

Revenue Committee February 27, 2018

## **Revenue Committee February 27, 2018**

**SMITH:** [00:00:01] Good afternoon everyone and welcome to the Revenue Committee public hearing. My name is Jim Smith and I represent the 14th Legislative District in Sarpy County and I serve as Chair of the committee. The committee will take up the bills in the order 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 the proposed legislation that's before us today. To best facilitate today's hearings, I ask that you follow these procedures. If you would first, please, silence your electronic devices so as not to interfere with or interrupt the persons that are at the table testifying before us. The order of testimony will be the introducer of the bill, proponents of the bill, opponents of the bill, we will then hear from those in a neutral-- that would wish to testify in a neutral capacity, and then we will invite the introducer of the bill back to close on their bill. If you will be testifying today, please complete the green form. The green forms are located at the tables in the back of the room as you walk in the door. Hand those completed green forms to the committee clerk when you come up to testify. If you have written materials and you would like to have those distributed to the committee, we will need 11 copies. If you need help making those copies, we're more than happy to help you. If you would lift your hand to let the page know, they can have those copies ready for you so when you come up to testify we'll have those ready to go. When you come up to the table to testify, we're going to need you to both state and spell your name so that we can get it accurately into the record. You will also need to speak loudly enough for those that are in attendance behind you to hear and speak clearly into the microphone so we can get that transcribed correctly into the record. We have a number of bills before us today. We do not have a large number of people with us, but we have a large number of bills and so we will be using the light system. We will be limiting testimony to five minutes. So the green light will be on for four minutes-- when you come up and you begin your testimony, the green light will be on for four minutes. It will then turn to an amber color for that remaining minute. And then, at the conclusion of five minutes, it will turn to a red color. If you're not completed with your testimony, we do ask that you would please close out your testimony so we'll have time to ask you questions and have some interaction with you from the committee. If your remarks were reflected in previous testimony or if you would like your position to be known but do not wish to testify, we do offer that you sign the white form that's in the back of the room. Your signature and you can state it-- state on there as to, you know, what position you take on the matter, whether it's neutral or supportive or in opposition. And that rec-- will go into the record. So you'll have that opportunity to express your position on a particular piece of legislation without having to testify. Committee staff with us today: to my immediate right is legal counsel Mary Jane Egr Edson, and to my immediate left is research analyst Kay Bergquist, and then to my left at the far end of the table is committee clerk Krissa Delka. And I'm going to allow the committee members to introduce themselves, beginning with Senator Harr.

**HARR:** [00:03:47] Burke Harr, Legislative District 8, representing parts of midtown Omaha.

**SCHUMACHER:** [00:03:52] Paul Schumacher, District 22, representing Platte and parts of Colfax and Stanton Counties.

**BRASCH:** [00:03:57] Lydia Brasch, representing District 16. That's Burt County, Cuming County, and Washington County.

**FRIESEN:** [00:04:04] Curt Friesen, District 34: Hamilton, Merrick, Nance and part of Hall County.

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**LINDSTROM:** [00:04:08] Brett Lindstrom, District 18, northwest Omaha.

**SMITH:** [00:04:08] And our page today is Heather Bentley from Miller, Nebraska. Heather is here to assist us and to assist you. Heather is a junior at UNL and she is majoring in agricultural economics. And, just a point of personal privilege here, today is the final Revenue Committee hearing for this year and it is also the final hearing for myself and Senator Brasch and Senator Schumacher and Senator Harr. And I would just like to take a moment-- and Senator Larson is not present with us-- but I would like to take this moment to thank my colleagues for their work on this committee over the years. Not only this last year, but also the many years that my colleagues have served on this committee. They've served the committee very well, and they have served the state very well, and we certainly appreciate their work. And we appreciate them so much, we saved a couple of bills for Senator Schumacher to wrap up his tenure here in the Revenue Committee. And rather than waiting-- making him go last today, we're going to allow him to go first. So we're going to kick off our hearings today with a couple of bills from Senator Schumacher and invite him to open first on LB1023. And we may actually have to give you a round of applause when you conclude your last bill. Welcome, Senator Schumacher.

**SCHUMACHER:** [00:05:48] (Exhibits 1-3) Thank you, Chairman Smith, Members of the Revenue Committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 of the Legislature, Here today to introduce LB1023. When you said that this would be the last time we'd be sitting here in committee, I heard a tremendous sigh of relief from audience. But hey, you've got to go out with a little bit of a bang and this is-- LB1023 is one of my trilogy of nightmare bills, and it is the second one that's going to be presented. The first one was, of course, the infamous water tax. And you pointed out some of the interesting angles that that had implications for. This bill is nothing new. We've heard various flavors and variations of this over the years. Most of which came from this committee, some of which came from the Performance Audit Committee. And it grapples with a problem that probably isn't going to go to-- go away until the Legislature gets a better grasp of the consequences of a road that was undertaken several years ago using tax credits. Life used to be easy. What we used to do is we used to raise tax money. The Legislature had a well-defined budget process; we laid out the things you wanted to spend money on, looked if you had money to spend the money on, and then you put it out in the budget and you allocated it out in grants or various programs where the State Treasurer issued a check. And you could only reach out a couple of years that way and you had constant auditing and accounting and the Fiscal Office knew what was going on and it worked. But that got a little complicated and it frustrated a few things and people's ambitions. So a new flavor of a tax credit was cooked up. And the first flavor of tax credit was you get to take it off of your income taxes or your sales taxes, certain amount of money is defined in the bill. There was no year-to-year accounting; really, really hard to find out what was spent. No real accounting of whether or not it was doing a good job or accomplishing what was supposed to be accomplished. But you just instituted the program and then you closed your eyes and walked away and went on to other things. And no one is really sure how much it ended up costing. We-- went-- we then interjected a second type of flavor into the program allowing people who were beneficiaries of the program to keep taxes that otherwise would be remitted to the state, such as your withholding tax. You withhold tax from your employees but you don't have to send it in. You can pocket it, call it a credit. Qualified by this, that, or the other credit program. Then we got really bold and we created refundable credits. All you had do is send in a-- a claim with your tax form saying I am entitled to so much of a refund. How that-- just because I qualify under-- for this

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program, how that differs from an expenditure of the State Treasurer just sending you a grant check is only a matter of semantics, it amounts to the same thing. But again, we had a real hard time figuring out how much all this was going to cost us and how effective it was. We struggled. And in the past four or five years, we've made any number of attempts to try to figure out, you know, how big a problem this was and whether it was a problem, whether the programs were effective. And naturally, as you might expect, the people who were beneficiaries of the program swore that without the program the sun would not rise in the east and soon would not rise at all. We had performance audit studies of various nature and various hearings on things, news articles, things of that nature. And for the most part, probably a fair assessment was they kind of worked in some cases but there really was no clear-cut evidence that they were winners or worth what they were being spent on them. And then really what triggered this particular bill-- in addition to the fact that we're just running out of money and people would like property tax relief, income tax relief, sales tax relief, relief of relief of relief-- was the Accounting Board-- of the accountants setting up good accounting practices changed the rule and required state to make disclosure of the amount to which-- let's see how they phrase it here-- requires the state to disclose specific information about tax abatement agreements to which it is a party. And this is in a handout I gave you. A tax abatement is a reduction in tax revenues that results from an agreement between one or more governments and an individual or entity in which one or more governments promise to forego lower tax revenues to which they are otherwise entitled, and the individual or entity promises take specific action after the agreement has been entered into that contributes to economic development or otherwise benefits the governments or the citizens. So for the first time, we got a number that the public had access to. Oddly enough, that number doesn't really appear in the text, but in a footnote to the text in the report that was, for the first time in June, required to be submitted publicly. And this is a-- as we go up into the floor and we start arguing about throwing out a bill if it has a \$50,000 fiscal note, or trying to figure out how much we should clip the university or clip this major program, or whether or not we should try to forego this welfare-- social welfare program. These are the numbers that in-- for year ending June 30, 2017, done without any specific review by us, really, if we wouldn't have begun to feel pinched, we probably wouldn't even have pressured for them: the Nebraska Advantage Act, \$160,958,000; Nebraska Rural Development Act, \$881,000; Nebraska Advantage Microenterprise Tax Act, \$1,231,000-- to make this look easy they left the zeros off the end and reported it in thousands of dollars-- Employment and Investment Growth Act, \$133 million; Invest Nebraska Act, \$43 million; Quality Jobs Act-- that must have been phased out; New Markets, \$12,838,000; Angel Investment Tax Credit, \$5,650,000; the Job Creation and Main Street Revitalization Act \$3,000,100-- think up to 15 million has been authorized there-- Beginning Farmer Credit Act, so that you can help your kids start out in your business, \$1,198,000 was actually spent on that one; Community Development Assistance, \$228,000; total, \$362,621,000. We've attempted to sunset this on a number of occasions. We ordered a sunset date, and then that had to be extended because we couldn't get the data. And then there was a bill that moved through and extended it three more years beyond that. And it will be extended and extended and extended until a better idea shows up because the lobby forces are what they are. Meanwhile, this commitment-- these commitments, particularly the Advantage Act, are being written every day and probably on an accelerating basis. They're not over next year or a year after that, but they extend out a decade. Some cases, what we did last year, extended more than a decade in obligations. We're spending our piggy bank. We know that we may not be spending it on the most efficient vehicle. Even if we wanted to change vehicles, pick up something like Senator Harr's bill from last year and begin to overhaul it a bit and try to figure out if there's a better way to do it. Or if another state figures out a better way, a more efficient way to do it. We can't. We're obligated. We've spent our piggy bank. We've taken out our loan against the future. And that's why

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this bill I wanted to make one last exclamation point, knowing that it's not going to go anywhere, that we created a mess. And we are in a real tough shape because we're married to this mess. Unless somebody luckily brings a lawsuit and the Supreme Court says, look, you've extended the credit of the state or you've done something otherwise unconstitutional by these acts, we're married to this thing and we can't get out of it. And our competing states might be just laughing their behinds off because we're so limited in resources, inability to borrow money, that we can't, if they come up with something better, respond effectively to it. And the need to sunset these things, to bring people to the table, and to try to come out with something else on how we're going to-- to-- to phase in something else without absolutely breaking us is really, really tough. And this lack of revenue is also having another impact. Assuming-- and it probably will happen-- that the federal government engages in some type of infrastructure program in which they give a 20 percent match or something, where are we going to get our matching money? So this is costing us above that, out and out federal cash if that program goes through, and it probably will, an infrastructure fund. This is an expensive item and it's pretty imperative that we pull the plug on it so that we can begin to recover our financial ability to maybe institute a new one, or otherwise respond with increased funding for-- for things that might be even better investments. And that would conclude my testimony on this bill. And I welcome any questions.

**SMITH:** [00:17:19] Thank you, Senator Schumacher, for your opening on LB1023. Questions from the committee? Senator Brasch.

**BRASCH:** [00:17:29] Thank you, Chairman Smith. And thank you, Senator Schumacher, for your ongoing diligence and concern, as we all have, about the well-being of this state not just today but in the future. And I'm just trying to visualize-- because you're-- you're talking about sunseting most everything that has any type of a incentive, is that correct?

**SCHUMACHER:** [00:17:53] That's correct.

**BRASCH:** [00:17:54] OK.

**SCHUMACHER:** [00:17:54] So that you examine each one and the parties to each one knows, you know, that this is serious. It hasn't been serious up to this point.

**BRASCH:** [00:18:04] Right. And are you aware that the state of Nebraska economic development, we often compete for new business to relocate or open shop in Nebraska? That we are competitive with many other states in bringing new business here. So we shut that down and-- and then, hypothetically, so businesses that have taken root here start shopping elsewhere and they do take their business elsewhere. Is there a parachute? Or say people just start to migrate away-- they follow their jobs, they follow their companies. I'm-- I'm just wondering if we do see-- and we did lose ConAgra, but if others follow suit to follow the money then-- then where are we at?

**SCHUMACHER:** [00:19:03] Well, Senator, I think that what you've explained is the witch doctor problem. If you hire a witch doctor and it starts raining and the witch doctor dances, how do you know whether the witch doctor caused it to rain or not? And everyone is reluctant to get rid of the witch doctor, makes for good business for witch doctors. But when you look at the total investment in job creation in the state, only a tiny percentage-- I shouldn't say tiny, but a very small number actually get a smell of any of these incentives. What they do get a pretty good whiff of is a higher

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tax rate made possible, made necessary, by the fact that we've limited our tax base by giving special people special things. And it is--

**BRASCH:** [00:20:01] And you believe the math is there to just wipe the slate clean, stay or leave-- take it or leave it?

**SCHUMACHER:** [00:20:08] I think-- first of all, we can't take it or leave it. They've got what they've-- what they've earned, or what we've contracted for, unless the Supreme Court says otherwise, thank God. But do we-- is this the best-- are we getting our most bang for the buck? Are we getting the high-paid jobs? You know, a few years ago there was a memo that went around that talked about a company, that since they don't count jobs but these FTE things, that was saying to college kids who were working in Christmas break, come on in, put a few extra hours so we can show that we have the FTEs and qualify for the-- for the program. Or do we want to develop something that is more targeted with higher paying jobs? Because we're not going to see a mass of people flooding into the state, we want to have good paying, high paying jobs if we're going to pay toward them. But in the end, most of our economy doesn't get a smell of these things. And they may very well be more inclined to build and invest here, if taxes make a difference, than-- than just the specialized things we do. In the end-- I had a law professor that said-- a tax professor said, you know a business that makes its decision based upon taxes is making-- is a tail wagging the dog. Good businesses look at fundamental economics. You don't build, no matter what the incentive is, a corn plant in the middle of New York because that's not where corn plants belong. And for the legislators who, in the future, can go to these conventions of-- of states and other legislatures, we've really messed up with ourselves because we are in competition not because of the merits of our resources-- water, corn, fish, harbors, whatever-- but because of how much we can undercut the other guy on the tax savings. And, you know, so I-- I think we need to start working on this. What we have now is terribly expensive and not terribly fair or productive. Even though I'm sure people can go down the list and say, look, we got this, this, and this from this program.

**SMITH:** [00:22:26] Senator Harr.

**HARR:** [00:22:27] Thank you. Thank you for your bill, Senator Schumacher, always interesting. I had a tax law professor as well. His take was a little different. His was, a business based on tax law is a loss leader for the bankruptcy department of your law firm. So same idea, but different take on it.

**SCHUMACHER:** [00:22:52] They-- they must've read different textbooks, but they're on the same subject.

**HARR:** [00:22:56] Exactly.

**SMITH:** [00:22:57] Other questions? Senator Groene.

**GROENE:** [00:23:00] So you-- thank you, Mr. Chairman. So you're taking the dates back to what they originally were prior to when we extended them here a couple of years ago?

**SCHUMACHER:** [00:23:07] This would be for this coming year, that they would sunset.

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**GROENE:** [00:23:10] So it's closer even than what we--

**SCHUMACHER:** [00:23:11] Yeah.

**GROENE:** [00:23:11] -- because I think we extended them two years, the sunsets.

**SCHUMACHER:** [00:23:15] Yeah, it would put the heat on for the summer. The committee might actually have to work during the summer. I don't know if we want to do that.

**GROENE:** [00:23:22] And then the ConAgra deal, I don't think it made any difference. The guy was from Chicago, he moved back home to Chicago is what I understand-- that was running the company. So I don't think all the bells and whistles would have made a difference. Is that you understand, or?

**SCHUMACHER:** [00:23:37] Well, that's kind of-- but remember, LB775, which was the first experiment in this, was because of that very company. And trying to-- to say, well, we'll give away something if you stay in Nebraska. Companies respond to economics.

**GROENE:** [00:23:54] Do you--

**SCHUMACHER:** [00:23:55] Taxes are gravy on the potatoes.

**GROENE:** [00:23:57] Historically in Nebraska, we don't bring companies, we create companies. And I was just making myself a list; Peter Kiewit, HDR, ConAgra, Enron, Cabela's, Valley Irrigation, Behlen Manufacturing, T-L, Lindsay, you could go on and on. That's how Nebraska got where was, native-born people building companies. Are we keeping them here with-- with the Advantage Act? Are we creating new companies with the-- with the Advantage Act of local people who are loyal to the state?

**SCHUMACHER:** [00:24:30] How many Advantage Act credits have you gotten?

**GROENE:** [00:24:35] None.

**SCHUMACHER:** [00:24:36] I-- I shouldn't you questions, that's not fair.

**GROENE:** [00:24:37] That's fine. That's fair.

**SCHUMACHER:** [00:24:39] That's not fair-- OK.

**GROENE:** [00:24:40] But I'm just saying, we ought to stay with the home-grown people who like Nebraska winners and Nebraska football instead of trying to take people from California who aren't very loyal. This in point.

**SMITH:** [00:24:53] Other questions from the committee? I see none. Thank you, Senator Schumacher--

**SCHUMACHER:** [00:24:58] Thank you, Chairman Smith.

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**SMITH:** [00:24:59] -- on your opening on LB1023. We now invite those wishing to testify in support of LB1023, proponents of LB1023.

**DENNIS SCHUSTER:** [00:25:24] (Exhibit 4) My name is Dennis Schuster, D-e-n-n-i-s S-c-h-u-s-t-e-r. I'm a farmer and agribusinessman in southeast Nebraska. Much has been made of the state Nebraska's revenue deficit-- deficit, a reported billion dollar shortfall. The shortfall has often been attributed as deceptive [SIC-- DEFICIT] forecasting and decline in net farm incomes. With little to no profits, Nebraska farmers and ranchers are paying less state income and sales tax while the sales and profits their transaction generate is diminished across the state as well. However, there is another money pit in Nebraska revenue crisis. That money pit being the tax credits given to big business through economic development programs and enacted by the Legislature to excuse payments of income, sales, and property tax if a company is large enough to make promises of investment and expansion. LB775 was passed in 1988. And then from 2016, state sales tax, tax refunds approved net of recapture totaled \$18,000,891,833 [SIC-- \$18,891,833,000]. LB775, nearly a \$10.5 billion estimate of personal property assessed value was exempted by class in 32 Nebraska counties. In Nebraska, 459 companies receive both property tax credits and Investment Growth Act credits under LB775. Then we come in with the Nebraska Advantage Act of LB312, was passed in 2005 to provide income, sales, and property tax credits to qualifying Nebraska industries. The Nebraska Tax Incentive 2016 Annual Report, which I have right here, the Nebraska ledger [SIC-- LEGISLATURE] issued on July 14 reported that total benefits approved and earned in all industries from 2006 to 2016 was \$842,390,000--some thousand, total tax credit used was \$362 million, tax credits outstanding was \$473 million. The report goes on to say that direct sales tax, refunds on investment was \$158 million, and the personal property exempted was \$5 billion. It's just shocking when I keep reading these reports. The scary part of all this is it will cost the state from the year 2017 to 2026, the fiscal analysis Nebraska Advantage Act on page 57 of the report states that the cumulative revenue gain, loss, in the year 2018 would be a loss of \$363 million. By the year 2026, there would be a community-- cumulative loss of \$967 million. These are the facts and figures that the Tax Incentive of 2000 [SIC-- 2016] Annual Report that Mary Hugo reported to the Revenue and Appropriations Committees on July 14, 2017. In my opinion, the Legislature and the Governor need to take notice that LB775 and Nebraska Advantage Act has cost the taxpayers in the state of Nebraska from 1988 to 2026. It is also my opinion that these tax credits and incentives are given away are the main reason the state of Nebraska is in a financial crisis that it is today. I would like to thank Senator Schumer-- Schumacher for having the political courage to introduce LB1023, which I feel will help really-- relieve the revenue deficit that our state is in today. Thank you.

**SMITH:** [00:29:37] Thank you, Mr. Schuster. Questions from the committee? I see none, thank you. Next proponent of LB1023. Welcome.

**RENEE FRY:** [00:29:55] Thank you. Good afternoon, Chairman Smith, members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. Apologize, I have a cold. So if I keep clearing my throat, I will do my best to talk. Senator Schumacher has introduced a lot of crazy ideas over his time here. We've enjoyed testifying on those, so. We do not think that this is one of his crazier ideas and are happy to be here in support today. And so I recognize that it's the last day of hearings, this bill isn't prioritized and it's not going anywhere, but thought it was important for us to come and say our piece on the last bill that we'll be testifying on Senator Schumacher's legislation. So I just wanted to start out by saying, honestly, you

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know, I've had conversations with a lot of senators in the body about our incentive programs. I honest-- honestly don't believe that many, including many of you on the other side of the table, believe that these programs are a good return on taxpayer dollars. The question we have: are these programs really incentivizing behavior or rewarding behavior that's happening anyway? We've really appreciated a more robust conversation about these incentive programs. Really happy to see the conversations happening around performance audit bills, LB935 and LB936. But at the end of the day, we just have a real question about whether studying these bills-- or studying these programs, excuse me, is going to really underscore the point that we aren't getting a strong return on investment from these dollars. I do want to use NioCorp for an example. I don't know anything about them, but there was-- not much about them, there was a recent announcement that they put out that they were going to be receiving tax incentives under Nebraska Advantage. They manufacture niobium. As I understand there's a nio-- niobium mine in Nebraska, and so it's not like that could be done anyplace else. So I just asked the question-- I mean, I'm sure that the-- their shareholders were thrilled that Nebraska taxpayers would help subsidize hiring employees and taking the niobium out of the mine and manufacturing it. But is that really incentivizing new behavior or is that just rewarding them for behavior that would have happened anyway? Even Senator Groene, when we think about TIF there is a but-for a test that needs to be made. And so I think that's an important question that we should be asking. Certainly it may be incentivizing new behavior with NioCorp, on its face that would have a question about that. As Senator Schumacher mentioned, according to the state's CAFR report we spent \$362 million dollars in incentives in 2016. Senator Friesen, think of what you could do with LB1103, right, with \$362 million. Senator Groene, I know you're passionate about LB640; Senator Harr, LB1108; Senator Smith, LB947. I just-- I think it's important for us to think about how we should be using these dollars so that they're really maximizing our taxpayer return on investment and whether Nebraska Advantage and these other programs are really the best way to do that. And so, I think the longer that we continue these programs, the longer that we'll be paying out, certainly under LB775. That program is over 30 years old, and we're still paying incentives in LB775. So we'd really like us to rip off the Band-Aid and not throw good money over bad and have a conversation about where we really need to go to grow our economy. But I think that there's a lot of evidence that would show that our existing incentive programs may have some successes but certainly have limitations as well. So with that, I'd be happy to answer any questions.

**SMITH:** [00:33:41] Thank you, Ms. Fry. Senator Friesen.

**FRIESEN:** [00:33:44] Thank you, Chairman Smith. So we've visited quite often in the past about different revenue sources and stuff--

**RENEE FRY:** [00:33:53] Yes.

**FRIESEN:** [00:33:53] And you're right, this is a-- it's a large amount. When we look at economic development in the state, I'm sure you've studied different models or looked at that in order to see which is effective and which is not. What-- what ranks as the number one thing to attract business to the state?

**RENEE FRY:** [00:34:12] So there are a number of different factors. So businesses will look at a quality workforce, that's very high up on a list for businesses. Job training, for example, I know that's a passion of Senator Harr's, that is an economic development tool that has a very, very high



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return on investment. This is something that businesses value. But they do care about an educated workforce, a quality workforce which is a challenge for us right now. That-- that Nebraska Advantage, quite frankly, isn't-- isn't addressing. There are other economic development tools that we have. So-- so when you look at-- let me step back. So when you look at the things businesses will look at, they will look at-- they will look at costs, right? How much does it cost for them to do their business? So if their business is heavily reliant on transportation: are the roads good, is it close to the hubs that they need to be at, how much does it cost for them to do their business in the state? They look for educated and-- and accessible workforce, and quality workforce, the quality of life-- high quality of life for any employees that they hire or employees that they bring in. There are a number of different factors that they look at. Dr. Timothy Bartik has looked to have done an extensive research on incentive programs. One he finds that business incentives in general don't tend to be a high return on investment. There are other things we can do such as job training, such as career academies. There are more effective programs that cost-- that are better return on investment in terms of economic development. He also finds-- he did 30-state-plus study, found that Nebraska's tax incentives were 80 percent higher than average. He suggested we could-- we could-- we could significantly rein in our incentives, still be very competitive and we could invest in some of those other tools that actually provide more return on investment, so.

**FRIESEN:** [00:36:07] I didn't hear you ever say are taxes.

**RENEE FRY:** [00:36:11] It's-- ranks fairly low when you look at--

**FRIESEN:** [00:36:15] So if-- if they brought up taxes, would they be more concerned about our stability on our tax rates-- or tax planning or the rate?

**RENEE FRY:** [00:36:23] We've heard quite a bit that stability is very important. Businesses want to know what the tax rates are going to look like and that stability is very important. I mean, if you look at places-- for example, Minnesota. You look at Minneapolis, they have very high tax rates and they have a very robust economy. It's just, you know, taxes are one factor and they look at their costs, right? They're looking at their costs, taxes are one small part of that. I think Senator Schumacher spoke to that, as well. So, you know, their business-- business model, if their-- if their only factor is taxes, right? Then their business model isn't very strong and then they're working at the margins. But what we've heard is stability-- during tax modernization hearings and those sorts of things, we heard more about stability than about rates.

**FRIESEN:** [00:37:13] OK, thank you.

**SMITH:** [00:37:15] Senator Harr.

**HARR:** [00:37:15] Thank you. Thank you for coming today. How many of Senator Schumacher's crazy bills were brought by you? [LAUGHTER]

**RENEE FRY:** [00:37:23] Oh-- no, no, no. We-- I mean, Senator Schumacher, we may have conversations but--

**HARR:** [00:37:30] OK.

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**RENEE FRY:** [00:37:30] -- he's his own man.

**HARR:** [00:37:34] Thank you.

**SMITH:** [00:37:34] Other questions? I see none. Ms. Fry, it's much too late to encourage Senator Schumacher at this point, so. But we do appreciate your testimony.

**RENEE FRY:** [00:37:45] Thank you.

**SMITH:** [00:37:49] Thank you. Next proponent of LB1023. Mr. Hansen.

**JOHN HANSEN:** [00:38:03] Chairman Smith, members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am president of Nebraska Farmers Union. And I want to take this opportunity to thank you, Mr. Chairman, for your service and the members of this committee. We're-- we'll maybe see a few of you next year, on down the road. But a lot of you, this is your last hearing and it's been my pleasure to work with all of you and-- in this-- this challenging committee. My organization has been involved in economic development issues, rural as well as urban, for a long time. We have understood that there's a limited amount of-- of-- of financial resources so it gets to be a question of where to spend your money, how do you get the most bang for the buck, how do you get the most return, what's the-- what's the more cost-effective and appropriate way to stimulate business? And so, we represent-- my organization and rural organizations, represent folks who have not benefited very much by these kinds of programs that Renee Fry and Dennis Schuster has visited with you about. We have not been-- the smokestackchasing approach has not worked, for the most part, very well in-- in rural Nebraska. So if-- it would be one thing, to our mind, that if we had plenty of money and that these programs were really productive and that they were really causing a lot of new business, that would be one thing. It is another when the economy is struggling, we're short of money, we're in deficit here at the state level, we're short of revenues and we have a whole host of competing interests that are, in the scope of limited resources, higher. We have higher need elsewhere. And so we thank Senator Schumacher, who's done an excellent job this last-- last week of getting my folks stirred up, for good or not, one way or the other, for this conversation. But there-- there won't be, coming from the business community in our view, better, leaner, more cost-effective, easier-to-evaluate ways to move business forward and be competitive in our state as long as-- as these programs continue to be in place. If-- if-- if we are in a position where we're going to continue to make those monies available, they're going to be in a position to take advantage of the money as long as it's there. And so the need to rethink in a more cost-effective way will begin when it's clear that these programs are coming to an end. So the idea of moving up the-- the-- the limits and the sunsets-- the sooner the sunsets on those things that are ineffective and cost more money than we can afford, then the sooner the sun rises on new and better ideas. And I think that there must be newer and better ideas than-- than what we're doing now. And for some of us who have been around for a while; these programs are not targeted, they're not cost effective, and they have, unfortunately, to our way of thinking, worked just pretty much exactly the way a lot of the critics of those programs, which we are included, thought they were going to work. So there's no-- there's no new outcomes here, there's no surprises. But given the fact that we-- we have other competing uses for limited state funds, we are in deficit, we think that now would be a good time to move the sunset up. And we-- we thank Senator Schumacher for, once again, giving me the opportunity as well as the need to come before

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the Revenue Committee and comment on one of his-- and testify one of his bills. And with that, I would end my comments and answer any questions, if I could.

**SMITH:** [00:42:38] Senator Groene.

**GROENE:** [00:42:39] Thank you, Mr. Chairman. So you're not concerned that if the Advantage Act goes away, farmers will take their land and move it to Iowa?

**JOHN HANSEN:** [00:42:46] I've given it a lot of thought, and no.

**GROENE:** [00:42:51] All right, I just wondered. Thank you.

**JOHN HANSEN:** [00:42:51] It's--

**SMITH:** [00:42:52] Other questions from the committee? I see none. Thank you, Mr. Hansen.

**JOHN HANSEN:** [00:42:57] Thank you, Mr. Chairman. Thank you, members of the committee. Thank you, Senator Schumacher.

**SMITH:** [00:43:03] (Exhibit 5) Next proponent of LB1023. We do have a letter for the record that was submitted in support of LB1023, from Larry Scherer representing NSEA. We now move to opponents, those wishing to testify in opposition to LB1023. If you're--

**TIM QUIGLEY:** [00:43:28] Actually, I'm a proponent. I'm sorry. I would like to speak on behalf of being a proponent.

**SMITH:** [00:43:33] OK. All right, let's come on up, then, if you want to speak as a proponent. And if you're-- if you're looking to testify in support of the bill, if you could move towards the room so we can go ahead and move you into the chair and-- and hear your testimony. She's going to get you a green sheet. And when you finish your testimony, if you could complete that and turn that into the clerk, we'll need that for the record.

**TIM QUIGLEY:** [00:44:08] Sure. My name's Tim Quigley and I am here as a real estate developer of affordable housing.

**SMITH:** [00:44:19] And you'll need to spell your name for us.

**TIM QUIGLEY:** [00:44:22] Tim, T-i-m, and Quigley, Q-u-i-g-l-e-y.

**SMITH:** [00:44:26] Thank you.

**TIM QUIGLEY:** [00:44:30] The firm that I work with is Cohen-Esrey, C-o-h-e-n-E-s-r-e-y, and we are working on an affordable housing project in Hastings. We specialize, among other things, in historic rehabilitation for adaptive reuse as affordable housing and using Section 42 Tax Credits. And we also use federal and state historic tax credits as integral funding sources for these projects. And I-- I just wanted to mention that without having the state historic tax credit we would not have done this project, as we would not have been able to come up with adequate sources for the project.

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I also wanted to mention that I think that the state's historic tax credit program is a very valuable thing for the state and it puts it on a more level playing field for economic development with surrounding states that have the state historic tax credit in place. I wanted to also mention that in utilizing state credit, the way we do that is we monetize it so that we can use it as a source of funding. And as the rules of the program-- uncertainty on the part of the program leads syndicators and investors to lower their pricing of the state credit, which makes it a little less valuable. So having some certainty as to when the program would sunset and exactly what the rules are moving forward would be helpful. Also, my understanding is half of the credit is certificated and the other half of the credit for a particular project would be allocated. And if you have a fully certificated credit, like we do in Kansas and in some other states, you can get more bang for your buck with that credit; particularly when you structure your project with a nonprofit. And so pricing could be in the mid-- mid-, upper-80s. Whereas with the allocated credit, where it shows up on the K-1 and has to go through, let's say, a syndicator-- for-profit syndicator, typically the pricing is in the low 60s, so you get less bang for your buck. So a fully certificated credit would be very helpful. I also just wanted to mention that I think it's sometimes a challenge for rents to justify the cost of doing housing in rural areas. So when you can offset some of the costs with additional sources, like if we can find a historic building that has a lot of value to a community and-- and renovate that for adaptive reuse as housing, it's very beneficial. And having the state historic tax credit is integral for that. Also, I understand that there are some changes potentially, and-- and how quickly the Department of Revenue would need to turn around a determination or issuance of tax credits. And I think that setting a time for-- a timeframe for that is very helpful because from a developer standpoint, many times with a project like this we cannot pay off construction debt until we do monetize the state historic tax credit. So it increases the carrying cost for a project if we have to wait a substantial amount of time, like more than, you know, a couple of months, let's say, to get the tax credits. Thank you for listening to my-- my thoughts, I appreciate it. Appreciate the opportunity, here.

**SMITH:** [00:48:28] Thank you, Mr. Quigley. Just for clarification; so Senator Schumacher's LB1023 changes the sunset dates on certain incentive programs and tax credit programs, moving them closer, and you're in favor of that happening?

**TIM QUIGLEY:** [00:48:47] No, I am not. I'm in favor of extending the program much longer.

**SMITH:** [00:48:51] OK.

**TIM QUIGLEY:** [00:48:51] I'm sorry I didn't clarify that. I am not in favor of the sunset, particularly moving it sooner.

**SMITH:** [00:49:00] OK. Senator Harr, did you have a question?

**HARR:** [00:49:05] You're in favor of-- of the closing the time between when the project completed when you're refunded by the Department of Revenue, correct?

**TIM QUIGLEY:** [00:49:12] Correct. Having a shorter timeframe from once you complete a project and get a cost certification report done and then receiving an issue-- having the tax credits issued as well, typically a developer is going to have a third party cost certification report done. It'd

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nice if the Department of Revenue would rely on that cost certification as opposed to doing an independent audit on a project.

**HARR:** [00:49:42] OK, thank you.

**SMITH:** [00:49:42] Very good. Senator Friesen.

**FRIESEN:** [00:49:45] Thank you, Chairman Smith. So you-- you talked about doing projects in Hastings, is that correct?

**TIM QUIGLEY:** [00:49:49] Well we have one project right now in Hastings, yes.

**FRIESEN:** [00:49:53] OK, do you take part in the federal and the state historic tax credits?

**TIM QUIGLEY:** [00:49:57] Pardon me?

**FRIESEN:** [00:49:58] Do you take part in both the federal--

**TIM QUIGLEY:** [00:50:00] Yes.

**FRIESEN:** [00:50:00] -- and the state?

**TIM QUIGLEY:** [00:50:01] Yes, we will receive both federal and state historic tax credits for the project.

**FRIESEN:** [00:50:05] If you-- if you add both those tax credit together, what-- what do they pay out compared to your total cost of the project?

**TIM QUIGLEY:** [00:50:12] Right, that's a good question. And so, the size of our project there is-- it's about an \$8.6 million project and we're receiving it-- we will receive, once we're done, a maximum allocation of state historic tax credits of a million dollars. Those will be monetized and the net amount going into the project will be \$725,000, which is roughly 8 percent of the total sources for the project. That's-- that's the state historic tax credit. The federal Historic Tax Credit after being monetized will be 17 percent of the total sources.

**FRIESEN:** [00:50:51] So, 8 percent plus 17 percent of the total cost?

**TIM QUIGLEY:** [00:50:54] Right. So between combined federal and state credits, would be roughly 25 percent of the total sources.

**FRIESEN:** [00:51:01] OK, thank you.

**SMITH:** [00:51:02] Senator Groene.

**GROENE:** [00:51:05] Thank you, Chairman. So what is the project? It's new houses, or an apartment building?

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**TIM QUIGLEY:** [00:51:09] Right. It's-- it's-- it's actually taking a historic building, it's a-- it's an old brewery building-- it's actually two buildings, one large one and one small one. First we place the property on the National Register of Historic Places so that it could qualify for historic credits. And so we were renovating it for adaptive reuse as 35 apartments of one-, two-, and three-bedroom units, all of which will qualify as Section 42 low-income housing. So nobody making more than 60 percent of area median income can be in there. We are also using federal HOME funds as a source, as well.

**GROENE:** [00:51:44] So--

**TIM QUIGLEY:** [00:51:44] And Federal Home Loan Bank Affordable Housing Program funds.

**GROENE:** [00:51:47] You said a million dollars tax credit-- state's tax credit? And you'll get-- you'll sell that-- you'll get 72.5 cents on the dollar when you sell those? With the certificate?

**TIM QUIGLEY:** [00:51:57] With the certificate-- with the certificated piece I think we're getting 85 cents for the half million-- the certificated and 60 cents for the allocated piece that is allocated on a K-1.

**GROENE:** [00:52:07] If somebody is willing to pay.

**TIM QUIGLEY:** [00:52:09] Right. So combined the blended rate of 72.5 cents, which equates to \$725,000.

**GROENE:** [00:52:16] Seventy-two and a half percent?

**TIM QUIGLEY:** [00:52:17] Yeah--

**GROENE:** [00:52:17] So somebody is--

**TIM QUIGLEY:** [00:52:17] Seventy-two and a half cents.

**GROENE:** [00:52:19] Yeah, which is--

**TIM QUIGLEY:** [00:52:20] Yeah, right.

**GROENE:** [00:52:20] So somebody is buying those credits for that and taking a dollar off. They're making a 20 or something percent margin on it.

**TIM QUIGLEY:** [00:52:27] Yes, right.

**GROENE:** [00:52:28] On their tax credit

**TIM QUIGLEY:** [00:52:29] Right. So my point was, if you certificate it so you can get the higher price it makes the credit much more efficient for how much of that tax dollar actually goes into that project.

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**GROENE:** [00:52:41] Taking a lot of the committee's time, we got a long day, but, how do you sell them? Locally?

**TIM QUIGLEY:** [00:52:43] Actually the certificated piece through relationship with Cohen-Esrey, we-- we place those directly with either individuals or corporations that have the tax liability. With the-- with the allocated piece it goes through the tax credit syndicator that is buying the federal historic credits and the federal-- the Low-Income Housing Tax Credits.

**GROENE:** [00:53:05] And what's his commission?

**TIM QUIGLEY:** [00:53:06] Pardon me?

**GROENE:** [00:53:07] What's their commission?

**TIM QUIGLEY:** [00:53:09] Well there's no commission involved in the syndicator. What kind of internal rate of return they have, I'm not privy to that.

**GROENE:** [00:53:22] Thanks. We've got a lot of bills up. Appreciate it--

**TIM QUIGLEY:** [00:53:24] I'm sorry.

**GROENE:** [00:53:24] Appreciate it.

**SMITH:** [00:53:26] Senator Brasch.

**BRASCH:** [00:53:27] Thank you, Chairman Smith. And thank you for coming forward today. And I did see you came in a little later and not at the start of Senator Schumacher's introduction, but I'm really not certain that you would-- you're testifying as a proponent in favor of this bill. And what this bill does is it moves the sunset to end these programs. Nothing about an extension here. And-- and his statement indicates that, and the conversation, has been that as a state we can no longer afford these programs. And so therefore, we would eliminate them. Are you in favor of eliminating them, or am I not listening--

**TIM QUIGLEY:** [00:54:16] Yeah, no, I apol-- I apologize. I think I did-- since I came in late I did misunderstand and I am an opponent to moving the sunset to 12/31/18. I am a proponent of continuing the state historic tax credit program. And I-- I apologize I--

**BRASCH:** [00:54:34] and his bill intends to eliminate these--

**TIM QUIGLEY:** [00:54:36] Right so--

**BRASCH:** [00:54:37] -- saying we can no longer afford to do this. So I just wanted to make sure that you knew.

**TIM QUIGLEY:** [00:54:42] No, thank you.

**BRASCH:** [00:54:44] Yeah.

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**TIM QUIGLEY:** [00:54:44] I Appreciate that. So for the record, I'm an-- I'm an opponent of it. Sorry.

**BRASCH:** [00:54:49] All right, OK. I have no other questions. I just-- we can be confusing up here sometimes, so--

**TIM QUIGLEY:** [00:54:54] No, I think I'm the one that's confused. Sorry about that.

**BRASCH:** [00:54:55] That's all right. Thank you.

**SMITH:** [00:54:58] So-- so, Mr. Quigley, we will make certain that the record reflects that you came in opposition to the bill.

**TIM QUIGLEY:** [00:55:03] Otherwise I think David Levy is going to be very mad at me, so.

**SMITH:** [00:55:08] All right. Further questions for Mr. Quigley? Everything is fine. Thank you, very much for your testimony.

**TIM QUIGLEY:** [00:55:19] Thank you.

**SMITH:** [00:55:20] Other opponents, opponents to LB1023. Welcome.

**MICHAEL SOTHAN:** [00:55:35] (Exhibit 6) Yes, thank you. My name is Michael Sothan, M-i-c-h-a-e-l S-ot-h-a-n. I'm with Main Street Beatrice. Our Main Street Program, we work to revitalize our downtowns and try to create our downtowns as a center of-- of, you know, quality a place to live and do business and everything else. We've actually had the privilege to talk to Mr. Quigley and a few others about different projects. And we definitely are here in-- in opposition to this bill mainly because of the fact that our downtown has really seen a wonderful increase and investment into our buildings of new businesses wanting to get started. And a lot of that has come from the confidence that that Nebraska Historic Tax Credit has created. And of course, that is something that-- that is looking at being eliminated under this bill. And it's funny, when I was listening to people talking about the things that-- that they were upset about these different incentive programs about, a lot of those things were the things that-- that we really like about the Nebraska main street-- the-- the-- the historic tax credits basically. And one of the things that I guess I really just want to point out is with the Mainstreet Revitalization Act, we have seen small businesses that are using these. These are not the smokestacks, these are not the big industries that are looking at using them. Yes, we do have a few developers that have interesting coming in, but they have interest in developing buildings that are out of our hands locally to be able to take care of. And unfortunately in Beatrice, we just recently had a downtown building that had a roof collapsed because the property owner could not afford to take care of it. And the city of Beatrice had to spend nearly \$200,000 to demo that and eliminate it to keep it from being a public concern. If this man would have had the ability a few years ago of a tool like this, maybe he could have put a roof on that building. It would save the taxpayers a heck of a lot of money there in Beatrice. Right now, we luckily do have a historic tax credit project that is coming online. We've just recently gained access to these in our downtown, starting in late summer of 2016. And so we've been starting to see a lot of increase here. Between last fall and the end of this next fall, we're expecting around \$3 million to be



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invested into our downtown buildings. That's over about 17 different projects. Now some of those are happening organically on their own, but a large amount of this has been an increase in confidence. I've talked with three of the big projects-- which are going to be totaling around \$2 million combined, so a significant part of our improvements. And every single one of them mentioned that us being able to talk about what was going on our downtown, being on the National Register, having access to things like the historic tax credit, being able to have a TIF district in our-- our downtown and a variety of other things gave them the confidence to come and to invest hundreds of thousands of dollars into buildings that were sitting there. Some of them only worth \$35,000. There's one that's-- they bought for \$35,000, they're going to be putting in nearly a million dollars into this building. They are not utilizing the tax credits, but that was something that got them to the table to consider it. Now one of the projects will be using the tax credits. And they flat out said, we were just going to let that buildings sit there, we are moving back into it, we are going to reinvest into it because of these credits. And they're going to spend several hundred thousands of dollars. Without that, they would have left our downtown, would have built something new on the edge of town. And yeah, it still would have made some economic impact, but then we would have had just another vacant building, another eyesore, in our downtown. And instead we're turning the tide using tools like this to create that confidence. It's really exciting to see what is happening in our community. And unfortunately, building new costs our community a lot. We have to put in new infrastructure, we have to do all that for those buildings. Whereas our buildings that are being protected and being helped out by this historic tax credit are much cheaper on the taxpayers because they're already there. If we lose them, we cannot replace these buildings. These are buildings that we'll never be able to remake that craftsmanship. At the same time, we're talking about one of the biggest struggles that companies have is workforce. What's one of the places-- one of the first things that a person looks at in a community to know about the health of it? It's their downtowns. And if we cannot attract people to our communities, how are we going to be able to go out and get these bigger businesses? Things like these-- some of these tax credits do help create a center of quality of life. They do help attract people to our communities. Beatrice right now is chugging ahead in face of a whole bunch of different challenges with the Beatrice 6 and a bunch of other things, but yet we're seeing significant growth. We've got nearly 100 homes being built around the community. People are choosing to live there, and a big part of that is keeping a vibrant downtown, trying to preserve what we already have, create small business amenities for these people. And the Nebraska Job Creations Act and Mainstreet Act is something that is helping us do that. And so I'd really appreciate it if you guys would consider keeping this around. It does make a big impact on small businesses. Many other states on the map I've showed you are making this work. Many of them have much bigger challenges than what we have. Many of them have eliminated these programs and have only tried to get them back within a couple of years because of the-- they realize the negative impacts that are there. So, thank you.

**SMITH:** [01:00:52] Thank you, Mr. Sothan, for your testimony. Questions from the committee? I see none, thank you.

**MICHAEL SOTHAN:** [01:00:58] OK, thank you.

**SMITH:** [01:01:01] (Exhibits 7-15) Next opponent to LB1023. We do have-- we do have several letters that were submitted for the record in opposition to LB1023: from John Dickerson representing Nebraska Association of Commercial Property Owners, David Brown representing Omaha Chamber, Ryan Dressler representing Advantage Capital Partners, Bruce Bohrer

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representing Lincoln Chamber of Commerce, Randy Chick representing Business Improvement District Community Redevelopment Authority, Greg Youell representing Omaha-Council Bluffs Metropolitan Area Planning Agency, Robert Hallstrom representing Nebraska Bankers Association, Gary Person representing North Platte Chamber and Development, and Pat Haverty representing Nebraska Economic Developer's Association. We now move to those wishing to testify in a neutral capacity on LB1023. Seeing none, we invite Senator Schumacher back to close on LB1023.

**SCHUMACHER:** [01:02:25] Thank you, Mr. Chairman, members of the committee. Two quick points. When the state-- something cost the state a million dollars, only does \$720,000 worth of good, I would think Sen-- President Trump would want to renegotiate that deal. That's quite-- that's quite-- quite a loss for doing it that way rather than an outright grant, if you want to do those things. When you're giving away \$360 million a year, there's certainly going to be a long string of opponents who are beneficiaries of that, who say you should keep doing it. Unfortunately. The Legislature is in a position of trust and really needs to re-evaluate that. So with that, I close on LB1023.

**SMITH:** [01:03:13] Senator Friesen.

**FRIESEN:** [01:03:15] Thank you, Chairman Smith. Just curious, your thoughts on why only a couple of people came to oppose your bill. Where were the big dollars?

**SCHUMACHER:** [01:03:25] Well, the big dollars are in those letters. They know this is going nowhere. And so they-- I mean, why-- why pay your lobbyist to come and talk to us? But it should go somewhere and the pressure should continue onward because this is a bill that is-- these are commitments that are continuing to be made daily and somebody is going to have to pay off. And the longer we run up that tab, the less resources we're going to have to do something, maybe, in a far better way. And that won't be the problem of those of us who are being hit on the rear end with the door, but it will be some of the other folk's problem.

**FRIESEN:** [01:04:08] Thank you.

**SMITH:** [01:04:12] Other questions? Senator Brasch.

**BRASCH:** [01:04:13] Thank you, Chairman Smith. And thank you, Senator Schumacher. I'm not strongly objecting, believe it or not, because I do know the dollars are not there to give. You know, the-- the money we're giving or forgiving are dollars we are short of making ends meet at the end of the day. What I would challenge you with is-- and I-- and I spoke with the lobbyist about it today. If it were a perfect world, some of these good men and women who run these businesses would voluntarily surrender some of these credits in an effort to help the three-legged stool correct itself. Is there any type of volunteerism incentive on your radar?

**SCHUMACHER:** [01:05:09] Well, maybe we could allow them to be collected in the basket at church on Sunday? And they can donate them and maybe take tax deduction at the federal level and then we'd redeem them from the church at, like, 20 cents on the dollar. Now that'd be a deal that maybe President Trump would make. But, I mean, as long as they have the credits, they're going to want to use them

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**BRASCH:** [01:05:33] Because they do put millions of dollars back into the communities and different projects and, you know, you see their names on plaques and things. But at this point, you know, I-- I understand we're looking to try to help our tax base by not having it all move in one direction-- but to level out the sand, I guess is what, so. But I-- for the record I don't believe in witch doctors and your theory there. But I do believe that there is-- Nebraska's been very famous, I believe, for our spirit of-- of helping to pull the wagon instead of riding in the wagon when there's a time of need. So thank you for introducing this.

**SCHUMACHER:** [01:06:29] Thank you, Senator Brasch. You know, there's a lot of people pulling the wagon and who give to local charities and local functions who don't get to smell all these credits, and they're the real heroes.

**BRASCH:** [01:06:42] Very well.

**SMITH:** [01:06:45] I see no remaining questions. Thank you, Senator Schumacher for your closing on LB1023. And now you are welcome to open on LB1021.

**SCHUMACHER:** [01:06:58] Thank you, Mr. Chairman, members of that committee. My name is Paul Schumacher, S-c-h-u-m-a-c-h-e-r, representing District 22 in the Legislature. And I'm here today to introduce LB1021. I'm disappointed I didn't do as good a job on this as Governor Heineman did a few years ago, because very similar legislation packed the room. But I didn't quite get that amount. Maybe you've got a whole stack of letters back there in opposition. But basically this is a very simple bill and it's basically a fairness bill. It's the last of my nightmare trilogy bills. Being perfectly frank, we know that there is a property tax initiative out there that would require the state to come up about roughly a billion bucks. We know that there is no real good way to get that money. And that initiative is probably not going to turn back, probably the petitioners have been paid to circulate it and it is on the way. And so, in the event that would pass, it might pass on the notion that somebody else was going to pick up the tab for that billion dollars. And that billion dollars was going to come from income tax people or sales tax people buying haircuts or something, or soda pop or cigarettes. Well, it's really fair to send a message that there is another source of that revenue. One as likely, if not more likely, to be dipped into by a Revenue Committee and a Legislature with a gun held to its head and hemorrhaging a loss of revenue. And that is by repeal of the agricultural tax exemption-- sales tax exemptions. A funding mechanism that is substantial in nature and more consistent with just the nature of things is to take out of one pocket and put in the other. And so that next year, if that should pass, the argument cannot be made that, oh, we didn't realize this might be an outcome, because this is a clear message. This may be one of the outcomes, at least in part. And that's why it was introduced. This is a message. It's unlikely you're going to be able to dip anybody else's pocket, but you may very well move a few quarters from one pocket to another in your own pants. That's my introduction.

**SMITH:** [01:09:45] Very good. Questions from the committee? Senator Friesen.

**FRIESEN:** [01:09:48] Thank you Chairman Smith. So I notice it's just agricultural inputs, why-- why is it not business inputs? No businessman will sign that petition?

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**SCHUMACHER:** [01:09:58] Oh I would think that probably if you put a petition before me, or most members of this committee, saying you want lower taxes, probably sign it if we don't think of the consequences.

**FRIESEN:** [01:10:07] What-- what is the impact of doing all inputs?

**SCHUMACHER:** [01:10:10] I would guess that there's going to be part of that on the agenda next year when-- when you're sitting behind that table and-- and the rest-- most of the rest of us aren't.

**FRIESEN:** [01:10:20] I thought you wanted to go out with a bang?

**SCHUMACHER:** [01:10:22] Well, I don't want to get shot either.

**FRIESEN:** [01:10:27] Do farmers not play keno, or what?

**SCHUMACHER:** [01:10:30] Well, you know, some of them do but they're pretty conservative.

**FRIESEN:** [01:10:34] Thank you.

**SMITH:** [01:10:37] Seeing no other questions--

**SCHUMACHER:** [01:10:38] Thank you.

**SMITH:** [01:10:38] Senator Schumacher, thank you for your opening on LB1021. We now move to proponents, proponents of LB1021. All right, we move to opponents, those wishing to testify in opposition to LB1021. Oh-- opponents to LB1021.

**BRUCE RIEKER:** [01:11:16] Good afternoon, Chairman Smith, members of the committee. My name is Bruce Rieker, it's B-r-u-c-e R-i-e-k-e-r. I'm the vice president of government relations for Farm Bureau, but I'm also here representing a coalition called the Nebraska Ag Leaders Working Group, all in opposition to LB1021. And I want to make sure that everybody knows who's part of this, because it seems after so many of these hearings when we testify collectively for these six groups, who's ever doing the testifying is-- is recognized but then people say, well, where were the others? And so, this group is the Nebraska Cattlemen, the Nebraska Corn Growers, Farm Bureau, Pork Producers, Soybean Growers, and the State Dairy Association. Part of this we do to save you some time. But also part of it we do to share our collective agreement, where we are on a lot of these bills. And I think sometimes that's missed. And so I just want to make sure that-- that you recognize all six groups that are involved in that. LB1021 singles out agriculture. And it does send a message. It sends a message that if you were to do this, that you as a Legislature believe that the property tax burden-- or the tax burden on agriculture is just fine. So whether we're paying it in property taxes, income taxes, sales tax, whatever may be, you're just fine with the way it's balanced as far as what proportion of taxes ag pays. And we are opposed to it because it does tax inputs. It's a generally accepted tax policy that you don't tax inputs, it leads to pyramiding which leads to greater costs. And for those reasons we-- we deem it to be bad tax policy. And with that, I'll close my testimony in opposition to LB1021.

**SMITH:** [01:13:31] Questions from the committee? I see none--

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**BRUCE RIEKER:** [01:13:48] Thank you.

**SMITH:** [01:13:49] Thank you.

**JOHN HANSEN:** [01:13:49] Again, Mr. Chairman, members of the committee, for the record my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I am the president and also the lobbyist for Nebraska Farmers Union. As did LB405 and LB406 that, in one fashion or another, sought to eliminate personal and corporate income taxes and replace them with taxes on inputs for energy, healthcare, and agriculture, which was soundly not supported by everyone involved, this bill is one that would go back to the business of taxing inputs. And so-- so for-- for that reason and based also on ability to pay-- at the end of the day if you're trying to develop tax policy that's fair and reasonable, you-- you have to look at the ability to pay. So in the case of production agriculture-- we in agriculture know and understand it, but we sometimes don't really explain it to our-- our-- our-- our colleagues in the business community or the public at large, is that we are price takers. We are not price setters. We do not go to the sale barn and say, I'm sorry to tell you but all the taxes went up, or my inputs went up, my insurance went up, my labor went up and you guys are simply going to have to pay more for my calves today. That's not the way the system works. And it's not the way it works on-- on grains or other things. We-- we do not have the ability to set prices for the most part. And we do not have the ability to pass costs on. We are-- we absorb those costs. And so, because of that we are, on our best day, a high-risk, low-margin industry that does our best to get by. And so, with all due respect to the message that was intended by Senator Schumacher, there-- there is an ag crisis going on. It's the worst ag crisis since the mid-1980s. I got another call, so far this week, from someone who is right at 70 years old and was-- had filed for bankruptcy. And he wanted to talk about his bankruptcy and why it is his property taxes. And his property real estate tax statement that he just got indicated that his taxes had gone up again. And-- and so it is that we're-- we're in a difficult place. And I do think that there are bills before the committee, one in particular, LB1084, that-- that does deal with the need for a more fair and balanced tax system that also has a responsible way of paying for it. And so it's not the fear of the boogeyman based on the-- the citizens' initiative. And I will leave the committee this year where we began, which was that our organization is based on our members and the clear push and the policy of our members. We are involved and we're engaged and we're committed to finding remedy for the current state tax system relative to the over-use of property taxes and the need to adequately fund education. And that we're pursuing legal remedy, we're pursuing legislative remedy and we're pursuing a citizens' initiative remedy. And the one that we want the most-- the one that we think is the most fair, that's the most reasonable, that's the most appropriate, that it is far and away everyone's best effort and thinks is the most prudent way to proceed would be a legislative remedy. And if there is not legislative remedy provided this year, then a lot of us in agriculture will hold our nose. But we'll be-- we'll be signing those-- those initiative petitions in order to force the issue. So we'll-- my organization will end up supporting that initiative at the end of the day, what the legislature does or doesn't do will ultimately decide that. And with that, I would end my comments and thank, once again, Senator Schumacher for continuing to give me lots to think about.

**SMITH:** [01:18:23] Questions from the committee? Mr. Hansen, I think you oversimplify the business environment in a lot of the urban areas of our state. And me, quite frankly, as a small business owner myself I'm-- I'm disappointed and I'm discouraged and I'm insulted by your oversimplification of how we compete in business. We're not-- we're not price makers. When we're

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in a competitive marketplace, we have to control our spending because if we do not our competitor gets the bid, they get the job. So we don't go around in-- in the urban areas of the state as small business owners simply making our price and collecting it. We have to compete every day.

**JOHN HANSEN:** [01:19:13] Sure.

**SMITH:** [01:19:13] So we're not price makers. We, too, are price takers.

**JOHN HANSEN:** [01:19:19] Mr. Chairman, if I could. Especially in terms of small business, I agree. And I certainly didn't mean-- but to the extent that agriculture could pass things along-- cost along. I've-- I've owned and operated a lot of different businesses while I was in the ag business in order to subsidize my farming operation. And I had more ability to pass those costs on even though it was small than it was in the case of my corn price. And so, in a relative world, I agree that small business tends to be in a lot of the same wagon as agriculture. And a lot of things are-- are similar. But you know, we have-- we have folks who think that agriculture is rich because if we sell out we have value left. The real test is, can you continue to be in business? Has the business been paying your bills? And we continue to get about 88 percent of our net farm family earned income from offfarm jobs in order to subsidize our business. That's not a very successful business model. And I just- I'm-- I'm in a position where I-- I provide services to those folks who aren't making it. And it is heartbreaking to see anybody who's invested generations of work and sacrifice and see-- and seeing that all come to an end. And so I wish you well as well, Mr. Chairman, in your small business interests.

**SMITH:** [01:20:49] Further questions from the committee? I see none, thank you.

**JOHN HANSEN:** [01:20:52] Thank you.

**SMITH:** [01:20:55] Next opponent to LB1021. Welcome.

**DEAN SMITH:** [01:21:15] (Exhibit 1) Hello. Chairman Smith, Members of the committee, thank you for this time. My name is Dean Smith, D-e-a-n S-m-i-t-h, from Brunswick in Antelope County. I would comment on the-- as one thing that Senator Schumacher has accomplished, motivated me to make the trip, 165 miles one way, down here twice in seven days. So here I am. I'm-- I'm going to try to continue on from six days ago. I spoke as an opponent to LB1022. I do not understand why there is an expectation from Senator Schumacher that agriculture can or should carry an unequal share of taxation. There are plenty other places to put a valuation on a levy to tax. As examples: long medical degrees and doctorate degrees. These degrees become a revenue stream for those individuals. There needs to be a valuation put on that absolutely no different than a piece of land as a revenue stream for agriculture. But the Senator doesn't want to rock the boat with thinking that far outside the box. Agriculture has taken the hit before, now Senator Schumacher wants to hit it again. Do you want something to tax that's perhaps connected to the real estate? Let's look at wind energy. Antelope County is second-largest wind generator in the state. There are 148 towers operating in the county. There are 81 towers lying on the ground north of Neligh to be erected this summer. The 148 towers in 2017 paid \$209,551.40, or \$1,415.88 cents per tower in personal property tax. They paid \$868,138.93 in Nameplate Capacity Tax, or \$5,865.80 per tower, for a total of \$7,281.68 per tower. One problem here is the collectability of nameplate megawatt tax, should it become delinquent as it did in Antelope county. The new towers have filed for building permits and have stated a value of

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\$2 million per tower. So let's give the operating towers a value of \$1.5 million; \$1.5 million of value on, say, a dairy barn would pay approximately \$15,750 in property tax. Why is the end-- wind industry not paying their fair share? There are many other examples that can be analyzed, but there's not the time here to explore those. I would ask that you look at some of my examples as recited here. There are many, many others. I feel LB1021 and LB1022 both need to die in committee. There needs to be tax reform, not just renaming it and leaving it on agriculture as proposed in LB1021 and LB1022. And I prepared for 3 minutes, so I'm done. Thank you.

**SMITH:** [01:24:40] Thank you, Mr. Smith. Were-- when you're referring to LB1022, are you referring to the previous bill? That was LB1023.

**DEAN SMITH:** [01:24:49] Oh, LB1023. I'm sorry, I mistake-- mistaken there.

**SMITH:** [01:24:51] Just for the record--

**DEAN SMITH:** [01:24:52] Yes.

**SMITH:** [01:24:52] -- make sure that's clear.

**DEAN SMITH:** [01:24:52] Yes.

**SMITH:** [01:24:52] I'm not certain whose was LB1022, but they probably would have--

**DEAN SMITH:** [01:24:54] Oh, OK.

**SMITH:** [01:24:57] That was your as well? OK.

**DEAN SMITH:** [01:24:58] I-- I-- I kind of remember his numbers, I guess.

**SMITH:** [01:25:01] Very good, very good. Very good. Questions from the committee? I see none--

**DEAN SMITH:** [01:25:09] OK, thank you.

**SMITH:** [01:25:09] (Exhibits 2-9) Thank you, Mr. Smith, for your testimony. Next opponent to LB1021. Seeing none, we have a number of letters to read into the record in opposition to LB1021: from Ryan Dressler representing Advantage Capital Partners; Brad Hans representing Nebraska Municipal Power Pool and Municipal Energy Agency of Nebraska; David Brown, Wendy Birdsall, and Barry Kennedy representing Greater Omaha Chamber, State Chamber, Lincoln Chamber of Commerce-- and there was one letter on behalf of all three Chambers for each of those; there was Robert Hallstrom representing Nebraska Bankers Association and NFIB; Robert [SIC-- RICHARD] Erwin representing Cedar-Knox Public Power District; Kristin Gottschalk representing Nebraska Rural Electric Association; and Rick Kubat representing Metropolitan Utility District of Omaha. We now invite anyone wishing to testify in a neutral capacity on LB1021. Seeing none, we invite Senator Schumacher to close on LB1021.

**SCHUMACHER:** [01:26:32] Thank you, Mr. Chairman, members of the committee. I want to take this opportunity at the last bill that I'll be introducing for this committee to thank the members of

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the committee for exploring various ideas, many of whom-- or many of which lead nowhere but might lead somewhere in part, sometime in the future; the tax on interest, step notes-- stepped-up basis capital gains, just a whole bunch of different things-- tax exempting the people who are over 65 and working. If they're working after that, we don't need another pound of flesh for them. All those kind of ideas that are-- are on the record now and which are joining many of the ideas that you all had in trying to struggle with this problem of not having enough revenue, having only three sources of revenue, and having each of those three sources of revenue thinking they're paying too much. And it has been a struggle. It will continue to be a struggle for those of you who continue on. And there probably are no easy answers because if there would have been an easy answer, we'd have found it. Thank you, again, and my great appreciation for having the honor to have worked with you.

**SMITH:** [01:27:59] Thank you, Senator Schumacher. And I suspect you probably would be back at that table testifying in support or opposition, but next time you probably will have a light on in front of you. [LAUGHTER]

**SCHUMACHER:** [01:28:12] And I probably will deserve a light.

**SMITH:** [01:28:16] Other questions from the committee? Senator Groene.

**GROENE:** [01:28:18] Just curious, did you take that as a compliment or-- or an insult when you were mistaken for Senator Schumer?

**SCHUMACHER:** [01:28:25] Is that that guy in Washington? If I'm mistaken for him, I don't know.

**GROENE:** [01:28:32] Thank you. I've learned a lot from you.

**SCHUMACHER:** [01:28:35] Thank you.

**SMITH:** [01:28:36] Senator Brasch.

**BRASCH:** [01:28:38] Thank you, Chairman Smith. And-- and Senator Schumacher, I-- with your two bills you're looking at exact opposites of damages, I think. And I understand what you're doing, but you had used the word hemorrhaging and in a state that is an agricultural-based state because of our natural ability to-- we have the land, we have the soil, we have the water and we started with homesteads that a lot of these exemptions would truly, I believe, take that family farmer and extinguish their last light of-- of hope. But what are you envisioning when these farms close? I mean, I believe all business is important, but in a state where we are very large in geography, what-- what are you expecting to happen?

**SCHUMACHER:** [01:29:53] I'm expecting nature to run its course. We started out with four-- in most areas of the state, four homesteads per section. Now maybe there's one homestead per four sections. That was not an act of the government that did that. No one came and said sell your cows, sell your chickens, sell your pigs, bulldoze your homestead, take out your-- your shelter belt; that was the market ruling. And the market is going to continue to do that. And individual farms will continue to fail. Bigger farms will buy them. Most likely, those farms will be organized in more sophisticated legal models than the family farm. We are in transition. That transition is painful. And



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nothing we can do or not do here will make much difference. If we were to abolish property taxes completely, it would be only a matter of time for those weaker operations that fertilizer cost, equipment cost, genetic seed cost would chew up any excess there. It is a transformation that the Legislature has not caused, but the modern economy has charged. Fortunately for us, no land will go untilled, somebody will till it. No production has been lost and we will see the state transform itself and a real necessity to find some other type of venture to take us boldly into the future.

**BRASCH:** [01:31:36] Boldly or foolishly?

**SCHUMACHER:** [01:31:37] Sometimes they're synonymous

**BRASCH:** [01:31:39] All right, thank you. I have no other questions.

**SMITH:** [01:31:43] Senator Groene.

**GROENE:** [01:31:44] So you gave me an idea, also if we get corporate farms and they get big enough they might qualify for the Advantage Act.

**SCHUMACHER:** [01:31:52] Gee, that's a heck of a good idea.

**GROENE:** [01:31:54] Thank you, sir. That's all I got to say.

**SMITH:** [01:32:04] Other questions? I see none--

**SCHUMACHER:** [01:32:06] Thank you.

**SMITH:** [01:32:06] -- thank you, Senator Schumacher, for your closing on LB1021. We now invite Senator Hughes to open on LB759. Welcome.

**HUGHES:** [01:32:28] Thank you. Good afternoon, Chairman Smith, members of the Revenue Committee. For the record, my name is Dan Hughes, D-a-n H-u-g-h-e-s. I represent the 44th Legislative District. I'm here today to introduce LB759. LB759 would reinstate a sales tax on the sale of memberships, admissions, and the purchases of any national accredited zoo or aquarium that is operated by a public agency or non-profit corporation primarily for educational, scientific, or tourism purposes. In 2015, LB419 was introduced and passed which created the-- this exemption. Due to our current economic state, I feel that we must revisit some of those exemptions. I believe last off should be the first back on. This bill is about broadening our tax base. Zoos should be funded by private donations. This is a tax break that only goes to four entities. During floor debate, the introducer stated, and I quote, the reality is all three zoos will continue to charge the same dollar amount they're charging now for their admissions and their members. And instead of remitting the sales tax on those two specific items, they would instead keep those sales taxes and be able to reinvest in their organization. That is the intent of the zoo. Both-- both the zoos in Omaha and the one at-- both the zoo in Omaha and the one in Lincoln have increased their fees and memberships over the past two years. And as I remember the debate, that was part of it that we need to give them these sales tax dollars so they don't have to increase their admission prices, but they turned around and increased them anyway. So I'd be happy to try and answer any questions. I think the fiscal note is not very large on this, maybe a million and a half, two million dollars. But when the state is

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looking at cutting additional funding across the board, I think we need to revisit the issues that we've granted exemptions for in the past. So, thank you. Be happy to answer any questions.

**SMITH:** [01:34:32] Thank you, Senator Hughes. Senator Groene.

**GROENE:** [01:34:35] Thank you, Chairman. I think I remember that debate, I was here with you. I think we ought to keep reminding folks, the zoos aren't paying tax. The tourists are paying the tax. And Senator Schumacher just said, how do we widen the base? Do you think any tourist will pack up from Kansas City or Des Moines and come over and worry about a 7 percent tax on a \$50 gate ticket?

**HUGHES:** [01:35:01] No, I don't believe so. The zoo in Omaha was the number one or number two zoo in the nation the year we passed this exemption. You know, they did that without state tax dollars. You know, I think-- and I'm-- I'm happy for them. I don't-- I don't dislike zoos, but the state needs revenue. And you know, last on-- last off, first back on I think is a good-- good policy.

**GROENE:** [01:35:27] When a tourist stays in a hotel in Omaha, what taxes does he pay, 12, 13 percent? More than that--

**HUGHES:** [01:35:31] I'm sure they're significant.

**GROENE:** [01:35:32] -- on the hotel room? Does that deter him from coming to Nebraska?

**HUGHES:** [01:35:36] I doubt it.

**GROENE:** [01:35:38] Thank you, Senator Hughes.

**SMITH:** [01:35:40] Senator Harr.

**HARR:** [01:35:41] Thank you, Mr. Chair. Senator Hughes, are you introducing a bill to raise taxes?

**HUGHES:** [01:35:47] Yes I am.

**HARR:** [01:35:49] OK, thank you.

**HUGHES:** [01:35:51] To broaden the sales tax base, to the more specific.

**SMITH:** [01:35:57] Other questions for Senator Hughes? Seeing none, thank you, Senator Hughes.

**HUGHES:** [01:36:00] Thank you.

**SMITH:** [01:36:02] (Exhibit 1) That is the opening on LB759. We now invite those wishing to testify in support of LB759, proponents of LB759. We do have a letter that was submitted for the record in support of LB759 from Steve Nelson representing the Nebraska Farm Bureau. We now invite those wishing to testify in opposition for testimony on LB759. Mr. Pate, welcome.

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**DENNIS PATE:** [01:36:41] (Exhibits 2-4) Thank you. Good afternoon, Chairman Smith and members of the committee. My name is Dennis Pate, D-e-n-n-i-s P-a-t-e. I'm the president and CEO of Omaha's Henry Doorly Zoo and Aquarium, and I am also representing Lee G. Simmons Conservation Park and Wildlife Safari, the Omaha Convention and Visitors Bureau, the Greater Omaha Chamber of Commerce, the Nebraska Chamber of Commerce and Industry, and the Omaha City Council. So on behalf of the zoo, our board, foundation, staff, and the 41,000 animals that depend on us for care, I want to voice their opposition to LB759 that would eliminate a sales and use tax exemption. Bear in mind, we have already paid and continue to pay sales tax on gifts and food that in Fiscal Year '17 amounted to nearly one million dollars. A little more than three years ago, I was privileged to testify in front of the revenue committee on LB419, a bill that would exempt sales and purchases for nationally accredited zoos and aquariums. That bill received the support of 39 senators and was signed into law by Governor Ricketts in May of 2015. Since that bill took effect on January 1, 2016, our zoo has not only made good on the promise to use the exemption to grow the economic impact to the state, but we increased our visitors, our members, and enhanced the sustainability of some of the world's most endangered animals at our facilities. Since the bill was signed into law, the Omaha zoo's annual economic impact to the state has increased 69 percent, three years ago. And we have attracted more than 2 million visitors through our gates for the second year in a row now. This is especially important since 38 percent of them came from outside the state. Recent surveys by the CVB found the visiting-- that visiting the zoo was the top reason for a trip to Omaha and have proclaimed Omaha to be Zoo City USA, recognizing the tremendous impact we have on tourism. We continue to be the top tourist attraction in Nebraska. Lodging and state sales and use tax grew by 59 percent over the last three years. We are both a destination and a trailhead for tourism for the rest of the state, and house a visitor's center on behalf of the state in our guest services area that annually assists more than 100,000 people in building itineraries to boost tourism elsewhere in Nebraska. The exemptions we received three years ago have been an economic boost. We needed to take our zoo and the tourism industry across the state to another level. While these numbers are impressive, we hope that they only continue to grow and know that we would not be where we are without the state's partnership made possible when LB419 was passed into law. Our donors, who have given more than \$200 million to build exhibits at the zoo in the last six years alone, consider this relationship very important and have made investments in our facilities; including African Grasslands, Alaskan Adventure splashground, Children's Adventure Trails, the new Robert B. Doherty Education Center for our expanded high school, kindergarten, and pre-K classes. And this May, we'll open the first of two phases of an Asian Highlands exhibit. Donations pay for large capital improvements, but the zoo, with the assistance of the city and the state must pay for the operating costs for these new exhibits. This bill would reduce our ability to grow the state's tourism industry and maintain our status as one of the top zoos in the world. It would send a signal to our generous benefactors and the board that the state no longer wants to partner with us to bring new visitors and dollars to the state. And lastly, it would result in an increase to our thousands of guests, including 89,000 families who are members, who visit the zoo and who are already paying sales tax on food and gifts. I've said before and I often think of the zoo as one of the largest educational institutions in the state. Students from 61 of the 93 counties in the state visited last year. We provide teacher training and student workshops to 49 Nebraska counties and a distance learning program that reaches all corners of the state. Private corporate donors fund bus transportation and overnight experiences. While I, our board members, and foundation know our state is facing tough times with budget shortfalls and that reviewing exemptions should be part of addressing that, cherry picking could be a very long and difficult road. Maybe we should wipe the slate on all exemptions and reevaluate which ones, if any, make the most

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financial sense for the state's economy. We look forward to a continued relationship and partnership with the Legislature and Governor. And again, thank him and many of you for your support for Omaha's Henry Doorly Zoo and Aquarium. We'll hope you vote no on advancing LB759 from committee. Thank you.

**SMITH:** [01:41:56] Thank you, Mr. Pate, for your testimony. Questions from the committee? Senator Groene.

**GROENE:** [01:42:01] Thank you, Chairman. What's your gross receipts?

**DENNIS PATE:** [01:42:04] Probably around \$39 million.

**GROENE:** [01:42:12] I figure with the fiscal note, 5.5 percent, \$33,854,000 on your-- that would be on your tickets. You're talking \$39 million with the gifts and sales and rides?

**DENNIS PATE:** [01:42:23] Yeah, that's all in on the expense side.

**GROENE:** [01:42:27] And then your budget is also funded by quite a few donations?

**DENNIS PATE:** [01:42:31] Not-- not the operating budget, it's not.

**GROENE:** [01:42:33] All right.

**DENNIS PATE:** [01:42:34] The-- only the capital budget.

**GROENE:** [01:42:35] So you said you added to the state's economy. How many more employees did you get to the-- your payroll because you were able to save \$1.9 million in sales taxes?

**DENNIS PATE:** [01:42:44] I don't have that number in hand, but I can say the Adventure Trails exhibit added a quarter of a million dollars in labor costs, that we just opened last June. African exhibit included-- just the operating costs for that exhibit alone was \$1.1 million. And so we as these new exhibits we do pick up operating costs that have to be met. There's only so many ways we can get that; it's through selling hot dogs and Cokes and facility rentals. We work a lot of different ways to generate revenue. Understanding that the last place we want to do it is on admission and memberships because we want the zoo to be accessible and affordable for as many people as we can.

**GROENE:** [01:43:27] Prior to the tax cut, did you charge whatever the ticket price was? It was a-- around a dollar amount and then calculated backwards what you owed in taxes, or did you put the tax-- the 7 percent tax on the back end of it?

**DENNIS PATE:** [01:43:40] We ate the tax.

**GROENE:** [01:43:42] You didn't eat it, you collected it.

**DENNIS PATE:** [01:43:44] We remitted it, but we didn't add it to the ticket price.

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**GROENE:** [01:43:49] Thank you.

**SMITH:** [01:43:50] Senator Brasch.

**BRASCH:** [01:43:52] Thank you, Chairman Smith. And thank you-- Mr. Pate?

**DENNIS PATE:** [01:43:55] Yes.

**BRASCH:** [01:43:56] For coming forward today. I had the opportunity to visit the zoo: outstanding, stellar. I see where you went from second place to first place, and I'm very proud of that fact.

**DENNIS PATE:** [01:44:10] Thank you.

**BRASCH:** [01:44:10] I think you've done a great job. And in the past I did support that exemption. But hearing today that you did raise gate fees despite the-- the admissions tax forgiveness, is that you still get a raise-- are-- are you financially stressed or what was the reason for raising gates?

**DENNIS PATE:** [01:44:40] Part of the reason-- when you look back at the history of the zoo, one of the seminal exhibits that started to put us on the map was the Lied Jungle. In that building alone-- that building, believe it or not it, just had its 25th anniversary last year. It's now 26 years old. We have had to replace roofs, part of chiller systems, guardrails, some of the artificial trees. We've spent close to \$4 million just in the last three years. And so some of these infrastructure costs are hitting us. That's one example. As we started looking at zoo-wide, not just the Lied Jungle, we calculated that we spent probably about \$10 million in infrastructure costs. These don't get one more zoo visitor in the door, but they're things we have to do to maintain that standing. Standing still is not the way to go. Especially when it comes to animal care and knowledge about how to care for animals. It's hard to keep animals when you know there's a better way to do it. And so we have endeavored to do things much better than we used to and that requires more resources. But as zoos evolve-- they must evolve to stay relevant. We have our detractors, but those zoos that have evolved remain relevant. And we've done so because of our focus on education in the state and our commitment to conservation, not just to animals in the zoo, but animals outside that really need help.

**BRASCH:** [01:46:07] And as a visitor to the zoo, I would say that the zoo does look like it's flourishing. The facilities, for the most part, look state of the art.

**DENNIS PATE:** [01:46:20] Um-hum.

**BRASCH:** [01:46:20] The technology there, the personnel system, it looks very well up to date. But I do question at this point, what-- what exemptions are you talking about someone else should remove? Can you be more specific? If we take this away what do you want to take away from who, where, what?

**DENNIS PATE:** [01:46:43] I-- I don't think I can be more specific--

**BRASCH:** [01:46:45] OK.

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**DENNIS PATE:** [01:46:45] -- other than, I think it's time that the state just look at all the exemptions. They go back to when that all started and that avalanche of exemptions began, and really some of them may not make sense anymore.

**BRASCH:** [01:46:58] So you think maybe the tax advantage plan should be pulled off and other things--

**DENNIS PATE:** [01:47:03] I think it ought to be looked at. I'm not saying it should be looked-- but we've demonstrated growth, not just that we're giving money back on a consistent basis, but very significant growth. I think you need to look at those sort of things and what is the return to the state--

**BRASCH:** [01:47:17] And what--

**DENNIS PATE:** [01:47:18] -- on what some of these exemptions--

**BRASCH:** [01:47:19] -- what--

**DENNIS PATE:** [01:47:19] -- are doing.

**BRASCH:** [01:47:19] Do you have a way to tell what percentage of your attendees are from out of state versus in state?

**DENNIS PATE:** [01:47:26] We do. We ask for zip codes for everybody that enters. And so, when we sell admission tickets for us for zip codes and when we look at membership's, our software is able to tell us. And 38 percent of the people that go to the zoo attend so from outside the state of Nebraska.

**BRASCH:** [01:47:43] OK. And are you--

**DENNIS PATE:** [01:47:46] It's a high number.

**BRASCH:** [01:47:46] OK. They-- 38 percent are from outstate. We're 40--

**DENNIS PATE:** [01:47:51] Out of state.

**BRASCH:** [01:47:52] Out of state.

**DENNIS PATE:** [01:47:53] Yes.

**BRASCH:** [01:47:53] Are you aware of-- and you did say you're aware of the revenue shortfalls that we have.

**DENNIS PATE:** [01:47:59] Yes, absolutely.

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**BRASCH:** [01:47:59] And that perhaps means that less Nebraska families will be able to attend the fair-- or not fair, excuse me, the zoo in the coming days if we don't see economic turnaround. You're-- you're aware of that as well?

**DENNIS PATE:** [01:48:16] I am. And in order to take steps to mitigate that, we've established a couple of programs just in the last two years. For instance we've looked at all of the elementary schools in the Omaha and Council Bluffs areas. Those that have children who are at 80 percent free or reduced lunch, every third grader's family is offered a free membership to the zoo for a year. So that is a considerable benefit. Every-- the other program we just started in conjunction with the libraries is that on a quarterly-- but roughly on a quarterly basis during the school year the libraries all get tickets to the zoo. And in order to redeem them, you have to show your library card. So not only did we get families that may not be able to afford to come to the zoo, we added value to a library card because you can now pick up a zoo ticket. And all in all, with social service agencies and others, we gave away over 40,000 tickets to the zoo last year because we're cognizant there are less fortunate people but that our board and staff really wanted to make sure that everybody felt some ownership.

**BRASCH:** [01:49:30] And-- and we address struggling families across the entire state, not just in the Omaha area.

**DENNIS PATE:** [01:49:39] Yes.

**BRASCH:** [01:49:40] And what are your thoughts about, you know, should we look at states voluntary-- not states but entities such as the zoo voluntarily having a moratorium during an economic recession whether we legislate it or not to help even out, you know, our state's obligations to all Nebraskans?

**DENNIS PATE:** [01:50:09] That's an interesting idea. I-- I worry a little bit about some of the financial planning we do and whether or not that some of that steadiness is of great benefit to us. When we did we received some dollars from the city. And during the financial crisis in 2008 and 2009 when cities were struggling, Omaha and many others, we actually took a haircut for about three years in order to assist with that. That was planned out in advance, so we did do that.

**BRASCH:** [01:50:42] OK. I have no other questions, but thank you for coming here today.

**DENNIS PATE:** [01:50:46] Thank you.

**DEAN SMITH:** [01:50:46] Senator Groene.

**GROENE:** [01:50:47] So you know, we all appreciate the zoo. I appreciate the Golden Spike in North Platte, appreciate the farmers. We have a high tax burden in this state and everybody-- nobody wants to pay taxes. Everybody could add another 7 percent to their bottom line by not paying sales tax and keep them, we'd all be better off. The problem is not that, it's just that I don't know you helping the city of Omaha and the kids in their schools and the library and some of the hotels in Omaha, how that helps me in North Platte, Nebraska. That's my problem. The city of Omaha got a tax break and an economic incentive. So did-- so did Lincoln with the Children's Zoo a little bit and so did Scottsbluff. But that's what's wrong with these targeted tax breaks. They really

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don't help the whole state. You didn't add that many more employees, you would have anyway because you had to donors to build it. So we got a few more dollars and-- at least you-- your employees-- you're not taking Advantage Act, are you?

**DENNIS PATE:** [01:51:47] No.

**GROENE:** [01:51:47] So we are gaining at least their-- their income taxes. It's just-- it's just frustrating when we sit there as rookie senators and we get a list from the Revenue Chairman, prior to this one, about all the exemptions we got to stop doing and weeks later on the floor of the Legislature get a new one.

**DENNIS PATE:** [01:52:03] Um-hum.

**GROENE:** [01:52:03] It's a-- it's a whole picture, sir.

**DENNIS PATE:** [01:52:06] Yeah.

**GROENE:** [01:52:06] And you just get caught like a deer in headlights.

**DENNIS PATE:** [01:52:08] Well, you know, I would just say again that the economic impact to the state through the lodging and sales tax, the total economic impact, went up 59 percent in the three years. So we did put money, quite a bit of money, back into the state budget.

**GROENE:** [01:52:24] So you-- you increased your ticket sales by 59 percent?

**DENNIS PATE:** [01:52:28] No, I didn't say that--

**GROENE:** [01:52:29] So how do you increase your economic impact?

**DENNIS PATE:** [01:52:31] It's the-- it's the total economic impact; that's a combination of labor costs, hot dogs sold, contractors, all of that. Dr. Eric Thompson at the Nebraska business center here at UNO calculates this for us and has for many years, with multipliers-- and in fact, the same way he does everybody else. And that number to the state went up 59 percent in the last three years.

**GROENE:** [01:52:54] Because your donors gave you a lot of money and you expanded your-- your venue.

**DENNIS PATE:** [01:52:59] The donors--

**GROENE:** [01:52:59] Not because of \$1.9 million in sales tax breaks, please don't tell me that.

**DENNIS PATE:** [01:53:03] The donor portion of that number was about 47 percent. The operating side was about 53 percent

**GROENE:** [01:53:11] Of the total 59 percent increase.

**DENNIS PATE:** [01:53:15] Of the-- of the total economic impact.



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**GROENE:** [01:53:20] Thank you.

**DENNIS PATE:** [01:53:20] OK.

**SMITH:** [01:53:20] Mr. Pate, you know, the-- think you agree. We all agree that we have a very generous philan-- philanthropic community in this state. They're very generous and I know benefactors to the-- to the zoo. You've-- you've likewise benefited from their generosity in the capital projects. Those capital projects lead not only to permanent jobs, but they lead to construction jobs, research, and the list goes on. But you mentioned in your-- your testimony that these-- these benefactors do look at the partnership with the state as well. For them to make their investments they look at what the state is willing to do as well. Can you, maybe, comment on that a little bit more? Pull that curtain back, tell us how important that is.

**DENNIS PATE:** [01:54:23] When I came to the zoo in 2009, one of the first things the board chairman told me-- because he knew I was eager to improve the zoo to make it world class, to continue down the road. He said you can do that, Dennis, but the donors, the board, they're not going to give you any more money for the operating side. You have to earn that yourself. And so that gave me a more holistic view; even though I'm an animal guy, I can't just put the money into new exhibits without thinking about rental facilities, without thinking about restaurants, without thinking about all of those other things, evening events, other things that we do. And so, the board is a business-oriented board that wants to see the zoo grow, but they want me to have an entrepreneurial spirit as well to make sure that the zoo's operating side can sustain that growth. They are well aware of our finances. They are well aware of the infrastructure needs at the zoo. The zoo's been around since the turn of the last century, and so we do have infrastructure problems. And we have to commit a lot of money toward that and so I have to be entrepreneurial. But they have made very clear to me as we talked to the city of Omaha and the city council and the mayor and the state, that in order to make this all work we need more partners. I need more partners in all of this to make this work. And if we can get those people to partner, then we can return a lot more dollars to the state as a result.

**SMITH:** [01:56:12] Thank you. Senator Groene.

**GROENE:** [01:56:13] We'd gladly work with you in North Platte to start a branch there and partner with you. Thank you.

**SMITH:** [01:56:21] I see no other questions. Thank you, Mr. Pate, for your testimony. We continue with opponents to LB759. Welcome.

**JOHN CHAPO:** [01:56:36] (Exhibit 5) Good afternoon, Senator Smith, Senators. And thank you for having us here today to speak regarding the LB759. I'm John Chapo, J-o-h-n, last name Chapo, C-h-a-p-o. I'm president and CEO of Lincoln Children's Zoo and have served in that capacity for 32 years. Additionally, I sit on the Lincoln Chamber of-- Chamber of Commerce board of directors and Governor Ricketts reappointed me to the Nebraska Tourism Commission. I have served that commission since July of 2012, including two years as the chair of the commission. I am currently the immediate past chair. You can see that I do have a solid background in Nebraska tourism and in economic development for our state. I'm here today to ask you not to support LB759, which would

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remove the sales tax exemption for the three-- for the accredited zoos in the state of Nebraska. As you are aware, in 2015, LB419 was passed overwhelmingly by the Legislature to make the accredited zoos Nebraska tax exempt. The zoos and our millions of guests and supporters all appreciated that gesture and strong statement of support for our zoos from the state's Legislature and Governor. Our supports-- our supporters, guests, and volunteers all believe in our missions and know that the vital services that we share with our state's residents and travelers into our state as well. Every dollar which we have saved these past 25 months have been directly reinvested into the zoo. The reinvestment has been primarily for capital, but it's also provided programs for guests and additional staff hirings. As a tourism commissioner I know that we need to invest more into our infrastructure and inventory of attractions and destinations to increase the flow of guests and dollars into our state. This year, the Lincoln Children's Zoo is having almost a \$39 million economic impact for our city, county, and state. Approximately \$17 million of that is for labor; that's right, jobs for Nebraskans, residents who pay income tax and other taxes as they go about living in our great state. I can honestly inform you that there are numerous entities that oppose LB759: the city of Lincoln, Lincoln Chamber of Commerce, and the Nebraska Tourism Association, to name a few. I have handed out to you a simple one-page sheet with the heading Lincoln Love Your Zoo. Here there are numerous points which are reasons why we ask you to oppose LB759. Here are just a few facts stated in that sheet. The Lincoln Children's Zoo is the number one arts and-- arts and cultural attraction in the city of Lincoln, with almost 250,000 guests in 2017. The Lincoln Children's Zoo is Nebraska's third-visited arts and cultural attraction, with the Omaha zoo being number one. Lincoln Children's Zoo donated over a quarter of a million dollars' worth of free admission tickets and memberships to low-income and at-risk children and their families last year alone. This year, we have already had requests from 35 human service agencies including the state, city, and county agencies. The Lincoln Children's Zoo receives no tax dollars of support for operations; no sales tax, no income tax, no property tax, none. The zoo is 100 percent supported by earned revenues and contributions. That's correct; the Lincoln Children's Zoo received no tax dollars of support for operations. Senators, I thank you for your endless hard work and difficult decision making which you conducted with the greatest of care for our wonderful state. And please be advised that \$15 million of private funds have been donated or pledged to the Lincoln Children's Zoo's capital campaign. Those are private dollars from our very generous supporters. And we are reinvesting those dollars into the zoo, into the city of Lincoln, and to Lancaster County and Nebraska. Thank you.

**SMITH:** [02:00:18] Thank you, Mr. Chapo. Questions from the committee? I see none.

**JOHN CHAPO:** [02:00:23] Thank you, Senator.

**SMITH:** [02:00:23] Thank you for your testimony. Next opponent of LB759. Welcome.

**ANTHONY MASON:** [02:00:46] (Exhibit 6) Thank you. Chairman Smith and members of the Revenue Committee, my name is Anthony Mason and I'm the zoo director at the Riverside Discovery Center in Scottsbluff, Nebraska, and I'm speaking--

**SMITH:** [02:00:57] I'm going to ask you to spell your name for us.

**ANTHONY MASON:** [02:00:59] Oh, I'm sorry: A-n-t-h-o-n-y M-a-s-o-n.

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**SMITH:** [02:00:59] Thank you.

**ANTHONY MASON:** [02:00:59] I even have it on the sheet and just kind of skipped over it. In speaking for Riverside Discovery Center-- our board, staff members, the critically endangered species within our park, and the vocal and supportive community that surrounds us-- I would like to give voice to our opposition of LB759. Since LB419 was signed into law with the support of 39 senators and Governor Ricketts, our zoo has continued its efforts to increase our economic impact in the western region of Nebraska. We are most certainly seeing the fruits of these efforts fueled by the passing of LB419. The savings from passing the bill has allowed us to hire new staff and convert part-time positions to full time. These employees work specifically on improving the visitor experience at our zoo in order to attract more tourists. In addition, we've created recently an intern program overseen by the rearrangement of staff that routinely brings in individuals from out of state to live in our community. They bring with them out-of-state dollars and are often trailed by family and friends. This program has exponentially increased the ability of our staff to care for our animals and complete key projects that have expanded the onsite offerings to our guests. Resulting improvements and programs we have implemented have brought with them a 20 percent increase in out-of-state visitors over recent years. At this time, we are in the midst of a capital campaign aimed at fundamentally changing and modernizing the heart of our zoo. This campaign aims to build a new modern home for two grizzly bear cubs who were tragically orphaned in the wilds of Wyoming last year. We have a rare spotlight shining on us right now because of these young bears. This attention has resulted in numerous visitors from Colorado, South Dakota, and Wyoming, as well as general support from all over the United States. Completing this new exhibit is not only good for these endangered animals, but also our ability to continue attracting out-of-state visitors to a part of Nebraska that doesn't always receive a lot of attention. Right now, we're on the verge of making major improved for the zoo. The fact that we inhabit a rural area often hampers our ability to embark on these types of major renovations. But over the last couple of years, LB419 has assisted us in gaining the type of financial traction needed to boost our zoo and our community. This really has helped us out a lot. If LB759 passes, it will be incredibly damaging for our small zoo as we seek to further develop ourselves as a tourism attraction in western Nebraska. In fact, we are the only attraction of our kind for a three-hour radius. Students come from all over eastern Wyoming and the panhandle of Nebraska for the chance to experience animals from around the world. They come to appreciate living creatures, learn about their habitats, and experience interactive education programs to take them beyond the classroom to types of learning that open up-- open up a world of possibilities before them. Currently our zoo possesses a considerable tourism reach, however, we believe we can reach further. And so now is the time to grow western Nebraska tourism. We seek to meet the same benchmarks that have been trailblazed by our fellow zoos here in eastern Nebraska. I'm asking you to please not pass LB759, it will fundamentally undermine our ability to grow tourism in rural, western Nebraska and send shock waves through our system at a time when, honestly, we can't afford it. We thrive on an open and positive and supportive relationship with the state and look forward to continuing that. We would also like to extend special thanks to our local Senator, John Stinner, for his support as well as thanking you for your service to the state of Nebraska. At this time I would be happy to answer-- try and answer any question you may have.

**SMITH:** [02:04:50] Questions from committee? Senator Groene.

**GROENE:** [02:04:54] Chair-- thank you, Chairman. So it's pretty dramatic, the fact that you didn't pay seven-- collect 7 percent sales tax on your gate receipts?

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**ANTHONY MASON:** [02:05:05] Yes.

**GROENE:** [02:05:06] What-- what's your total gate receipts?

**ANTHONY MASON:** [02:05:09] Well, it's in the \$150,000 range.

**GROENE:** [02:05:13] So 7 percent?

**ANTHONY MASON:** [02:05:16] We estimate that-- that this helps us in about a \$40,000 to \$50,000 range.

**GROENE:** [02:05:24] Seven percent on \$150,000 is about \$8,000-- \$90-- \$10,000 dollars.

**ANTHONY MASON:** [02:05:29] Yes, I-- I understand what you mean--

**GROENE:** [02:05:30] Oh, no, no, no, excuse me, it's 5.5 percent, so it's less than that. It's about \$7,000.

**ANTHONY MASON:** [02:05:35] We-- we also have memberships-- zoo memberships, as well.

**GROENE:** [02:05:38] Well, you say it's \$10,000. The two bears wouldn't have come if you'd have had to pay \$10,000 tax?

**ANTHONY MASON:** [02:05:45] No, the bears might have still come. There's a possibility that they could have been euthanized if we wouldn't have thought that we could have taken them in--

**GROENE:** [02:05:55] You're running on a very tight string of budget of \$10,000 would have made that much difference in your-- in the life of that zoo.

**ANTHONY MASON:** [02:06:00] Well, we are on a very tight string budget. We're running on a-- walking a tightrope at times. It is very difficult--

**GROENE:** [02:06:09] A lot of Nebraska businesses are too, you know.

**ANTHONY MASON:** [02:06:10] Yes, I understand that--

**GROENE:** [02:06:11] Thank you.

**ANTHONY MASON:** [02:06:11] -- and I wouldn't disagree with that.

**GROENE:** [02:06:11] Thank you.

**ANTHONY MASON:** [02:06:11] Yeah.

**GROENE:** [02:06:11] Because you got a nice little zoo up in there.

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**ANTHONY MASON:** [02:06:11] Thank you.

**SMITH:** [02:06:18] Other questions? I-- I see that you travelled a long distance and we appreciate you coming and traveling and testifying before us today.

**ANTHONY MASON:** [02:06:25] Thank you.

**SMITH:** [02:06:26] And make certain you ask Senator Stinner to, like, buy you dinner or something. Make it worth your time. [LAUGHTER]

**ANTHONY MASON:** [02:06:33] That's all right, I-- I love traveling. I'm from Plattsmouth originally, so I was able to visit family as well while I was out here.

**SMITH:** [02:06:40] That's very good. Well, thank you for coming today and for testifying.

**ANTHONY MASON:** [02:06:43] Thank you.

**GROENE:** [02:06:44] I hope he's got a membership.

**SMITH:** [02:06:44] (Exhibits 7-10) Next opponent of LB759. We do have letters for the record in opposition to LB759 from: Keith Backsen representing the Visit Omaha; Andy Pollock representing Nebraska Travel Association; Bruce Bohrer representing Lincoln Chamber of Commerce; and Lynn Johnson representing Lincoln Parks and Recreation, city of Lincoln. We now go to those wishing to testify in a neutral capacity on LB759, neutral. Seeing none, we invite Senator Hughes to close on LB759.

**HUGHES:** [02:07:35] Thank you, Mr. Chairman and members of the committee. I am very happy to provide an opportunity for the gentlemen working for the zoos in the state of Nebraska to highlight the things that they're doing. But my point is that the 5.5 sales-- percent sales tax on ticket sales would not have stopped any of the development that they-- they brought to the table, that they've told us about these last two years. You know, when people look to buy an admission ticket, they look at the price of the ticket. They don't look at whether or not it has sales tax on it. When you go to a convenience store and buy bag of potato chips, you don't think about what the sales tax is, you pay it. We've been conditioned to overlook that sales tax. So my point is, the zoos could have done everything that they've done, the great stories that they've got, whether they got that sales tax or not. If they needed more money to operate, they should have just raised their prices and still collected the sales tax. The state needs the money. We are very short and we are cutting to the bone in a lot of different areas. So this is revenue that was the last off, the last exemption granted, and should be the first one to put back on to help dig us out of the hole that we're in. Thank you.

**SMITH:** [02:09:05] Senator Groene.

**GROENE:** [02:09:07] So the zoo ticket is kind of discretionary income, isn't it? So the folks that are buying a zoo ticket aren't going hungry, either. [INAUDIBLE] so paying a little tax wouldn't probably affect them, is that what you're saying?

**HUGHES:** [02:09:19] Unless they're being given away.

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**GROENE:** [02:09:27] Thank you.

**SMITH:** [02:09:28] Other questions? I see none.

**HUGHES:** [02:09:28] Thank you.

**SMITH:** [02:09:28] Thank you, Senator Hughes. And that concludes our hearing on LB759. We now invite Senator Crawford to open on LB996. And we'll let the room transition a little bit here so as not to interrupt Senator Crawford.

**CRAWFORD:** [02:09:45] All right, thank you.

**SMITH:** [02:09:49] It's just a minute.

**CRAWFORD:** [02:09:49] Looks like your committee is going through some transition. Thank you.

**SMITH:** [02:09:58] Senator Crawford, you're welcome to open on LB996.

**CRAWFORD:** [02:10:00] (Exhibit 1) Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. For the record my name is Sue Crawford, S-u-e C-r-a-w-f-o-r-d, and I represent the 45th Legislative District of Bellevue, Offutt and eastern Sarpy County. And I'm here today to introduce LB996 for your consideration. As written, the Nebraska Advantage Act allows businesses with qualifying projects and investments to receive tax incentives. These incentives largely come in the form of tax credits that can be applied to a number of different tax liabilities, including state income taxes, state sales taxes, and even local option sales taxes. LB996 modifies Nebraska Advantage Act in order to increase the overall number of employees as well as the wages of such employees who are employed by businesses receiving incentives under the act. LB996 also modifies how businesses can utilize income tax withholding credits to reduce the overall fiscal impact of the program and increase budget predictability. The Nebraska Advantage Act is the state's largest tax incentive program, and therefore has a huge impact on state revenues and the budget. In order to gain a better understanding of this important program and its economic impact, the Economic Development Task Force spent the interim meeting with the Department of Revenue, the Legislative Audit Office, Nebraska businesses currently receiving businesses under the act, and tax incentive experts. In its 2017 report, the task force concluded that the Nebraska Advantage Act must be reformed or replaced before its 2020 sunset with an incentive program that includes reforms such as increasing wage requirements, simplifying qualification standards, clarifying benchmarks for evaluation, controlling for future costs, and increasing budget predictability. As chair of the Economic Development Task Force, I introduce LB996 to start the conversation about these needed changes to the program. First, the bill strengthens wage requirements. In order to qualify for incentives, positions created would have to pay at least 110 percent of the county average weekly wage, which is an increase from the current 60 percent of the state's average weekly wage; at least for most counties. I chose the county weekly wage measure as it was recommended in the 2016 SRI report. This is also a figure that the Department of Revenue already calculates. There have been-- we've had other conversations about basing the wage requirements off of regional rates or the urban-rural rates. And I'm happy to talk to the-- work with the committee or the stakeholders to discuss the best geographic measure for these wage requirements. Under the provisions of

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LB996, businesses also no longer would be able to average the pay of the created positions. Right now, if they hire one person at \$800,000 and five people at \$20,000, they can say their average wage for employees is a \$150,000. LB996 requires that each individual make 110 percent of the county wage, or whatever we decide as the geographic measure for that wage, and not just that the average wage of the employees hits this mark. Further it's my intent that LB996 would work to increase the quality of jobs by taking out the loophole that allows companies to combine part-time employees to increase their number of FTEs, full time equivalents, hired. With a clarifying amendment that I'm distributing for your review, businesses will not be able to report full time equivalents, but will instead be reporting even individuals that are actual documented full-time workers. This clarification will also help with data tracking and analysis conducted by the Legislative audit off-- Audit Office. This is an important clarification considering the Legislative Audit Office's 2016 Performance Audit Report noted that they had data issues in trying to measure full-time worker growth. Finally, LB996 attempts to reduce the time period in which businesses can use their credits earned under the Advantage Act against their tax withholding to reduce the impact on the budget and create budget predictability stability. This is critical considering the 2017 Nebraska Department of Revenue analysis of Nebraska Advantage Act found that lost tax revenues have exceeded gains from the additional economic activity and will continue to do so through 2025. The cumulative cost of the Advantage Act is projected to be just under \$500 million by 2020. Under LB996. Businesses can still use credits against their income tax withholding up to 100 percent of the withholding attributable to new employees employed at the project for the first three years. Keeping this incentive in place still strengthens the net present value, which is, as I understand it, the reason that this mechanism was put in place is to improve the net value of the incentive. In years four and five, the amount of credits used against income tax withholding shall not exceed 50 percent of the withholding attributable to new employees employed at the project. And after this period, no credits earned under the act can be used against the income tax of new employees created under the project. As you can see from the fiscal note, limiting this withholding period will bring revenue back to the General Fund over time. Overall, the changes in LB996 work to increase the number of full-time workers under the program, increase the wages of these employees, and reduce the overall amount of credits being used against income tax withholding. And I would say, also, in the bill, as is often the case in these bills, it attributes these changes to new projects signed on. What I haven't had a chance to find out is whether or not some of the older projects that came on before we added this withholding mechanism might also be-- we might also be able to reach back and catch some of those, which would increase the revenue even more if those programs passed that were agreed to before we added this mechanism don't have that in their agreement or it's-- or if it's possible because it wasn't part of their contract. But that's, again, something that we would need to discuss. Overall, that even-- even just breaching new projects it has a positive revenue gain over the long run. Overall, the changes and LB996 work to increase the number of full-time workers under the program, increase the wages of these employees, and reduce the overall amount of credits being used against income tax withholding. These changes are steps in the right direction to ensure the Nebraska Advantage Act is creating quality jobs and the budget impact of the program on our state budget is more predictable. I appreciate your attention to this matter and happy to try to answer any questions that you have.

**SMITH:** [02:16:52] Thank you, Senator Crawford, for your opening on LB996. Question from the committee? I see none.

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**CRAWFORD:** [02:17:00] Thank you. And I will stay as long as I can; I have class tonight, so if I miss closing it would be because I'm doing my duties. Thank you.

**SMITH:** [02:17:08] Very good, thank you. We now move to proponents of LB996, those wishing and testify in support of LB996. Welcome, Ms. Fry.

**RENEE FRY:** [02:17:21] (Exhibits 2-3) Thank you. Good afternoon, again, Chairman Smith, members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute. So I'm really disappointed that this bill was not scheduled earlier than the last day of hearings. I think it really goes a long way to address some of the deficiencies with Nebraska Advantage that have been raised many times since Performance Audit began reviewing our incentive programs. One, it does a better job of incentivizing high-wage jobs, the bill does, by raising the wage threshold to over the county average wage and requiring that each job qualifies as new job under Nebraska Advantage, so that they meet those job thresholds. It also closes a loophole that requires each newly created job to meet the minimum wage requirements rather than allowing companies to count jobs below the threshold and average them with higher-wage jobs when determining credits earned. It also prevents companies from pooling part-time employees to count as full-time employees which currently preempts our goal of creating high-wage jobs if we are only creating many part-time, low-wage jobs. I've had-- handed out an example to this effect, which I'll come back to. It also allows companies to keep their employee's income tax-- also allowing companies to keep their employee's income tax withholding has raised some concerns. So, we like that Senator Crawford ratchets down the ability for companies to do this by really front-loading those benefits as is recommended by tax incentive experts, such as Dr. Bartik of the Upjohn Institute. So what I handed out to you today really shows how the FTE loophole, I think, is being abused at least by one company in Omaha. So this information was sent to me, and I think it was sent to some senators as well, in 2014. And these are actually-- you see these two exhibits were actually displayed in a company in Omaha. You can see here, I'll read, it says, like we discussed in our forum we will need everyone to work an extra seven hours during the month of September. This is the only way we can reach our LB312 goal for the month and cover the large "workhole"-- workload that we have. They also go on to say that, because we're in the stretch run of hitting our LB312 goal and we are extremely busy with work, we are requiring that everyone get in all of the normal hours during Thanksgiving week and that there are plenty of hours in the week. And so I do want to read a memo that came along with these exhibits, you can see that there were actually many exhibits-- more than I brought today. So this memo that came along with these exhibits indicated that a particular company in Omaha was actively managing its employee labor force to produce more reportable labor hours to the Nebraska Department of Revenue in order to receive a \$2.5 million dollar tax credit. So they went on to say that it seems that the company is possibly not creating a sufficient number of new jobs to meet the requirements of Nebraska Advantage. It is using a variety of methods to have its current employees work more hours. It went on to say, by increasing the total hours worked it will appear in tax forms that new employees have been hired. In reality is the most current-- it is mostly current employees temporarily working more hours until the end of year for 2013. The memo goes on to lay out that in August 2013, a location lead manager held a meeting for a telephone interview or is working that evening, announced that they must increase the total number of hours worked for the year 2013 to meet the company's goal of satis-- satisfying the reporting requirements of LB312, or the Nebraska Advantage Act, to allow the company to earn a \$2.5 million dollar tax credit per that manager. So it goes on to articulate several steps that the company took. The pers-- the person who sent the memo also indicated that



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the majority of the telephone interviewers are in high school or college. And they were wondering if the intent of LB312 was to have this company use a present labor force of mostly high school and college students to work additional hours. So I think-- obviously I cannot validate this. This was sent to me, as well as to some senators. I think it raises some valid concerns about whether companies are-- are legally, right? Legally they're allowed to do this, but I don't think it's within the intent of Nebraska Advantage that we use high school students and college students, requires them to work more hours to meet the FTE requirements under Nebraska Advantage. So, with that, I would say that we think Senator Crawford's bill closes-- or addresses a number of issues that have been raised about Nebraska Advantage over the last several years and we strongly support this legislation. And I'd be happy to answer questions.

**SMITH:** [02:22:29] Thank you, Ms. Fry. Senator Harr.

**HARR:** [02:22:31] Thank you, Mr. Chairman. Which company is this?

**RENEE FRY:** [02:22:34] I would be happy to give you the memo.

**HARR:** [02:22:40] I just want to have--

**SMITH:** [02:22:40] Do you have a distribution for the committee?

**RENEE FRY:** [02:22:47] I-- I only have that copy.

**SMITH:** [02:22:48] OK, then we will need to have copies made if-- please.

**HARR:** [02:22:59] Thank you.

**SMITH:** [02:22:59] It would have been preferred to have had copies made to distribute, with that question.

**RENEE FRY:** [02:23:05] I-- I--

**SMITH:** [02:23:06] We will need copies for the committee, please.

**RENEE FRY:** [02:23:08] My reluctance to mention the company's name is that I haven't personally validated and gone to the company to, you know, secure that information, and so I didn't want to make it about the company.

**SMITH:** [02:23:17] You've not been able to validate that information?

**RENEE FRY:** [02:23:19] This was sent to me. There were extensive exhibits, I'd be happy to provide all of them to you. I know that Senator Schumacher received that information awhile back as well, as did a couple of other senators. I did not contact the company to validate the information, so I didn't want to--

**SMITH:** [02:23:33] But you make it difficult to bring that forward. And then--

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**RENEE FRY:** [02:23:36] I'd be happy to provide--

**SMITH:** [02:23:36] --to share that information with one of our committee members and not the rest. So that makes it very difficult--

**RENEE FRY:** [02:23:41] Oh, no, no, no-- I'd be happy to send all the information to everyone. I just didn't-- I did not want to make it about a particular company. I think it's just a concern that we should have. This was brought to me from someone who worked at the company--

**SMITH:** [02:23:55] I understand, but-- but you did. Senator Groene.

**GROENE:** [02:23:58] Thank you, Chairman. You understand you can't blame the business--

**RENEE FRY:** [02:24:01] Right, no.

**GROENE:** [02:24:02] If an elected officials give them--

**RENEE FRY:** [02:24:03] Absolutely. Absolutely.

**GROENE:** [02:24:03] -- that, I don't blame them; they're a shark, they got to survive.

**RENEE FRY:** [02:24:07] Absolutely--

**GROENE:** [02:24:08] And this company was attempting--

**RENEE FRY:** [02:24:10] -- it's within statute.

**GROENE:** [02:24:10] -- to quote-- make sure they qualified for--

**RENEE FRY:** [02:24:13] Yes.

**GROENE:** [02:24:13] -- not try to fudge the payroll. But--

**RENEE FRY:** [02:24:15] No, I mean, I think it's perfectly within the statute that they allowed to do that.

**GROENE:** [02:24:18] Yeah.

**RENEE FRY:** [02:24:18] Senator Crawford's bill would--

**GROENE:** [02:24:21] I agree.

**RENEE FRY:** [02:24:21] -- prevent companies from being able to do that.

**GROENE:** [02:24:22] Do you think we're going to sunset this thing and Schumacher's bill passed in December, but in 2020 wouldn't this be a good starting point as we, those of us who return, look at some way to make sure this-- when we redo the Advantage Act-- I don't believe it should go

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away-- that we actually pinpoint towards-- not give rewards to our cronies but to pinpoint jobs that if we're going to give a tax break to actually create jobs?

**RENEE FRY:** [02:24:50] Yeah, I mean, honestly I think-- I think that there is a role for incentives. I'm not sure that Nebraska Advantage is a great starting point. I think Senator Crawford's bill goes a long way to addressing some of the-- some of the issues that have been brought up, some of the deficiencies that have been brought up with Nebraska Advantage. I think, you know, in other states there are models, such as, for example some states will have more competitive incentive programs so that instead of the way Nebraska Advantage works if you meet the minimum criteria you get those incentives, right? Regardless of whether you're contributing to the workforce in a way that the Legislature would like to incentivize. And so I think-- I think we should consider a lot of different structures. I'm not sure that Nebraska is really a good starting point. I think this bill addresses the deficiencies, but I think we should look at a number of different models and how states are really using incentives in a way that reinforce their strengths--

**GROENE:** [02:25:49] I'm sure you'll be putting your input.

**RENEE FRY:** [02:25:52] Yes, absolutely.

**GROENE:** [02:25:54] In the future. Just a comment--

**RENEE FRY:** [02:25:56] Sure.

**GROENE:** [02:25:56] I asked my staff if the College World Series tickets, if he pays sales taxes on them. He does. People pay sales taxes to see the Florida Gators in Omaha, I think they'd to pay sales taxes to see elephants. So, thank you, I knew were on that side of the issue.

**SMITH:** [02:26:13] The information-- thank you, Senator Groene. So, Ms. Fry, the information that I think is going to be shared with us here shortly, whenever the copies come back, can you tell us how that information was obtained?

**RENEE FRY:** [02:26:27] Yes, it was-- it was mailed to me in a packet. And it did include a contact info-- a contact person, but I--

**SMITH:** [02:26:34] Do we know whether that was obtained legally and appropriately?

**RENEE FRY:** [02:26:39] It was mailed to me, I don't know. I did not pursue it. I wanted to utilize it as an example of why it appears that companies are doing this within their legal purview of doing that.

**SMITH:** [02:26:53] But we don't know whether it was legally obtained?

**RENEE FRY:** [02:26:57] Well-- I don't know the answer to that. The--

**SMITH:** [02:27:01] OK.

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**RENEE FRY:** [02:27:01] It was from someone who worked at the company and they shared information that had been distributed company-wide.

**SMITH:** [02:27:13] OK. All right. Other questions for Ms. Fry? I see none.

**RENEE FRY:** [02:27:17] OK, thank you.

**SMITH:** [02:27:20] (Exhibits 4-5) Thank you. We continue with proponents of LB996. Seeing no further proponents, we do have a letter for the record sent in support of LB996 from Larry Scherer representing the NSEA. We now open it to opponents of LB996, those wishing to testify in opposition to LB996. We do have letters for the record that were submitted in opposition to LB996 from David Brown, Wendy Birdsall, Barry Kennedy representing the Greater Omaha Chamber, the State Chamber and the Lincoln Chamber of Commerce. We now go to those wishing to testify in a neutral capacity, neutral. Welcome.

**JOSHUA GOODMAN:** [02:28:21] (Exhibit 6) Thank you. Good afternoon, Chairman Smith and members of the committee. My name is Josh Goodman, J-o-s-h G-o--o-d-m-a-n, and I'm a senior officer with the Pew Charitable Trusts Economic Development tax incentives project. My project helps states design and implement processes to regularly evaluate incentives. And while Pew does not have a position on LB996, our research may provide useful context. Across the country, around 30 states have approved legislation tasking nonpartisan experts with studying the results of tax incentives. Nebraska is a national leader in tax incentive evaluation. As a result of 2015 legislation, the Legislative Audit Office studies incentives on an ongoing basis. These evaluations include a wealth of valuable information and analysis. While Nebraska is a leader, the ultimate worth of an evaluation process comes when lawmakers use the studies to improve the effectiveness of incentives. LB996 is an effort to do that. The bill would change the Nebraska advantage act in two ways. I'm going discuss both of the changes and how they fit with the Legislative Audit Office's evaluations as well as the broader tax incentive research literature. First, the bill seeks to strengthen the Advantage Act's wage requirements, as Senator Crawford discussed. The Audit Office's 2016 evaluation of the advantage act highlighted the issue of full time equivalents and that businesses can receive incentives for creating part-time jobs. As more states evaluate these programs, there is a growing body of research on best practices for designing and targeting incentives. This research generally suggests that strong wage requirements may increase the overall economic impact of incentive programs. Workers at high-wage businesses have more money to spend in the local economy, leading to greater economic gains. In con-- in contrast, providing incentives to low-wage jobs risks lowering state per capita income. The second change in LB996 is the bill imposes new time limits on business's ability to claim Advantage Act credits against tax withholding. This design-- change is designed to help control the costs of the program, a concern that was raised in the Advantage Act evaluation. The Audit Office found that the Advantage Act does not have the-- quote, does not have the types of protections that would prevent the program from increasing substantially beyond the state's expectations, end quote. These concerns were magnified by the Department of Revenue's most recent annual report on the Advantage Act published in July. Revenue's report found that the tax credits businesses earned nearly doubled from 2015 to 2016, going from \$84.8 million to \$165.7 million. Pew's research shows that many states have struggled with rapid, unexpected increases in the cost of tax incentives. When that happens, lawmakers are often forced to make difficult choices between raising taxes and cutting spending in other areas to make up the difference. These problems are not inevitable, however. States have proven that they

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can design incentives to achieve their economic development goals while offering greater protection to the state budget. In doing so, they've ensured their incentives are sustainable, offering more predictability for businesses. In addition to the reforms in LB996, Pew's research points to several alternative fiscal protections. One option is an annual limit or cap on program costs. Nebraska already caps several of its other incentive programs. Other options include limiting the amount of credits companies can earn on any one incentive contract, and requiring businesses to claim incentives in equal annual installments. The key is to use a combination of protections that ensures that the cost of the Advantage Act are predictable both from year to year and over the long term. Let me just conclude by saying that by studying the results of incentives and then considering those findings in the policymaking process, Nebraska is on the right path. We at Pew are happy to serve as a resource for you as you consider the future of the Advantage Act and other incentive programs. Thank you for the opportunity to discuss our research.

**SMITH:** [02:32:52] Thank you, Mr. Goodman. Questions from the committee? I see none.

**JOSHUA GOODMAN:** [02:32:56] Thank you.

**SMITH:** [02:32:56] Thank you. Others wish to testify a neutral capacity. Seeing none, we invite Senator Crawford to close on LB996.

**CRAWFORD:** [02:33:18] Thank you for your attention to this issue. And I want to thank Josh Goodman from Pew for getting a few of those recommendations from the research on the record for this transcript. In terms of thinking about not only steps that are in this bill itself but other steps, other issues that we will need to consider as we continue this conversation. And so, I am happy that we've gotten this conversation started and look forward to our further conversations about how to move forward. And I'm happy to try to address any of those concerns or entertaining those questions, now.

**SMITH:** [02:33:57] Thank you, Senator Crawford. Questions? Sir Friesen.

**FRIESEN:** [02:34:01] Thank you, Chairman Smith.

**CRAWFORD:** [02:34:03] Yes?

**FRIESEN:** [02:34:03] Just one question, I noticed in the amendment that you have that you-- you referred to a full-time employee as 35 hours of employment per week versus the 40. What-- I mean, you just picked a number?

**CRAWFORD:** [02:34:15] Actually mirrored that on what we have on the floor right now, for the full-time job is 35, and averaging the 35.

**FRIESEN:** [02:34:27] OK, just curious.

**CRAWFORD:** [02:34:27] All right.

**FRIESEN:** [02:34:27] That's all. Right, thank you.

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**SMITH:** [02:34:31] I see no remain questions.

**CRAWFORD:** [02:34:33] Thank you.

**SMITH:** [02:34:33] Thank you, Senator Crawford. And that is the closing on LB996. That concludes the hearing on LB996. We now invite Senator Wayne-- and Senator Wayne is with us, I believe.

**BRASCH:** [02:34:50] Standing out by the information booth.

**SMITH:** [02:34:50] All right, we will stand at ease for a moment until Senator Wayne comes. And he's got the next three bills of the day.

[02:35:44] [BREAK]

**SMITH:** [02:35:44] -- with us and Senator Wayne, you have a tremendous honor of being able to close out the Revenue hearings for the year with the next three bills.

**WAYNE:** [02:35:52] OK--

**SMITH:** [02:35:53] So we're starting with--

**WAYNE:** [02:35:55] -- sounds great.

**SMITH:** [02:35:55] -- LB941.

**WAYNE:** [02:35:57] Which one is that? [LAUGHTER] The Gas Act?

**SMITH:** [02:35:59] To chain-- to change the calculation of the tax on the average wholesale price of gasoline.

**WAYNE:** [02:36:05] There we go. That's this one. All right. Good afternoon, Chairman Smith a members of the Revenue Committee. My name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e, and I represent Legislative District number 13 which consists of north Omaha and northeast Douglas County. LB941 will set the floor on the average wholesale price of gas, which is used to calculate the tax rate on gasoline, at \$2.44 in state revenue. This will have an effect translating to a 3.2 cent per gallon tax. Statewide, this will generate about \$38 million of road maintenance. This is a slight change from the bill that was introduced a few years ago by Senator Deb Fischer. And to my understanding, she supports these changes. But I haven't-- can't quote her on it, but I was told by multiple people. As it stands, there's no floor on the price for tax purposes, which generates frustrating revenue inconsistencies as mis-- municipalities attempt to forecast revenue streams. This bill would generate an additional \$6.5 million a year for Nebraska municipalities for roadwork. The city of Omaha will receive roughly about 27 percent of that. And I can certainly say that my community desperately needs that for the potholes that we have. Additionally, road revenue maintenance must-- is a must and the state will play a major role in financing this at the municipal level. As far as the state agencies are concerned, the Nebraska Department of Transportation receives 60-- 66 percent of the gen-- revenue generated from this tax, additional funds that will be

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used to advance the agency's backlogged agenda. I worked with the city of Omaha on this legislation, I met with Jean Stothert-- Mayor Jean Stothert, on this issue and many others. City council members who expressed their frustration with the amount since overall gas percentage prices have dropped the amount of revenue that we have lost over the last couple of years. I think this is important to add more consistency to our budgeting processes, not just at the local level but at the state level. And with that, I would answer any questions.

**SMITH:** [02:38:12] Thank you, Senator Wayne, for your opening on LB941. Questions from the committee? I see no questions. We now turn to proponents of LB941, those wishing to testify in support of LB941.

**LYNN REX:** [02:38:33] (Exhibit 1) Senator Smith, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And first I'd like to thank Senator Wayne for introducing this important piece of legislation. The purpose of this bill, in our view, is to essentially stop the bleeding and loss of revenue for municipalities across the state in Nebraska. And I do want to thank this committee, Senator Smith, and others for a number of things that you've done over the years. And one of the most important things being the passage of LB610 in 2015. That was a 6 cent of gas tax increase phased in over four years. Without LB610, municipalities in this state would be suffering even more than they are now on a loss of revenue. LB846 was passed in 2008. It was a well-intentioned measure, LB846 reduced the fixed rate from 10.5 cents to 7.5 cents. It also put in-- put in place a 5 percent tax on the wholesale price of gas. What no one anticipated, not Senator Fischer or anyone else, is that, in fact, the wholesale price of gas would go dramatically down in the fall of 2008. The effective date of LB846 was July 1, 2009. So the whole point of this is that they had a delayed effective date, there was one year in which that could have been corrected to putting the \$2.44, which this bill has in, LB941 has that as the base rate, which was the base rate that Senator Fisher intended and that was talked about. I'm going to read you from her testimony of LB264 which she introduced before this committee in 2009. That was to correct this and insert a \$2.44 gallon rate. That calculation of LB846, passed in 2008, was based on an average wholesale price of \$2.44 per gallon. LB264 makes a technical change to arbitrarily set the average wholesale rate at \$2.44 per gallon when the taxes computed for July of this year, which would have been 2009. This will ensure the gas tax does not increase nor decrease based on LB846 taking effect. Looking back, we probably should have put that in when we passed the last bill in-- in March and April and set the price at \$2.44 Because that's the wholesale price that we used all the way through our discussions on the floor. We used that in determining the changes that were made to the variable and the fixed prices of-- in the gas tax. So I would encourage you to pass this bill and advance it so that we have stability. That bill did not make it out of committee. Municipalities, cities, and counties lost \$14.7 million on July 1, 2009. It took forever for us to even break even, and by that I mean you don't ever get that revenue back that you lost but at least get up to a point where you're not bleeding. We're still bleeding from that. And again, LB610 we thought would be kind of new revenue. We strongly supported that bill and of course that is the primary funding for LB960, the Transportation Innovation Act, a \$450 million program across the state of Nebraska that passed in 2016. Senator Smith introduced that on behalf of the Governor and worked that bill for-- well, very hard-- well, that was the only bill I've ever been involved in, LB960, that did not have one dissenting vote, not at any stage of consideration. That's in sharp contrast to LB610, which is the funding source for LB960. So to cut to the chase, the purpose of this bill, for which we are most grateful that Senator Wayne put this in, is because municipalities and counties-- but I-- we're here representing municipalities today, obviously, and always are-- are losing money

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and the costs of building roads, the costs of maintaining is going up, up, and up. This is to stop the bleeding. The \$2.44 cents was supposed to be there on day one and we wouldn't have lost \$14.7 million, and you add that over the period of time. Now one of the things I'd like to point out from the handout; on page 1 is basically, if you look on the upper left square, it says motor fuel tax. This is the handout. It talks about the fixed rate of 7.5 cents, it was 10.5 cents before LB846, so we lost that fixed rate. It has the incremental tax of LB610. And it has the wholesale tax of the 5 percent amount. If you turn the page, I think it's really instructive to look at the July 1, 2009. So on the second page of the handout, if you look at July 1, 2009, you'll see that that's a 9.7 amount. And then you go up and you can see how the tremendous swings in the wholesale price of gas. And Senator Fischer has indicated to us that-- now US Senator Fischer but was then State Senator Fischer-- that indeed no one anticipated that there would be these huge swings in the wholesale price of gas. It just hadn't happened like that before. So as a consequence, folks thought that this would really be a-- a way to stabilize funding for then what was called the Nebraska Department of Roads, now DOT, and also have modest increases for cities and counties. Instead, cities and counties took a huge hit. So with that, again, we really appreciate Senator Wayne introducing this legislation. It really is time to stop the bleeding. We understand that at this late date, this bill may not move forward. But we want to make sure that we set the tone for this because this really needs to happen. If you ask folks in polling throughout the state Nebraska what matters to them, in any number of orders it's going to be-- the top three: public safety, education, infrastructure. That's what people care about. And their taxes obviously tie into that. So with that, I'm happy to respond to any questions that you might have and really appreciate the hard work of this committee. I want to thank those of you that are term limited out for the years that you put in. And I think that all of your work in the institutional memory that this body will lose is really disconcerting, because, again, you think about the amount of time and effort and all the issues you've worked on over the years and now that leaves after eight years. So I wish that if we are going to have term limits, which we oppose, but if you are going have term limits, we wish that it was at least be for three four-year terms. Thanks for your efforts.

**SMITH:** [02:44:39] Thank you, Ms. Rex. Senator Groene.

**GROENE:** [02:44:45] Thank you, Chairman. You're talking about this 5 percent on this chart that's in-- right here, right?

**LYNN REX:** [02:44:50] Five cent wholesale price of gas, Senator?

**GROENE:** [02:44:52] Five percent, yeah.

**LYNN REX:** [02:44:54] Yes.

**GROENE:** [02:44:55] And how much of that does a city get? You were talking--

**LYNN REX:** [02:44:56] OK, so the cut-- that was another thing that happened. And again, she was a state senator, we were not-- I couldn't afford to be a state senator, and nor would I do it as good of a job as any of you do. So bottom line is, before LB846 passed, the distribution was 53 and a third to the state Department of Roads, 23 and a third to cities, 23 and a third to counties. What happened when LB846 passed, Senator, was we took even a further hit. So cities got 17 percent, counties that 17 percent, and the state got--



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**GROENE:** [02:45:27] Of what?

**LYNN REX:** [02:45:28] 66 percent--

**GROENE:** [02:45:29] Of what?

**LYNN REX:** [02:45:29] Of the-- of the amount of revenue generated from a five cent--

**GROENE:** [02:45:31] Five percent or--

**LYNN REX:** [02:45:31] -- tax on the whole-- on the average wholesale price of gas.

**GROENE:** [02:45:35] Five percent.

**LYNN REX:** [02:45:37] We got--

**GROENE:** [02:45:37] Not 5 cents.

**LYNN REX:** [02:45:39] Five-- 5 per-- 5 percent.

**GROENE:** [02:45:41] Yeah.

**LYNN REX:** [02:45:41] Yes.

**GROENE:** [02:45:43] But you probably back then took a calculated guess that gas was going to do this, and 5 percent was better than a fixed amount, and you lost.

**LYNN REX:** [02:45:50] Actually, we-- how can say this in a diplomatic way? We were-- it was indicated to us that we could even get less than 17 percent, Senator. And so, at that point, getting 17 percent was better than getting nothing. By the same-- by the same token, I do want to indicate that this-- there were unintended consequences to LB846. No one ever, and Senator Fischer, if she was here today, would tell you, never anticipated this would happen. What was anticipated--

**GROENE:** [02:46:26] You made the calculated guess that gas would continue to go up--

**LYNN REX:** [02:46:29] What she--

**GROENE:** [02:46:30] -- and a percentage--

**LYNN REX:** [02:46:30] -- what-- what she thought--

**GROENE:** [02:46:32] -- was better than a set amount.

**LYNN REX:** [02:46:32] -- and that folks thought was that the wholesale price of gas would-- and there's protection in here; it cannot go up more than 1 cent nor down more than 1 cent. So it was always intended never to be some huge windfall to the state or to cities and counties. It was

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intended to be very modest increases. Instead, before the bill took effect, just to put this in perspective: LB846 passes in 2008, with an effective date of July 1, 2009. The fall of 2008, it just really literally reduces dramatically, unprecedented. And so in two-- with LB264 in 2009, which she introduced, had that bill passed, cities and counties would not have lost any money. We wouldn't have had any increases either, but we wouldn't have lost anything. We would have been held harmless.

**GROENE:** [02:47:22] Thank you.

**LYNN REX:** [02:47:22] You're welcome, thank you for the question.

**SMITH:** [02:47:25] Well, Ms. Rex, you did mention the accomplishments with LB960. And I think Senator Brasch here was a great partner with that and--

**LYNN REX:** [02:47:31] Yes, appreciate your prioritization of that.

**SMITH:** [02:47:34] -- Senator and Senator Mello, so-- and then behind the scenes, Senator Friesen, absolutely. So that-- there's some great things that we were able to do with LB960.

**LYNN REX:** [02:47:43] It was incredible, and Kyle Schneweis is here, too. So, as director of DOT--

**SMITH:** [02:47:47] Yes, and we learned, very well, how to pronounce his name during that period of time. I also realize--

**LYNN REX:** [02:47:51] And frankly was, as you toured the state in the fall prior to passage of LB6-- LB960 and we stalked the committee as you went from city to city. And Kyle was there, and that is when I learned how to pronounce his name and even spell it.

**SMITH:** [02:48:06] There you go. Thank you, Ms. Rex.

**LYNN REX:** [02:48:08] Thank you, very much, for your leadership for all these years, all of them. Thank you, very much.

**SMITH:** [02:48:13] We continue with proponents of LB941. Welcome.

**MARTIN BILEK:** [02:48:22] Good afternoon, Senator Smith, senators of the Revenue Committee. My name is Marty Bilek, M-a-r-t-y B-i-l-e-k. I represent Senator-- or Mayor Stothert today in support of this bill, LB941. I'd like to thank Senator Wayne, as well, for introducing this bill. It's very important to Omaha and our efforts to improve the infrastructure there. As you all know, our state and our cities are struggling with aging roads and bridges. Our recent assessment of rebuild, Omaha needs \$800 million dollars to properly repair and replace the deter-- deteriorating substandard streets in our city. Some of our roads have become dangerous and crews are continuously deployed to make temporary repairs. In 2017, Omaha was able to budget \$81.6 million for street repairs. That amount represents 10 percent of our overall city budget. But the state gas tax that comes to Omaha totals only \$42.8 million, so our city wheel tax must subsidize the balance. Regardless, \$81.6 million a year is not enough to cover an \$800 million total repair cost. In

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2008, the Legislature decided to tie a portion of the gasoline tax formula to the wholesale price of gas. The hope was that the wholesale price of gas would gradually increase with inflation and would automatically increase revenues to match the increased costs of road construction. The unintended consequences was wholesale prices went down while inflation increased at about 2 percent, creating a shortfall. LB389 would place a floor on wholesale-- that's a mistake. LB941 would place a floor on the wholesale price of gasoline in an effort to protect our road maintenance programs from the adverse effects of volatile gasoline market. In 2008, LB486 created the gas tax based on wholesale prices of gas which, at the time, were about \$3.30. The current wholesale price is about \$2.08. To put it another way, in 2015, Senator Smith, you introduced LB610 which passed the Legislature and provided for a 6-cent increase in gasoline taxes over four years. To date, the state has realized 3 cents of that increase, the other three coming when we get to 2019. However the increase did not result in additional revenue because the falling wholesale prices negated the increases intended by LB610. Each penny of gas tax is the equivalent of about \$13.1 million. Mayor Stothert hopes you will support LB941 and support our ongoing effort to repair and modernize Omaha streets. Thank you.

**SMITH:** [02:51:04] Senator Harr.

**HARR:** [02:51:07] Thank you, Mr. Chairman. And thank you. Let me just, for the record, state: the roads in Omaha are atrocious. They're absolutely embarrassing; 52nd and Underwood, for two weeks now, you can't even drive it. You get-- it's down to one lane. The crater in there is over six inches deep, possibly even a foot. If you went over it at full speed, you would destroy a car. I have called three times and nothing has been done. So I am with you 100 percent on this bill. Our roads are terrible and something needs to be done. So, thank you.

**MARTIN BILEK:** [02:51:42] OK, you're welcome, Senator, and I agree. And just as recently as this morning, myself and the mayor were driving down Pacific Street noticing how bad the streets have become suddenly because there's been a thaw cycle now--

**HARR:** [02:51:53] Well, [INAUDIBLE] two weeks.

**MARTIN BILEK:** [02:51:55] Pardon?

**HARR:** [02:51:55] Come-- come visit 52nd and Leavenworth and come back two weeks, hopefully won't be there, but it's been there over two weeks because I've called for over two weeks. It is an embarrassment, so, thank you.

**MARTIN BILEK:** [02:52:05] Fifty-- 52nd and Leavenworth?

**HARR:** [02:52:07] Fifty-second and Underwood, sorry, 52nd and Underwood.

**MARTIN BILEK:** [02:52:07] I'm writing that down.

**HARR:** [02:52:07] Thank you.

**SMITH:** [02:52:14] Other questions for Mr. Bilek? I see none. Thank you--

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**MARTIN BILEK:** [02:52:19] Thank you.

**SMITH:** [02:52:19] -- for your testimony. Continuing with the proponents of LB941.

**LARRY DIX:** [02:52:31] Good afternoon, Senator Smith and members of the committee. My name is Larry Dix, executive director of the Nebraska Association of County Officials, here today in support of LB941. One of the things that when you follow Ms. Rex in testifying, by the time I get here she's laid out the history and-- and she's gone through it. And so some of the notes that I have, I'm not going to repeat those. One of the things, though, that I-- that I would like to-- to comment on, I remember-- and this is a little bit for the record. I remember working with Senator Fischer. In fact Mike Lovelace, myself, Senator Fisher met here in the Capitol on a Sunday. And we started to work through the formula on the wholesale gas tax. And at that point in time, everybody is right. Everybody said, we were talking about it, \$2.44 floor; that was the dollar amount that held everybody harmless, so to speak. And from there, cities and counties and the state would have been held harmless. Lynn Rex described it exactly; by the time the bill took effect there was a drop. We did everything we could on the floor of the Legislature to introduce an amendment to make the floor \$2.44. We worked with a number of senators to try to get that passed. At that point in time, if you think about it, the way bills go through the process, if we could have got that amendment it would not have raised the gas tax on any citizen in the state in Nebraska. The bill would have taken effect, the gas tax would have stayed the same. The \$2.44 floor would have been the starting point that we would either go up or down every six months. Unfortunately, we were unsuccessful in getting that amendment adopted because of the confusion and people felt and thought that-- that would raise the gas tax. It would not have. I have a spreadsheet that I keep every six months, I update it. Ms. Rex talked about how far we fell, we lost really about \$40 million from '09 to '11. And then gas tax-- the wholesale gas price started to go up. But it took us to 2014 to just get back to where we were in '09. So you can see how long that that has taken effect. And then since that time, the whole set of gas tax has certainly dropped a little bit. And so now we're back on a downhill slide. Who knows how that peaks and valleys will go. But I would tell you right now we're faced with a number of years because of the 1-cent incremental adjustment every six months, that it's going to take quite a little while before we would get back to where we were at the time the bill was introduced and the intention of Senator Fischer. So it's-- it's one of those things, every six months Department of Revenue is kind enough to send me an e-mail saying here's what the wholesale gas tax is going to be set at, here's where the numbers are going to be. I plug it into the spreadsheet and we watch the numbers sort of go up or down in every-- every six months. So at the most, you know, when it when it goes down, we'll see about a \$14 million loss to cities and counties in a year's period of time. So it is significant, no question about that. But it-- it's had a very, very interesting history over the years and I remember those days very, very fondly of working out that formula at the time everyone had the best intentions. But it simply did not turn out that way. So, with that, I'll be happy to answer any questions.

**SMITH:** [02:56:36] Thank you, Mr. Dix. Senator Groene.

**GROENE:** [02:56:38] In hindsight, why was gas tax ever tied to a percentage? Cigarette taxes aren't, and some other taxes that are used for a specific purpose--

**LARRY DIX:** [02:56:48] Senator Groene, I think at that point time it was-- it was sort of an-- an inflation-- it was designed to sort of trigger along with inflation and as gas taxes-- wholesale price

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would go up, there would be more money coming. And the reason for that, as-- as you know, when you try to raise a tax in the Legislature in the state in Nebraska, it's all-out war. And so, when that percentage was tied to the wholesale gas tax, I think the thought was there would be a little bit of an increase that would tie itself to the wholesale gas tax. Otherwise, I mean, it's-- Senator Smith knows, everybody knows, what it's like to get any, any increase. And that's a problem. It's any increase, and we've argued that on fees and other things. It doesn't make any difference if it's 5 cents or \$500, it's an increase and that becomes a battle. And that's why I think at that time it was-- it was looked at as an idea to [INAUDIBLE]--

**GROENE:** [02:57:58] So, I appreciate your honesty. So you gambled and lost.

**LARRY DIX:** [02:58:00] I think--

**GROENE:** [02:58:01] Thank God, prices fuel went down.

**LARRY DIX:** [02:58:03] Well, you know, and Senator Groene, you know I've testified here in front of this committee enough times, you guys know when I come and testify it-- it's pretty much get-- get the straight story on this thing. At that point in time, I think if you were to go and replug into the formula, if we were able to set the floor, establish the floor where we thought it was, the gamble wouldn't have been as great nor were the loss been as great. And everybody was working on the premise and the trust that \$2.44 would have been the floor. But it wasn't--

**GROENE:** [02:58:46] Floor was \$2.44, so the 5 percent would increase or decrease.

**LARRY DIX:** [02:58:50] It-- it started--

**GROENE:** [02:58:51] [INAUDIBLE]

**LARRY DIX:** [02:58:51] -- at \$2.44 and then-- then the penny would have started working off of 5 percent of \$2.44 for the increase or decrease every six months. But where it dropped so far before the bill got implemented, we started so far below the floor that even in the days when gas-- and you remember those, in what, '13, '14, '15 when the gas prices were three or four bucks a gallon. Even at that point in time because we started so far below the floor, we just got up to the floor. So I know it's complicated, it was complicated at the time. But you're right, if you say we gambled and lost. I would say we lost, I don't know how much of a gamble it was because we were working on the premise the floor was going to be at \$2.44 cents.

**GROENE:** [02:59:47] Thank you.

**SMITH:** [02:59:49] I see no remaining questions--

**LARRY DIX:** [02:59:51] Great. Senator Smith, Senator Brasch, Senator Harr, Senator Schumacher, Senator Larson, this will be my last bill. I appreciated this year and the years before that. Thank you, very much.

**SMITH:** [03:00:00] Thank you, Mr. Dix. Oh, did-- I'm sorry.

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**HARR:** [03:00:05] I did have one quick question.

**SMITH:** [03:00:05] Oh, Mr. Dix, I'm sorry. Mr.-- Senator Harr.

**HARR:** [03:00:08] Of the year?

**LARRY DIX:** [03:00:09] My-- my last bill of the year that I'm going to testify on in front of the Revenue Committee.

**HARR:** [03:00:13] OK, thank you.

**LARRY DIX:** [03:00:14] You're welcome.

**SMITH:** [03:00:19] Very good. Continuing on with the proponents of LB941.

**MIKI ESPOSITO:** [03:00:29] Good afternoon--

**SMITH:** [03:00:31] Welcome.

**MIKI ESPOSITO:** [03:00:31] (Exhibit 2) Good afternoon, Senator Smith and members of the Revenue Committee. My name is Miki Esposito, M-i-k-i E-s-p-o-s-i-t-o, and I'm director of Public Works and Utilities for the city of Lincoln. I'm here in support of LB941 to set the minimum average wholesale price gasoline to \$2.44. And I appreciate the opportunity to testify today. I'd also like to thank Senator Wayne for introducing the bill. My department is charged with delivering transportation services to our community. Our citizens need safe and reliable access to important destinations; their jobs, schools, the doctor's office and home again. As you can see from all the potholes that begin to emerge in the month of February, both in Lincoln and apparently Omaha, it is getting more and more difficult to maintain the level of service that our citizens expect. Today the cost of transportation services are rising at a rate of 5 to 6 percent per year due to construction inflation. While transportation revenues are only growing at 2 to 3 percent per year. In fact, Lincoln just completed a six month study to compare transportation needs to available funding. We identified a \$33 million annual gap in transportation revenues out to the year 2040, \$21 million of that annual gap consisted of basic maintenance, taking care of what we already own and preserving the existing network. At the time LB80-- LB846 was introduced, the city of Lincoln, along with others, identified that \$2.44 was a break-even point for the wholesale gas tax where we could sustain the funding and the service level required to meet needs. From the period of July, 2009, to December, 2011, we experienced a continual drop in fuel prices and a commensurate drop in the wholesale gas tax. As a consequence, Lincoln lost a total of \$1.7 million dollars by December, 2011. Since July, 2016, the wholesale gas tax has again been on the decline and is lower than the \$2.44 break-even point. It is projected to decrease even further in 2018, to a \$1.74 with no floor in sight. In this current scenario, Lincoln stands to lose an additional \$1.5 million for a total loss of \$3.2 million. For perspective, I just wanted to share that we could fix about 400,000 potholes with \$3.2 million, we can maintain over 1,000 neighborhood streets. At the same time, there has been a constant uncertainty surrounding federal transportation dollars for local streets. The federal gas tax has not been raised since 1993, which means revenues aren't keeping pace with construction inflation, costs-- costs are going way up while purchasing power is going way down. In addition, more and more people are investing in fuel efficient, alternative fuel, and electric vehicles. You can

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see this evidence in the total gas-- gallons sold statewide which remains status quo. We aren't selling more gas just because the wholesale price is held down. Fortunately for Lincoln, Senator Smith brought forward LB610 in 2015, a phased gas tax increase of 1.5 cents per year over a period of four years. While this measure was intended to actually chip away at the backlog of maintenance and repairs needed in the state, for Lincoln it served instead as a stopgap measure to block the decline in revenue following LB846. We don't believe a loss to the city was the intent of LB846. But there is an unintended consequence of not creating a minimum floor with a wholesale gas tax formula. Therefore we support the legislation to correct it. And I appreciate your consideration.

**SMITH:** [03:04:35] Thank you, Ms. Esposito. Senator Harr.

**HARR:** [03:04:38] Thank you, Chairman. Will President Trump's proposed infrastructure proposal help at all?

**MIKI ESPOSITO:** [03:04:46] You know, a lot of presidents have brought forward different initiatives but we don't see in his proposal any increase in the gas tax. And while there are some really strong measures for regulatory reform in the current proposal, there really aren't any increases in funding to support local-- it-- it-- it's sort of robbing community-based programs to fund infrastructure.

**HARR:** [03:05:21] OK, thank you.

**SMITH:** [03:05:21] Senator Groene.

**GROENE:** [03:05:22] I haven't had a chance to read the bill completely, but I'm trying to understand it. Do you want it to go into effect right now, \$2.44 will be the base?

**MIKI ESPOSITO:** [03:05:29] I think there's a technical issue. If it-- if it were to ramp up because of the 1 cent per year that's required, it-- it certainly could do that to stop the bleeding, if you will. But if-- if you could find a way to get it back to the minimum floor right away--

**GROENE:** [03:05:45] Why don't you set some floors and once it goes through a floor it's don't never go below it, and it goes to the next floor--

**MIKI ESPOSITO:** [03:05:51] Right.

**GROENE:** [03:05:51] -- it doesn't go below it and that would not be a tax increase immediately. If you set it to \$1.74, why don't you say when it goes to \$2--

**MIKI ESPOSITO:** [03:05:59] Right.

**GROENE:** [03:05:59] -- that's the new floor, when it goes to \$2.20 that's the new floor, then when it goes to \$2.44 that's the new floor. You could do that, I would think, without immediate tax increase.

**MIKI ESPOSITO:** [03:06:10] I suppose you could, yeah.

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**GROENE:** [03:06:11] I'm just thinking outside the box.

**MIKI ESPOSITO:** [03:06:15] Sure.

**SMITH:** [03:06:15] I see no remaining questions. Thank you--

**MIKI ESPOSITO:** [03:06:16] All right, thank you.

**SMITH:** [03:06:16] (Exhibit 3) -- for your testimony. Continuing with proponents of LB941. We do have a letter for the record that was submitted in support of LB941 from Greg Youell, representing Nebraska Regional Officials Council. We now go to opponents, those wishing to testify in opposition to LB941. Director Schneweis.

**KYLE SCHNEWEIS:** [03:06:55] (Exhibit 4) Hello. Had a long sit over there. Good afternoon, Chairman Smith, members of the committee. Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s. I'm director of the Nebraska Department of Transportation. I am appearing today in opposition of LB941. Based on the calculation of the average wholesale price of gas in the state, the current wholesale price as discussed is a \$1.74, which equates to 8.7 cents of the total 28.4 cent gas tax. LB941 would set the minimum wholesale gas price at \$2.44. This would cause the wholesale price of the gas tax to increase 12-- to 12.2 cents. This equates to approximately \$38 million a year in revenue split between the Highway Cash Fund, counties and cities. The department continues to oppose efforts to increase the gas tax. And so, with that, Chairman Smith, I'd be happy to answer any questions.

**SMITH:** [03:07:49] Questions from the committee? See none, thank you.

**KYLE SCHNEWEIS:** [03:07:55] Thank you.

**SMITH:** [03:08:02] Others wishing to testify in opposition to LB941. Seeing none. Anyone wish to testify in a neutral capacity on LB941? Welcome.

**TIFFANY JOEKEL:** [03:08:24] (Exhibit 5) Thank you. Chairman Smith, members of the Revenue Committee, my name is Tiffany Joekel, T-i-f-f-a-n-y J-o-e-k-e-l. I'm policy director at OpenSky Policy Institute, here to testify in a neutral capacity on LB941. Now that I have to follow Ms. Rex, Larry Dix, city of Omaha and city of Lincoln, really most of the things that we wanted to say have been said. The point that we wanted to make and the reason that we're testifying in a neutral capacity is really to highlight that the-- the three components of the gas tax sometimes get lost in the final number and they interact with each other in a way that we wanted to be sure was raised I think it was done. So with the intent of LB610 to-- to bring in new cents of the gas tax to the state and to be split among cities and counties. What has happened with the drop in the wholesale rate as a result of the drop in gas prices, those full cent increases that were written into LB610 have not been realized. So for example, in July of 2015, the six months before the increase went in and the fixed rate the wholesale rate was 13.5 cents. In January of 2018, it's 8.7 cents. So-- so that's a drop in 4.8 cents. Overall, the total fuel tax has increased by 2.3 cents and the fixed rate, though, has increased by 4.5 cents. What's happening is the wholesale rate drops and the variable rate, which is set to meet the appropriation of the Highway Cash Fund, is raised to kind of meet that target. So generally, when LB610 raised the fixed rate, at this point by 4.5 cents, the fixed rate has actually only increased-- or the tote-- excuse me, the total rate has actually only increased by 2.3



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cents. And so LB941 would help, as you've heard, provide a minimum floor for when gas prices drop that wholesale piece goes down. And cities and counties in particular lose-- lose that revenue source that's available there. So I already said more than I meant to, but that was the point that we wanted to make today.

**SMITH:** [03:10:38] Thank you. Any questions? I see none.

**TIFFANY JOEKEL:** [03:10:38] Thank you.

**SMITH:** [03:10:38] Thank you. Others wishing to testifying in a neutral capacity on LB941. Seeing none, we do invite Senator Wayne to close on LB941. Senator Wayne waves closing on LB941 and is invited to open on LB1026.

**WAYNE:** [03:11:07] (Exhibit 1) I have a stack of papers over here that I'm going to keep passing out to you guys. Good afternoon, Chairman Smith. This is a sneak preview of my economic development plan for north Omaha next year. Good afternoon, my name is Justin Wayne, J-u-s-t-i-n W-a-y-n-e. And I represent Legislative District 13, which comprises of northeast Douglas County and north Omaha. LB1026 will authorize the State Highway Commission to issue bonds for highway construction as prioritized by Build Nebraska Act. The bill will create a fund in which bonds will be stored. The bill caps the amount that can be bonded for \$200 million and stipulates the interest rate not to exceed 5 thou-- 5 percent. The bill also mandates that all bonds took out this provision must be paid back by 2037 and that a 25 percent of the funds must be used for development of federally designated priority corridors and expressway constructions. Over the interim, I've had multiple meetings with stakeholders, not just in north Omaha where I live, but all over the entire state. And the issue of construction seems to be one that resonates everywhere. To all of my conservative friends who tell me to run government like a business, I will tell you that there is no better time to do bonding than right now. And every year that we do not bond and increase and speed up of our construction costs we are actually losing money. The average construction cost are going up anywhere from 6 to 10 percent. I know that because I led the largest bond effort in Nebraska State history with Omaha Public School bond and I watched those costs rise just in the three to four years that was going on. And I also am in the construction industry and I know our bids continue to go up as a general contractor and for me in the industry, I just know that. So what you have in front of you is an economic study that was done-- or feasibility study done in 2011. And as we talk about the big ask for Senator Wayne next year will be and to start the conversation now, is the north Omaha airport area. We need to grow around north Omaha, we need to create jobs but in order to do that we have to allow infrastructure to exist so we can have easy access to and from the airport. This was done by the chamber, Iowa-- city-- city of Omaha, Iowa-- Iowa, Pottawattomie County, Council Bluffs, Douglas County, and multiple other, and MAPA and other organizations. And we are revitalizing this study. This is a multiple of two different studies combined in one and it skips all over, but not this-- this year we had a lot of conversation around Toyota and if they would come here. And my argument is that even if it's not in Nebraska, if it's close to Nebraska it's good because our workers can work. Across the river in Missouri, there is approx-- there's approximately 2,200 acres that is available in prime for development. There will be some infrastructure costs, but the only way to do that is to build this bridge across 16th Street. It'll open up that area. And for Senator Lindstrom, your district would benefit because it will cut your drive time to downtown, study after study shows, by seven to ten-- ten minutes by using this. So it's a way to increase flow to downtown area. It's a way to help our neighboring state develop a mega

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site in which we would benefit. And it will help develop the sites around there. Page 3 of the document I handed out talks about on the Omaha side, the different designs. For example, the Ames-Locust street project which the city of Omaha has time and time thought about fixing. The fact of the matter is Jobbers Canyon is in that building- or in that area for when it was contracted out to be removed. So there's a lot of removal of debris that has to happen and the cost just isn't feasible. But part of the reason is, is no company has easy access to the interstate. Right now, roughly eleven hundred semis or trailers move in and out of the airport area. The only way, if you look on page 2-- or 3, to move is to go through downtown past the airport or up through my district-- well, all this is in my district-- which is 30th Street, which is Florence area, which is stop-and-go traffic, children are playing. And if you were to sit at Harold's cafe-- which I had the luxury of bringing the NDOT to. To make a point, I sat this way so they had look over my shoulder on 30th Street and within five minutes at least 100 trucks carrying everything from cattle to rocks to everything were going up and stopping down on 30th. It's a dangerous situation and the only way we can do this is work together with Iowa and move that highway across the river. But this is not new. On the last page-- to cut this short because I know I am the last of the testifier and I have one more bill. What you see on the last page of that handout is a bridge that already done in conjunction with Iowa on Highway 34, just south of Plattsmouth. This has been done before and not all the money from a \$200 million in this bonding would go there. However, there are a couple other projects that could benefit. You have the expressway from Norfolk down to Fremont, you have the Fremont south-- South Beltway, I think it's called, you also have the Lincoln Beltway and then you also have Highway 81, the Heartland Expressway that are all looking for construction, that are all looking for dollars to help move it along. And again, as many of my conservative colleagues tend to remind me, run government like a business; well, there's no better time with interest rates to take out bonding right now to save the taxpayers money as we move forward over the next 20 years in building our infrastructure. And with that, I will close.

**SMITH:** [03:17:35] Thank you, Senator Wayne, for your opening on LB1026. Questions from the committee?

**WAYNE:** [03:17:48] Either they really like it or they're really tired.

**SMITH:** [03:17:53] I see none. All right, thank you, Senator Wayne--

**WAYNE:** [03:17:54] Thank you.

**SMITH:** [03:17:54] (Exhibits 2-4) -- for your opening. And we now invite proponents of LB941, proponents. Seeing none, we do have a proponent's for LB-- we do have proponents for LB1026, letter submitted for the record: Rocky Weber representing Nebraska Cooperative Council; Thomas Higginbotham Jr. representing Nebraska Regional Officials Council; and David Brown, Wendy Birdsall representing Greater Omaha Chamber and the State Chamber. We invite now anyone wishing to testify in opposition to LB1026. Welcome, Director.

**KYLE SCHNEWEIS:** [03:18:53] (Exhibit 5) Thank you, Chairman Smith. Members of the committee, I'm Kyle Schneweis, K-y-l-e S-c-h-n-e-w-e-i-s. I'm the director of Nebraska DOT, appearing today to offer the department's opposition to LB1026. Leg-- legislation would grant the department \$200 million in bonding authority to fund highway projects and would direct the department to pay off such bonds from revenues collected and deposited in the Highway Cash

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Fund. Using bonds as a primary means to fund infrastructure would be a fundamental shift in how we pay for projects in Nebraska. Taking on debt obligation and committing future dollars would be counter to Nebraska's long-storied history of a pay-as-you-go approach for transportation. The transportation funding model requires a consistent and steady hand. And in Nebraska, we've been fortunate that our state has taken that approach to road building. In addition, through the Build Nebraska Act and the Transportation Innovation Act we've been able to build for the state's future by dedicating dollars to completion of the state's expressway system and other critical infrastructure projects, all while not taking on debt. I think when you think about infrastructure building, the pay-as-you-go approach allows us the flexibility to make decisions in real time. And-- and that's good for us in Nebraska. And I come from a state-- in Kansas, as many of you know, in 2017 the Department of Transportation, Kansas, had \$190 million in bond debt service that came off the top before they spent a dollar on a road. And-- and so I think we can learn from that. And the flexibility is important, and I'll tell you why, because Senator Wayne's talking about projects in Omaha. I toured the state for two years talking about projects. And we heard about a lot of projects. And one of the things that we don't do is commit our funding too far out so that we can make decisions and change as we need to. The development in Fremont is a good example. It's a project we're trying to accelerate because of the developments there. If we had to pay off debt service, that flexibility gets more and more difficult. And it's-- it's difficult to know what those changes may be. I have not-- I know the department had a chance to sit down with Senator Wayne to discuss this project. It was not a project I heard about during our Build Nebraska Act discussions. I know it has a long history. I know the MAPA region in Omaha has done a lot of work to project out its needs and I have not-- to my knowledge, I don't know that that project is there. I don't mean to say it's not a good project, I mean to say to be able to do a project like that requires flexibility. And if we-- if we bond away our future revenues today then in order to make adjustments, like Senator Wayne is proposing, to how we-- to-- to-- to the projects that we select, we need that flexibility going forward. So with that, Chairman Smith, thanks for the invitation--

**SMITH:** [03:21:30] Thank you--

**KYLE SCHNEWEIS:** [03:21:30] -- to testify.

**SMITH:** [03:21:31] -- Director Schneweis. Questions from the committee? I see none.

**KYLE SCHNEWEIS:** [03:21:39] Thank you.

**SMITH:** [03:21:39] Continuing with opposition to LB1026. Seeing none, anyone wishing to testify in a neutral capacity to LB1026? Seeing none, Senator Wayne, you're invited to close on LB1026.

**WAYNE:** [03:22:04] Thank you. Now, I promise next year will be like a big presentation on this issue, but I am providing the flexibility; it's called the first bill that I just had, the gas tax. We are going to add a gas tax so there is \$30 million a year that goes to the department of DOT that can start paying for those projects immediately. And that provides plenty of flexibility. So we can get these bonded, get them moving, get construction costs-- keep track construction costs down. It's a great way to move forward. So we just need to combine the two bills and we're good.

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**SMITH:** [03:22:39] Questions from the committee? I see no questions, Senator Wayne. That concludes our hearing on LB1026. And you're invited to open on the last bill of the day and of the year, LB1088.

**WAYNE:** [03:22:59] (Exhibits 1-4) Thank you, Chairman Smith. Today we're going to end with TEEOSA and revenue. And I handed out big documents because the last one of the year, and actually, I printed them out incorrectly and I decided to keep going with the idea. What we need to do when we're talking about property taxes in the state of Nebraska-- all the proposals that I have seen, and I mean no disrespect to this committee, is trying to put a Band-Aid on the real issue. And the real issue is TEEOSA. If we can fix our TEEOSA formula in a way that funds the local school districts, that will resolve most of our property tax issues. So, the first document that I handed out-- let me tell you, first, what I think the bill does. I did read the fiscal note and I got confused on my own bill as I was reading the fiscal note, but I will tell you what I tried to do. And if somewhere the language is incorrect, then I apologize. But what this bill does is it repeals the TEEOSA formula and replaces it with Nebraska Education Formula Fund. It concentrates on the state to do what its constitutional duty is; to focus on the teaching and learning of the student. If, at the local level, they want more programs they can have more programs and their property tax dollars can pay for that. But overall it is our responsibility to fund the teaching and learning, or another way to put it: comply with Rule 10. And to do that, we will ensure greater equity and equality throughout the entire district, because underneath this formula there is no equalizing or equalized school districts. We are-- we are taking on a foundation per pupil basis. And what I mean by that is each student [SIC-- SCHOOL] will get \$5,000 per student. Plus, they will get an additional \$1,600 per student if they're a free lunch for fall membership of the previous year. I did not use reduced lunch because that number is oftentimes inflated. But I wanted to concentrate strictly on the free because study after study has shown free lunch is-- is a-- is a huge factor in determining student outcomes. Plus, we added a \$800 for any school that has over 50 percent free lunch poverty statistic. The reason is that 42 percent-- study after study shows 42 percent-- when your poverty level is 42 percent, achievement tends to decline. So we provide an extra \$800 per kid at the poverty level. This gets us to the ground level at the school level. Plus, we do \$1,600 for Limited English Proficiency per student who falls into that category. And for the rural senators, we understand that transportation and-- and hiring some staff sometimes is sometimes difficult. We add an additional \$500 for sparse and very sparse school districts that are already determined in our formula. The reason why it's important to do that this year is because we'll set it up for the next biennium of what teachers and school administrations-- I'm sorry, school administrations and school boards will know. Will hold harmless so nobody loses any money based off of 2017-2018 TEEOSA formula for the next two years. And the reason that I hold them harmless is because no matter how I tweak the formula, there are some Native American reservation schools that still come out as a loss. So I have to figure out how to better serve that community with the Education Committee-- Chairman is not here. But special education funding remains the same and we eliminate the option enrollment because we're going per pupil, so the next year you would automatically make that up anyway so there's no need to have it. The reason that's important is based off of that formula and based off of the big spreadsheet, you see the numbers you can look at your school districts on how they broke down, every school district, except for those I mentioned, gets an increase. They get a formula increase of about \$800 to \$900 million total. Now we could do with a \$800, \$900 million dollars is it back to school districts and then require them to lower their levy by 75 percent of that. That's about a \$650 to \$700 million property tax relief across the state. And yes, that even applies to Omaha. Yes, that applies to Scottsbluff. That it's everywhere where can reduce taxes and fully fund education. We

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could do it in a way that moves us from 49th in the state to right in the midrange. But with money comes accountability. So we know smaller classrooms matter, so we limit small classroom size for 20 students if they're pre-K through third grade. And then with the extra money that we provide for poverty students and some other things, if they have 16 to 20 students a para is required. And we go through and put different limits on each of the classes, all the way up through high school you make them smaller. And the key is for local funding who need to go above and beyond. Let's say they want to fi-- have a specialized International Baccalaureate program and they go need to go outside of that levy limit, it requires two-thirds majority vote at the local level to do a levy override. Now the reason I'm here in front of Revenue is because last year when I came to this committee with a billion dollar fiscal note, we kind of couldn't do anything. So I just copied a whole bunch of closing taxes, loopholes, and some giveaways and things that-- but I have not stuck on any of those. So there will be some people who send opposition letters, maybe even be here to testify opposition. I am not sold on anything regarding how to close it, I just know we have to fund education. And if we fund education and we do it the correct way, it will require them to reduce their property taxes by what we're funding them. And the reason I picked 70, 85 percent of that gap is because that will cover the growth that is needed from year to year. There's a 15 percent growth that may-- something may come up. You might have an influx of 100 kids, that 15 percent will cover that that year and then you'll make up on it on per student population the following year. But to me, this is the only way we're really going to solve our property tax issue, because we don't collect property taxes. And the fact of the matter is the Property Tax Credit Fund, to me, is not working in the way I think really provides the relief that is necessary. And so what I would like to see is us fund education, put back at the local level and make those local school districts reduced their levies. But with that comes ties. If they don't want the money that's fine, but if they do, they got to make sure that we're setting out the right education plan that we believe is right. So there also is a big map-- is all these school districts. This is a secondary step, which is not a part of my bill but I feel like you should know why I'm going with the foundation aid that's equal across. If you were to take red-- Red Willow County up to Dakota County, which is pretty much kind of crossing through Grand Island going east, there's room for consolidation. And we have to bring that conversation back up. But we can't bring that conversation up if the money is not equal. We can never compare an unequalized school to an equalized school. We have to make sure there's an even playing field before we talk about any type of merger. And that's five, six years down the road. But we got to establish our baseline funding. Just like when I was in corporate America and we worked on mergers and I worked on merging even collective bargaining agreements, we had to create a baseline for one or two years. That's why you hardly ever see a company just merge in-- in two months, because they had to figure out what that baseline is to make sure everybody, even their employees, are compared apples to apples. And the only way we can do that with education is to make sure that all the schools are being treated somewhat similarly on a foundational basis. And that's what I'm trying to do; create a foundation to fix our infrastructure. We have an infrastructure problem when it comes to our education and when it comes to our tax issue. We have to fix that. But the only way to do that is create a baseline funding. And with that, I'll be happy to answer any question.

**SMITH:** [03:31:17] (Exhibit 5) Thank you, Senator Wayne, for your opening on LB1088. Questions from the committee? I see no questions. We now invite proponents of LB1088, proponents. We do have letter-- a letter for the record in support of LB1088, Larry Scherer representing NSEA. We now invite opponents to LB1088, opponents. Welcome.

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**KENT GRISHAM:** [03:32:05] (Exhibit 6) Thank you, Mr. Chairman. I don't know if it's good afternoon or good evening, committee members. My name is Kent Grisham and I am the president of the Nebraska Trucking Association. And that is spelled K-e-n-t G-r-i-s-h-a-m. On behalf of the motor carriers and allied members of the NTA, I come before the committee today in opposition of LB1088. Two of my member companies, Werner Enterprises in Omaha and Crete Carrier Corporation in Lincoln, also instructed me to speak specifically for them and represent their companies' opposition to the bill. Let me first say that the NTA applauds Senator Wayne for his efforts to improve both the funding mechanisms and the outcomes of Nebraska's public schools. Clearly LB1088 was a labor of love for him, and there is no higher calling in our society than the education of our children. I'm the proud husband of a public school teacher. All three of my children graduated from public schools and right now I have three grandchildren in public schools. So thanks for your efforts, Senator Wayne; even though we rise in opposition to LB1088, we encourage you to continue in that fight. The trucking industry in Nebraska is a mighty and powerful economic force; 1 in 12 Nebraskans are employed in the trucking industry, with payrolls exceeding \$3 billion dollars. Forty-eight percent, so nearly half, of all Nebraska communities receive all of their consumable materials and goods by trucks alone. Both of those statistics we feel are important to remember in this discussion because as the Legislature makes decisions that could have deep, negative consequences for the trucking industry, the effects will ripple through both the number of jobs in the industry and the cost of the goods being delivered, again, to nearly half of our communities. It all counts. To increase the state sales tax to 6.5 percent and then repeal the sales tax exemption on two of our industry's most vital components, our trucks and trailers and our fuel, would inflict serious wounds to even our largest NTA members and likely be a death blow to some of our smallest. Nebraska would join a small minority of states that do not exempt motor carriers from sales tax. Only 13 states and the District of Columbia currently consider rolling stock for motor carriers as taxable. But of those 13, 10 have exemptions, lower rates, caps, or apportionment brackets in place for motor carriers out of recognition of the negative impact such taxes would have on the operation of their fleets; only 3 levy their full sales tax rate against motor carriers. The negative impact on our motor carriers in Nebraska would be significant, causing many if not all of them to consider changes in their operations resulting in even greater negative impact on the state's economy and, in turn, tax receipts. Options for some of them will most certainly include simply moving to a neighboring state, such as Iowa, Kansas, Missouri, or Colorado, where sales tax exemptions for motor carriers remain in place. Smaller fleets especially would consider such a move because perhaps it's preferable to the avalanche of new taxes in Nebraska should this bill pass. Our larger fleet members have other options, such as buying and titling their rolling stock in a state where they already have operations and where the state still honors their sales tax exemption status. Either way, Nebraska loses. Let me illustrate our concern over the rolling stock being taxable in a very simple way. The NTA has members ranging from our great and large corporate citizens, all the way to men and women across the state with one or two trucks in their fleet and big dreams in their hearts. For this illustration I will focus on one truck owner-operator who has worked hard for years and driven hundreds of thousands of miles, carrying his dream of becoming just a small fleet someday along with him. The day comes when he believes he can literally double his business by adding just a second truck. That's double the amount of freight, doubling the number of jobs in his company. But it takes an investment of an average \$125,000 for the tractor and \$50,000 for the trailer. And I would remind the committee that motor carriers already pay the 12 percent federal excise tax on their new trucks and trailers and Nebraska directly benefits from that FET when allocated money from the Highway Trust Fund. The increase in the state sales tax possibly added to a city sales tax of up to 2 percent under the provisions of this bill, our member would face a 20.5

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percent in upfront taxes before the rolling stock even hits the highway. The math for his \$175,000 rig just racked up almost \$36,000 in taxes before he drives it off the lot. But there is an additional problem. The average cost of operating an over-the-road truck is \$185,000 a year. Under LB1088, with his fuel now subject to sales taxes, his operating costs just got higher. So, it's essential to remember that component of moving freight to those communities who rely on trucks for everything they have, and you will be adding that sales tax onto fuel that is already heavily taxed by the state and federal government. The same federal government who is debating a 25-cent increase to fuel taxes. We're still not done, though. The same owner-operator may face the need for parts and labor on that truck that he's been running this whole time to build his business. LB1088 will also add those sales taxes to those things, not only doubling his business is dashed in that one single bill, but his very livelihood may not survive. I tried to paint you a picture and provide you a face for the decision you face when it comes to LB1088. And I know my red light is on so I will finish with one last item of concern for us, and that's the bill's repeal of Chapter 77 Section 2715.09 which pertains to the sale or exchange of employee-owned stock at our member companies who offer such an opportunity and the treatment of capital gains or extraordinary dividends. Our member companies, just like any other industry, offer stock ownership programs as a way of attracting the best and the brightest in Nebraska. So when it comes to LB1088, we urge you to set the parking brake and chock the wheels--

**SMITH:** [03:38:20] Thank you--

**KENT GRISHAM:** [03:38:20] Thank you.

**SMITH:** [03:38:20] Thank you, Mr. Grisham. Questions for Mr. Grisham? I see none.

**KENT GRISHAM:** [03:38:26] Thank you.

**SMITH:** [03:38:28] Thank you. Next opponent to LB1088.

**JOE KOHOUT:** [03:38:30] (Exhibit 7) Chairman Smith and members of the Revenue Committee, my name is Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing today on behalf of our client, the Nebraska Cooperative Council. I may begin by saying that our opposition to LB1088 is limited-- extremely limited in scope. And it's limited in scope to Section 31 of LB1088, and specifically on page 34 of the bill which would repeal the energy-- the sales tax exemption for energy use that we worked jointly with a group of members of the Legislature only a few years ago to implement. Specifically, the four senators that-- that we worked with pretty closely, Senator Harr and Senator Watermeier who remain members, as well former Senator Gloor in his capacity as Chairman of this committee, and then-Senator Mello, who worked hard to identify a longstanding dispute that the Cooperative Council had had with the Department of Revenue and then resulted in the introduction of LB1047 in 2016, and its subsequent passage as LB774. So we would ask if the committee is going to consider advancement of LB1088 that it would strike Section 31 of the bill. With that, Mr. Chairman, I will try to answer any questions that you might have.

**SMITH:** [03:40:03] Thank you, Mr. Kohout. Questions from the committee? I see none. Next opponent to LB1088. Welcome, Mr. Keigher.

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**TIM KEIGHER:** [03:40:24] Good evening, Chairman Smith and members of the committee. My name is Tim Keigher, T-i-m K-e-i-g-h-e-r. I guess I wasn't going to get up and say anything on this, and so I'll be very brief. Obviously, putting a sales tax on fuel hurts our industry as well. From increasing the cost of transportation to encouraging others to buy fuel in other states and avoiding sales taxes, so. With that, I know it's late, I will leave it at that and I will be happy to answer any questions.

**SMITH:** [03:40:51] Thank you, Mr. Keigher, for your testimony. I see no questions.

**TIM KEIGHER:** [03:40:56] Thank you.

**SMITH:** [03:40:58] (Exhibits 8-16) Others wishing to testify in opposition to LB1088. We do have a number of letters submitted for the record in opposition to LB1088: from David Brown, Wendy Birdsall, and Barry Kennedy representing the Greater Omaha Chamber, State Chamber, and Lincoln Chamber of Commerce; from John McClure representing NPPD; from Bruce Vitosh representing Norris Public Power District; from Robert [SIC-- RICHARD] Erwin representing Cedar-Knox Public Power District; from Robert Hallstrom representing Nebraska Bankers Association and NFIB; from Kristen Gottschalk representing Nebraska Rural Electric Association; from Andy Hale representing Nebraska Hospital Association; and from Rick Kubat representing Metropolitan Utilities District of Omaha. We now move to neutral testimony, those wishing to testify in a neutral capacity. Welcome, Mr. Otto.

**JIM OTTO:** [03:42:09] Thank you. Senator Smith, members of the committee, my name is Jim Otto. That's J-i-m O-t-t-o. I'm president of the Nebraska Retail Federation and I am here today to testify in a neutral capacity on LB1088 on behalf of the federation. There are things that we probably could have opposed, they've been articulated, but we wanted to stress the positive aspects and commend Senator Wayne for actually including remote sellers sales tax collection act, which is part of the original LB44 as originally drafted, and recognized that that probably is a significant source of income. And also point out to the committee that just today it was announced, at least in the news, that on April 13, the Supreme Court will hear the South Dakota case and they expect a decision by the end of June, which makes it perfect for the newly amended LB44 which follows the direction of the Attorney General to solve the constitu-- constitutionality questions and also includes a clause to enact a collection clause that, let me quote, becomes operative on the latter of July 1, 2018, or the first day of the first calendar quarter after a controlling court decision or federal legislation abrogates the physical presence required of Quill Corporation versus North Dakota. So I just wanted to thank Senator Wayne for including that and use the opportunity of the last hearing of the year to-- and I guess, maybe, the last-- well Senator Wayne will probably say something, so, thank you, very much.

**SMITH:** [03:43:58] Thank you, Mr. Otto. Questions for Mr. Otto? I see none. See-- anyone else wishing testify in a neutral capacity? Seeing none, we invite Senator Wayne to close on LB1088.

**WAYNE:** [03:44:19] This is the greatest tax bill you heard today. But with that, I'll invite them to make sure they-- anybody who testified against my bill to support my port authority next year because it will be a tax-free zone so they can buy all the gas they want for free there. But with that, thank you. And I'll answer any questions.



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**SMITH:** [03:44:37] Thank you, Senator Wayne. When you say greatest, do you mean in volume, size? [LAUGHTER]

**WAYNE:** [03:44:43] I think-- yeah-- well, yeah. I learned this year that when you say close all exemptions, we have a lot and it's a lot of papers. A lot of paper got used on that, so I do apologize to this committee who actually read it. For those who didn't, you didn't miss the whole lot there.

**SMITH:** [03:44:59] Other questions from the committee? I see none, unless Senator Groene has a question?

**WAYNE:** [03:45:05] Solved all the education problems, Senator Groene.

**GROENE:** [03:45:09] Oh, yeah?

**SMITH:** [03:45:09] Very good.

**GROENE:** [03:45:09] I just wanted to say, I've read most of your bill, believe it or not. And you got a lot of ideals in there.

**WAYNE:** [03:45:16] Thank you.

**GROENE:** [03:45:16] You just need to be on five different committees next year.

**SMITH:** [03:45:20] OK, very good. Thank you, all. Thank you, Senator Wayne, for your closing on LB1088. And that closes our hearings for the day, and for several of the senators here, for the rest of our life.