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Appropriations Committee
March 08, 2007

[LB42 LB446]

The Committee on Appropriations met at 1:30 p.m. on Thursday, March 8, 2007, in Room 1003 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB42 and LB446, and on the budgets for Agency 24, Agency 40, Agency 17, and Agency 27. Senators present: Lavon Heidemann, Chairperson; Lowen Kruse, Vice Chairperson; Tony Fulton; John Harms; Danielle Nantkes; John Nelson; John Synowiecki; John Wightman. Senators absent: L. Pat Engel. []

SENATOR HEIDEMANN: We're going to go ahead and get started. Welcome to the Appropriations Committee. We're going to start by just kind of introducing everybody. Starting over here to the right is Senator Danielle Nantkes from Lincoln, District 46; to her left is Senator John Wightman from Lexington, District 36; is not here but will be showing up a little bit later, Senator John Synowiecki from Omaha, District 7; sitting next to his left is Senator Lowen Kruse from Omaha, District 13, who also serves as Vice Chair of this committee. This is Kendra, our committee clerk. My name is Senator Lavon Heidemann from Elk Creek, District 1. Senator Pat Engel will not be with us today. He has other business evidently. He is from South Sioux City, though, for your information, District 17. This is Senator Tony Fulton from Lincoln, District 29; sitting next to his left is Senator John Nelson from Omaha, District 6; and sitting next to his left is Senator John Harms from Scottsbluff, District 48. Our page for today I believe is Joe. And at this time (laughter) at this time I'd like to remind you, if you have cell phones, to please shut them off. Testifier sheets are on the table or near the back doors, so we ask that you please fill them out completely and put in the box on the table when you testify. You do not need to fill out this form if you aren't publicly testifying. At the beginning of the testimony we ask that you please state and spell your name for the record and for the transcribers following. Nontestifier sheets near the back doors, if you do not want to testify but would like to record or support your opposition; please only fill out if you will not be publicly testifying. If you have printed materials to distribute, please give them to a page at the beginning and they can distribute them. We ask that you please keep testimony concise and on topic, and under five minutes would be appreciated. At this time we will open up the public hearing on LB42. Senator Hudkins. [LB42]

SENATOR HUDKINS: Good afternoon, Senator Heidemann and members of the Appropriations Committee. It's not often that I come before this committee. I am Senator Carol Hudkins, H-u-d-k-i-n-s, and I represent the 21st Legislative District. I'm here today to urge you to prioritize funding for transportation infrastructure for the next five years. Currently, there are 49 cents of cigarette tax revenue receipts that are not earmarked for specific use and, thus, go into the General Fund for general use by the state. Historically, funds raised by the cigarette tax have been earmarked for certain projects. An example is the building of the Bob Devaney Sports Complex, and currently we allow 1 cent of cigarette revenue to the Nebraska Outdoor Recreational Development Cash Fund, and 5 cents is used to fund the Building Renewal Allocation Fund. We also have

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used the cigarette tax fund to guarantee certain bonded indebtedness, such as the Antelope Valley Project at \$15 million. It's not the intent of this legislation to impact those projects, and there will need to be an amendment, and we'll talk about that later, but I am willing to work with the committee and the entities identified above to ensure that LB48...or LB42, excuse me, does not negatively affect them. I'm here today to ask you to use the remaining tax money to provide additional funding to the Highway Allocation Fund for the next five years. With the current volatile fluctuation in the oil market, the state, counties and cities are having a difficult time constructing and maintaining the roads necessary to maintain an infrastructure that is both safe and provides for the types of roads the industry is demanding. After LB42 was published, we discovered that the funding for the Game and Parks Commission and for the 309 Committee had been inadvertently reduced. We do not want to repeal the hold harmless provisions of the statutes that allowed these two to obtain funding at the same level as they did in 1997 and '98, so that's where the amendment would come in, and I believe it's on pages 4, 5, and 6 that would be affected. Some of the new language will have to be removed; some of the old language will have to be reinstated. But we will work with whomever needs to be worked with to get that straightened out. But however, since I do intend to use all non earmarked cigarette money for roads, I believe that increasing the Game and Parks earmark from 1 cent to 3 cents for five years, and increasing the Deferred Building Renewal Fund from 3 cents to 5 cents for five years will not only hold these two funds harmless but also should give them the opportunity to catch up on projects that have been delayed because of ever-increasing construction costs, partially fueled by the increasing cost of oil products. It is important that these two agencies are held harmless, at a minimum, and I would urge this committee, when you vote to advance this bill, that you ensure that these agencies, as well as HHS, the Municipal Infrastructure...can't remember what that is but anyway MIRF is what it's more commonly called, the Lincoln and Omaha projects, you don't take any money away from them. We want them to be held harmless. We don't want to affect them. But I want you to understand that Game and Parks and the deferred building renewal projects have a lot of deferred maintenance issues and they have lost considerable purchasing power in operating and maintaining their facilities and infrastructure. Some have indicated that we should continue to only fund roads through the fuel tax and vehicle registration fees. I believe that we're in a cycle at this time that increasing the fuel tax would result in a further reduction in use of fuels by consumers, as well as the ongoing purchase of more fuel-efficient vehicles, resulting in less money to use for construction and maintenance. The use of cigarette revenues for a five-year period will give the oil industry, as well as the automobile industry, a period of time to stabilize under the new cost structure, and it will give state government some time to see whether or not tax revenues from the fuel tax have stabilized sufficiently so that we can continue to rely primarily on the fuel tax to fund our transportation needs. I have had the opportunity this year to have many discussions regarding means to fund transportation infrastructure and a priority system for determining road construction projects. I've looked at lots of places for a mechanism to fund road projects statewide. I believe this proposal is the best way to meet those

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needs. I also believe that the use of these funds in this manner is consistent with the longstanding informal formula for using these funds. One concept that has been discussed, and of which I'm supportive, is that perhaps some amount of these cigarette tax funds could be dedicated to expressway construction. By doing this for a period of time, it would allow us to complete the expressway system across our state so that we have a series of roads that not only goes east to west but also north and south. I believe there will be others testifying today on the potential that expressways will open up for our state. By dedicating as little as five cents of the cigarette tax money we can make substantial progress in finalizing the expressway system for our citizens. Thank you for your time and consideration and I would ask that you forward this bill to the body for its full consideration. If there are questions, I would attempt to answer them, but letting you know that there are people behind me who know all the technical things. [LB42]

SENATOR HEIDEMANN: Thank you for your testimony. Are there any questions?
Senator Wightman. [LB42]

SENATOR WIGHTMAN: Senator Hudkins, the \$46 million is based upon the 2005-2006 total cigarette tax, is that...? Forty-six million. Did I say thousand? [LB42]

SENATOR HUDKINS: That \$46 million is what goes to the General Fund. [LB42]

SENATOR WIGHTMAN: But you're requesting that all of that be...go into the... [LB42]

SENATOR HUDKINS: Other than what has already been determined for all of those: the Game and Parks, HHS, the NORDA, the MIRF, the Omaha program. [LB42]

SENATOR WIGHTMAN: Right. But those are already out. The \$46 million, as I understand it, is what would be left, is that correct, that's now going to the General Fund? Because \$65 million is what it indicates here on the fiscal note, is... [LB42]

SENATOR HUDKINS: Yes. Yes, so we would be asking for whatever is not earmarked for a period of five years. [LB42]

SENATOR WIGHTMAN: And then out of that you were suggesting that 5 percent go to the...5 cents, I think, go to the expressway... [LB42]

SENATOR HUDKINS: Uh-huh. Yes. [LB42]

SENATOR WIGHTMAN: ...fund, which would be part of the \$46 million. [LB42]

SENATOR HUDKINS: Yes. Uh-huh. [LB42]

SENATOR WIGHTMAN: Is it 5 cents or 5 percent of total? [LB42]

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SENATOR HUDKINS: Five cents. [LB42]

SENATOR WIGHTMAN: Five cents. Okay. [LB42]

SENATOR HEIDEMANN: Senator Kruse. [LB42]

SENATOR KRUSE: Highway...just double-checking, the Highway Allocation Fund is the Highway Trust Fund? [LB42]

SENATOR HUDKINS: No, there's two different ones. There's the Highway Trust Fund and the Highway Allocation Fund. [LB42]

SENATOR KRUSE: Okay. [LB42]

SENATOR HUDKINS: The Highway Trust Fund is divided between the state, the cities, and the counties. [LB42]

SENATOR KRUSE: Yes. [LB42]

SENATOR HUDKINS: They don't necessarily have to use it all for roads. They can, but they don't need to. [LB42]

SENATOR KRUSE: All right. [LB42]

SENATOR HUDKINS: The Highway Allocation Fund is split between the cities and the counties. [LB42]

SENATOR KRUSE: Thank you. [LB42]

SENATOR HEIDEMANN: Senator Fulton. [LB42]

SENATOR FULTON: Thank you, Senator Hudkins. It's interesting. It's creative, out of the box. It's a problem that needs to be dealt with. Does five years cut it? What happens after five years? Does five years allow us to get caught up? I guess I'm just trying to put this in perspective. It's a big... [LB42]

SENATOR HUDKINS: Well, Senator Fulton, who knows? Five years is what we have asked for. In five years we'll hope that the price of gas is down so everybody is buying all kinds of gas and going to grandma's house and going to the kids' house, and that there will be more sales of gasoline fuel. And so right now though we say that five years is what we're looking at and I guess at the end of five years you may or may not see me back. [LB42]

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SENATOR FULTON: I guess what...maybe it's... [LB42]

SENATOR HUDKINS: Well, you won't see me back. [LB42]

SENATOR FULTON: (Laugh) Maybe so, four years away. What...why five years instead of three or six? I'm just...that's where I'm coming from. Okay. [LB42]

SENATOR HUDKINS: Picked it out of the air. If you don't like five years you could go to seven. I don't care. [LB42]

SENATOR FULTON: (Laugh) Or three. (Laugh) Okay. That's fine. Thank you. [LB42]

SENATOR HEIDEMANN: Do you feel like that if you start this and five years down the road the counties and cities would be so attuned to getting this money that it would be hard to ever take it back from them again? [LB42]

SENATOR HUDKINS: You know, Senator Heidemann, I think that if everyone understands that this is a five-year program, period, they're going to use that money hopefully in the most efficient way possible to catch up on their road maintenance problems, their bridges, whatever they need, and they're not going to fool around and, in the case of the Highway Trust Fund, use it for something else. This is money that has been earmarked for these special programs and when the five years are up it's gone. [LB42]

SENATOR HEIDEMANN: And we are looking at a loss of over \$46 million to the General Fund. Just out of curiosity, any ideas how to make that up or what not to do or...? [LB42]

SENATOR HUDKINS: Well, the money that goes to the cities and counties, obviously you all know, being on the Appropriations Committee, cities and counties can only fund their needs through a property tax and if they have these funds available for the cities and counties then, you know, we're crossing our fingers that then they won't need as much funding from the state in forms of aid. [LB42]

SENATOR HEIDEMANN: The other thing, and this is just a thought, do you have any kind of readout how this would affect everybody with this amount of money? [LB42]

SENATOR HUDKINS: No, but I'm sure that there are others behind me who can probably answer that question. [LB42]

SENATOR HEIDEMANN: Okay. I would have a little bit of concern with their spending constraint/restriction at 2.5 percent, supermajority, 3.5 percent, if they would even be

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able to spend it if we send them that much money. I realize it gets spread out pretty thin, but that thought crossed my mind. [LB42]

SENATOR HUDKINS: Well, if there's a way that you can think of to address that in a more beneficial manner, we are more than happy to discuss that with you. [LB42]

SENATOR HEIDEMANN: Okay. Senator Wightman. [LB42]

SENATOR WIGHTMAN: One more question, Senator Hudkins. We've had some discussion here about whether some of these things should properly be before Revenue or before Appropriations, and that's not to say we aren't going to handle it, but it does affect revenue substantially and it affects the General Fund revenue that's going to be available. When...with then considering tax cuts, I guess I'm wondering how this maybe interplays with what Revenue is going to be looking at in their tax reduction package. [LB42]

SENATOR HUDKINS: Well, as you know, the Executive Board serves as the Referencing board. They were the ones that decided that it should come here. I did not either support or fight that. I just said, well, they decided that it should come to the Appropriations Committee and, frankly, I think you guys are a lot more friendlier than the people on the Revenue Committee. (Laughter) [LB42]

SENATOR WIGHTMAN: Well, as I told someone else, flattery will get you nowhere. [LB42]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your testimony. [LB42]

SENATOR HUDKINS: Thank you. [LB42]

SENATOR WIGHTMAN: Thank you. [LB42]

SENATOR HEIDEMANN: Is there further testimony in the proponent capacity on LB42? [LB42]

MARY JOHNSON: (Exhibit 1) Good afternoon. Senator Heidemann, members of the Appropriations Committee, my name is Mary Johnson, J-o-h-n-s-o-n. I'm a registered lobbyist and executive director for Nebraska on the Move. Nebraska on the Move supports LB42. Nebraska on the Move is a statewide grass-roots organization that is made up of cities, counties, business, and community organizations to be an advocate for a comprehensive transportation program in Nebraska. In October of 2002 it was this group that encouraged Governor Mike Johanns to create a transportation task force. This group was charged to conduct a transportation infrastructure needs assessment for

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aeronautics, public transit, railroads, and roads. The charge also included a comprehensive review of Nebraska's current transportation funding structure and an analysis of the funding that would be required to meet the transportation infrastructure assessment. Each of you has a copy of that report. The task force was comprised of 35 members statewide. Each had varied backgrounds and represented all modes of transportation. During 2003 the task force held 12 hearings across the state, from Gering to Omaha, from McCook to Norfolk. A final report was presented to the Governor on January 6, 2004. Nebraska on the Move establishes its annual legislative agenda using the observations of the report as an ongoing guideline. Nebraska on the Move absolutely supports a portion of the cigarette tax being dedicated to the highway program, and specifically to the completion of the expressway system, as suggested by Senator Hudkins. By dedicating 5 cents of the cigarette tax towards the completion of the expressway system, which is approximately an additional 200 miles, Nebraskans would have the hope of keeping this part of the roads program moving. The estimated cost today is \$842.5 million. During the 12 public hearings in 2003 two common themes were clear: one, the state needs to protect and enhance the sources of revenue dedicated to the Highway Trust Fund; two, strong public support to accelerate the completion of the designated expressway system. The expressways connect all communities over 15,000 in population to I-80. More importantly, it is the best economic development tool for the entire state. The future growth and economic prosperity of several of the state's major employment centers depend on how rapidly expressways can be completed. It was apparent from the hearings that communities realize the great tie between expressways and economic development. The time is now to develop new economic opportunities. Waiting for the expressways to be completed truly is not a satisfactory option for these communities. The sooner we invest to complete the last 200 miles the sooner we can contain the inflationary effect on the value of our construction dollar. The history of projects have been...the history of projects that have been built by the cigarette tax seems to be a perfect match for the completion of this segment of the roads program. We ask for your support of LB42, as proposed to be amended by Senator Hudkins. I would be happy to try and answer any questions you might have. [LB42]

SENATOR HEIDEMANN: Senator Harms. [LB42]

SENATOR HARMS: In regard to the expressways, in what order will you actually pick those expressways to be completed? [LB42]

MARY JOHNSON: Instead of picking them, obviously, they're established. There's a sheet on the front of your packet... [LB42]

SENATOR HARMS: I saw that. [LB42]

MARY JOHNSON: ...and then on the backside of that it tells us what's been finished,

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and I think since those have been established by the department, we would like to see those finished because at this point I think, as we look at the Department of Roads' budget, our fear is we may not let another contract for a minimum of three to four years on the expressways, as we look at the budget proposed today. And so we'd want to finish those so that we can move forward to make adjustments to the expressway program. [LB42]

SENATOR HARMS: Well, you know, when I look at Scottsbluff,... [LB42]

MARY JOHNSON: Uh-huh. [LB42]

SENATOR HARMS: ...between Scottsbluff and Kimball, that thing has been on the drawing board for 17 years... [LB42]

MARY JOHNSON: I understand that. [LB42]

SENATOR HARMS: ...and I think there's something wrong here in regard to the infrastructure for rural America. [LB42]

MARY JOHNSON: Uh-huh. [LB42]

SENATOR HARMS: And I would just say that I would have great interest in seeing some of those completed because the way it is now, that's our only hope for the future. Companies will not relocate to rural America unless they have the infrastructure there and roads and airways are extremely important to us. And to wait 17 years, to me, is ridiculous when you only have five miles left. [LB42]

MARY JOHNSON: I would tell you, Senator, that the largest hearing that we had during the task force was in Gering, Nebraska. [LB42]

SENATOR HARMS: Well, I can understand that. [LB42]

MARY JOHNSON: And it was terrific, but that was the message that we got. We understand that we are not part of the economic development triangle along the east and the southern part of Nebraska, but give us the ability to compete so that we can stay alive, and we can do that if we have four-land roadways here. [LB42]

SENATOR HEIDEMANN: Senator Synowiecki. [LB42]

SENATOR SYNOWIECKI: Thank you. Thanks for your testimony and I've been thumbing through this needs assessment and there's some pretty good findings in the area of public transit and the demands and the documented needs in that area. Does this bill seek to mitigate any of the needs of the public transportation system? [LB42]

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MARY JOHNSON: This would be directly going to expressways, since that part of this project is basically stalemated now because of the economic development tool. So we're focusing, at this point, 5 cents for expressways. [LB42]

SENATOR SYNOWIECKI: And the needs of the public transportation system are the lower priority at this time in terms of the grand scheme of things? [LB42]

MARY JOHNSON: I don't think necessarily a lower priority. We're lucky to have a member of this committee who has great focus on public transit and I think he's brought some other options to you about some additional funding for public transit. It is an area that we obviously watch and are supportive to expand. [LB42]

SENATOR SYNOWIECKI: But not in this bill. [LB42]

MARY JOHNSON: Not in this bill. [LB42]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your testimony. [LB42]

MARY JOHNSON: Thank you. [LB42]

SENATOR HEIDEMANN: Any other testimony in the proponent capacity? [LB42]

LYNN REX: Senator Heidemann, members of the committee, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. Thank you for the opportunity to be here this afternoon to talk about the need for this measure. We do support this bill and we strongly support the amendment offered by Senator Hudkins. We think that's very important. One of the key elements of this bill, if you look on page 5, talks about the Municipal Infrastructure Redevelopment Fund, affectionately we call MIRF, and this fund, because it was cut back from \$4.5 million, which was its original allocation, down to \$3 million when the state of Nebraska was facing some real problems in terms of finances, has never been increased. And of course, on a different day at a different time we'll talk about the fact that that's never occurred either for state aid to municipalities in terms of increases. But today what I'm here to talk to you about is just to indicate that we appreciate the hold harmless on this. I have a board directive to come in next year with a bill to expand the deadline for this, since we were cut back from \$4.5 to \$3 million years ago and never having any of that restored. Secondly, we also want the MIRF funds to be able to be used for streets and roads. I can only state to you that across the state of Nebraska we need significantly more funding for infrastructure, specifically for streets and roads across the state. It is critically important, not just for the Department of Roads, but this bill for cities and counties. We also appreciate the exceptions that are here and the hold harmless that she's talked about

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for Antelope Valley, for other projects for Omaha, and the other kinds of things that are here. We support also her comments relative to Game and Parks, and also the 309 Task Force. We think that is critically important. I'd be happy to respond to any questions that you have. I also want to indicate, though, that I think that Mary Johnson's testimony is extremely important because I attended every one of those forums in 2002, which resulted in the Governor's task force report, and I think it's very important to note, Senator Harms, as you well stated, that there are areas across the state that have waited 17 to 25 years to have expressways and other projects completed, and it is so critical to economic development, to job creation, job retention. Infrastructure is a critical piece of that. So I'd be happy to respond to any questions you have at this time. [LB42]

SENATOR HEIDEMANN: Are there any questions? Senator Wightman. [LB42]

SENATOR WIGHTMAN: You didn't put together the bill, I assume. You're just saying you support it. [LB42]

LYNN REX: No, I did not. [LB42]

SENATOR WIGHTMAN: I guess I'm interested in how the breakdown was arrived at that we took the 49 cents and 5 of them went to expressways. I guess I'm wondering even if that is proper, if maybe it should be larger for the expressways. But... [LB42]

LYNN REX: Well,... [LB42]

SENATOR WIGHTMAN: ...and maybe we'll have somebody later who will address that issue, but... [LB42]

LYNN REX: Senator, I don't know exactly what those breakdowns are, but I can tell you that we would strongly support having more money going to the expressway. I think that would be important; I think anything to expedite this. It is really having an impact, and if you look at basically those cities and villages across the state of Nebraska, I guess I should say cities, that are growing, of which we only have five or six that really have growth, and where the cities are growing that's where your state budget is growing as well. That's where your income base is growing as well. When cities grow and economic development happens, your budget expands as well. And a critical piece of that, no question about it, is underscoring the need for infrastructure and having these types of funds available. So we would certainly support having more than 5 cents for expressways. [LB42]

SENATOR WIGHTMAN: I don't remember what the figures were but it seems to me like it was, what, \$190-some million to complete the expressway. Somebody gave that figure. I don't know exactly what it was, but if we're talking about diverting 5 cents out of the approximately one-tenth of the \$46 million, we're talking about \$4.6 million per year,

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approximately, \$4.5 million maybe, but that would take an awful long time to complete \$192 million worth of expressways. If you just look at the figures, you're looking at 30-40 years. Our five years isn't going to have a very big impact on that, it would appear to me. [LB42]

LYNN REX: That's an excellent point and we would, as an organization representing cities and villages across the state, we would strongly support having more funds go for the expressways. [LB42]

SENATOR WIGHTMAN: But I assume there are going to be some cities and counties coming in and suggesting they'd like to keep their share of the 49 cents, but I don't know that. [LB42]

LYNN REX: Well, I don't believe that will happen and I think the reason why, Senator, is because these would be additional funds. And that's another reason why when we come in next year to delay the date for the sunset on MIRF to restore it to what it was originally and try to recapture some of those funds that we've never had restored now that the state is in a better financial picture, those cities and villages will get some funds for that. And we do want to have the additional authority for them to use that for streets and roads too. But I can tell you that it affects everybody, it helps everyone when the economy of the state improves, and that happens when you have expressways. [LB42]

SENATOR WIGHTMAN: Thank you. [LB42]

LYNN REX: Thank you very much for your question. [LB42]

SENATOR HEIDEMANN: Thank you. [LB42]

LYNN REX: Thank you. [LB42]

SENATOR HEIDEMANN: Is there any other testimony in the proponent position? [LB42]

DON HERZ: Good afternoon, Senator Heidemann and members of the Appropriations Committee. My name is Don Herz. I'm the finance director for the city of Lincoln and will be testifying in support of LB42, after hearing Senator Hudkins' proposals to hold the city harmless. The city of Lincoln is supportive of her efforts to address the funding deficiency of the transportation infrastructure of the state, city, and county levels of government. Senator Hudkins has brought forward several bills that address the shortage of street funding and we applaud her efforts. LB42 would have a significant favorable impact in addressing a portion of the funding deficiencies. In Lincoln we face significant infrastructure deficiencies, primarily with our street infrastructure. We have talked to Senator Hudkins' office about a concern with LB42 that put at risk future revenues that the city receives from the Primary Class City Redevelopment Fund that

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was created by the Legislature in 2001 and was codified in state statute, Section 19-102. That act provides that, if necessary, the State Treasurer shall reduce the distribution of cigarette tax proceeds to the state's General Fund to fulfill this \$1 million obligation. In its current form, LB42 would take away that guarantee, and the reason that guarantee is important to us is, pursuant to the authority granted by the Legislature, Section 19-104 of the act allowed us to bond that \$1 million for 15 years. And those bond proceeds were used to fund various capital improvements and the city's Antelope Valley flood control and redevelopment project. The proceeds of that bond issue generated \$10.7 million, of which \$9.4 million was to pay for state and university projects that were impacted by the flood control and road improvements in this project area. We believe that the passage of LB42, in its current form, could jeopardize the security pledge made to the bondholders, as well as jeopardizing the city's credit rating. However, Senator Hudkins' office has indicated to us that LB42 was intended to hold these revenues harmless and...that were bonded, including future appropriations. We appreciate her intention to ensure that the revenues we bonded will not be reduced. With the changes by Senator Hudkins that are being proposed, we are supportive of LB42 and we're ready to work with her or the Appropriations Committee to ensure that this issue is addressed to the satisfaction of the bondholders and our bond trustees. I'd be willing to answer any questions that you may have. [LB42]

SENATOR HEIDEMANN: Are there any questions? Seeing none, thank you for your testimony. [LB42]

DON HERZ: You bet. [LB42]

SENATOR HEIDEMANN: Is there any other testimony in the proponent position? [LB42]

JACK CHELOHA: Good afternoon, senators. My name is Jack Cheloha, last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I'd like to testify in favor of LB42. From the beginning I need to tell you, though, it's...our support is prefaced on the hold harmless amendment being reattached, and we appreciate Senator Hudkins bringing that up right in her opening. Because in the City of Metropolitan Class Development Fund, which would be affected if that hold harmless is not put back in, likewise, as the city of Lincoln talked about, we've pledged that revenue for bonds that paid for the riverfront redevelopment in Omaha. And so it's crucial that this money be coming back to Omaha to pay off these bonds that were issued for the length of time. In terms of the needs, the city of Omaha, according to a Metropolitan Area Planning Authority study, we have, you know, back needs in terms of street and highway improvements of roughly about \$300 million that we can't keep up with now. As you know, and I'm sure you probably have studies in terms of inflationary costs, we know healthcare runs above that. Likewise, we've seen fuel costs run above that. And I heard testimony in the Transportation Committee that there's a real demand worldwide by China, as they're building their infrastructure, which has driven up the cost of steel

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which also goes into the building of roads and bridges and things along that line. And so based upon the current formula that we have, if you will, we've been somewhat stagnant in terms of what the revenue is going into it. And because of that, we would support any way that you would feel comfortable trying to raise the ability to give more monies to cities and counties for their infrastructure. And with that, I'll try and answer any questions. [LB42]

SENATOR HEIDEMANN: Are there any questions? Seeing none, thank you for your testimony. [LB42]

JACK CHELOHA: Thank you. [LB42]

SENATOR HEIDEMANN: Is there further testimony in the proponent capacity on this bill? (See also Exhibit 2) Seeing none, is there any opponent testimony on LB42? [LB42]

BRUCE RIEKER: (Exhibit 3) Chairman Heidemann, members of the committee, my name is Bruce Rieker, that's R-i-e-k-e-r, vice president of advocacy for the Nebraska Hospital Association and I'm here on behalf of the Hospital Association to oppose LB42. Far be it from us to oppose the development of roads and economic development. That's not why we are here. Strong hospitals and strong roads to them, we believe, are also a key element to economic development and attracting businesses and retaining Nebraskans in our state. However, and we do appreciate the intent of this legislation, however, we believe that there are many worthy projects and programs that need financial support. We also agree with our Governor, who has said many times that we will not be able to fund all of the worthy projects before us. As you have calculated already or determined, LB42 would divert a little over \$230 million over five years from the General Fund with no provision to make that up, and a specific concern of ours is that it would reduce Health and Human Services Finance and Support Cash Fund by approximately \$840,000 per year, or \$4.2 million over five years, and those funds are dedicated towards cancer research, which we believe is an appropriate use of cigarette tax money. With that, I would close by just once again saying that we would urge you to oppose this. And I'll try and answer any questions if you have them. [LB42]

SENATOR HEIDEMANN: Are there any questions? Senator Nelson. [LB42]

SENATOR NELSON: So this doesn't directly affect the hospitals necessarily or anything. You're just telling us that it ought to stay where it is here as far as the cancer research? [LB42]

BRUCE RIEKER: Correct. There is a certain element of this research that would be conducted at the University of Nebraska Med Center and so they are one of our members, but overall I can't tell you as far as what amounts of the General Funds that

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would be diverted, how that would affect anything that was carried out, but our specific concern is about the cancer research component of it. [LB42]

SENATOR NELSON: Thank you. [LB42]

SENATOR HEIDEMANN: If the amendment got put on the bill would you be still in such opposition? [LB42]

BRUCE RIEKER: I am not familiar with the amendment. I only learned about it as I...when I came in here. I don't know exactly what that amendment entails, so I would have to back up, read that, and then give you an opinion on that. [LB42]

SENATOR HEIDEMANN: Okay. Senator Fulton. [LB42]

SENATOR FULTON: Is...do you speak on behalf of the Med Center? Is the Med Center a member of the NHA? [LB42]

BRUCE RIEKER: The Med Center is a member of NHA. [LB42]

SENATOR FULTON: Yeah. [LB42]

BRUCE RIEKER: All 85 hospitals are. [LB42]

SENATOR FULTON: Okay. Did the Med Center specifically ask about this bill, or are you speaking more generally for the NHA? [LB42]

BRUCE RIEKER: More generally for the association. [LB42]

SENATOR FULTON: Okay. Do you know, is there anyone from the Med Center that's here? [LB42]

BRUCE RIEKER: Not that I know of. I haven't seen any specific representatives... [LB42]

SENATOR FULTON: Okay. [LB42]

BRUCE RIEKER: ...of the Med Center in the room. [LB42]

SENATOR FULTON: Thank you. [LB42]

SENATOR HEIDEMANN: Are there any other questions? Seeing none, thank you for your testimony. [LB42]

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BRUCE RIEKER: You're welcome. [LB42]

SENATOR HEIDEMANN: Is there any other testimony in the opponent capacity? [LB42]

JAMES CAVANAUGH: Members of the Appropriations Committee, my name is James Cavanaugh. I'm an attorney and registered lobbyist for Creighton University. We appear here in opposition to LB42. I must preface this by saying I have not seen the amendment that Senator Hudkins mentioned, but I can speak to some of your questions relative to the cancer research component, which would be severely, adversely affected by the provisions of LB42. Basically, what you see in here are 3 cents of the cigarette tax which are dedicated to support the cancer registry and all the cancer...all the state-supported cancer research that's done in the state of Nebraska. It basically breaks down, for argument's sake, to a penny for the registry and some administrative fees, a penny...and two pennies for cancer research. Under the provisions of LB595 in 1991, a formula was set up to encourage cancer research funded by cigarette taxes specifically in Nebraska at our two teaching hospitals. So the cancer research funds that are distributed out of cigarette tax proceeds are distributed to the University of Nebraska Medical Center in Omaha and Creighton University. That's all the cancer research the state does, that the state funds, and if you enacted LB42, it would basically take that down in a third this year. I think everybody can realize that ongoing cancer research or any scientific research programs that have been up and running for years and years cannot be turned on a dime. We've attracted people from all over the world, as has UNMC, to come and search out cures for cancer based on these cigarette tax funds, and LB42 just says, well, that's fine, we're not going to do it any more at about a million dollars a year; we're going to just take that away right now. It would probably severely compromise, if not destroy, both programs. And I can tell you in the years since 1991 the modest investment that we've made out of cigarette tax funding to find a cure for cancer has brought tens of millions of independent dollars from NIH and other research funding organizations across the country, and have brought scores if not hundreds of researchers from around the world to these two fine research institutions. I understand the importance of roads in our society and I appreciate what Senator Hudkins was saying about putting some more money towards that. I would just caution you not to do it at the expense of the important cancer research that is not only trying to find a cure for the disease caused by cigarettes but is also serving as a catalyst of economic development in Omaha and around Nebraska. I think we've got a good reputation, as you heard the other day in the biomedical research hearing that was held in the Revenue hearing room about the caliber of research that's now being recognized by everyone around the world in Nebraska, That's done with dollars like this and to take those down by a third right away and for five years would pretty much destroy that reputation and certainly send the wrong signal to any serious researcher that Nebraska is serious at all about cancer research. I'd be happy to answer any questions you might have. [LB42]

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SENATOR HEIDEMANN: Senator Wightman. [LB42]

SENATOR WIGHTMAN: As I understand it, Mr. Cavanaugh, you aren't objecting to some allocation being made, but you don't want to infringe upon any allocations currently coming on cancer research. Is that correct? [LB42]

JAMES CAVANAUGH: Senator, I think that's accurate. I mean what I would say is turn this around. If you really want to do what you want to do with whatever excess or undedicated cigarette tax dollars there are, turn this concept around and say whatever comes in to the General Fund over and above the dedicated, currently dedicated, cigarette taxes will be spent on these programs. I mean that certainly, you know, will vary marginally from year to year, but I think that your fiscal people could give you a pretty good idea of what that number has been over the last number of years, rather than impinge on, you know, not only cancer research but any of these other programs. As the city has indicated, they've got funds dedicated far into the future on bonds. We've got funds dedicated far into the future on research. And to come around and turn that around, rather than look at, okay, we've got 10 cents, or 20 cents, or 30 or 40 cents left over this year in the General Fund that we can then dedicate to whatever, roads or whatever other worthy use. [LB42]

SENATOR WIGHTMAN: Thank you. [LB42]

SENATOR HEIDEMANN: Senator Nelson. [LB42]

SENATOR NELSON: Well, we've talked about hold harmless to some of these other programs here that would be part of an amendment. Could your program also be put on that as far as a hold harmless? Would that work for you? [LB42]

JAMES CAVANAUGH: Well, if you look back at the legislative history of the current statute, and I'll leave the cite with your committee, you'll see that many of these programs had hold harmless provisions put in them and basically they target a dollar amount from a particular fiscal year rather than the actual yield from a...on a penny of cigarette tax, and that was done because cigarette tax revenue fluctuates. Used to be about \$1.25 million per penny of cigarettes tax. Fortunately, less people are smoking; fewer cigarettes are being sold. That yield per penny has tended historically to marginally go down. So the hold harmless simply says, you know, if we told you we were going to do about \$3 million, you know, we'll do about \$3 million. And those provisions that are currently in there, if they're left in place, you know, at least wouldn't adversely impact on what we're doing. That said, you must understand that the research dollars have not gone up appreciably since 1991, so you're holding harmless minus 15 years of inflation and CPI creep. But, yes, to hold harmless would be good. [LB42]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your

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testimony. [LB42]

JAMES CAVANAUGH: Thank you. [LB42]

SENATOR HEIDEMANN: Is there any other testimony in the opponent capacity? Seeing none, is there any testimony in the neutral capacity? [LB42]

ROGER KUHN: Chairman, senators, my name is Roger Kuhn, it's K-u-h-n. I'm assistant director of Game and Parks Commission and I want to thank Senator Hudkins and her staff listening to a proposed amendment. That's primarily what we were here to discuss or testify on, was the hold harmless provision as it affects the Game and Parks Commission. We've received funding since 1979 from a program referred to as NORDA. In the glory years, in the mid-eighties or so, that generated about \$1.8 million a year. It's dwindled with less cigarette smoking, as you've heard, and it was set at a certain level back in '97-98, which is currently about \$1.3 million a year, and that's what it's been since '97 and '98, and we just ask that that program be held harmless. Senator Hudkins referred to actually increasing it from 1 cent, which it currently is, to 3 cents to try to attack, you know, our deferred maintenance needs, which is in excess of \$25 million in our facilities around the state, but we're here just basically to, at the minimum, be held harmless and retain the level we're currently at. If it was adopted as the original legislation was written, that would have been about a \$280,000 cut from that program, which is over 20 percent, which would have been more difficult for us to keep up with what we're doing. So we're in a neutral capacity, but we really appreciate Senator Hudkins willing to work with keeping us at the current level, and that would satisfy us just fine. So if you have any questions I'd try to answer them. [LB42]

SENATOR HEIDEMANN: Are there any questions? Thank you for your testimony. [LB42]

ROGER KUHN: Okay. Thank you. [LB42]

SENATOR HEIDEMANN: Is there any other testimony in the neutral capacity? Seeing none, Senator Hudkins, would you like to close? [LB42]

SENATOR HUDKINS: Yes, thank you, Senator Heidemann. Just to give you some numbers again, and I should have printed this off for each of you but I didn't, the total tax on a 20...quantity 20 pack of cigarettes is 64 cents. This is how it breaks down: 49 cents currently goes to the General Fund; a penny goes to the Nebraska Outdoor Recreational Development Fund; 3 cents goes to HHS; the deferred building renewal, 7 cents; the Municipal Infrastructure Redevelopment Fund, \$520,000; currently to the Technology Infrastructure Fund, 2 cents; currently to the primary class city, Lincoln, for the Antelope Valley Project, \$1 million a year; currently to the city of the metropolitan class, that's Omaha, their development fund, \$1.5 million. Now you add all that up and it

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comes to 62 cents plus the \$520,000, the \$1 million, and the \$1.5 million. So we're really close to 64 cents. The MIRF \$520,000, that is just under half a cent. The money going to the city of Lincoln, the \$1 million, is currently over 1...just over 1 cent. And the money going to Omaha is...I'm sorry...the Lincoln is just under 1 cent; going to Omaha is just over 1 cent. Mr. Cavanaugh said that 1 cent is equal to roughly \$1.2 million. Our figures suggests that it's closer to \$1.3 million. So \$100,000 hear, \$100,000 there, and pretty soon it's real money. We commented earlier in my opening testimony about allowing 5 cents to finish the expressways. Well, we did that because obviously finishing an expressway in any one locale is going to add to that local economy. It's going to create jobs. It's going to retain jobs. It's going to improve farm-to-market roads. It's going to just make it easier for people to get around. And then after your expressways are finished, and Senator Wightman brought up that you multiply the costs per year times the number of the amount of work needs to be done and we're not there, that's true, but whatever we do get done is going to release, after the five years, is going to release that money to be used in other areas of road construction and maintenance. Every dollar that the state has is easily spent several times over. You guys are...guys, I shouldn't say that, you esteemed senators are here every night late trying to figure out where you can have this money go in the most efficient method possible. I'm sure that you are bombarded with requests, and if we had all the money in the world, you could spend this money several times over. Well, we all know that that's not possible. But you know where the needs are and you have to set priorities, as we all do. But I would hope that roads throughout the state are a priority. Does that mean that the hospitals are not a priority? Good grief, no. They are very, very important. It was commented on, yes, Mr. Cavanaugh, that talked about cancer research. I'm a cancer survivor, so I know how important research is. And if you remembered my opening statements, both to Mr. Cavanaugh and Mr. Rieker, we said all of these entities that I mentioned earlier--the city of Lincoln, the city of Omaha, HHS--all of these would be held harmless. We didn't want to mess that up. We're just asking you for whatever is left over for five years go to roads projects. And just an aside note, in the last year there was over \$600,000 that was given to cancer research from proceeds from the Cattlemen's Ball, and so I would urge Mr. Cavanaugh and anyone else in the room to buy more tickets because it is a fun day and it's a very worthwhile project. Again, we talked about the hold harmless, we talked about how much money this brings in, how much money this is going to affect the General Fund. That is all up for you to decide. I would hope that you would give this sincere consideration because roads are important. If you don't have roads, nothing else gets done. And final comment is that with the amendment that I talked about, my people will work with your people, Senator Heidemann, to iron out any questions that you might have, and hopefully this will answer all of your concerns and you will be voting this out to the floor. Any other questions? [LB42]

SENATOR HEIDEMANN: Senator Harms. [LB42]

SENATOR HARMS: Senator, what would your views be if we just raised cigarette tax

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higher to do the things we want to do? [LB42]

SENATOR HUDKINS: Go for it. [LB42]

SENATOR HARMS: Okay. Secondly, if we would do that, before I would even move in this direction, okay, I want to see what roads are going to be chosen, what criteria they have used to make sure that the right places in rural America are addressed. I think to be sitting here 17 years and not have a highway finished is ridiculous, and so before I even begin to give that any serious consideration, I would like to see just exactly what the Roads has in mind and what criteria they're going to use and how they're going to accomplish this task. [LB42]

SENATOR HUDKINS: And, Senator Harms, 17 years, you're right, it's a long time. Highway 77 from north of Lincoln to Wahoo, it has taken forever to get that done. At least to Wahoo it's finally done. Now they want to go to Fremont and then points north. That has been delayed, oh, every time we talk about it it's been delayed another year. [LB42]

SENATOR HARMS: But the criteria... [LB42]

SENATOR HUDKINS: It's because there's no money. [LB42]

SENATOR HARMS: I understand that. But the criteria that I'm after... [LB42]

SENATOR HUDKINS: Uh-huh. [LB42]

SENATOR HARMS: ...is the fact the further we get away from Lincoln and Omaha is important for us, not that I'm against the Lincoln and Omaha development. It's, you know, it's going to grow and continue to grow. But the key to rural America and the key to economic development where I come from is the infrastructure is extremely (inaudible). We have missed large projects because we could not connect that last five miles, and you don't want to have one portion of the state in rural America be a drag on the rest, and that's what I'm after is so we can get...we can get better economic development there so that we hold up our end of the bargain here by providing some growth and helping you with the tax structure that makes the state healthier. That's really what I'm after. [LB42]

SENATOR HUDKINS: Is your...I know I can't ask questions, but I'm assuming that... [LB42]

SENATOR HARMS: Why not? [LB42]

SENATOR HUDKINS: ...Mr. Leafgreen is your highway commissioner. [LB42]

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SENATOR HARMS: Yes, he is. [LB42]

SENATOR HUDKINS: Okay. Those people are stationed throughout the state for a very good reason, because they are to be an advocate not only for the entire state but also for their particular area of the state. There was an issue north of Lincoln that...oh, I don't want to go into total detail, but we had a suggestion for a particular interchange, and if there are Department of Roads behind me they'll admit that this is true, they said this will go in this way over my dead body. Well, after a period of negotiation and discussions we talked to our local highway commissioner; had him out there at 7:00 showing him how dangerous the current situation was, and he says, you're right. He said, just because this doesn't fit the engineering principles of the ideal, your idea is much better. So he was able to go to bat for us and that intersection was taken care of. Now it's in Lincoln. It's in the eastern part of the state, I understand that, but those highway commissioners are advocates for your local area. [LB42]

SENATOR HARMS: But they're only, as I understand it--correct me if I'm wrong, or maybe somebody will because I'm wrong a lot--only an advisory capacity. The Department of Roads can pretty much decide what they want to do regardless of what those recommendations are, and they have done that. [LB42]

SENATOR HUDKINS: Yes, but advisory, but they have an awful big stick. [LB42]

SENATOR HARMS: I'm just saying now that that's the way it works, and I've seen that take place. [LB42]

SENATOR HUDKINS: Yeah. We have had several projects changed or delayed to fit one area just because the highway commissioner got involved. [LB42]

SENATOR HARMS: Thank you for your graciousness. [LB42]

SENATOR HUDKINS: Thank you. [LB42]

SENATOR HARMS: I'm not putting you on the spot. [LB42]

SENATOR HUDKINS: Oh, no, no, that's fine. [LB42]

SENATOR HARMS: I'm just telling you where I'm at. [LB42]

SENATOR HUDKINS: But I thank you for your time and hopefully that you'll give this study and we will be working with you so that you know exactly what we're talking about. We don't want to harm anyone who's already getting money. In fact, in several issues we're giving them more. [LB42]

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SENATOR HEIDEMANN: I just got one thing. Just looking at where these funds come from, from cigarette tax money, I was wondering if you'd be agreeable to an amendment that would exclude counties that had smoking bans from getting these funds. (Laughter) [LB42]

SENATOR HUDKINS: Do I have to... [LB42]

SENATOR HEIDEMANN: You don't have to answer that. [LB42]

SENATOR HUDKINS: Okay. Thank you. (Laughter) Thank you. [LB42]

SENATOR HEIDEMANN: That's it. With that, we'll close the public hearing up on LB42, and we'll open up the public hearing on LB446. Senator Stuthman. [LB42 LB446]

SENATOR STUTHMAN: Good afternoon. For the record, Senator Heidemann and the members of the Appropriations Committee, for the record, my name is Arnie Stuthman, S-t-u-t-h-m-a-n, and I am here to introduce the testimony for LB446. LB446 would require the Department of Roads to let contracts to construct a bridge over the Platte River. This bridge would be located at the shared boundaries of Platte and Colfax County. Included with this bridge would be the construction of paved roads north to Highway 30 from the bridge, and south to Highway 64, which is in Butler County. In my research of bridges spanning the Platte River I have found that the distance between bridges--the Highway 81 bridge south of Columbus and the Highway 15 bridge south of Schuyler--is 17 miles. This is the greatest distance between bridges from North Platte to the Missouri River, so that is the furthest distance there between two bridges. A bridge in this location would have several advantages. I believe it would relieve a lot of stress to the city of Columbus that the truck traffic causes. And one of the things that we have in our Columbus community, we have a lot of growth, industry growth. We have ADM, which is going to more than double their grind, more than double the amount of trucks going into it, and that all of this is located in this area. We have Behlen Manufacturing in that area which does have a lot of trucks. We are a destination area for trucks to come into and to leave from. It will also provide an emergency route in the immediate area and I'll give you an example of this. Just several weeks ago or so we had the Highway 15 closed south of Schuyler because of high water on the Platte River. The next bridge to cross the Platte River would have been south of North Bend, which would have made it a 35-mile distance between two bridges that you would have...could have crossed the Platte River at that time when one of them had high water on. It would also affect the future expansion of businesses along Highway 30 in Platte County, and also would also add to the economic development in Butler County, which would be south of the river, north of the Bellwood area. I would like to also add that with this, with the possibility of a bridge there, which we are trying to accomplish, would alleviate a lot of the truck traffic in the city of Columbus, and I'll give you an example of this. We have Excel, the packing

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plant which is at Schuyler. All of the livestock coming on south of 81, seven miles south of 81, could take Highway 64, cross the Bellwood bridge and go to Excel--eliminate the traffic through 23rd Street and Highway 30 in Columbus. All of the corn coming into the ADM plant from the south, from the south, southwest, southeast, and east, would be coming again in across that bridge. There has been a traffic study that was taken just a month or so ago stating that with ADM's expansion the traffic will be greatly increased and they are proposing putting a viaduct over the Union Pacific Railroad on East 29th, which is north of ADM. Another recommendation is there's going to be 60 percent of the trucks coming into ADM come from the east, in their initial count, but the majority of those come from the southeast which could utilize this bridge. In that proposal they're going to have to extend the turnoff lane on Highway 30 another 400 feet. This would not have to be done if we could accomplish the bridge proposal north of Bellwood. In my experience, and the reason I'm asking for the Department of Roads to initiate this process, is because the Department of Roads, you know, are the only ones that can build bridges across the waterways like this. We have the same situation on a bridge that is south of Monroe. The state puts in the bridge, then the county...it's turned over to the county and maintained by the county. This would be another situation just like this. But in order to engage the state, you know, to put a bridge there, the state was to have a feasibility study, which I have already requested, and then the engagement of putting a bridge there at their recommendations. All I'm asking for is that the Department of Roads look into this, hopefully give them directions to put in a bridge. All I want is a two-lane bridge with a walk and bike trail aside of the bridge, because, as you know, walk and bike trails are something that is going to be coming in the future. And if we could add that to it at that time we will have accomplished something that can add on to the recreation of people in the Columbus area in the northern part of Butler County. I think I was listening to the questions prior in the closing statement Senator Harms asked about, you know, in the rural economic development. We have got a real good opportunity because we do have economic development in our area east of Columbus and by adding this bridge it, in my opinion, would really expand the economic development opportunities for that area, although there is one thing. We are short of population. We're short of people in Columbus already to be working in the workplace. We need to attract the people from the south, southeast, because that's where the people are, in the David City, Seward, Wahoo areas, to come to work in Columbus. And with the...if we could accomplish this bridge, I think that would really help us to try to get some people back to that community to work in those areas and factories. So with that, those are my opening statements and I'd be glad to answer any questions. [LB446]

SENATOR HEIDEMANN: I just want to start out. Could you tell us your...really your intent with this bill? [LB446]

SENATOR STUTHMAN: My...the real intent of this bill? [LB446]

SENATOR HEIDEMANN: Yes. [LB446]

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SENATOR STUTHMAN: The real intent of this bill is to keep the subject of the possibility of a bridge, you know, on the surface, in the minds of the people, and hopefully to accomplish it in several years to come. [LB446]

SENATOR HEIDEMANN: Okay. Senator Nelson (inaudible) Senator Harms. [LB446]

SENATOR HARMS: Are you unable to do that with the Roads Department? [LB446]

SENATOR STUTHMAN: With the Department of Roads? I'm not able to accomplish that at the present time, mainly because of no funds available and there hasn't been a feasibility study at the present time, but we're working on that and I think we're going to get that accomplished and that's the first step. [LB446]

SENATOR HARMS: What's your estimate on the cost, do you think? [LB446]

SENATOR STUTHMAN: Of feasibility study? [LB446]

SENATOR HARMS: Yes, uh-huh. [LB446]

SENATOR STUTHMAN: A feasibility study I would say would be in that \$100,000 range and I would look at that to be a cost share between the state Economic Development and the counties. [LB446]

SENATOR HEIDEMANN: Senator Nelson. [LB446]

SENATOR NELSON: Well, you're asking us to appropriate such funds as are necessary to carry out and effectuate the purposes. Now are we talking about the feasibility study or...because we don't have any help here as far as what the overall cost of the bridge would be that would carry this heavy traffic. [LB446]

SENATOR STUTHMAN: I am...I'll have to apologize for not having a cost of the bridge but I am unable to secure the information of what a bridge would cost, what it would cost to pave the road for those seven miles. I think that's what I would have liked to had seen, but the highway commissioners had requested a cost, you know, from the Department of Roads, to get those figures to me, and I have never received any of those. There are existing roads there already, except for maybe a half mile on one end and an eighth of a mile on the other end of the bridge. [LB446]

SENATOR NELSON: But have there been any comparable bridges built recently in the state of Nebraska that you know would give you a ball park figure, anything like that? [LB446]

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SENATOR STUTHMAN: No, I don't know. I don't know. [LB446]

SENATOR NELSON: Okay. [LB446]

SENATOR HEIDEMANN: Senator Fulton. [LB446]

SENATOR FULTON: The fiscal note indicated the Department of Roads thought there was a problem with the bill, constitutionality of the bill. Can you comment on how cooperative Department of Roads has been with your request, or is this their reaction to the bill itself or is there something else here? [LB446]

SENATOR STUTHMAN: I think the Department of Roads is cooperating, although I feel that they see there's no need to spend any time on or even given a price, but I think that they could have given me a cost of, you know, of a quarter-mile bridge or a 1,500-foot bridge. Those bridges cost about all the same. It's so much a foot, is what it comes down to, but I don't know. I mean, is this going to be \$1 million, \$5 million or what? [LB446]

SENATOR HEIDEMANN: Senator Wightman. [LB446]

SENATOR WIGHTMAN: There is an existing road, you said, that would require about a half mile perhaps. [LB446]

SENATOR STUTHMAN: There are existing roads where it could go and it would be the narrowest part across the Platte River. What I had requested, you know, in my feasibility study to engage the state in that would be to study an area of about a mile, mile and a half distance, but what I'm looking at is where the roads are it's the Platte-Colfax County line which goes up to the river, except for maybe three-eighths of a mile to the river. Then on the other side, on the south side, which is a very heavily traveled road in Butler County which they call the river road which comes from Highway 64 straight north, then there's maybe only a quarter mile or less, maybe an eighth of a mile, to where that bridge could be. [LB446]

SENATOR WIGHTMAN: But I'm assuming that this road is not currently constructed with enough width that it can carry the kind of traffic that you would hope it would carry if you stay on the river. [LB446]

SENATOR STUTHMAN: The road...the roads right presently are 66 road...66-foot road in Platte County, would probably need additional right of way bought on those roads. And Butler County, I think it's lower. [LB446]

SENATOR WIGHTMAN: And additional road bed, I assume. [LB446]

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SENATOR STUTHMAN: Not necessarily. They are regular good county roads, is what they are. [LB446]

SENATOR WIGHTMAN: Has there been any discussion between the two counties, Colfax and Platte, is that right? [LB446]

SENATOR STUTHMAN: Yes, a lot of discussion. [LB446]

SENATOR WIGHTMAN: I mean as far as their doing this. I know you say (inaudible). [LB446]

SENATOR STUTHMAN: As far as participation? [LB446]

SENATOR WIGHTMAN: Yes. [LB446]

SENATOR STUTHMAN: As far as participation, Butler County is the strongest force behind this because they realize that, you know, valuation is going to come to their county of additional homes being built on Brandenburg Lakes, Bellwood Lakes and in that area, and the fact of getting to Columbus and to the workplace in Columbus a lot faster. Platte County is very supportive of it. Colfax County is the least of the three as far as support of it, mainly because they say it's to the west side of their county and it won't do them any good. But since I have initiated this project two years ago there are already two businesses built in that area that are in Colfax County, which does add value to their community, hoping that, you know, this does get accomplished. [LB446]

SENATOR WIGHTMAN: Thank you. [LB446]

SENATOR HEIDEMANN: Is there any concern on your part that this legislation, there's a possibility it would be unconstitutional? [LB446]

SENATOR STUTHMAN: I think I have a testifier behind me that will give you some of the information on that. [LB446]

SENATOR HEIDEMANN: Okay. Thank you. [LB446]

SENATOR STUTHMAN: Okay. [LB446]

SENATOR HEIDEMANN: Any other questions? Seeing none, thank you for your testimony. [LB446]

SENATOR STUTHMAN: Thank you. [LB446]

LORAN SCHMIT: (Exhibit 4) Good afternoon, Senator Heidemann and members of the

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Appropriations Committee. My name is Loran Schmit and I appear here today in support of LB446 and in support of the idea of Senator Stuthman and Senator Langemeier to construct a bridge in the area that has been designated by the senator. The bill provides that a bridge be built across the Platte River between Columbus and Schuyler and outlines the specific areas where the bridge is to be located. The idea of building a bridge in that area was first proposed more than 30 years ago. At that time the price of gasoline was but a fraction of what it is today. And I discussed it with the Department of Roads and the highway engineer and it was determined that perhaps it was not feasible. Many years later when I discussed it with Director Coolidge, he said, well, Loran, gasoline is now \$1 a gallon and diesel a little higher and it may be more feasible now than it was when you first discussed it. Well, we all know that the price of gasoline has escalated considerably since that time and so the benefits from construction of the bridge at this time would be considerably greater than it was even 15 years ago. The area is developing into one of the fastest growing industrial areas in Nebraska. The cities of Columbus and Schuyler have changed substantially during the past 30 years. The construction of a packing plant near Schuyler has changed a basically small rural community into an industrial area. Columbus has also experienced a dramatic increase in population and in industrial growth. Behlen Manufacturing, B-D, and the ADM plant are only three of the major businesses that have located along the Highway 30 corridor between Columbus and Schuyler. Thousands of employees and hundreds of customers of these businesses use the streets and highways of this area every day. The ethanol plant is presently a 100-million-gallon plant. It is already permitted to go to a 500-million-dollar (sic) plant. More than 300 trucks unload corn at that plant every day and, of course, transport out of there an equivalent amount of product. I don't need to be an architect to tell you that when you multiply that by five times that the traffic congestion in that area will become dramatically greater. Thousands of gallons of fuel and manpower are wasted each day as heavy truck traffic winds its way through the business and industrial sector routed to the commercial businesses in the Columbus area. The Department of Roads has been engaged in conversations with community leaders for a number of years as to how to address traffic problems in that community. They are presently attempting to determine how many viaducts are necessary to move the local population across the railroad tracks. The construction of a bridge and possibly a viaduct between Columbus and Schuyler would provide major traffic relief for heavy trucks that must now travel through one or the other of those communities. I know that the Department of Roads is working diligently to help resolve the traffic congestion in the Columbus area. Senator Stuthman, as a former county commissioner, is well aware of the problems of moving the traffic through the Columbus area. No one is trying to take over the responsibilities of the Highway Commission. We know that as business development continues to grow in that area traffic congestion will be much worse than it is today. If a bridge is not built in this area now the problems there will be of disaster proportion when the business expansion, which we know and which is scheduled to take place, is completed. We are already seeing congestion of our railroads. Privately owned railroads are spending billions of dollars to expand their facilities. The public

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sector must meet its obligation and do its part. The state of Nebraska many years ago embarked upon a program to entice businesses to this community. If we do not build the infrastructure that is necessary to support those businesses then the billions of dollars...and I want to remind the committee when LB775 was first passed we were promised that the entire program would not cost more than \$100 million. The project has now cost more than \$2 billion and continues, along with the benefits of LB312, which is also a substantial cost to the state. But it brings business to the state. That's what it was designed to do. But then we must be able to move the traffic and move the products that are constructed in this state if we're going to benefit. I know that Senator Stuthman has another bill that calls for a study of the need of a bridge. I'm sure the department at the present time has sufficient data to support the necessary improvements that must be made in the Columbus-Schuyler area if business needs are to be met. Every day elected persons comment about the need for energy conservation. A bridge in the Columbus-Schuyler area would contribute to a major savings of energy and time, and would be a positive contributor to the economic growth in the area. Millions of bushels of grain, tens of thousands of head of livestock would travel across that bridge by the shortest route to their destination. A bridge at that area would relieve traffic congestion in both cities. It would conserve millions of dollars of fuel, hundreds of thousands of man-hours, and it would contribute substantially to the economic growth of that area. You raised a question about the constitutionality of such a proposal. When Mahoney Park was built many years ago, in the early eighties, it was suggested to Department of Roads that they would like to have an exit from the interstate highway to that park. Department of Roads had said that it was not in the plans, it had been determined when the road was built, the interstate was built, that Ashland did not need an exit. My wife came from Ashland, Nebraska, a small sleepy town for many years, and did not have really good access. Fact is access was deplorable. Some of you can remember. Not getting any response from the Department of Roads, it was my privilege, I guess, to have introduced a bill that called for the exit to be built there. The exit was built. Department of Roads did an excellent job with their access roads to Ashland and to the Mahoney Park. As you can see, now we have the SAC Museum out there, we have an excellent golf course, we have a high-level residential area. It has completely revitalized the community of Ashland. I don't think any of that growth would have taken place if it had not been for the construction of that exit. The Nebraska Legislature was also responsible, in 1987 I guess it was, for the introduction of the bill which created the freeway system and that bill started in my office with a meeting of the Highway 81 legislators. Wasn't very long until other folks got together and Senator Cal Carsten was involved, Senator Bill Nichol was involved, the Omaha area legislators. All of them agreed that we ought to have a freeway system. I do not believe that at any time the Highway Commission proposed building a freeway system until this Legislature decided we ought to have one. We were one of two states that did not have a north-south interstate. The Legislature enacted the bill. We also provided authority for them to issue bonds to finance the plan. Interesting that was not done. As I recall, the entire program could have been built at that time for around \$200 million. Had we done so with 1987 or

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'90 dollars, we'd have completed that project years ago. We're way behind schedule because costs have escalated. It would have been much easier to have built the roads with bonds and much cheaper, and we'd have had it done, be out of the way. Today we still have only about 40 percent of the project, about 40 percent must be completed. I do not know where it's at on the Department of Roads' schedule. But I would suggest that when it is completed we're going to have a much better system than we would have had if we had not instituted the freeway system. I believe it's the responsibility, and I don't need to tell you gentlemen and ladies that--you are here because you responsibility--but it's the responsibility of the Legislature to review these types of projects. Department of Roads is governed by a commission and the commission is not merely advisory. They run the show. But the point is this. There are 49 legislators and many fewer highway commissioners. I believe there's seven. And each community has its own unique problems and the activity of this Legislature will, I am sure, encourage the Department of Roads and the commission to review these projects. The action that you take here will have a significant impact upon problems in every area of the state. I agree with Senator Harms. Western Nebraska was always left out. Someone said, why did you build a four-lane between Kimball and Scottsbluff? Because there was nothing there. There was no significant means of transportation between that area. Senator Cal Carsten says, I want a road, a four-lane, between Lincoln and Nebraska City. That was probably the most dangerous section of road in the state of Nebraska. If you got behind a semi when you left Lincoln, you were there when you got to Nebraska City. You just couldn't get around. And so, I don't know, we're not engineers, we're individual legislators, we were, you are, and it seemed to me that those things just made sense. And the Legislature passed it. Department of Roads has endeavored to carry it out. Costs of escalated and I appreciate their problems, and again I don't second-guess them, but I think that we have. And I appreciate Senator Stuthman coming up with the idea that we build that bridge and bring it to this Legislature, call it to the attention of the Department of Roads, and hope that they will proceed. I recall that when we introduced the bill that created the freeway system one of the members of the commission said, Loran, we'll do a study and if we need that freeway system we'll go ahead and proceed with it. I said, I'll tell you what, Mister, why don't you do this: You begin your study and the Legislature will introduce the bill and the two can be conducted parallel and I think we'll get a lot better production. That's exactly what happened and I think it's been a good thing for the state. I'd be glad to answer any questions. Again, I'm not concerned about constitutionality. I guess my statement there is that who's going to challenge it? Department of Roads? I don't think so. The Legislature runs the Department of Roads. You're the boss. (Laughter) I wouldn't want to come in here and ask this department (sic) for money and challenge constitutionality of a project that you had initiated. Be glad to answer any questions. [LB446]

SENATOR HEIDEMANN: Senator Nelson. [LB446]

SENATOR NELSON: Thank you, Senator Schmit. I think Senator Stuthman said there's

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about 17 miles between the bridges... [LB446]

LORAN SCHMIT: Yes. [LB446]

SENATOR NELSON: ...up there, the existing bridges, so it's hard for me to visualize where the concentration of the plants and the trucks are, but is it about halfway between those two bridges? [LB446]

LORAN SCHMIT: Yes, it would be about halfway, yes. [LB446]

SENATOR NELSON: Okay. So does that mean then that trucks are going...let's give about 15 additional miles to... [LB446]

LORAN SCHMIT: About. That's right. Yes. [LB446]

SENATOR NELSON: ...to get from one side of the river to the other. [LB446]

LORAN SCHMIT: Fifteen, yeah, it would be a good fifteen miles to make a round trip. When we haul corn or livestock from my area we either go up through Schuyler or through Columbus. It's a fifty-fifty deal. A little more traffic and congestion in the Columbus area, but we'd cut about 15 miles off. And one of the commissioners told me years ago, he said, well, Loran, what you're asking us to do is to build a bridge to reduce the consumption of gasoline, reduce the gas tax and spend more money. I said, well, sometimes it works out that way. But it's...I think it's a good idea, Senator. [LB446]

SENATOR HEIDEMANN: There any other questions? Seeing none, thank you. Oh, Senator Nantkes. [LB446]

SENATOR NANTKES: Just...really not a question, more of a comment, but, Senator Schmit, always a pleasure to see you and I know you have considerable expertise in so many areas, but I'm thinking now maybe you missed your true calling and should go to law school after your last comment. (Laughter) [LB446]

LORAN SCHMIT: Well, there probably... [LB446]

SENATOR NANTKES: So thank you. [LB446]

LORAN SCHMIT: Thank you. There's some (inaudible) for law that I probably don't have. But anyway, I do appreciate the chance to testify, appreciate what Senator done, appreciate your work and appreciate your time, and thank you very much. You bet. [LB446]

SENATOR HEIDEMANN: Thanks for coming in. Is there any other testimony in the

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proponent capacity? (See also Exhibit 5) Seeing none, is there any testimony in the opponent capacity? Seeing none, is there any testimony in the neutral capacity? Seeing none, would Senator Stuthman like to close? [LB446]

SENATOR STUTHMAN: Thank you, Senator Heidemann and members of the committee. In closing, I would just like to state that Senator Schmit has given you the testimony as far as the constitutionality and how things have happened, you know, in years prior of how you got things accomplished. The thing that I'm looking at is, you know, we need to try to expand as much as possible economic growth in our community. We have a community that, you know, is really expanding. Our population is not expanding very much. But with this and the fact that it is 17 miles between the two bridges, Columbus is growing to the east, not to the west, it's growing to the east and this bridge would be about 8 miles from the 81 bridge already, and then it would be like 9 miles to Highway 15. But this is an area where it is the shortest and the narrowest across the Platte River. Further east would be a lot of wetlands. I think it would be more of an environmental problem to try to have a bridge there. But I'm just trying to engage the conversation, trying to get a few things in place. I apologize for not having a cost of the bridge, of what it would be, but I can get that for you. I'm sure I can get that. But I know it's going to cost some money and I know the situations that you are all in, but I really think that we have to invest in roads, infrastructure outside a little bit further than the Omaha-Lincoln area. I respect the fact that, you know, we need to have roads and infrastructure out in the central and the western part of the state. You know, that is where we need to grow our state. So with that, those are my comments and I would appreciate if you would take serious consideration to this, and if you can't accomplish something this year, you know, I want you to keep it on your minds that I am going to be pursuing this process all the time. [LB446]

SENATOR HEIDEMANN: Are there any questions? Have they looked at...for any other kind of funds, federal funding or like secondary roads programs or...? [LB446]

SENATOR STUTHMAN: We put in an application last year, federal, for the feasibility study. It was not approved. And I think mainly it was because of those earmarked funds. Mainly, it was looked at because they had earmarked \$12 million or \$18 million for the Columbus area for the development of the north arterial around Columbus. Those are the federal funds that are utilized for that; very few county funds and very few state funds on that project. And to that area they had received a large amount of federal grant money already for that. Senator Nelson was very instrumental in getting that money. I think if I'd pursued it, you know, again this year, but I didn't, but I am working hard, you know, to get as much county involvement as possible. Yes, I do realize, you know, that it is...it is county roads, that it is, but we need to have the state put forth the effort to lead and initiate the program. Yes, we will put a bridge there and then dedicate it to the county and hopefully get cooperation from the counties to hard surface the roads so that it won't be a total expense of the county. Because the counties are going to benefit

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because of the added valuation in the community. But the fact is that we have to get that bridge across the Platte River in that area, mainly because it's quite a distance between and our development is right there. The workplace is in that area. The people coming to work are coming from the south-southeast, and like was stated, you know, 17 miles around extra, you know, or 30 miles a day extra in travel. So with that, I would appreciate you give it some consideration and I will work with the committee if we could hopefully try to accomplish something. [LB446]

SENATOR HEIDEMANN: Thanks for coming in today. [LB446]

SENATOR STUTHMAN: Okay. Thank you. [LB446]

SENATOR HEIDEMANN: With that, we'll close the public hearing on LB446, and open up the public hearing on Agency 24, the Department of Motor Vehicles. [LB446]

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Disposition of Bills:

LB42 - Held in committee.
LB446 - Held in committee.

Chairperson

Committee Clerk