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Revenue Committee
March 09, 2007

[LB416 LB431 LB496 LB683]

The Committee on Revenue met at 1:30 p.m. on Friday, March 9, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB431, LB683, LB416, and LB496. Senators present: Ray Janssen, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Carroll Burling; Abbie Cornett; Chris Langemeier; Don Preister; Ron Raikes; and Tom White. Senators absent: None.
[LB431]

SENATOR JANSSEN: Good afternoon, ladies and gentlemen. Welcome to the Revenue Committee. For the record, my name is Ray Janssen representing the 15th Legislative District. To the far left over there, Senator Don Preister. Next to him is Senator Carroll Burling. To my far right is Erma James, the committee clerk, and to her left is Senator Tom White from Omaha. Senator Langemeier will be joining us shortly. And Senator Raikes from Lincoln and thereabouts. Legal counsel is George Kilpatrick. If you're going to testify today there are sign-in sheets back by each door. Get them filled out prior to your coming up to the testifying table and deposit them in that box right in front of the clerk on that side. Please shut off your cell phones. We had one let out a buzz yesterday and they are annoying, especially for the clerk, if they do go out there. Clipboards in the back if you want to fill out a testifying sheet and do not want to testify. Just leave it with the clerk, if you're for or against a particular bill. With that, the agenda is posted on the outside of the door and Senator Cornett has joined us, and Senator Dierks and Senator Langemeier will be along shortly. With that, the first bill is LB431 and Senator Friend is all ready to tell us about it. Senator Friend, the floor is yours.
[LB431]

SENATOR FRIEND: Chairman Janssen, thank you, and members of the Revenue Committee. For the record, my name is Mike Friend, F-r-i-e-n-d, and I represent the 10th Legislative District, northwest Omaha. I'm here to introduce LB431. The bill allows for an income tax credit for a certain portion of money spent by parents in educating their children. Specifically, it allows for parents to claim a credit of 10 percent of the total amount paid for tuition, fees, books, and transportation for their children. The limit to the tax credit is \$250 for each child kindergarten through sixth grade; \$500 for each child in seventh through twelfth grade. And wanted to point out that, in my view, and I think my experience with this in the past--I actually carried this bill last year, I believe--I don't see this as a public school versus a private school issue, and I'll get into that in just a second. And I will be brief with this thing so bear with me. Thank you. As the school systems are faced with limited funds and resources for programs in order to, related to reduced property taxes, more and more programs are also being limited where schools are looking for alternative types of revenue sources. And accordingly, many activities that were once supported by tax dollars are being paid or will be paid in the future by students and their parents. When those costs are paid by the parents it represents a savings for the public education system and Nebraska taxpayers. Although the trend to

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transfer a lot of those costs to parents for other than core curriculum activities is not prevalent at this time in Nebraska, and that's a key point, there is a movement in other parts of the country where schools are essentially saying, more or less, do you want your son to play football? Do you want your daughter to play volleyball? Do you want your daughter to be in a band? Debate team? There's going to be a little price to pay for that. And some of those folks are also saying we don't really pay for those types of things anymore. LB431 recognizes the contributions made by parents to the education of their children and the school finance system, and allows for a tax credit for a portion of the educational expenditures made by the parents. More important, education and education enrichment programs are now and will be maintained by student fees, monies paid by the student. This bill is focused on expanding educational opportunities for students by allowing a tax credit for the money spent, and the bill is a means by which we can support the education of all students in Nebraska. There are some guidelines in the bill and they include that the school must be located in this state. It must be nonprofit. It must not discriminate on the basis of race, color, or national origin. It cannot commit corporal punishment and it must fulfill the school term requirements prescribed in statute. Also, it does not allow monies that are spent on books and instructional materials to be used in the teaching or religious tenets, doctrines, or worship. Fees that qualify are identified as monies required to be paid by the enrolled student in order to participate in the activity and these would include driver's education, school band, some physical education and sports uniforms, scientific equipment, computer and language lab fees, transportation as in all school-related transportation--not to and from extracurricular activities--and finally, books and tuition. Look, I was in front of Senator Raikes' Education Committee, you know, to deal with a couple of items this year and over the interim things like this, even though this bill has been seen before, it's also been seen by my office before, and I delivered it before, and it's been dealt with sometimes in different ways. To me, bills like this represent an opportunity to discuss the changing environment in education and last year we had an opportunity to do that with LB1024. Just so happens that I'm in front of the Revenue Committee discussing this subject matter--for appropriate reasons--but I think the discussion, even since I've been in the Legislature, in four years, in regard to education, how we're going to provide some creativity to deal with these things. The discussions are changing. So to me the bottom line is this is not new subject matter, like I said, but it is creative. It's old subject matter, but that doesn't make it...you know, that doesn't force it into the category of not being a creative idea. A lot of other states have dealt with this. Iowa has dealt with it in a little bit different manner. I think it's healthy. I think these discussions are healthy. I know that there are some proponents behind me to discuss the healthy aspects of discussions like this. I would be happy to answer any--and probably some opponents to discuss the unhealthy aspects of it, if you will, as they see it--but I would be happy to answer any questions in regard to this legislation. And I know, like I said, that there are some folks behind me that can deal with the subject matter as well, probably a lot more efficiently. So thank you. [LB431]

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SENATOR JANSSEN: Any questions? I have one, Mike. Now reading this, your statement of intent here, it would be on tuition, fees, textbooks, and transportation. Could someone living in a rural area, if they didn't have a school bus, could they use the cost of operating a vehicle for that student going to and from his school, whether it be a parochial school or a public school? And another item, band instruments. You know, would that also be in there? [LB431]

SENATOR FRIEND: Senator Janssen, I'm going to let some others elaborate on this, but my feeling based on the green copy, and this was my feeling last year too, because I believe this question came up, is that the answer is no, because if you'll notice on page 6 it says to and from extracurricular activities. Now...yeah, I know, or I think I know. But, yeah, I think that's in there because that is a concern in some of those rural communities where you're talking about 150, 200 miles for some of those extracurricular activities. So I don't know if I'm answering your question, but to and from school, just getting somebody commuting to go pick that child up, get them over to school, it's my understanding that that's not the case and that's not how it applies. Does that answer your question? [LB431]

SENATOR JANSSEN: Pretty close. [LB431]

SENATOR FRIEND: Okay. [LB431]

SENATOR JANSSEN: You kind of skirted around it, but that's fine. [LB431]

SENATOR FRIEND: I didn't mean to. [LB431]

SENATOR JANSSEN: Oh. [LB431]

SENATOR FRIEND: I actually thought that I understood it. [LB431]

SENATOR JANSSEN: Wearing off on you. (Laughter) [LB431]

SENATOR FRIEND: Okay. [LB431]

SENATOR JANSSEN: All right. Any other questions? I don't see any, Mike, thank you. [LB431]

SENATOR FRIEND: Thank you. Senator, I wanted to close, but I will not because I'm going to a Homeland Security thing with Lieutenant Governor Sheehy. [LB431]

SENATOR JANSSEN: Okay. You'll waive closing then, right? [LB431]

SENATOR FRIEND: Yes. [LB431]

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SENATOR JANSSEN: Okay. Thank you, Mike. [LB431]

SENATOR FRIEND: Thank you. [LB431]

SENATOR JANSSEN: Um-hum. So we'll take proponents first. Proponents, anyone in favor of LB431. [LB431]

JEFF WILMES: Good afternoon, Senator Janssen and members of the Revenue Committee. My name is Jeff Wilmes, W-i-l-m-e-s, and I'm from Fremont, Nebraska. I'm appearing both as a parent of children that are enrolled in Catholic schools, but also in...I have two elementary age children that are enrolled in Trinity Lutheran in Fremont and I also have two high school age children that are enrolled in Bergan Catholic High School at Fremont Bergan. But I'm also a board member of the Nebraska Federation of Catholic School Parents, which is a statewide organization of parents concerned about issues that affect our nongovernmental school systems including issues involving educational choice. The federation helps represent the interest of 15,000 Nebraska parents and their children. The federation keeps Catholic school parents informed of legislative activity affecting educational issues and we encourage our members to actively participate in the public policy process. We strongly support LB431 and thank Senator Friend for introducing it. Parents weigh many factors regardless of whether they are choosing a private school or opting into another school via option enrollment allowed under the state law. But how much does our decision to enroll our children in private schools save the state of Nebraska? Just using 2005-06 numbers, the average per pupil cost of educating students in public schools is \$8,510. The parents who enroll 39,248 children in nongovernmental schools save state and local taxpayers \$334 million per year. There are enough public schools operating at maximum capacity that they would not be able to absorb an influx of nearly 40,000 private school children. The cost of this occurring would be enormous and would severely challenge, if not bankrupt, the state. With these regulations, our parents make tremendous sacrifices to educate their children in the Catholic schools. Our parents pay property, sales, and income taxes. Some choose not to use the free public education that their children could receive so they are paying for education twice--once for public school students and once for their own children. The double burden of paying for education twice exacts a crushing blow for parents with children enrolled in the private schools. But this bill provides modest, much needed tax relief for parents who are incurring out-of-pocket costs for tuition, fees, and transportation that was just laid out. When New York State recently closed 50 Catholic schools, the total cost was more than \$10,000 per child when most of those students switched to the public school. Can we afford that severe an impact in our state? If our 120 Catholic schools all closed it would cost the state at least \$255 million per year, counting the cost of educating the students alone, without adding anything for new facilities in which to teach them. As the U.S. Supreme Court noted almost 30 years ago, an already overburdened public school system might suffer if many private school

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students switched to the public school. State approved and accredited non-public schools provide quality education in core curriculum subjects such as math, science, physical education, history, music, social studies, and world languages as required by the Nebraska Law and Department of Education Regulations. Please keep in mind that we have a healthy network of private schools in Nebraska and that these schools save the state millions of dollars per year. Without these schools as an alternative, the state could not afford to educate all of our children without radically changing or raising our property and income sales tax. Please give Nebraska's working families some modest tax relief and recognition of this public good. Our Catholic schools are strong, valuable community assets that enhance our Nebraska communities. We believe that LB431 is sound public policy. It makes sense economically and it is a logical, practical, constitutional extension of the open enrollment concept to parents who opt for other than public schools. I ask for you to please advance this bill to General File. Thank you. [LB431]

SENATOR JANSSEN: Any questions? Don't see any, Jeff, but thank you for coming down from Fremont. [LB431]

JEFF WILMES: Okay, yeah. Thank you, Senator. [LB431]

SENATOR JANSSEN: Um-hum. Next proponent. [LB431]

TISHA HEWITT: Hello. Thank you, Senators, for seeing me and hearing the proponents for this bill. My name is Tisha Hewitt and I am here representing from Crete, Nebraska. I am here as a mother and as a product of both public and private school education. I am a Nebraskan, born and raised. I began in the western end of the state, Alliance, Nebraska. Came down here to Crete, attended college, married, have children. Sandhills are my home and Crete has become my second home. As I said, I am a product of both educations. My husband is a product of private school education. Currently, I have one daughter who is in public school and I have two children who are in private school. My oldest is in Dorchester, Nebraska, a public school program. And my two other students are at St. James, a Catholic school in Crete, Nebraska. The points that I would like to present on behalf of this bill today is that both schools--both public and private--are viable in our communities, in terms of choice. And that's what it comes down to a lot of the time for parents. A choice so that our kids can have the best environment to learn. Each child is different and unique so they have a choice to learn based on their own learning styles and their personalities. Some kids thrive in a different environment, in a larger environment. Some thrive in a smaller setting. Also, based on parental choice, okay? Those schools provide an opportunity for parents to look at their family and their belief system and their values and have a choice. This bill supports that. It supports the ability for us parents out there trying to make the best choices for our families. It provides some relief for us to be able to make those choices. I am a complete believer, and as Senator Friend said, both schools have to work in a symbiotic

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relationship. I don't in any way see this bill presenting a situation where we have to have either/or. It also provides, to my understanding of what I've read of the bill, it provides both private and public school parents the opportunity to get some relief through the different expenses, whether that be tuition, transportation, activities, those sort of things. So I think it's going to provide both sets of parents, whether you be private or public, with some relief. The second point that I am here to represent is for personal choice, as a mother, and with the two ladies that are joining me today, Mrs. Vickie Stauffer (phonetic) and Mrs. Valerie Andault (phonetic), one of the major reasons private school, you're wondering why I send my younger children, is the smaller student-teacher ratio. In a lot of our private schools, a little bit more one-on-one attention for our children and I think that would be an issue should we, you know, have schools closing as Mr. Friend said. The classroom sizes would become unmanageable, I believe, and I have friends who are both public school and private school teachers. And that's already a struggle for many of the public school teachers. There are decisions to send their kids as well. They came from states--Mrs. Stauffer is from Missouri--that was one of the major reasons she came from a public school setting and her children were in public school there. When she moved to Nebraska the smaller classroom size was a big issue for their family. Third reason that I think this bill, particularly in our setting in Crete, Nebraska, you'll hear other proponents speaking from more metro areas. Crete is still considered a very rural area and we have a large working class population, whether that be factory work or that be farming. We do have the college down there, but that represents a fairly small portion of our town. We have population growth not only from new economic development. Crete is growing so we have industry coming that is providing, but once again as a working class economic growth. We also have a large immigration population that's moving in and for the foreseeable future will be staying. And that is wonderful, but once again as I go back to working class, through this legislation we would like to provide all parents--public and private--with some relief in the form of state income tax refund so they can have access to education of their choice. And that's what I have to represent today on the behalf of one mother whose got children in both programs. I ended my high school career in a public school. My parents were public school graduates and I think if you talk to any parents across the board, helping educate children you appreciate any relief that you can get in the form of tax relief or anything else. So I appreciate your time. Thank you, Senator Janssen. [LB431]

SENATOR JANSSEN: Thank you, Mrs. Hewitt. Are there any questions? Seeing none, thank you. Could I have a show of hands of how many people want to testify in support? Okay, about three or four. Okay. Try not to be repetitive of anything that's been said, but the next proponent please come forward. [LB431]

CHRISTOPHER RIGHTER: Good afternoon, Senator Janssen, Senators. My name is Christopher Righter, R-i-g-h-t-e-r, from Omaha, Nebraska, and in the interest of time on this lovely Friday afternoon I'll skip a lot of the personal details about where my children go to school and where I went to school. I would like to make a much more pragmatic

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point, I believe, to each of you. Regardless of the actual figures, how much is being spent per student, how much we would lose in tax revenue by giving this rebate, the simple fact is that for every student that goes from a private or a parochial school to a public school is an added burden on those public schools. And eventually it can only be addressed in one of two ways--either increasing the funding through raising taxes or reducing the amount of services to the students that are there. Neither one of those solutions is going to make anyone happy. It will make one of those two groups very unhappy. Either taxpayers will be unhappy or the parents are going to be very unhappy. Conversely, by helping parents like myself and others keep our children in the non-public schools with this very modest proposal, allows the remaining money to be either spent to increase the services to students in the public schools or to even delay raising taxes or even offer modest rebates to the taxpayers. Either one of those makes a group very happy, especially in Nebraska with the tax burden a lot of people are feeling. So again, I would just like to ask you to consider that. You know, support for LB431 makes some people very happy, whereas opposition makes a lot of people very unhappy in the long term. Thank you. [LB431]

SENATOR JANSSEN: Thank you, Chris. Are there any questions? Senator Raikes. [LB431]

SENATOR RAIKES: Chris, consider a person that doesn't have any kids in school. [LB431]

CHRISTOPHER RIGHTER: Yes, sir. [LB431]

SENATOR RAIKES: Either public or private. Is that person being mistreated because that person has to pay for public schools? [LB431]

CHRISTOPHER RIGHTER: I don't believe I ever said I thought anyone was being mistreated because they had to pay for public schools. I'm simply pointing out that the more load we place on the public schools has to be addressed somehow, either services...there's a fixed amount of resources available to those public schools. It either comes from increasing the taxes on all the taxpayers of the state or it comes by reducing the amount of services those students get. So I'm not sure that... [LB431]

SENATOR RAIKES: So you agree with the notion that everybody benefits from public schools whether they have kids there or not? [LB431]

CHRISTOPHER RIGHTER: I would agree with the notion that everyone is paying for the public schools and that reducing the burden would help everyone. [LB431]

SENATOR RAIKES: But this proposal would reduce the burden for people with kids in schools, but not for people without kids in school. [LB431]

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CHRISTOPHER RIGHTER: Certainly there is going to be some marginal savings to the school districts because you're not offering nearly what anyone is paying in tuition. That money could be returned to the taxpayers, including those taxpayers who do not have children in the school system. They would see a benefit in that case. Certainly if we take the figure that was thrown out of \$8,500 and it would become a very small amount when we divide it among all taxpayers, but for every student not in the public schools if they get the \$500 maximum savings, the school district has saved \$8,000. That goes back to a taxpayer whether they have a student there or not just assuming you're refunded. Now that becomes less than pennies, millionths of a penny probably. Adding up over time it could become sizeable tax relief for Nebraskans who are being pushed by a lot of taxes right now. [LB431]

SENATOR RAIKES: Okay. The Fiscal Office not being so imaginative I'll say, says an \$18 million fiscal note, which means that if we did this there would be \$18 million less revenue available to the state to support public schools. [LB431]

CHRISTOPHER RIGHTER: I have not seen those figures and can't really comment on them. I can say it just seems intuitively obvious that for every student that leaves a private or parochial school and comes into the public school \$8,500 has to come up with from somewhere and you'll either do it by reducing the services you're already providing to all the students or you're going to go get it from tax money from someone else. [LB431]

SENATOR RAIKES: Okay. [LB431]

CHRISTOPHER RIGHTER: And I don't know anyone whose going to be willing to just say they want to come up with another \$8,500 for another student coming in. [LB431]

SENATOR JANSSEN: Any other questions? Seeing none, thank you. Oh, I'm sorry, Abbie. [LB431]

SENATOR CORNETT: If you don't get, you personally don't get this tax credit... [LB431]

CHRISTOPHER RIGHTER: Yes, ma'am. [LB431]

SENATOR CORNETT: ...are you still going to send your children to private school? [LB431]

CHRISTOPHER RIGHTER: That becomes a decision we have to make year after year. As the enrollment in the parochial school I send my children to declines and we have similar to the problem the public schools face, as we see a declining enrollment, that base amount, that fixed cost has to be spread out over fewer and fewer students. My

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share of it then becomes greater and greater. I would then have to make that decision year after year, and I have a daughter who will be going in a few years, to see if we can afford that. And it becomes more and more difficult. What it then becomes is if I switch my children into public school certainly my tax burden isn't going to go up significantly. Everyone else who wasn't paying for those children before is going to be added to the burden of those public schools and I will save the tuition I was spending every year, yes. I can't tell you year to year at what point economically I would have to pull my children out of parochial school. A lot of it depends on other economic factors for the state. I mean, if the tax burden continues to increase here, I don't know what my employer might do. Certainly I've been through it before. I could certainly find myself in rather dire economic straits concerning my job and certainly wouldn't be able...not only would I not be able to afford private education and the tuition I'm paying, I wouldn't be paying nearly as much in taxes. Yet, that burden of my children being educated would come to the public schools and somewhere that money is going to have to come from. [LB431]

SENATOR CORNETT: It's probably fair to say and I'm looking at it from the perspective of a parent who sends her children to private school, regardless if I get an income tax credit or not, at least myself I'm going to continue making that sacrifice as long as I can. This credit is not going to change most people's desire to do that, correct? [LB431]

CHRISTOPHER RIGHTER: I couldn't speak for what most people would do. I do know that we have, at the school, and I'm a member of the school board, and so deal with tuition aid decisions and those types of things. I do know we have a number of parents that even the \$100, \$200 we at the parish are able to offer them in tuition aid makes a difference in their lives of whether or not they're able to send their children to our school. [LB431]

SENATOR CORNETT: Okay, thank you. [LB431]

CHRISTOPHER RIGHTER: So I can't really say for everyone, but I know there are instances where yes, it would help them. [LB431]

SENATOR JANSSEN: I don't see any other questions. [LB431]

CHRISTOPHER RIGHTER: Thank you, Senators. [LB431]

SENATOR JANSSEN: Thanks, Chris. Next proponent. [LB431]

TIMOTHY BASTIAN: (Exhibit 1) Hello, Senator Janssen and distinguished members of the Revenue Committee. I want to thank you for the opportunity to provide testimony. My name is Tim Bastian and I've been a resident of Omaha since moving from Harrisburg, Pennsylvania about four years ago. My wife and I have five children, three at St. Vincent de Paul Catholic Elementary School and two at V.J. and Angela Skutt

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Catholic High School. I am also a faculty member of the Economics and Finance Department at Creighton University and I'm also an investment advisor with Manarin Investment Council in Omaha. I'm also former member of the Economics Faculty at the United States Air Force Academy and I hold two advanced degrees, one being a Master's degree in Economics from Syracuse University. LB431 represents an opportunity for the state of Nebraska to provide nominal tax relief for families who choose to support their children's education, be it inside or outside the public school system. LB431 makes choosing your child's place of public education more affordable by providing a tax break for transporting your child to whatever school that you happen to choose within your list of choices within public schools. Others who have opted for services found outside of the public school system have relieved taxpayers of a tremendous financial burden that they, the taxpayers, would otherwise have to bear. And I believe that Chris discussed this. My estimates, just in the archdiocese of Omaha with over 21,000 students there, probably save the local taxpayers there upwards of \$150 million to \$175 million annually, not to mention the other cost of new buildings that would have to be built that I estimate somewhere between \$250 million to \$350 million in new building costs. In just a few years, that would add up to over a billion dollars for Omaha area taxpayers. And again, where would the money come from? It would have to come from property taxes. Again, with our already weakened housing market in Nebraska and we're also one of the top ten most taxed states, placing an additional burden would be detrimental. There would be consequences. But I also believe that LB431 is a bill about fairness. Fairness for taxpayers who choose to either supplement their children's public education through things like tutoring, reading enhancement, or even through coursework not offered by their particular schools, or by choosing a non-public school education. More importantly, LB431 is a bill about providing an incentive for Nebraskans to help their children's education in whatever way the parents feel is most appropriate. You see, as an economist, I see LB431 will also financially encourage families to forego public education in favor of private education, thus providing a lot of fiscal relief on public schools. I have several friends, neighbors, acquaintances who have taken their children out of private schools due to the financial burden from the private schools and because of the large property tax bill that they get each year. And as I mentioned before, the property taxes of course here in Nebraska, are far above the national average. If more families would be able to afford the non-public education, public schools would benefit greatly as they will be able to use their limited resources to serve a smaller number of students, ultimately improving things like student-teacher ratios, and probably improving the educational experience for those students. This is a simple, market-based solution to the problem of overcrowding in schools and budget shortfalls. This is especially true when you compare the relative small amount of the tax credit to the average cost of educating a student in Nebraska. Now the notion of providing some monetary relief to those families who opt out of public school education services may upset some taxpayers, as they may view the issue as one of either take it or leave it. If you don't take it then you'll have to pay twice. However, many employers are successfully holding down employee

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benefit costs, especially health care costs, by providing monetary incentives to employees who opt out of employer-sponsored benefit plans when the employee is also covered by a spouse's employer's benefit plan. This cuts down on redundant coverage that is both not needed and expensive. Like LB431, not only is that fair, but it makes perfect economic sense to do so. Thank you. [LB431]

SENATOR JANSSEN: Thank you for being here, Tim. Any questions? Senator Raikes. [LB431]

SENATOR RAIKES: So if we had \$18 million to use to relieve tax burdens, would we be better off doing this or using it to lower property tax rates that support education and go to everyone, all property owners? [LB431]

TIM BASTIAN: Well one of the things, too, that you're assuming, I think Senator, is that this is a zero sum where it's going to cost us \$18 million. I don't believe that at all. I believe that by providing just even marginal tax credits you're going to encourage some people to forego using the services, which is going to have a tremendous payback for each student that chooses to go elsewhere where you're going to be having anywhere from 15-25 to one payback in that credit. So I would say that \$18 million, I don't really necessarily believe that that's the case because I think that that's only one side of the coin. [LB431]

SENATOR RAIKES: But you're doing it both for public school parents and private school parents so I don't understand quite why you think it's going to switch people. [LB431]

TIM BASTIAN: It could on the margin. Absolutely. Now \$18 million should we spend that in tax relief in one way or the other? What I like about this bill is that it's earmarking for education. [LB431]

SENATOR RAIKES: Although, it's earmarking for people who are benefitting from education services in a user fee sort of a sense, whereas the person who doesn't have any children is not benefitted, but yet that person is helping pay for public education. [LB431]

TIM BASTIAN: True, because it probably as a public good does benefit us all in some way, but what it also does is it empowers parents who are closest and know their child's needs best as far as educational needs to be able to make that decision. So what I think this bill does is it takes the decision from on high to where it belongs, I think, in the parent. They'll be able to make that decision themselves to say I think that Junior needs a little bit of extra help in reading rather than just getting an overall tax break. [LB431]

SENATOR RAIKES: Believe me, this usually doesn't feel like on high, but I'll accept

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your explanation. [LB431]

TIM BASTIAN: It's a compliment, Senator. [LB431]

SENATOR JANSSEN: Any other questions? I don't see any, thank you, Tim for being here today. [LB431]

TIM BASTIAN: Thank you. [LB431]

SENATOR JANSSEN: I believe we have one more proponent. One more, okay. [LB431]

NICOLE NEESEN: Good afternoon, ladies and gentlemen. My name is Nicole Neesen and that is spelled N-e-e-s-e-n. I live in Omaha, Nebraska. I am married and I have two children who attend school at St. Stephen the Martyr in Omaha. I'm passionate about our school, but I'm passionate about education in general. And the reason I wanted to speak with you today is to talk to you about what happened to my husband and I about four years ago. We, like many people, were considering whether or not to open our own business. That had been a lifelong dream and goal for both of us. And in a post 9-11 economic time, it was scary out there trying to make that decision. Do we leave the security of corporate America and make the leap? And one of the things that caused us to pause was the commitment we had made to our children. Both of our children are adopted and one of the requests from the birth parents was that we educate them in a private Catholic school. And we felt honoring that request was paramount at all costs and we're committed to doing that. So when it came time to walk away from our jobs and a steady income we had some soul-searching to do, because we knew it was not inexpensive to make this choice. Well, we made the choice and we went into business for ourselves. Scary time. Went to the SBA, got a loan, put together a business plan, and the first two employees were he and I and I and he. And four years later we have 20 employees. We provide a safe environment for folks to work in, in a friendly place where people are paid a meaningful wage for full-time work with benefits. What would \$250 have meant to us that year? It would have meant a lot because it was tough. We underestimated the type of capital it would take to run that first year and we scraped through it and made it happen. We were fortunate and we're glad we did. We love the state of Nebraska, love America, and still believe it's the land of opportunity. But how many parents are sitting out there in North Platte and Grand Island and Lexington, would-be entrepreneurs who because of parental choice in education can send their children to a school they feel comfortable with that's in line with their belief system, but how many of them are sitting on the sidelines and not engaging in the economy because of finances? I would argue a lot of them. Not everybody can go to the Small Business Administration. Not everybody can go conventional financing at a bank. There are very wonderful, talented people who with just a little bit of nudge...if we plant the soil and prepare an environment where we can still dream in Nebraska, we can see great things. It's not a lot of money per family, but it is enough to maybe inspire and change

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the way some people view their situation and we've got to do something to encourage economic Nebraska. Not just in the big cities. It's not all about Omaha and Lincoln. It's about the smaller communities that need to thrive and need our support. This state is great because of the dual educational system that exists. The private and the public system work together in tandem and it works well. I echo all the statements of the individuals who have testified before me. I urge you to sit back for five minutes and think about this in terms of economic development. It is no different than when we set a bill or have a bill that's encouraging entrepreneurship or business development by large corporations to come to Nebraska. Let's take a bill that combines the goal of educational opportunity with a mind-set of providing economic development and do something great. It's about courageous leadership, trying new things, and having the courage to say hey folks, I think this is going to work. That we can do this and do this respectfully of all Nebraskans and their educational choice. I know that questions were raised by Senator Raikes about the fiscal note. I am not an expert in economics, but I am aware that in last year's fiscal note the figure was somewhere between \$3.4 million to \$3.8 million. This year it's \$18 million. I cannot explain the difference. We have to assume it's probably somewhere in the middle and that maybe those figures should be reviewed when you're making your decision on this bill. Again, I thank you ladies and gentlemen. Do you have any questions? [LB431]

SENATOR JANSSEN: Any questions? Don't see any, Nicole. Thank you very much. That was very good testimony by the way. You weren't looking for another business in a nice quiet town, are you? (Laughter) [LB431]

NICOLE NEESEN: Well, sir, I will tell you that I left the practice of law to go into business for myself and I would think if you wanted to get rid of more lawyers that passing this could work. (Laughter) That's a good thing most people would say. [LB431]

SENATOR JANSSEN: Thank you. We'll go to opponents. How many opponents do we have? Two? All right. [LB431]

HERB SCHIMEK: Senator Janssen, members of the committee, my name is Herb Schimek, that's spelled S-c-h-i-m-e-k. I represent the Nebraska State Education Association whose had a longstanding position against the use of public funds for private schools. This is not saying that we do not have an excellent dual school system in the state of Nebraska. In fact, my brothers attended parochial school in North Platte. I was invited to attend the public school. (Laughter) The system that you're about to launch onto, I think would be bad in the long run. We looked back into some of the states that have put this issue on the ballot. It has not passed in those states. In fact, in Nebraska in 1970 it failed. So you might want to consider that when you're doing your deliberations. There are good school systems on both sides of the fence. These parents we would gladly welcome into the public school system anytime. Thank you very much for your time. [LB431]

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SENATOR JANSSEN: Thank you, Herb. Any questions? Don't see any. [LB431]

VIRGIL HORNE: Senator Janssen, members of the committee, my name is Virgil Horne, V-i-r-g-i-l H-o-r-n-e, representing the Lincoln Public Schools. I would echo what Herb just said as far as the private school systems in the state of Nebraska. There's no question that they provide an excellent service to the people who wish to attend there. I would just point out a few things, though, that's been frequently mentioned in testimony provided to you. This Legislature is currently looking at legislation proposed by many school districts across this state who repeatedly have said we lose students but our costs don't change. They are looking for students. To my knowledge, which is not very deep as far as research is concerned, but from working with people, there's only about five maybe six school districts in this state that are actually growing. The rest of them are losing students. So any additional students that most school districts across the state would receive would be a blessing as far as they're concerned, and that includes the metro area. Some of the metro area school districts are famously known for the fact that they are very low in students and would like to have additional ones. The other thing that was mentioned in this is that this bill would address the fee structure that is currently being charged by some people for activities and things of that nature. Well, this state has on record currently for free and reduced students who would be perceived to be the most in need of some type of relief for that purpose, a statute that says if a school district charges a fee anybody who is free and reduced must have that fee paid for them. So it's a direct payment for the activity. I want to clarify. It's not a direct payment to the student, but the money is made available so that the student does not pay that fee and that was recently passed in the last couple years. The final thing that I would point out is that our Governor has repeatedly said that he's very proud of the fact that he has fully funded education in the state of Nebraska; however, he has also said in the very next breath, that between education funding and medicare, the state of Nebraska is going broke. My concern would be that if this was an additional \$18 million for education it would be lumped into the funds that goes towards Tax Equity and Educational Opportunity Support Act, commonly referred to as TEEOSA, and so consequently we would have an even greater burden perceived to be an education expense on the taxpayers of Nebraska. Thank you, sir. That concludes my testimony. [LB431]

SENATOR JANSSEN: Any questions? Thanks, Herb. I mean, Virgil. [LB431]

VIRGIL HORNE: I've been insulted a lot of ways, Senator, but I mean I didn't think it was that bad of a testimony. (Laughter) [LB431]

SENATOR JANSSEN: Any other opponents? Now that we got the Herb and Virgil straightened out we'll be all right. Anyone in a neutral capacity? I don't see any and that will end the hearing. Senator Friend waived closing and we will open, Senator Dubas if

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she's here, on LB683. We'll stand at ease for a minute until Senator Dubas gets here.
[LB683]

JESSICA WATSON: Sorry. That's really what you always want to do is keep the committee waiting, right? [LB683]

SENATOR JANSSEN: That's all right. You are to open on LB683, right? [LB683]

JESSICA WATSON: Right. [LB683]

SENATOR JANSSEN: All right. [LB683]

JESSICA WATSON: Senator Dubas would have liked to have been here, but she's involved in a meeting that she couldn't pull herself away from and I apologize on her behalf. Good afternoon, Senator Janssen, members of the Revenue Committee. My name is Jessica Watson, that's J-e-s-s-i-c-a W-a-t-s-o-n, and I am going to read Senator Dubas' testimony on her behalf. She represents the 34th Legislative District. Can everyone hear me? [LB683]

SENATOR JANSSEN: If you get a little closer to the mike, I believe...there you go.
[LB683]

JESSICA WATSON: Okay. The earned income tax credit is the federal government's largest benefits program for working families. Currently, the state of Nebraska offers an earned income tax credit at the state level. Nebraskans can claim a state refund that is equal to 8 percent of their federal EITC. The EITC is a federal income tax refund. It has demonstrable impact as it moves the working poor into a long time commitment to employment. In the past, when you became employed you usually lost assistance. Very often you would make less on the job than while you were on government assistance. The EITC is a graduated tax refund. The more you work the more you receive until it flatlines and then it gradually decreases as your job becomes better or as you earn more money. Since the late eighties, some 20 states have enacted EITCs of their own. State EITCs has a broad support on both sides of the partisan fence. State EITCs are very simple. They are set at a flat percentage of the federal credit. In other words, a family's state EITC equals its federal credit multiplied by a given percentage rate, currently 8 percent in the state of Nebraska. It is administered through the income tax so compliance and administrative costs are quite low, and for states specifically, the administrative cost is offset because IRS does much of the work. LB683 would allow a refundable credit against the income tax for working residents equal to 15 percent under Section 32 of the IRC, Internal Revenue Code, which is commonly referred to as the earned income tax credit. The operable date should read January 1, 2008 instead of 2007, and if the committee advances the bill Senator Dubas encourages you to adopt that change. Last year this bill was introduced by Senator Landis and the proposal was

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originally a 20 percent refund. The bill advanced and was watered down on the debate floor to an 8 percent compromise. Senator Dubas urges you to advance this bill and this program is successful and there are several testifiers behind me who will demonstrate that. We always hope to see a positive return on our investments and this is an investment in people and in the working poor. Thank you. [LB683]

SENATOR JANSSEN: Any questions? Don't see any, Ms. Watson, thank you. Are you going to stick around and close then? [LB683]

JESSICA WATSON: I was told that staff doesn't close. [LB683]

SENATOR JANSSEN: Okay. All right. [LB683]

JESSICA WATSON: Okay. [LB683]

SENATOR JANSSEN: Well, Senator Dubas won't be back? [LB683]

JESSICA WATSON: No, no, unless she finishes up, but I doubt it so... [LB683]

SENATOR JANSSEN: Okay. All right. [LB683]

JESSICA WATSON: Okay, thank you. [LB683]

SENATOR JANSSEN: Okay. All right. We will take proponents first. How many proponents do we have? Three? Four? Three and a half? (Laughter) How many opponents do we have? Opponents? Neutral? Okay. Take off. [LB683]

JENNIFER HERNANDEZ: (Exhibit 2) Good afternoon, Chairman Janssen, members of the committee. My name is Jen Hernandez, H-e-r-n-a-n-d-e-z, and I'm the community educator and registered lobbyist for Nebraska Appleseed. We advocate for policies that ensure opportunity for all Nebraskans and we think opportunity is a fair chance to achieve one's full potential. Tax policy is about priorities and it is the most important factor in ensuring economic opportunity for all Nebraskans. The earned income tax credit can lift families out of poverty by supplementing their wages. And in my testimony you'll see a little example there, a family of four with two children and a full-time worker who earns \$7 an hour. That family is going to bring home about \$13,600 a year in their wages. That is more than \$6,000 below the federal poverty line for that size of a family. A family of four, the federal poverty line is \$20,650. The family, because they are headed by a worker, would receive federal EITC of about \$4,200, a small child tax credit. And if the family lived in a state with a state EITC set at 15 percent, as this bill proposes, the family would receive an additional \$650 a year bringing their total income to \$19,000, but still about \$1,500 short of the federal poverty line. Setting our state EITC at 15 percent falls short of lifting all of our working families above the federal poverty

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line, but it's a good start. At 15 percent we would be encouraging work and moving hundreds of families closer to self-sufficiency. Although large numbers of welfare recipients are entering the workforce, most of them are not able to meet their basic needs without any other kinds of public assistance. They can't meet their needs on their earnings alone and that causes a lot of families to fall back on the welfare system. Because the state EITC can only be claimed by working families, the state EITC supports families who enter and remain in the workforce. You have--I haven't counted them--but I know a ton of tax proposals in front of you this session, and when it comes down to it I think we all believe that everyone should pay their fair share in taxes and no more. And I urge you to set responsible tax policy for families who are working hard, but whose hard work is still not enough to lift them out of poverty. The EITC gives workers a raise without costing the employer. For all of these reasons I urge you to advance LB683 out of committee. [LB683]

SENATOR JANSSEN: Any questions? Senator White. [LB683]

SENATOR WHITE: Thank you for coming. The handout, testimony of Kelly Davis, are you familiar with that that we just received? Or is that a following witness? [LB683]

JENNIFER HERNANDEZ: I'm not familiar with that, but... [LB683]

SENATOR WHITE: Okay. It indicates that Nebraskans tax system is regressive and that the poorest Nebraskans paid an average 10.2 percent of their income in Nebraska state and local taxes. Middle 20 percent paid an average of 9.8, and the wealthiest 1 percent paid 6.4 percent. [LB683]

JENNIFER HERNANDEZ: Okay. [LB683]

SENATOR WHITE: Do you generally accept those kinds of numbers in terms of where the percentage of tax burden falls? [LB683]

JENNIFER HERNANDEZ: I guess I'd certainly have to look at it closely. I would guess that that's probably correct. [LB683]

SENATOR WHITE: Okay, thank you. [LB683]

JENNIFER HERNANDEZ: I wouldn't have any reason to doubt that. [LB683]

SENATOR WHITE: Thank you. [LB683]

SENATOR JANSSEN: Any other questions? Seeing none, thank you for being here. [LB683]

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JENNIFER HERNANDEZ: Thank you. [LB683]

SENATOR JANSSEN: Next proponent. [LB683]

SARAH ANN LEWIS: (Exhibit 3) Good afternoon, Chairman Janssen, members of the committee. My name is Sarah Ann Lewis, L-e-w-i-s and I am the policy coordinator and registered lobbyist for Voices for Children in Nebraska. I'd like to thank you for the opportunity today to speak on behalf of the EITC and I would like to thank Senator Dubas for introducing this important piece of legislation to expand Nebraska's earned income tax credit. The EITC addresses a fundamental problem. Many working families do not earn enough to live on. Their wages are low and the costs of supporting a family are substantial. Some costs may be defrayed through various forms of public programs, but most low income families who are working receive only limited help from public programs. Furthermore, the special session in 2002 resulted in offsetting the budget deficit of the time by cutting services in children's health care and child care to lower income working families, primarily those between 120 percent and 185 percent of poverty, a class of Nebraskans the EITC impacts. The cuts made in 2002 still await restoration, and various proposals this year to restore these programs have met with opposition by HHS. The most straightforward way to help these families is to increase the value of Nebraska's EITC. The EITC is widely recognized as the single most important public source of income support for working families with children. The EITC is available, by design, to working families. The greater EITC benefits for larger families reflects recognition that larger families face higher living expenses than small families, and in your testimony I've shared with you a chart that reflects the payment scheduling for the EITC. The EITC now lifts about 4.5 million people--roughly half of them children--out of poverty each year. It is the nation's most effective antipoverty program for working families. Also, a substantial body of academic research shows the federal credit has contributed to a significant increase in labor force participation among single mothers. Roughly 12-15 percent of Nebraska's children are considered poor. In other words, if these children were members of a family of four they would be in a family surviving on roughly \$20,000 a year or less. Eighty-two percent of these same poor children in Nebraska have at least one parent working at least one part- or full-time job year round. Another 22 percent of Nebraska's children are living in low-income families, between 100-200 percent of the federal poverty level or in families of four making between \$20,000-\$40,000 a year. Ninety percent of these children have at least one parent working one full-time or part-time job year round. In Nebraska, a majority of children in poverty are living in rural areas of the state. And this is really a way to move money out to those rural areas and provide an economic stimulus in rural parts of Nebraska. Compounding the issue of children living in poverty, low-income working families in Nebraska pay substantial amounts of state and local taxes, and I am familiar with Kelly Davis' testimony and she does point out that on average...let's see, the lowest income, 20 percent of Nebraska households in a study they did in 2002, paid 10.2 percent on average of their income in state and local taxes. A higher share than did

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upper-income households. The state EITC would help offset this burden. To conclude, the earned income tax credit is an administratively straightforward mechanism that has proven successful in supporting work and lifting low-income working families and their children out of poverty. Expanding Nebraska's EITC would increase these proven benefits and we would urge you to include tax relief for low-income families to the tax reform discussion. Thank you. [LB683]

SENATOR JANSSEN: Any questions? Senator Cornett. [LB683]

SENATOR CORNETT: Those weren't 2002 numbers. Do you have any current numbers since we enacted the earned income tax credit last year? [LB683]

SARAH ANN LEWIS: No, because it hasn't...oh, I'm sorry. [LB683]

SENATOR CORNETT: Oh, I'm sorry. In regards to the percentage that they are paying? You said that the 20 percent of the lowest income were paying... [LB683]

SARAH ANN LEWIS: Oh, in regards to the 10.2? Um-hum. No, I don't have those numbers (inaudible), no. [LB683]

SENATOR CORNETT: All right. [LB683]

SARAH ANN LEWIS: But I can try to find them and get back to you. [LB683]

SENATOR CORNETT: If you could that would be wonderful. [LB683]

SARAH ANN LEWIS: Yes. [LB683]

SENATOR CORNETT: Thank you. [LB683]

SENATOR JANSSEN: Thank you. I see no more questions. [LB683]

SARAH ANN LEWIS: Thank you. [LB683]

SUSAN HALE: (Exhibit 4) Good afternoon, Senator Janssen, committee members. I'm Susan Hale and I'm a registered lobbyist and advocacy educator with the Center for People in Need, and we strongly support increasing the state EITC to 15 percent as provided in LB683, and we thank Senator Dubas for bringing this proposal for consideration. The Center for People in Need routinely sees hard working parents whose fatigue and frustration is evident in their faces and demeanors. They are among those who are on the lowest rungs of the economic ladder, and they struggle month to month just to get by, but do have dreams and intents of one day becoming financially secure. The infusion of dollars these families receive through both the federal and state

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EITCs has an enormous impact on their financial security and stability as well as their efforts to build for their futures. Research shows that many families that receive the EITC use it to pay for basic necessities like housing, utilities, food, and basic household appliances. Research also suggests that some families use their EITC to make purchases or investments that help them maintain their jobs and their homes or to improve their employability so that they have a better chance of moving into the middle class. A significant share of families use their EITC to repair or replace an auto that is needed to get to work, to make essential but costly home repairs like a leaking roof, or to pay for more education or job training. The effectiveness of a state EITC in enabling low-wage workers to escape poverty is of particular relevance to states' welfare programs. Many welfare recipients who take jobs continue to have very low incomes, often below the poverty line. Evidence from several states shows that although most welfare recipients work full-time or close to full-time, many of them earn wages at or only slightly above the minimum wage which certainly is far below a living wage. Moreover, many do not qualify for paid vacation or sick leave, forcing them to take unpaid leave for reasons such as a child's illness. The federal and state EITCs make work an ongoing and viable option for families moving from welfare to work and striving to break totally free of government assistance. The combined EITCs help ensure that low-income families avoid public assistance altogether. Increasing the state EITC will benefit Nebraska families who most need tax relief, and we urge this committee to look favorably upon increasing it to 15 percent rate as proposed in LB683. Thank you. [LB683]

SENATOR JANSSEN: Thank you, Susan. [LB683]

SUSAN HALE: Any questions? [LB683]

SENATOR JANSSEN: Any questions? I see none, thank you for being here. [LB683]

SUSAN HALE: Okay, thank you for your time. [LB683]

JULIE KALKOWSKI: Good afternoon. [LB683]

SENATOR JANSSEN: Just take your time. [LB683]

JULIE KALKOWSKI: Just a sprained ankle. Nothing serious. [LB683]

SENATOR JANSSEN: Oh, I feel for you. [LB683]

JULIE KALKOWSKI: (Exhibit 5) Good afternoon. My name is Julie Kalkowski, K-a-l-k-o-w-s-k-i, and I'm not going to talk about how this was Ronald Reagan's favorite program, and I'm not going to talk about how this is the most antipoverty program, but that it's especially important here in Nebraska since it hits families who earn less than

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\$39,000 a year. And that's especially important in Nebraska, because we have the highest percentage of mothers with children under the age of six that are in the workforce. And too large of those working mothers are single mothers and so almost all of them are eligible for the earned income tax credit. I am the director of the Family Economic Success Initiative and it is a program that works to help families stabilize their household income. And this is especially important, because at this time in our country more than 33 percent of our working families are using a credit card every month just to pay their basic financial household bills. More people filed for bankruptcy in 2005 than graduated from college. And our national savings rate, according to the federal reserve bank, is a negative 1 percent. That is the lowest since the Great Depression. So we are not doing well financially for many of our working families in this country, and here in Nebraska, too. One of the components that I work with, with the Family Economic Success Initiative, is the earned income tax credit. We host two VITA--VITA is volunteer income tax assistance--and we do free tax preparation for working families who earn less than \$39,000, all of who are eligible for the EITC. In February alone we saw over 500 families that we helped. Of those 500 families, their average income was \$17,012 and their average EITC refund that they got back from us was \$1,650. So that's about 10 percent of their annual income. So it made a huge difference to this family. The other thing I want to tell you about is that we also open about 90 bank accounts. So almost 20 percent of the people that came to us opened bank accounts, and this is especially important because people who are getting that much money back can direct deposit their state refund and open up a bank account. We have 11 banking partners in Omaha that are working with us. We want to get people to the bank because we know that single mothers who have bank accounts are much less likely to become homeless and that's especially important. Now when the people are going to the banks to get their check cashed, they're finding they have an account. And what we've asked the bankers to do is to identify a personal banker who will meet with these people and say, hey why don't you open a savings account. And our campaign is to use the fed, save the state. So we're using the state refund that you gave them last year to help people open savings accounts. I think that's a great way to use that. I want to tell you just real briefly, we had one single mother who came in. She earned a little over \$13,000 back with her EITC federal refund, she got about \$3,000 back. Imagine getting 25 percent of your salary in one check. It's amazing. So I want to close by saying that we think this is the right thing to do and it's not only the right thing to do because it provides equity in the tax bill, but also I want to remind you that there's a lot of studies that show that for every \$1 of EITC refunds that comes into the local community, it generates \$1.50 worth of economic activity. So this money is stimulating the economy. We know that, as Warren Buffett said, rich people save their money, poor people spend. It's good for the environment and it's good for the economy. So thank you for your time. I'd be glad to take any questions. [LB683]

SENATOR JANSSEN: Any questions? Don't see any. [LB683]

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JULIE KALKOWSKI: Thank you. [LB683]

SENATOR JANSSEN: Thank you. [LB683]

JULIE KALKOWSKI: And I want to introduce Paul Hartnett. He's one of our wonderful volunteers at one of our free tax prep sites. [LB683]

SENATOR JANSSEN: I wondered who that was back there. (Laughter) [LB683]

JULIE KALKOWSKI: Who is that guy? [LB683]

SENATOR JANSSEN: Thank you for your testimony. [LB683]

D. PAUL HARTNETT: Senator Janssen [LB683]

SENATOR JANSSEN: Senator Hartnett, welcome back home. [LB683]

D. PAUL HARTNETT: (Exhibit 6) I did spend a little time in this room. For the record, I'm Paul Hartnett, H-a-r-t-n-e-t-t. I'm passing around--I hope I kept a sheet--but this was in Time Magazine last October. It's a special article by the Time Magazine when the country was supposed to have \$300 million in it. And I guess I was really amazed that I guess that 50 percent of the reported income is less than \$30,000, and 70 percent at \$50,000. And like Julie said, I'm one of the volunteers at one of their...there's two sites they have in Omaha--one in north Omaha, one in south Omaha. And I guess the thing that's with me is how people live on such small income. And I guess I didn't know until, the federal is big, but the state, I think, can do a little bit more. And I think last year you passed, I think it was someone said, Senator Landis' bill. But I think most of the people, as people said before, most of the people I deal or have done taxes for are less than \$20,000. And a lot of times they're single. They may have a child dependent and so forth like that. So I think if part of your tax package, Senator Janssen and members of the committee, I think this really would help, because they're very, very honest. Most of them are working. I guess my best case was just the one I did Wednesday. A gentleman come in. The lowest income I've ever seen--\$345 was his income for the year. And doing his taxes I was able to get him \$100 back. Mostly from the feds, but also from...and he did qualify for the EITC. But most of them are families. So I really think this is something that the feds have done a great job with and I think Nebraska started this step. I think you maybe just get it a little further up the hill. So with that, I'll close. [LB683]

SENATOR JANSSEN: Any questions for Mr. Hartnett? Paul? Okay, how much do you charge to do those taxes, Paul? [LB683]

D. PAUL HARTNETT: It was really funny. I had to go to the class three days sponsored

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by the IRS and then I had to take a test, which I have not... [LB683]

SENATOR JANSSEN: Did you pass? [LB683]

D. PAUL HARTNETT: Yes, I passed. (Laughter) Yes. [LB683]

SENATOR JANSSEN: Thanks, Paul. [LB683]

D. PAUL HARTNETT: Thank you, Senator Janssen. [LB683]

SENATOR JANSSEN: Thanks for being here. [LB683]

D. PAUL HARTNETT: I wouldn't be here doing this. [LB683]

SENATOR JANSSEN: Good to see you. Next proponent. Any other proponents? Any opponents? Anyone against the bill? Anyone in a neutral capacity? I see...oh, there she is. There's the girl to close. Okay. [LB683]

JESSICA WATSON: (Exhibit 7) I forgot to give you this. And for the record, this is from the Center for Rural Affairs. It's a letter of support. [LB683]

SENATOR JANSSEN: Okay. That's it? You're waiving closing then? [LB683]

JESSICA WATSON: Senator Dubas did ask that I say one more thing and that she does hope that there is something for the working poor, especially those in rural areas in the tax package that advances, even if it's 2 percent, just a couple million dollars, she'd really like to see that happen. That's all. [LB683]

SENATOR JANSSEN: Okay. Thank you. That closed the hearing on LB683. Senator Karpisek, I believe is with us. Yes, LB416. [LB683 LB416]

SENATOR KARPISEK: Chairman Janssen, members of the Revenue Committee, it's me again. (Laughter) I have all sorts of great ideas how you can spend your money, don't I? My name is Russ Karpisek, K-a-r-p-i-s-e-k. I represent the 32nd Legislative District. LB416, as presented with amendment, provides that the federal adjusted gross income for all retirees from all state operated public employee retirement systems, the U.S. Civil Service Retirement System and the U.S. Military Retirement System would be excluded from paying state income tax on the amount of the first \$12,000 of retirement income. The applicable retirement systems which would receive this benefit are the School Employees Retirement System, the Class V School Employees Retirement System, which is Omaha, the County Employees Retirement System, the Judges Retirement System, the Nebraska State Patrol Retirement System, the State Employees Retirement System, the U.S. Civil Service Retirement System, and the U.S.

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Military Employees Retirement System. Under LB416, taxpayers filing a joint return would receive \$24,000 in retirement exclusion if both spouses receive qualifying retirement income. The exclusion would be phased in over a five-year period at 20 percent per year. That's what it does. I've got some people behind me to help me and you. So if you have any questions for me I'd be glad to take them. [LB416]

SENATOR JANSSEN: I don't see any, Russ. You didn't miss anybody on that list you named off, did you? [LB416]

SENATOR KARPISEK: I don't think so. (Laughter) [LB416]

SENATOR JANSSEN: Okay. All right. [LB416]

SENATOR KARPISEK: We had a few missed, but we found out that there's people out there who we did and we tried to include them. [LB416]

SENATOR JANSSEN: Okay. Russ, are you going to stick around to close? [LB416]

SENATOR KARPISEK: Yes I will. [LB416]

SENATOR JANSSEN: Okay. All right. [LB416]

SENATOR KARPISEK: Thank you. [LB416]

SENATOR JANSSEN: Okay, we will take proponents first, followed by opponents, and then those in a neutral capacity. [LB416]

HERB SCHIMEK: (Exhibits 8, 9, 10, and 11) Mr. Chairman, my name is Herb Schimek. I represent the Nebraska State Education Association. I want to thank Senator Karpisek for introducing the bill. This bill is a concept that we've been looking at for a number of years. You are seeing an amendment and some materials being brought around to you. The amendment is to replace the bill. It has a few small changes such as putting in the Omaha teachers, also making very clear that we are not including social security benefits as something that would not be taxed. So that's the purpose of that amendment and I think it's coming now. This bill is patterned after legislation that was passed in Iowa last session. The bill in Iowa did away with the paying of income tax on retirement benefits. It was phased in over a five year period. The way it's going right now, there is a bill that has passed one house in Iowa that would do away with five year phase in period and simply completely exclude retirement benefits from the state income tax. In a survey of 50 states plus the District of Columbia, 12 jurisdictions tax benefits fully. One of those is Nebraska. Eighteen jurisdictions provide some form of limited tax exemption, 11 jurisdictions totally exempt benefits from state income tax, and 8 jurisdictions have no state income tax, period. The states have these exemptions in statute for the

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following two reasons: to eliminate some or all of the tax burden on residents who no longer are in the workforce, and to serve as a tool to attract retirees to that state. Now what about the states that touch Nebraska, because we are usually looking to see what's going on here and not in New York state. Colorado exempts the first \$24,000 from state income tax if you are at the age of 65. The age of 55-65 they exempt the first \$20,000 instead of \$24,000. Iowa exempts the first \$6,000 and then \$12,000 for a joint filing. In 2007, Iowa will exempt the first \$18,000 in a single and \$24,000 in a joint filing. In 2008, it goes up to \$24,000 and to \$32,000. Kansas totally exempts all retirement benefits from income tax in their state. Minnesota is like Nebraska. It taxes retirement benefits. Missouri, the total exemption from all retirement sources may be no larger than \$25,000 single and \$32,000 for a joint filing. South Dakota has no state income tax and neither does Wyoming. So you can see where we stand as far as Nebraska and its adjoining states. This publication is the publication that comes out every two years of the largest retirement systems. And if you look in here it will show you what all the states have. And that would help you for any research you might have. A piece of information that came to my desk that I think is extremely interesting, it shows you the monthly benefit by county in Nebraska that is paid to school personnel, patrol, judges. And there's a net there of \$16 million just for those. Then you put the Omaha school system into that. There's a net there of \$4 million plus. So into our state each month goes over \$21 million that's spent on main street Nebraska. Now the second thing you have is the amount that leaves our state because people move. And there you can see the totals by each category--school, patrol, judges--is \$18 million. The Omaha schools is \$5.4 million. A lot of their teachers live in Iowa. And then you could also see the statewide totals was another \$23 million. So that's some information for you about what we're trying to do. There are people that are going to follow me to testify. If you have any questions I'll be glad to handle them. [LB416]

SENATOR JANSSEN: Any questions? I don't see any, Herb. [LB416]

HERB SCHIMEK: Okay, thank you very much. [LB416]

SENATOR JANSSEN: Thank you. Next proponent. [LB416]

VIRGIL JACOB: Senator Janssen, committee members, my name is Virgil Jacob, J-a-c-o-b. I'm here today, first of all, to thank Mr. Karpisek very much for introducing the introduction of this bill. And secondly, I wanted to thank Senator Cornett who has also introduced two bills--LB169 and LB354--which also pertain to the tax relief for veterans. Over the years, all us veterans have stood and kind of watched all the states around us and all over the country give their veterans a tax relief from their income or they gave bonuses, or in many cases, some have given both the last number that I have seen there's 38 states in the United States that have exempted veterans from paying state income tax. And also a large percent of the state have given bonuses to veterans, which is very much appreciated and we think that Nebraska should kind of catch up with the

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rest of the states around us and make us veterans feel a little bit better of course, too. One other thing that I would like to express if any kind of tax relief for the aged and the low-income and the veterans would be more welcomed would be one on the homestead exemption thing. Just as an example, my tax on my home in 2005 went from \$391 due to the exemption I got for veterans on the homestead exemption thing. Last year with the increase in the valuation, my tax on my house went up to \$1,695, 400 percent over what I did pay for it. If anything could be done to help the veterans and the aged and the low-income people, I would surely appreciate the state of Nebraska could do something about the homestead exemption, the way they figure it. Due to the fact that they figure in your retirement income plus your social security, which more than doubles the amount that they figured on. So just as an example, it would be much appreciated for most all the veterans and like I said, the aged and the elderly to get an exemption on the homestead exemption. A better percentage. And once again, I also wanted to thank Senator Cornett who just left that she has also introduced, like I said, the two bills who helped the veterans with their income tax on the state of Nebraska. Is there any questions? [LB416]

SENATOR JANSSEN: Questions? Ron. [LB416]

SENATOR RAIKES: The property tax you paid after homestead... [LB416]

VIRGIL JACOB: Yes. [LB416]

SENATOR RAIKES: ...why did that go up so much? Did you have a big increase in retirement income? [LB416]

VIRGIL JACOB: Nope. The valuation on the house went up \$16,000 and that made the big difference. [LB416]

SENATOR RAIKES: So the house no longer met the homestead exemption limits. [LB416]

VIRGIL JACOB: That's correct. Matter of fact, exemption for the years 2001-2004 I paid no taxes on the house because of the exemption. And then bingo. In 2005 it was raised, and then like I said, in 2006, due to the valuation, went up over \$16,000. My taxes on the house went up about 400 percent. [LB416]

SENATOR RAIKES: Okay, thank you. [LB416]

VIRGIL JACOB: Yes sir. [LB416]

SENATOR JANSSEN: Any other questions? I don't see any, thank you very much for being with us. Next proponent? Mr. Hogrefe? [LB416]

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RAYMOND HOGREFE: (Exhibit 12) Senator Janssen and members of the Revenue Committee, I'm Ray Hogrefe, H-o-g-r-e-f-e. I am making this presentation on behalf of our NARFE, National Active and Retired Federal Employees Association, president, federation represents the chapters here in Nebraska. Mr. Roger Andrews who could not be here today. This legislation is very critical to federal and military retirees in Nebraska because almost all of these pensions are taxable by Nebraska. This really hurts the federal retiree who retired at the lower grade level, and particularly those whose spouse was covered by social security. Because of the government pension offset, many federal retirees are eligible for little if any of the social security spousal payment and social security survivor benefit. That's federal law. I realize that's not a responsibility of Nebraska's. From the latest statistics I could find, which is October 1, 2003, there were 12,980 Civil Service Retirement System/ Federal Employees Retirement System. There's two different ones. The Federal Employee Retirement Systems, FERS, are now under social security. These annuitants in Nebraska with 9,527 being employee annuitants, and the other 3,453 being survivor annuitants. The average reported employee annuity was about \$1,785 per month and the survivor was about \$1,025 per month. Please note that almost all of these benefits are taxable by Nebraska. If the average employee monthly annuity had been from social security and with modest other income it would be safe to say that the social security annuity would not be taxable in Nebraska. A 2000 census reported 16,547 federal government workers in Nebraska with 52 percent of these being female. Nebraska would really benefit if many of these federal retirees decided to retire in Nebraska. Passage of this legislation would be a good tool to encourage these people to stay in Nebraska and to encourage others from out of state to retire here, many maybe returning home. Each federal or military retiree that stays or comes to Nebraska is adding dollars to Nebraska's economy that we would not have if they retired to another state. Nebraska is the only state that does not offer some kind of income tax relief to federal and military retirees. And in the submitted copy there was attached information on the treatment of the federal retirees. If Nebraska was competitive in this area it is possible that organizations and companies that are recruiting these people would be more successful. Most of these people have skills that would really benefit Nebraska not only as employees, but also as volunteers in the community. I have a couple things to add to that. The CPA that does my tax returns had mentioned to me here about a year ago now that for 2005 that of his 10 wealthiest clients, five of them moved from Nebraska or changed their residency from Nebraska to another state. And then on December 22, 2006, which kind of backs up what I've been saying too, the Lincoln Journal Star stated that about 5,600 more residents left Nebraska for other parts of the nation than moved here. Our tax situation, I'm sure, is part of that reason. I thank you for the opportunity to make a presentation this afternoon. If there's any questions I'll certainly try to help answer them. [LB416]

SENATOR JANSSEN: Thank you, Ray. Any questions? Got off the spot. [LB416]

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RAY HOGREFE: Thank you. [LB416]

SENATOR JANSSEN: Um-hum. [LB416]

JERRY STILMOCK: (Exhibit 13) Good afternoon, Senators. Jerry, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of the Nebraska State Volunteer Firefighters Association. There is one additional group, Senator Janssen, that we'd ask the committee to respectfully consider, and that would be the membership of the Nebraska State Volunteer Firefighters Association. The Legislature passed a few short years ago an opportunity for volunteers to have what is akin to a retirement program, length of service award program. And there are only a handful of communities in Nebraska that have that benefit available and that comes from the communities. The cities actually fund the program. As the program was introduced, the proposed act provided a state contribution as well. And as that bill moved forward through the process that state component was removed and so now it falls solely on the cities. Some communities that rely on volunteers--Ogallala, North Platte, and a couple others--have these programs for the volunteers and this would, by amending the bill the way I've requested your consideration, that would allow this group as well to participate in the benefits for LB416. And should the committee decide to do some affirmatively on this bill, we'd request that you involve the volunteers as well. Thank you. [LB416]

SENATOR JANSSEN: Any questions? Don't see any, Jerry, thanks. [LB416]

JERRY STILMOCK: Okay. Thank you, gentlemen. [LB416]

SENATOR JANSSEN: Any other proponents? [LB416]

MICHAEL W. SMITH: Good afternoon, Senators. My name is Michael Smith, M-i-c-h-a-e-l S-m-i-t-h. I'm the executive director of the Omaha School Employees' Retirement System. Just to give you a notion of the impact on the Omaha Retirement System, about 91 percent of our retirees retire in Nebraska. So the vast majority of the pensions that they have earned get spent right here in this state. To give you an idea of who this would impact, approximately 35 percent of all of our retirees earn less than \$12,000 a year. Forty-eight percent earn less than \$18,000. So this would definitely have an impact on those folks who have spent their lives working with the youth of our state and are attempting to live here in Nebraska on this pension income. The other notion at hand is that it's based primarily on the older group. Those who are 65 years and over have an average pension of \$15,000. So this would be targeted very, very successfully to help those folks be able to make ends meet and we certainly would be supportive of LB416 as it incorporates all of these groups that have been mentioned. And I'd certainly be open to any questions you might have about this testimony. [LB416]

SENATOR JANSSEN: Any questions of Mike? Don't see any, Mike. Thank you for

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being here. [LB416]

MICHAEL W. SMITH: Thank you. [LB416]

SENATOR JANSSEN: Next proponent. [LB416]

KORBY GILBERTSON: Chairman Janssen, members of the committee, for the record, my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the State Troopers Association in support of LB416. Senator Raikes is glaring at me right now. I assume all of you know why we are supporting this. Bringing Nebraska in line with what other states are doing, and with that we'd appreciate the committee's support. I'd be happy to try to answer any questions. [LB416]

SENATOR JANSSEN: Any questions? I don't see any. You got by, Korby. Any other proponents? Any opponents? Oh, you've got one proponent yet? Okay. [LB416]

ROBERT GOLKA: Senator Janssen and members of the Revenue Committee, this will be short. My name is Robert Golka, G-o-l-k-a. My address is 1757 South Arthur Street, Grand Island, Nebraska, 68803. I'm a retired civil engineer having worked 33 years with the Bureau of Reclamation. All of it in the state of Nebraska. I am the president of the Grand Island chapter of the National Active and Retired Federal Employees. And so on behalf of my 220 members I'm here to speak in support of LB416. What I really want to speak about is those annuitants who have lower paying jobs. Like in my agency, this was secretaries, engineering surveyors, drafters, inspectors, engineering technicians, those types of employees and as Mr. Hogrefe mentioned, the average annuity is \$1,785 for the federal annuitants in Nebraska, but these people would be less than that. But I'm also speaking on behalf of those survivor annuitants who make up about one-fourth of all of Nebraska's federal annuitants who receive an average annuity of about \$1,025. So I just want to say that in fairness I think that LB416 could help remedy this to some extent. And I want to also expand on the fact that a state income tax on federal earned annuities has an effect that is related to what I call the brain drain. I personally know the Bureau of Reclamation employees that move to another state upon retirement because of Nebraska's taxing of federal annuities. LB416 could help this situation. So thank you for the opportunity to express my very strong support for LB416 and ask your serious consideration of this. Thank you. [LB416]

SENATOR JANSSEN: Thank you. Any questions? Don't see any, thank you. Are there anymore proponents? How about opponents? Seeing none, anybody in a neutral capacity? Seeing none, Senator Karpisek to close. [LB416]

SENATOR KARPISEK: Thank you, Revenue Committee, for indulging us in this. I would like to thank Mr. Schimek for bringing up the point that yes there is a big fiscal note on

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this, but I think we do need to look at what it can bring into the state. I think that in my short time here the fiscal note only looks at what is going to go out, not what it can bring in. These monies are spent right back on main street. If we can get people to come here, come back here, or stay here, keep people in their homes, I think that it would cut into that fiscal note and bring a lot more dollars back into the state. I know that it's a tough decision. As I hear on the floor, there were no opponents to the bill. And I did forget one group though, Senator. I would be glad to put in the state senator retirement fund also. (Laughter) [LB416]

SENATOR JANSSEN: Senator Langemeier. [LB416]

SENATOR LANGEMEIER: Chairman Janssen and Senator Karpisek, thank you for your testimony. I find it a little ironic in this whole bill and the testimony that we heard that we have a citizenry in Nebraska that receives their total income in pay based on taxes that we collect from other Nebraskans, yet when they retire they don't want to pay as citizens of the state for state employees into the future. [LB416]

SENATOR KARPISEK: But they did pay those taxes while they were working. [LB416]

SENATOR LANGEMEIER: Okay, thank you. [LB416]

SENATOR KARPISEK: Thank you. [LB416]

SENATOR JANSSEN: I don't see any other questions. Thank you very much. [LB416]

SENATOR KARPISEK: Thank you very much. [LB416]

SENATOR JANSSEN: That ends the hearing on LB416. Senator White, you're on deck with LB496. [LB416]

SENATOR WHITE: Senator Janssen, my name is Tom White [LB496]

SENATOR JANSSEN: Hang on just...Tom, wait until they get cleared out. Okay? Okay, doors are shut. Tom? [LB496]

SENATOR WHITE: (Exhibits 14 and 15) Thanks, Senator Janssen. My name is Tom White, W-h-i-t-e. I am a state senator representing District 8 in Omaha, Nebraska. I'm here to introduce LB496. LB496 is really an extension of a previous bill passed approximately 20 years ago. LB496 would permit one time special distributions or dividends, and by that I mean 20 percent or more of the net worth of a company. It is a corollary to a bill that was passed over 20 years ago to encourage the formation of capital and the retention of major corporations in the state of Nebraska. That bill has been very successful. You will note the fiscal note in this bill is zero. The reason for that

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is there are other methods that this money can be distributed without tax consequences. The easiest method is for a number of these people at any such time that they would take...for example, right now they could take this value out, and by agreeing to sell their stock, they can simply relocate and sell the stock. There are other methods as well that the payment of these kinds of taxes can be avoided and the fiscal note properly reflects that it's zero cost to the state. I was surprised to see a statement of the overall cost of this in the Revenue Committee notes. I would submit that those notes do not accurately reflect reality. We have successfully kept people here rather than relocating to other states or doing other methods of tax avoidance that would have prohibited the payment of those sums in the first instance. The sums that we assume could be recovered assume that the people would stay here, assumes that it would have been distributed in this manner instead of another manner. I don't think that reflects economic reality. The distributions in this case would reduce the value of the underlying company. Therefore, if you can sell a stock for the entire company, these distributions do not in any way cause an additional tax loss. The sale of the stock, however, would probably require retirement of people in this particular company's case. A brain drain is a real and regular problem. It is an extraordinarily successful company. It is an extraordinarily good corporate citizen. One of the things you will notice are two letters in support. One from the Omaha Chamber of Commerce for a continuation of this, an extension of this, and one from the AFL-CIO. You may go many years before you see two organizations like that cooperate in anything much less in a recommendation of this type. I'm convinced that, in fact, the continuation of this program, the modernization of it, costs us nothing, but actually benefits us enormously. The folks who make these sums make extraordinary salaries--many of them--and they pay income taxes and it keeps them here. But this is not really to benefit the highest paid. This mostly benefits the middle income and the lower management level of the company. This company is extraordinary in that they recruit young talent, reward it, and hold it with stock ownership in the company. Those who are at the highest end have many options on how they could realize this income without paying taxes. What this bill would do is allow people who have greatly contributed to the company's success to not have to leave the company in order to remove capital. That will create additional economic income for us, either in the form of sales taxes, investment income into different investments that will produce taxable income, and other matters. Given the committee's long day, I thank you for your attention. I will try to answer any questions you may have. There are people who will follow who can probably more accurately answer some of them at least. [LB496]

SENATOR JANSSEN: Any questions of Senator White? I don't see any, Tom. [LB496]

SENATOR WHITE: I thank you for your courtesy. I will close unless it appears not to be necessary. [LB496]

SENATOR JANSSEN: Okay. We'll take proponents first. [LB496]

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KEN STINSON: (Exhibit 16) Thank you, Mr. Chairman, other members of the Revenue Committee. I'm delighted to be here today. Although jackhammers are usually music to my ears, but not in this particular case. (Laughter) My name is Ken Stinson, that's S-t-i-n-s-o-n. I'm the chairman of Peter Kiewit Sons', Inc. and I come before you to testify in support of and to offer our company's perspective on LB496. I am not a native Nebraskan, but I came to Nebraska in 1982. I was transferred here by the Kiewit company from a job I was at in Baltimore. So I was here during the period of time--although certainly not involved in it--in the passage of the 1987 capital gains exclusion. I certainly recall ConAgra's looming presence in that discussion and their ultimate decision to retain their headquarters here with the impetus of that passage of that legislation. And we obviously were not quite as vocal, but big supporters of that bill. In my testimony this afternoon, and I appreciate your forbearance. It's late in the afternoon on the first 55 degree day in a long time around here. But I want to go over three things if I may. One, why the changes in federal tax law have rendered the Nebraska capital gains exclusion partially ineffective to companies like Kiewit. Secondly, why the update to the capital gains exclusion in LB496 is important to Kiewit, and why the relatively simple amendment offered by Senator White's bill is, in our view, the preferred solution. So if I could take them one by one. First, why have changes in federal tax law rendered the capital gains exclusion partially ineffective for companies like Kiewit? I think to understand our current challenge in this regard you really may find it helpful to be familiar with our company's capital structure. As most of you probably know, we are employee owned with shares held by around 1,750 of our active employees, and that's about 75 percent of the supervisory and the professional staff that have been with our company for five years or more. So the ownership is very broad-based. That's a high percentage of our employee base. About 14 percent of the shareholders live in Nebraska, but because our headquarters is here, about one-third of the shares of the company are held by Nebraska residents and employees. Now unlike stocks in the public markets, employees cannot buy stock in Kiewit at will. It has to be offered to them to purchase. And ownership and the offering of ownerships, which we do on an annual basis, is based on individuals' contribution, their level of responsibility, and their degree of contribution to the success of the company. It's a system that Peter Kiewit started over 50 years ago and it's really been an underpinning of our success and a really great system for motivating employees to think like owners simply because facts are they are owners. And it has allowed us, in my mind, probably the singular biggest factor that it's allowed Kiewit to become one of the leading contractors in North America and we certainly have no plans to change that capital structure. It perhaps would be helpful also for you to understand the nature of our business. We perform construction services primarily as a general contractor for a wide range of public and private customers. We're probably the largest interstate highway builder in the history of that program as a matter of fact. Our business model has its risks and it can be cyclical, but it's not highly capital intensive unlike many business. We don't build manufacturing plants. We don't put a lot in R&D, nor do our competitors. So recently, in modern time I should say, we've generated the cash that is greater than we are able to put back into

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our business effectively, including investments and acquisitions, which we make periodically, but we rarely find good acquisitions. And assuming we continue to run our business effectively we would expect it will continue to generate cash beyond that which we need to employ or redeploy in our business. Now to the tax law change. In 2003 the federal tax law, as you all know, equalized the tax rates on capital gains and dividends. And that tax change eliminated the bias in the tax law for companies to retain cash in the company and it frankly caused us to look at other options with regard to the cash that we had, in particular the option of distributing this cash to our employee shareholders. Dividend and capital gain tax rates at the state level have likewise, similar to the federal government, been equalized, and thus our shareholders are not penalized by any extraordinary dividends that we would pay versus a capital gain distribution ultimately when they sold their stock back to the company, except for one state. And that is Nebraska. And that is because in the case of the extraordinary dividends, Nebraska shareholders do not qualify for the Nebraska capital gains exclusion. It wasn't contemplated at the time of it because taxes at that time were quite different on capital gains and dividends. Now if we were typical a publicly held company and we wanted to distribute our excess cash, we would simply go into the public markets and offer to buy back our stock. Many companies do that. But our program is unique and it doesn't lend itself to a voluntary stock buyback that would be eligible for capital gains treatment. So if we went out to our employees and said any of you would like to sell your stock back, we wouldn't get any offers, because it's coveted in the company and people aspire to get more of the stock. So for us, a major decapitalization, such as what I'm talking about, has to be done on a prorata basis, the same percentage essentially for each of our shareholders and it has to be mandatory. We couldn't make it voluntary or no one would tender their shares. Problem is if the federal tax code treats a mandatory prorata buyback such as a dividend, treats it as a capital gain--the same. But a dividend, even if it is an extraordinary event resulting in a significant decapitalization, effectively the same as a capital gain treatment, would not be eligible for the Nebraska capital gains exclusion. So that's my first point. Second point I'd like to cover is why the update to the capital gains exclusion in LB496 is important to Kiewit. Well, from a company that's about people, primarily from a company point of view, it certainly impacts recruitment and retention of employees. And as was alluded to earlier, in today's high tech world people oftentimes in many companies, including our's, can be where they want to be. The company in this particular case could be located anywhere that we would choose to. We're not dependent on being here. And don't get me wrong. We want to be here. We don't want to be anywhere else. We're very committed to Nebraska and we think we're very good Nebraska citizens. And there are, as you all know, deep roots in our company in this state. We were founded here in 1884. Yet there's a good deal of logic for a company with coast to coast operations to be located also in the middle of the company. But with Kiewit being home to our headquarters, our top executives and many members of our key management team are also located here. In addition, we have chosen to maintain several key operating divisions and key departments of our company here in Omaha. And some of those such as our IT group and in particular our

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underground division, which is located in Omaha, even though we've never built a tunnel in Omaha, are here somewhat arbitrarily. And I certainly have heard management from those parts of our organization question whether they and their organization need to be here and could they not be located elsewhere. And their questions are prompted by tax issues in Nebraska. And I think Senator White's update to the capital gains exclusion will certainly help minimize this pressure to locate these divisions or departments of our organization somewhere else. I want to reenforce our company wants to be in Nebraska. This is not about not being in Nebraska at all. Also like to emphasize that this update is not about Kiewit per se, the organization, because this tax provision benefits our employees, not the corporation. And it's really about restoring the full value of the capital gains exclusion for hard working employees who happen to live in Nebraska. There is a good deal of diversity of backgrounds among the 250 shareholders who live in our state. We have found over many years, as a matter of good practice and they contribute to our success that it is best to maintain a blend, a mix. We shoot for 50/50--we don't always achieve it--of hands-on, craft-oriented, craft-generated employees combined with engineering graduates. And our employment model would have a mix of those where individuals are promoted from a craftsman and say a mechanic or a welder or a carpenter or laborer to a foreman, and then to a supervisor, superintendent, and on into management, and we like to keep the balance. So we don't even think of our company as simply high tech end of the business, but it's a very strong combination and most of our employees spend most if not all of their career with Kiewit. Somewhere in the 20, 30, 40 year range depending on when they come with the committee. I, myself, am near to 40 years of employment with Kiewit. And these employee shareholders of course will be the beneficiaries of restoring the capital gains exclusion. Leads to my third point. What is the solution? We certainly prefer the approach of Senator White's bill because we think it's straightforward and simple. Under LB496, an extraordinary dividend, which has chosen to be defined as 20 percent or more of a company's market value would qualify for capital gains exclusion. At that level we distinguish a cash payout from a dividend. It really is a decapitalization event that would, in our view, should qualify for capital gains exclusion. And we don't think it's a new benefit. We think this really is an update, if you will, of the capital gains exclusion that's been in place from the beginning and would be available to that same employee if they simply waited and sold their stock back when they retired from the company. Important to emphasize that regular dividends, which we pay...we're not asking for them to qualify. We have traditionally paid about 3 percent of our stock value each year as a dividend primarily to assist our employees who have borrowed money to buy stock in the company and assist them in paying back their loans. And those dividends would continue to be taxed as before. One final point I'd like to make is that my testimony today is--just to be open--is not for my own benefit. When I stepped down as the chief executive of Kiewit a little over two years ago, I agreed to sell nearly all my stock back. So my testimony today is on behalf of about 250 of my fellow Kiewit shareholders that reside here in the state of Nebraska. I'd like to thank you for your attention and I hope that you'll be to support this bill. I apologize again for the lengths of my comment,

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particularly in the light of I've noticed the people in front of me were much briefer than I have been. And along with Senator White, I welcome your questions if you have any. Thank you. [LB496]

SENATOR JANSSEN: Are there any questions? Ron, did you have one? [LB496]

SENATOR RAIKES: Yeah, Ken. So as I understand it, at the federal level it wouldn't make any difference whether you paid it out as a dividend or you converted to stock. [LB496]

KEN STINSON: That's correct. [LB496]

SENATOR RAIKES: At the state level, there is an exclusion if it's a sale of the stock. [LB496]

KEN STINSON: That's correct. [LB496]

SENATOR RAIKES: But if it's a dividend of any size now, it's taxable? [LB496]

KEN STINSON: That's correct. Even though, if I may amplify, even though we actually would do this in the form of a stock prorata stock buyback as opposed to technically a dividend. But it's treated as a dividend because it's prorata and therefore not subject to the capital gains exclusion in Nebraska. Did I muddy that or clarify it? [LB496]

SENATOR RAIKES: Yeah, I guess it...so if everybody sells exactly the same part of the stocks, it looks too much like a dividend? [LB496]

KEN STINSON: It's treated like a dividend under tax law. Yes, sir. [LB496]

SENATOR RAIKES: I see. I see. So what you'd like to do is in Nebraska law get a certain dividend treated the same way as a capital gain treatment? [LB496]

KEN STINSON: Yes, sir. A dividend over 20 percent of the market value of the company. [LB496]

SENATOR RAIKES: And would this be something that could be done several times? I mean, I assume you wouldn't have to distribute 20 percent of the value of the company lots of times, but there's no limit on the number of times this should be done. [LB496]

KEN STINSON: No, sir. [LB496]

SENATOR RAIKES: Okay. All right, thank you. [LB496]

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SENATOR JANSSEN: Carroll. [LB496]

SENATOR BURLING: Thank you, Mr. Stinson. Now the problem that this bill is trying to solve deals only with shareholders that live in Nebraska, not where the company headquarters are? [LB496]

KEN STINSON: Just shareholders that live in Nebraska, yes. [LB496]

SENATOR BURLING: So shareholders that live outside of Nebraska don't have a problem? [LB496]

KEN STINSON: Don't have the issue. [LB496]

SENATOR BURLING: So this would just give them the same benefits that... [LB496]

KEN STINSON: Exactly correct. [LB496]

SENATOR BURLING: Okay, thank you. The Peter Kiewit's been in this state a long time and they're highly respected employer and thank you for coming today. [LB496]

KEN STINSON: Thank you. [LB496]

SENATOR JANSSEN: Senator Preister. [LB496]

SENATOR PREISTER: Mr. Stinson, I apologize. I was in some other hearings and didn't hear the beginning. So you may have covered things that I would ask. [LB496]

KEN STINSON: No problem. [LB496]

SENATOR PREISTER: Essentially once an employee retires from your employment, they're no longer allowed to own that stock. Is that correct? [LB496]

KEN STINSON: That is correct. [LB496]

SENATOR PREISTER: So they're forced to liquidate. [LB496]

KEN STINSON: That's correct. [LB496]

SENATOR PREISTER: Forced to sell it back. So they have no option at that point. [LB496]

KEN STINSON: That's correct. [LB496]

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SENATOR PREISTER: Okay. And that's part of a larger retirement package that would be available to them. [LB496]

KEN STINSON: It is their retirement package. [LB496]

SENATOR PREISTER: So that's everything. [LB496]

KEN STINSON: Yes, sir. [LB496]

SENATOR PREISTER: Okay. [LB496]

KEN STINSON: Now some may have a personal 401k on their own, but there's no other company retirement package. [LB496]

SENATOR PREISTER: Okay. And so when somebody is at the age of retirement they could choose to stay in Nebraska and retire here and pay the tax or they could choose...and they may be working in other places, but still maintaining their residence here. It would be very easy for them to just have their personal residence be any state they want it to at that point in their lives I would think. Is that accurate? [LB496]

KEN STINSON: Yes, sir, Senator. Although, again, on retirement and selling their stock back in retirement, the capital gains exclusion does apply. So there would be no Nebraska capital gains tax in that event. But it was prompted by just the scenario you outlined, back in 1987. And in fact, as I mentioned earlier, I moved here in 1982 and it was interesting, because it was reality of how many individuals right before retirement, for some obvious reason, ended up in Wyoming or Florida or Texas, Washington State, other non-tax states. And it wasn't a challenge for them to establish residency there and so they did. And Nebraska not only missed out at that time on whatever capital gains, because they no longer were a citizen of the state, resident of the state, but also missed out on any subsequent economic involvement they would have in terms of spending that money or philanthropy or whatever it might be. So that was the circumstance back in 1987. Now the capital gains are excluded under the circumstance you described. It is trying to...if there is a special dividend, which effectively is a decapitalization of the company, so it's a significant special dividend, to get that same treatment, because it effectively would fall under the same philosophy if you will. Does that answer your question? [LB496]

SENATOR PREISTER: Yes, I think you answered it very thoroughly and thank you. I do appreciate that. Thank you for appearing before us today. [LB496]

KEN STINSON: My pleasure. [LB496]

SENATOR JANSSEN: Any other questions? Seeing none, thank you for being here.

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[LB496]

KEN STINSON: Thank you. This was very nice. I'll have to come more often. This was my first time. [LB496]

SENATOR JANSSEN: Good. Welcome back anytime. [LB496]

KEN STINSON: Thank you. [LB496]

SENATOR JANSSEN: Any other proponents? Any opponents? Anyone in a neutral capacity? Senator White to close. [LB496]

SENATOR WHITE: Thank you, Senator Janssen. One of the things I would point out is that in the kind of business Kiewit is in, their people move all the time. So you have a person who's the head of tunnels and they have a major project in Puerto Rico or underground, they're there. And they're there for a year or two. It's extremely easy and simple for them. In fact, most logical for them to relocate their residences at that time. What this bill does is recognize modern fluidity of capital. We have a wonderful corporate person. We're the only state that punishes people who are paying income tax here for this kind of thing. It makes no sense. We should streamline our tax code, I submit, to fit with modern business practices and I very much appreciate everyone's kindness and attention to this bill. [LB496]

SENATOR JANSSEN: Okay, thank you. That ends the hearing on LB496 and ends the hearings for the day. [LB496]

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Disposition of Bills:

LB431 - Indefinitely postponed.
LB683 - Indefinitely postponed.
LB416 - Indefinitely postponed.
LB496 - Advanced to General File.

Chairperson

Committee Clerk