax in Lincoln County to build the new Lincoln County jail, the only people you can tax are the people outside the city of North Platte. You couldn't generate enough sales tax in Hershey, Nebraska, for I don't know how many years, to ever build a jail, and that jail serves all the people of the county. And so, that's why we're looking at this a little big different. And I feel that, you know, our county officials are sort of saying, you're saying, dang you guys are trying to tax more, tax more. Not the case, we're trying to help solve an economic development solution. And I think that's what you're going to hear a little bit with some of the opposition. We're not trying to take away anybody's taxing authority. We would never do that. We've never been that type of an organization. We're trying to figure out when the Toyotas of the world show up, what can we do? What can a county do? And we are so, so limited that we might as well go stand in the corner because we just don't hardly have any tools. So, that's what we're trying to do here. We're trying to think more broadly. And so I wanted to make sure it came across with that impression that we're not out there trying to tax the citizens more. We're trying to figure out, how do we build our base. Plain and simple. So, with that, I've got a couple other notes but I'll just open it up to any questions anybody might have. [LB884]

SENATOR SMITH: Questions for Mr. Dix? I see no questions. [LB884]

LARRY DIX: Thank you. [LB884]

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SENATOR SMITH: Thank you for your testimony. Additional proponents of LB884. Seeing none, we move to opponents, those wishing to testify in opposition to LB884. Welcome.  
[LB884]

LYNN REX: (Exhibit 2) 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. We've got a handout for you which represents the 228 municipalities in the state that already have local option sales tax. Sixteen of those with the maximum amount of 2 percent, a courtesy of Senator Schumacher, Senator Ashford, Cornett, Lathrop, McGill, and others in 2012. With that, just want to underscore a couple of points here. Our opposition is not to expanding the purposes for which they can use funds for local option sales tax, but rather the lines for example...I'm not going to catch all of them, but some of them for your consideration. On page 2, lines 6 and 7, in other words allowing a county to superimpose this, if you will, even with the vote of the people, on top of what's already a sales tax. And we were involved in negotiations back in 1996 when counties were given the authority with passage of LB1177. That was the same time as Senator Warner was then chair of this committee. That was the same time that this Legislature passed LB1114 which established the levy limits which took effect in 1998. The lid law, LB299 passed that same year which took effect and was supposed to go off in 1998 but didn't, it continued on. So in any event, we're here today to talk about the county sales tax. We don't...we had to fight and scrap to get local option sales tax for municipalities and that whole thing started with Omaha getting a half cent, then Lincoln and then other municipalities, and other municipalities got that authority when Governor Kerry was in office. So to cut to the chase here where we are, is we're concerned about having yet another layer of tax on top of municipalities. We have no concern...no problem with anyone expand the purposes for which they can do this. And I just wanted to underscore one point because I think it's very important to understand that the LB840 programs, I know, Senator Groene you've mentioned those and a couple others have too, that is an exception to the constitutional prohibition against lending the credit of the state. So West Point, Norfolk, many other cities have adopted LB840 plans with a local vote of the people. That is an exception to lending the credit of the state. The League put that in play with LR11CA in 1990; LB840 was the enabling legislation in 1991, and that's why they're called LB840 plans. It was Governor Ben Nelson's first economic development piece. And what I can share with you is, the whole reason for that was Chase v. Douglas County, a 1976 case, which I'm sure your committee counsel is

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familiar with, which basically says you cannot lend the credit of the state. So under no circumstances is the Legislature authorized to pass a law saying that counties or cities can simply go out and start buying land. You just can't do that. That is a...you can provide public purpose. You can provide roads, you can provide infrastructure. You can do all that sort of thing, but municipalities alone have the authority due to passage of LR11CA in 1990 to have a local vote of the people for a LB840 plan. And that LB840 plan has to expressly allow that that's what you intend to do because it is an exception to the constitutional prohibition against lending the credit of the state. So my point is, I'm empathetic to what the counties would like to do to be able to prepare the state, to be able to compete in some of these bigger projects, but at the same time, it would take a constitutional amendment to enable them to do what I think they are saying that they want to do. So, we strongly oppose having their sales tax on top of a local option sales tax. One of the things Senator Warner was very concerned about was to have the equalization. In other words, when LB1177 went through, we had not opposed that. Counties just automatically got the authority to have local option sales tax with a local vote of those entities. So, and we understand that. We never opposed that. In fact, Dakota County, my understanding is from South Sioux City administrator, Lance Hedquist, that initially went in play in Dakota County for a jail which is funded by the city and the county together and then now, I think it's being used for a fire station of some sort. But that's the only county which we're aware that has done that, and it was a joint project together. And so in any event, I'm happy to answer any questions you have and I'm also testifying not just for the League but also for the city of Lincoln in opposition. Eric Gerrard had some other commitments in other hearings and asked me to specifically indicate that my testimony today as indicated on the form is for the city of Lincoln and the League in opposition to this. That being said, we're happy to answer any questions you might have. [LB884]

SENATOR SMITH: Thank you, Ms. Rex. Questions? Senator Groene. [LB884]

SENATOR GROENE: What do you know of economic development corporations? They have one in North Platte and they pay property taxes, but it's a joint venture between the Chamber and the city and it's kind of a quasi-private government entity. [LB884]

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LYNN REX: It depends how they're structured. In other words, if it's the CRA type concept, Community Redevelopment Authority, that's got statutory limitations, other sorts of things. [LB884]

SENATOR GROENE: This is an economic development corporation. [LB884]

LYNN REX: Okay, and what I can tell you is, that I'm not trying to evade the question, it depends. There are some areas of the state where actually the Chambers of Commerce and other private sector groups have come together on their own accord. And, of course, they're not limited by the Constitution in terms of...they can go out and buy the land. They can go out and do that. They can do all those sorts of things. And matter of fact, that was the issue in Chase v. Douglas County in 1976 where the Nebraska Supreme Court said that no, the city...basically the county can't give money to the greater Omaha economic development chamber, if you will. They can't give money to them, Senator, to go out and do that which Douglas County did not have the authority to do. In other words, you can't go out and do land speculation. That's not what local governments in the business are doing. So I can't really answer your question because I don't know enough about it. I could find out for you and get back to you. [LB884]

SENATOR GROENE: Are you telling us even if they have the sales tax they couldn't go out and buy the land? [LB884]

LYNN REX: The counties? [LB884]

SENATOR GROENE: Yeah. [LB884]

LYNN REX: That's exactly what I'm telling what I'm telling you. They could, in fact, that would be a violation of the prohibition against lending the credit of the state. It is because of that, back in the 1990s, what was happening is that, basically was in Nebraska City. Nancy Hoch and some of you may remember, Nancy Hoch and her husband were very involved in economic development back then, and may still be, but they wanted Nebraska City just to write them a check to do these various things and we kept telling them, you just can't do that. You just can't go...the city just can't write a check for the Chamber and other group to just go out and start

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buying land and doing things like that because the city itself doesn't have authority to do that. So therefore, you can't give money to somebody else to do that which you don't have authority to do. In other words, you cannot authorize someone to do indirectly that which you do not have the authority to do directly as a political subdivision. So, that being said, we started looking at what can we do here to have partnerships with what the cities and concerned Larry Merrick who was then the mayor of Columbus, Nebraska, and actually Mike Nolan who was city administrator of Norfolk, came up with the concept which became LR11CA which is, let cities determine their own destiny. Let them determine if the local voters say, look, we want to be able to go out and allow someone to buy...allow our political subdivision to buy land to do certain things, or give grants, or partner with the Chamber to do certain things that they can do together with a local vote of the people, and that was an exception which was LR11CA in 1990. It amended that provision of the Constitution to say, the Legislature may...it was not self-executing...may authorize cities and villages to use local sources of revenue for economic or industrial projects or programs subject to a vote of the people. And that was the basis, and the foundational basis for LB840, LB1018, which was the Gretna project, and Joe Kohout, who is here today, that was the transformational...I don't remember the exact name of it, but I'm sure he does, the Transformational Economic Development Act. Abbie Cornett put that in for La Vista, Papillion, and Gretna. Gretna is the first municipality that has used basically that along with TIF, LB840, and some of the...and LB562 which was Greg Adams' first bill on sales tax. So, in any event, the answer is, you do not have authority as a Legislature...and I'm not saying we're opposing it, I'm just saying you don't have the authority under Chase v. Douglas County to pass a law that says counties can go out and just buy a thousand acres or one acre. And by the way, the only way cities do is because of that constitutional amendment which enabled the Legislature to authorize cities to do that with a local vote of the people. [LB884]

SENATOR GROENE: Thank you. [LB884]

SENATOR SMITH: Senator Schumacher. [LB884]

SENATOR SCHUMACHER: Thank you, Senator Smith, and thank you for your testimony, Lynn. It seems to me when we gave cities authority for the extra half-cent, we had some lofty ideas that that half-cent had to be used in conjunction with an interlocal agreement with kind of a



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illusionary notion that we were going to try to encourage Omaha and Lincoln, and parts in-between particularly, in order to start functioning more as one municipality. And I looked down the list here, there's very few that are over 7 percent of cities that have taken advantage of that. What was stopping Keith County from doing a cooperative agreement under that particular law with Ogallala and Paxton, a couple of the other towns out there, in order to go and economically develop it. [LB884]

LYNN REX: If I understand your question, Keith County? [LB884]

SENATOR SCHUMACHER: I think that's one where he said... [LB884]

LYNN REX: Okay, and I apologize. I wasn't probably paying as close attention. I was talking to John Edwards about, does he know any authority that would allow counties to go out and buy land... [LB884]

SENATOR SCHUMACHER: Well, I would think that I understood Larry to say was there was some grain outfit that wanted to put out some kind of a silo or grain belt or something in Keith County and rural Keith County just didn't have anyway to help them out because they wanted a handout before they come to Keith County. And all they could do was build a road exchange or something. [LB884]

LYNN REX: That's true. [LB884]

SENATOR SCHUMACHER: But using the concept that we already approved a few years ago where Keith County could join hands with Ogallala and Paxton, and they could theoretically jack their sales or tax rates up to seven and a half percent, then coupling that with the interlocal cooperation agreement in which one entity has the same power as any member entity, couldn't they have done it? [LB884]

LYNN REX: They could have had a partnership...as I understand what you're saying, they could have a partnership. I mean, certainly the vote...when the cities pass a sales tax, it's only on folks living within the corporate limits of a municipality. So when a city passes a sales tax, it's not an

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ETC, it's not in the rest of the counties, it's only in the corporate limits of that city. So if you're suggesting that Ogallala and maybe Paxton would in fact have a sales tax to increase and enhance their local option sales tax, I don't know the rate here, but it's in here. I don't know where Ogallala is right now... [LB884]

SENATOR SCHUMACHER: They're both below seven and half. [LB884]

LYNN REX: Okay. So, basically, Ogallala's is one and a half, and Paxton is at one. So under LB357 that passed in 2012, they could in fact have an interlocal agreement. There are certain provisions that are...and you were the one that negotiated provisions of that through LB357, some very type provisions that you have to do in order to access that extra half-cent. Those same provisions don't apply when you're going from one-half to one, or one to one and a half. So in answer to the question, as I understand it, through a partnership agreement, they could have...they could certainly be collaborative in terms of getting a interlocal agreement, but by the same token, what I understand to be true from our outside counsel, is that a city cannot partner with a county or someone that does not have the authority to do, for example, on LB840. So let's say, a city has the authority on LB840 to...as an exception to the constitutional prohibition against lending the credit to the state. So just because, let's assume that a city X has passed it, let's say Norfolk, city X has passed that. Norfolk has passed on LB840. They can't then partner with somebody else to give them the authority constitutionally that they don't already have without a vote of the people. But in terms of just the project itself in putting together the ability to do certain things, but certainly you...a city doesn't have authority to go out, with the exception of LB840, they don't have authority to go out and just buy land. I mean, that's got to be voter approved, not projects specific, but in the plan itself. I don't think they can delegate that, if you will. But there certainly could have been a partnership to put something together. I just don't know all the details, Senator, to understand what you're...what's being produced. [LB884]

SENATOR SCHUMACHER: But the constitutional exception or provisions with regard to interlocal agreements and the statutes in regard to interlocal agreements make it pretty clear that any member of a interlocal agreement has the authority then of the other member. [LB884]

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LYNN REX: That's LB269 that passed several years ago. The...one of the legal issues that I encourage committee counsel and others to look at is, that's true with everything that is constitutionally allowed, but can a...can you have a partnership under LB269 because any...you're right, any authority, for example, let me give you an example which you obviously know, which is that let's say a city wanted to partner with an SID, the SID does not have powers A, B, and C but a city does, they can have an interlocal agreement, and do it together and move forward on that project as long as A, B, and C are constitutional. But the question...the legal question is, let's assume that A and B are constitutional but C isn't because C is going out and buying land. So can a city then be an interlocal with another political subdivision that does not have that authority because they haven't passed an LB840 to do it. And the answer from we understand is, no. [LB884]

SENATOR SCHUMACHER: Thank you. [LB884]

LYNN REX: There's a distinction there. I don't know if I'm clear on what that distinction is. I realize LB269 says whatever one entity can do, they can partner with another to do the same thing. [LB884]

SENATOR SCHUMACHER: And the Constitution... [LB884]

LYNN REX: As long as it's a constitutional, that's right. [LB884]

SENATOR SCHUMACHER: Constitutional also provides for the interlocal agreement to say that. [LB884]

LYNN REX: Yes, and there is some issue then in terms of because of the application of LR11CA, how that interfaces. [LB884]

SENATOR SCHUMACHER: Thank you. [LB884]

SENATOR SMITH: Senator Groene. [LB884]

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SENATOR GROENE: Just an idea. Since you seem well-versed in economic development, all the factors statewide, why don't the state just have a slush fund that sits there, put a bunch of money in it, and then when any project comes along, instead of Lincoln competing with Cass County, Cass County competing with Omaha, that this slush fund sits there and they...company comes to them and we go out and buy a piece of ground. And it just sits there for those projects instead of...everybody is getting taxed and everybody putting a thousand acres out there and the taxpayers are moving to Kansas. Why wouldn't that work? [LB884]

LYNN REX: Well, I think that... [LB884]

SENATOR GROENE: And then the people who benefit from it, the corporations, we'd be using their income taxes instead of local property taxes and sales tax. [LB884]

LYNN REX: Well, I don't...I don't know whether or not that is something that the Legislature...well, first of all, let me just say this. The Legislature itself doesn't have authority to do that in terms of... [LB884]

SENATOR GROENE: Start a slush fund? They're all over the place. They call them cash funds. [LB884]

LYNN REX: You can have...you can set aside funds, there's no question about that, but can the state of Nebraska set aside funds to go out and purchase a thousand acres? No, no, you don't have the constitutional authority to do that. And so, check with committee counsel but that's our understanding and perhaps committee counsel has some way in which you want to elaborate on that, but we don't see a way in which constitutionally the state of Nebraska itself has authority to do that either. So what I would suggest though is that the reason why LR11CA came about and the history about (inaudible) was that there were cities, and specifically Columbus, the mayor of Columbus was a banker then, Larry Merrick, and his position was that basically the state of Nebraska was dictating where projects were going. And that the whole mantra was that cities ought to be able to determine their own destiny. And I know you probably know Mayor Merrick. I know he's no longer a mayor there, but I'm sure he's still in Columbus somewhere, and that was his concept. And so the whole point of this was that cities themselves should have the authority,

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local voters to make that decision, and I will tell you that DED opposed that. As you know, Governor Orr, and I have great respect for her, tremendous respect for her. She was not thrilled with the whole concept of cities making those decisions on the local level because DED wanted to place those projects where they wanted them. And they told us that because of the way that they thought it would help maximize the state's development, Roger Christensen was then director of DED, another person for whom I have great respect but we went head to head and said no. Cities ought to have the right to do that and the state should not determine the destinies of cities and voters in those cities should determine that. [LB884]

SENATOR SMITH: Thank you, Ms. Rex. Remaining questions for Ms. Rex? I see none, thank you for your testimony. [LB884]

LYNN REX: Thank you very much for your time. [LB884]

SENATOR SMITH: Other opponents to LB884. Welcome. [LB884]

JACK CHELOHA: Good afternoon, Senator Smith, and members of the Revenue Committee. My name is Jack Cheloha, first name is spelled J-a-c-k, last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha and I'm here testifying today to make the record in opposition to LB884. First of all, let me give you a little bit of background on sales tax within the city of Omaha. As you've heard from a previous witness, the city of Omaha was the first municipality granted the ability to have a vote of the people to start a local option sales tax. Since that's begun, Omaha currently is at 1.5 percent sales tax. Under the statute that's the absolute maximum that Omaha can be under right now. Roughly, each half of half a percent of sales tax raises about \$53 million in the city of Omaha. With that, looking at LB884 first of all, I think it's a good conversation to have. It's always good to have ideas relative to economic development and I know anytime there's various projects being considered within the Omaha proper area, there will be kind of a group effort, if you will, that will involve the state of Nebraska officials, city of Omaha officials, could be county officials, likewise heavily Chamber of Commerce officials as well. And so with that we all need to pull together to try to enhance the economic standing of our committee and try to create good jobs for our citizens. The reason why we're opposed to LB884, I just kind of jotted down a couple of reasons. First of all, right now within

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Omaha we have a 7 percent sales tax rate, 1.5 for the city, 5.5 for the state. If the county were to have a vote of the people on implement it, it would rise as high as 8.5 percent. We worry that if Douglas County would implement it but not other counties next to us, there may be a change or a drop in sales and force purchases to other counties. You know, for instance, if Sarpy enacted it and Douglas enacted it, but Washington or Cass did not, then there may be...buyers may move across county lines or into Iowa, etcetera. So it could drop some sales that we enjoy now. Currently, the county of Douglas has a county property tax which is utilized to pay for services of various kinds. Citizens of the city of Omaha reside in Douglas, so our citizens also pay that property tax to Douglas County. Typically, economic development has not been the function of county government and you've heard that before and you even asked questions accordingly. And finally I imagine the biggest objection we would have would be extending this county sales tax back into a municipality that already has a sales tax because then you would really be maximizing the rates. I think we're okay with leaving it outside the city corporate limits but not to go inside. And so for those reasons, I'm testifying against the bill, and I'll try to answer any questions. [LB884]

SENATOR SMITH: Thank you, Mr. Cheloha. Senator Groene. [LB884]

SENATOR GROENE: What's your restaurant tax? [LB884]

JACK CHELOHA: Our restaurant tax is currently, I think it's roughly 2.5 percent. [LB884]

SENATOR GROENE: So this would be on top of that. For a meal we would be well over ten, Omaha to eat a meal. [LB884]

JACK CHELOHA: You're right with that because a restaurant tax is an occupation tax and then that number is subject to a sales tax as well. [LB884]

SENATOR GROENE: Is Omaha contemplating a local option tax increase? [LB884]

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JACK CHELOHA: Not at this time. Under this administration we're able to manage our budget and function accordingly with 1.5 percent and we have no plans at this time to ask for any increases. [LB884]

SENATOR GROENE: Thank you. [LB884]

SENATOR SMITH: Senator Schumacher. [LB884]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you for your testimony. In fact, you're up against your limit now because you're not able to use the extra half percent that the rest of the state can, is that correct? [LB884]

JACK CHELOHA: That's correct. When the bill was first passed, we were included but then a year or two later, Omaha was dropped out of the equation and that's where it is. [LB884]

SENATOR SCHUMACHER: So you're at your limit. From your perspective over the years watching things, what percentage of the businesses in Omaha, maybe what percentage of the jobs created in Omaha, are the beneficiaries of any of these special government incentive programs? Are we talking 2 percent, 5 percent? [LB884]

JACK CHELOHA: I can't really put a quantity on that just because a lot of times the agreements between the state of Nebraska is confidential if they qualified for either the former LB775 act or the advantage act now. But obviously, there's some that qualify and then there's others that may qualify for economic development on the local level. The only one that we utilize is TIF, Tax Increment Financing. We don't have any LB840 programs. [LB884]

SENATOR SCHUMACHER: Tax Increment Financing for developments out in west Omaha, things like that? [LB884]

JACK CHELOHA: Typically not. Most of the times it's urban renewal east of 72nd Street. [LB884]

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SENATOR SCHUMACHER: Typically, but not never. [LB884]

JACK CHELOHA: There are some exceptions. [LB884]

SENATOR SCHUMACHER: We've heard in other economic development task forces and studies and whatnot over the years, and really the amount of businesses and jobs that benefit from all this economic development activity is pretty tiny. That most of the time free market takes care of it. Is that an unfair statement? [LB884]

JACK CHELOHA: Well, I can't really comment on that. I mean, I kind of look at things from about 10,000 feet. I don't necessarily zoom down to the economic development level, but sometimes it does make a difference to offer those incentives, Senators. That's all I can say. [LB884]

SENATOR SCHUMACHER: Thank you. [LB884]

SENATOR SMITH: I see no remaining questions, thank you for your testimony. [LB884]

JACK CHELOHA: Thank you. [LB884]

SENATOR SMITH: (Exhibits 3-4) Other opponents to LB884. We do have letters received for the record in opposition to LB884 from Nancy Bryan, representing the city of Stromsburg, Nebraska, and from Doug Kagan, representing Nebraska Taxpayers for Freedom. Anyone wishing to testify in a neutral capacity on LB884? Seeing none, Senator Harr, you're welcome to close on LB884. [LB884]

SENATOR HARR: Thank you. And I'm going to start with some housekeeping. I'm not quite sure and we can talk about this off record what the policy of this committee is as far as letters, does it have to be...has to be part of the record or not. In some committee it does, some it doesn't. Mr. Kagan's letter I know referenced a number of issues. And I want to thank everyone for coming to testify today, especially those in opposition. I do have questions. Mr. Cheloha came and testified against the bill. I don't know if he was representing the City Council or the Mayor's



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Office and I don't know if there is a difference, but I can tell you the Governor doesn't always represent the legislative branch when it comes to the state of Nebraska. So just again, housekeeping in the future, I'd like to know who a person is representing. That being said, I enjoyed the conversation. It's a philosophical conversation we're going to have this year about how in the world are we going to make this state better. And what is the role of government in economic development? I heard Senator Groene say, don't we have...shouldn't we have a slush fund. I wouldn't call it a slush fund. I'd call it a building and site fund and you know what, we do, but given the economic hardship that we're in, guess how much money is in it. Zippo. Nothing. Nunca nada. Right? How do we expect to grow? We, as the state, I would love to have it but we've advocated that authority by saying we're not going to do it. It doesn't just go away. It's the jobs of the county public safety? You bet it is. That's the most important thing they do, but I also hear out of the other side of the mouth, property taxes are too high. And what are you going to do about that? How are you going to lower property taxes? Well, if you're outside of a municipality, chances are you're rural. And if you're rural, chances are you probably are agrarian. And chances are, you don't have a lot of retail and you're relying on ag property taxes. So, how do we diversify an economy outside of a city limits. How do we lower our reliance on ag property taxes? Manufacturing, economic development. What does this bill do? Manufacturing, economic development. I guarantee you, you put a factory outside the city or municipality, I don't care who they are or where they are in the state, they are going to be more than happy to take those monies in sales tax when that person who works out there comes to the city and spends that money. I don't know, I never heard the answer of why it's wrong to share sales tax between counties and cities, but property taxes, well, heck yeah, we should be able to collect property taxes. Cities should, yeah. Counties should, yeah. Well, what's the reason that they can share this pot over here, but this pot, no, no, no, no, that's my honey. You don't get that. There isn't a reason. Right? If we really are honest and we say, we want to grow the state, then we have to have everybody working together and we have to have all levels of government saying, how can I help. Now, there is accountability aspect. I don't like abuse anymore than the next person, and that's the beauty of this bill, vote of the people. Right? You don't have to trust those sons of guns up in Lincoln in the Unicameral to decide how this is done. The people decide. Something closest to the people is the best. That's what we do here. Look what we did in Senator Lindstrom's district. They said, we want better public schools and we think we need more money. They did a vote of the people and you know what happened? Sixty-six percent of the

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people said, gosh darn it, you're right. Let's do more than a levy override. Let's override that levy and let's give a little bit more. Out kids education is important. Why do we trust education but not economic development? I don't know. I heard, oh, my gosh, we're going to have border bleed if, you know, poor Omaha has a sale tax increase. Everyone is going to...up to Washington County, up to see Senator Brasch. (Laughter) You know what, we have a restaurant tax. You know what happened? Almost nothing. The behavior did not change. You had some businesses that said, I'm going to be outside the city, I'm going to outsmart them. One of them was a friend of mine and you know what he will freely admit? Didn't really change anything. Didn't have an effect. If it we're so important if a half-cent, a penny, or a penny and a half are so important, my God, why isn't 7 percent? Why is anyone in Omaha buying brick and mortar? Why wouldn't they go on the Internet where they don't have to pay anything? Every business in Omaha would be out of business, neigh, maybe gas. Right, because you can't import that. But I get my groceries imported on the Internet. I get everything else from the Internet. So, I understand their concerns. They're legitimate, but I'm not sure if they are in the best interest of what they're looking for the state or in their own best interest. The arguments I found most compelling were the ones of this body, or of this committee. How do we control? Right? And I think we do need to have some controls in there and we need to have some conversation about that and I'm excited and ecstatic to work with the members of this body on how to do that. And with that, I would entertain any questions you may have. [LB884]

SENATOR SMITH: Senator Harr, so do you think there's room for trade-off between extending the use of the sales tax and expanding the taxable portion of the county to offset that with (inaudible) the amount of sales and use tax that can be imposed. Instead of it being a penny and half, or an half, something less. [LB884]

SENATOR HARR: Yeah, right. Yeah, I think that's very much... [LB884]

SENATOR SMITH: Because I think...well, I'm hearing a lot of concern is that we keep...kind of a runaway tax rate, sales tax rate. [LB884]

SENATOR HARR: And it's hard for me as an individual from the largest county in the state because I have the population base so a half-cent goes a heck of a lot further in Douglas County

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than it does in Arthur. And so, yes, I'm willing to negotiate. Obviously, I'm always willing to negotiate, but my concern is, is it...what I don't want to happen is then for someone to turn around and say, well, of course, Senator Harr, he's from Douglas County, he gets all the money. So, yes, I'm willing to negotiate but I think it would have to be...I want to hear feedback from some of the smaller counties. If that's a concern, I'm more than happy but I don't want to deprive them either. [LB884]

SENATOR SMITH: And the way that the law currently is, if there is to have...the county is to impose a tax as it stands today, it is a county-wide vote including those inside incorporated areas. [LB884]

SENATOR HARR: That's correct, yes. [LB884]

SENATOR SMITH: Okay. So those inside the incorporated areas are casting a vote as to whether those outside the incorporated area but inside their own county are being taxed. [LB884]

SENATOR HARR: I'm sorry. Can you repeat that? [LB884]

SENATOR SMITH: Is that correct that those inside of an incorporated area are able to cast a vote, not on themselves, but on those that are outside of the incorporated area. [LB884]

SENATOR HARR: Sure. They're able to attach. Yes, each county...everyone in a county is one person, one vote, within the county. Yes. So vice versa to flip that... [LB884]

SENATOR SMITH: So you live inside the city, I don't... [LB884]

SENATOR HARR: Yep. [LB884]

SENATOR SMITH: ...county-wide vote, you get to make a decision as to whether I get taxed. [LB884]

SENATOR HARR: And you get to make the decision whether I'm taxed. [LB884]

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SENATOR SMITH: Under your changes, proposed changes. [LB884]

SENATOR HARR: Yes. [LB884]

SENATOR SMITH: But as it stands now, no. [LB884]

SENATOR HARR: As it stands now, there isn't a vote of the people and also that attack...or that tax only applies to you outside of the municipality. So if you have a county jail, right, I think that would be the most unfair use of a sales tax because I, in Omaha, would get the benefit of the jail, county jail. But those in a rural area who already have a high property tax burden would have to carry a burden of the sales tax as well, for whatever there may be out there outside of the municipality that hadn't imposed a sales tax. [LB884]

SENATOR SMITH: Okay. Very good. Senator Groene, and then Senator Schumacher. [LB884]

SENATOR GROENE: So the only two things I could see being taxed is when I buy a new vehicle and I live in rural Nebraska. I get hit with a county tax, that's the big one. [LB884]

SENATOR HARR: Now. [LB884]

SENATOR GROENE: Yeah, I mean... [LB884]

SENATOR HARR: If there were a county in there, it's only one... [LB884]

SENATOR GROENE: And that's when the Nebraska Furniture Mart pulls down your driveway. That would be the only two things that out in rural Nebraska that you could tax. [LB884]

SENATOR HARR: Or gas, yeah. [LB884]

SENATOR GROENE: Gas don't have a sales tax, does it? [LB884]

SENATOR HARR: What's that? [LB884]

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SENATOR GROENE: Gas has a sales tax? [LB884]

SENATOR HARR: Oh, maybe not. [LB884]

SENATOR GROENE: Anyway, so no county has done this, I can understand that. [LB884]

SENATOR HARR: But the C store with the gas station could. But yeah, you're right. That's why I think it's fair that it has to...you have to spread the pain equally around the whole county because that county gets the benefit. [LB884]

SENATOR GROENE: Lancaster County has a hundred bridges it needs fixed. Why don't we, instead of putting economic development, why don't we put a half-cent sales tax since the city of Lincoln is stealing all of their property tax with TIF, why don't we give them a half-cent to replace bridges? [LB884]

SENATOR HARR: Because that's not the legislation. There's always more than one way to skin a cat. [LB884]

SENATOR GROENE: Well, we could amend it and get rid of that economic development aspect. [LB884]

SENATOR HARR: The question is, what is the most fair and economic way so that the burden is spread evenly with the benefits...so there's a matching between the benefit and the burden. I'm not sure your idea would match the benefit with the burden, or constitutional. But again, we're not allowed to ask questions about constitutionality. [LB884]

SENATOR GROENE: Nice bridges. [LB884]

SENATOR HARR: What's that? [LB884]

SENATOR GROENE: Bridges isn't part of the counties' duty and economic development is?  
[LB884]

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SENATOR HARR: Okay. [LB884]

SENATOR SMITH: Senator Schumacher. [LB884]

SENATOR SCHUMACHER: Thank you, Senator Smith. Thank you, Senator Harr. I think that this bill raises a whole bunch of issues and we've wrestled with over the last several years in this committee and they're tough issues. We saw today, for example, the cities not particularly happy about sharing their sales tax base with the county, okay, and defending it. At the same time, the cities through the TIF program are able to barely arbitrarily seize the tax base of the county, the NRDs, of the community colleges, fire departments, everybody else out there under their authority and get benefit of that seizure without a vote of those entities and the people in those entities. So I think we're beginning to...and it's too bad we won't be here long enough to figure out what the elephant really looks like, but we're feeling parts of that elephant as to where good, well-meaning things over the last few years, probably couple three decades, really have got some very, very rough edges and razor blade edges in some points. And maybe, do you think from all the bills that come in this year, all the bills that are on in our hopper from last year, that's there any hope that we can take bits and pieces and fashion something that makes sense in the next 50 days? [LB884]

SENATOR HARR: I always liked the movie, Dumb and Dumber, so you're saying there's a possibility. I think there's a possibility, sure. What I'll say is, and I can't believe it's taken me until day ten to say, what's good for the goose is good for the gander. (Laughter) And we got to figure out a way to make it fair and equitable, but I have yet to find any taxes out there that is fair and equitable to everyone. I don't think we're smart enough...no one is smart enough even with all the algorithms in the world to figure that out. But what we can do and what we need to continue to do is, how can we do it better and what are some of the unintended consequences that you and I and all the members of this committee have started to see from some of our economic development bills. And then, how can we learn from that and how can we do it better? And that's what I think we should be working towards. [LB884]

SENATOR SCHUMACHER: So when you say there's a possibility, I take it you buy a Powerball ticket every once in a while? (Laughter) [LB884]

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SENATOR HARR: I only play in keno. [LB884]

SENATOR SCHUMACHER: Good man. (Laughter) [LB884]

SENATOR SMITH: Additional questions? Senator Brasch. [LB884]

SENATOR BRASCH: Not really a real question, but as I'm seeing this conversation and you're taking a little of this bill and a little of that bill and this bill, instead of being called a Christmas tree, would we call it the Frankenstein bill? [LB884]

SENATOR HARR: Well, I don't think we can call it the Franken bill anymore. (Laughter) [LB884]

SENATOR BRASCH: All right. It's been interesting. Thank you. [LB884]

SENATOR HARR: I appreciate it. Thank you. [LB884]

SENATOR SMITH: Senator Harr, I'd think one thing that I would hope everyone would agree on is that we have to find ways in which we expand our economy in the state and grow. And we have to diversify our economy and manufacturing is a great place of doing that, but there's a lot of other types of investments we need to have in this state. So for that, I really appreciate you thinking out of the box and trying to find ways in which we can promote that and support that. And so, I hope everyone kind of takes it in that spirit that there's...we've got to find ways of growing the state. And I just wanted to follow up on a couple of things you stated to begin with and I verify what I heard, I heard Mr. Cheloha say that he was representing the city of Omaha, and so I confirmed that. So that's what his statement was and that's what... [LB884]

SENATOR HARR: Is that the mayor's office or the city council? And I don't know. [LB884]

SENATOR SMITH: You would have to clarify that with Mr. Cheloha. I would think that would be one and the same, but that's my take. [LB884]

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SENATOR HARR: That's why I don't assume. [LB884]

SENATOR SMITH: And then also, just the letters for the record, for anyone who is listening because we did have a record change, I didn't mention that as well. That by 5:00 on the previous day we receive letters for the record and we rely on the individuals that write those letters to indicate their position, support, opposition, or neutral. So that's what we try to take down and read those into the record. So appreciate you pointing that out. I should have remembered to have mentioned that before. Any further questions from the committee? I see none, and that closes the hearing on LB884 and the hearings for the day. Thank you all for coming.