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Revenue Committee
February 22, 2007

[LB272 LB362 LB409 LB569 LB628]

The Committee on Revenue met at 2:30 p.m. on Thursday, February 22, 2007, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB569, LB272, LB362, LB409, and LB628. 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. [LB569]

SENATOR JANSSEN: Good afternoon, ladies and gentlemen. Welcome to the committee on Revenue. We're here this afternoon to hear four bills: LB569, LB272, LB362, LB409, and LB628. I like to welcome you--oh there's five, excuse me, can't count. That's a qualification for the Revenue. (Laughter) Committee members that are with us here this afternoon are Senator Burling to my far left and Senator Abbie Cornett is joining us. To my far right is Erma James, the committee clerk, and Senator Langemeier, and Senator Raikes, and committee counsel, George Kilpatrick. There are testifier sheets by each door. If you wish to testify, please pick those up and fill them out and when you come up to testify drop them in the testifiers box right by the committee clerk on my extreme right. And our page this afternoon will be Marcus. If you want to send in just a written testifier sheet, you can fill those up and the page will collect them from you. And we will follow the agenda as posted on the door. With that, we will start the hearings with Senator Louden. I see the vice chair has just walked in the door, Senator Cap Dierks from Ewing. With that, Senator Louden, I think I've covered all the preliminaries and you are welcome here this afternoon to introduce LB569. Senator Preister is joining us also along with Senator Dierks. Senator, welcome to the Revenue Committee. [LB569]

SENATOR LOUDEN: Good afternoon, Senator Janssen and members of the committee. My name is Leroy Louden and I represent the 49th Legislative District, and the last name is spelled L-o-u-d-e-n. And I want to thank Senator Janssen for supporting my request to hold a video conference site in Scottsbluff for this hearing. This saves some people a lot of traveling time and this is something that we certainly appreciate. I'm here today to introduce LB569. LB569 would restore levy authority to hospital districts. As you know, the Legislature placed hospital districts and other miscellaneous subdivisions under the county boards levy authority in late 1990s. Gordon Memorial Hospital is in my Legislative District. It contains a property located in Sheridan and Cherry Counties. The hospital district would benefit from having its own levy authority as it would give the district more control of its budget and revenue stream. Since 2000, as far as I know, the hospital district has requested taxes twice and that was in 2001 and in 2005. According to the certificate of taxes levied from the Department of Property Assessment and Taxation, the valuation of the Gordon Memorial Hospital District, in 2006, was \$157.2 million. In September 2006, a hospital district held a public meeting to ask for an exception to the county allocation. Voters

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approved that exception and the levy will be an additional 3.5 cents for the next year and will generate about \$82,000. Gordon Memorial Hospital is designated a critical access hospital by the federal government. And critical access hospitals have higher federal reimbursement rates because the federal government recognizes that these hospitals cannot be self-sustaining, yet they are vitally important to residents who already have few choices when a hospital is needed. Without critical access hospitals, people would have to travel long distances for care. For example, a hospital in Gordon is the only hospital between Valentine and Chadron, which is a distance of some 140 miles. The Gordon Hospital is a key medical facility for a large area in northern Sheridan and western Cherry Counties. What happened here the last year or so is some of their funding was a lot lower than it had been so they consequently decided they needed to raise some tax levying and have a tax revenue stream. And at that time, Sheridan County levy was at the maximum, so the county couldn't allow them to have any tax levy. So they had to consequently go and have the voters approve the exception to that. Now Regional West Medical Center in Scottsbluff recognizes how important it is for Gordon Memorial Hospital to function, so Regional West has only so many beds as do smaller hospitals in the area. And people in need of care who can't find it in Gordon or Alliance will go to Scottsbluff. Regional West is interested in seeing that the hospital district remains viable so that the entire region can function without constant crisis management. Most importantly, however, is the fact that when hospital access is reduced, people in need of care must go farther and farther to get there. Because of this, Regional West has entered into a two year management agreement with Gordon Memorial Hospital. Regional West is paying administrator's salary and is also helping with purchasing power and improvements in the hospital's billing system. Again, it is important for the hospital district to be able to have a levy authority so they will have a dependable source of funding. The district board will be able to provide reliable, stable hospital services through sound management, budget, and long-term planning decisions. There will be a number of people who will testify in support of the bill from the video conference site at Scottsbluff and here in Lincoln the Sheridan County Commissioner, Mr. Jack Andersen, will be testifying in support. At this time, I will try to answer any questions you may have, but it may be that some of the people who follow me today will be more knowledgeable to answer the questions. With that, I would thank you and would be willing to answer any questions at this time. [LB569]

SENATOR JANSSEN: Any questions? Senator Langemeier. [LB569]

SENATOR LANGEMEIER: Thank you, Chairman Janssen. Senator Loudon, thank you for your testimony. Just for clarification, it's probably in here and I'm just not finding it, if I have a hospital located in Valentine, located in Cherry County, and so I get this authority to tax within Cherry County, if I open a clinic in Ainsworth would that allow me then to be able to use this tax in the neighboring county where I have a clinic that I see patients two days a week, three days a week? And then if so, the money levied in that county would it only be used for that clinic or could it be brought back to keep the main

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hospital alive? [LB569]

SENATOR LOUDEN: Well, Senator Langemeier, are you talking about if the Gordon Memorial Hospital opened a clinic in Valentine or are you talking about someone else opened a clinic in Valentine? [LB569]

SENATOR LANGEMEIER: Either way. If Gordon Memorial wanted to open a clinic in Valentine would they have the authority to then tax in Cherry County and take some of that tax revenue out of Cherry County back to Gordon Memorial proper, the main hospital? [LB569]

SENATOR LOUDEN: Well, that might be kind of a stretch of the imagination if I understand. If they wanted to open a clinic and wanted to use tax money they would have to form a hospital district. They'd have to form a district just like you would form an NRD district or any other kind of a road district or anything else. They would take voters to form that district. And this Gordon Memorial Hospital District was formed--oh, I don't know--over 50 years ago they've been in business, and usually over the years they've never had to...like I say, there was two years here in the last six or seven that they've had to levy a tax. And of course, with some of the way things worked out for them there was probably some revenue flows that got shortened up on them on their Medicaid. They treat quite a few Medicaid patients in that area. I didn't mention that they also are, what, 15 miles from the South Dakota border with Pine Ridge Reservation right to the north there. So they do treat a lot of people from the reservation that sometimes they get reimbursed by the federal government. Sometimes they don't. And they had somewhat of a run on it and probably now with the Regional West doing some of their management practices and bringing them up to speed on their bookkeeping, they are looking like they're going to do some good. The idea is that we have to keep this hospital going and they really probably need a revenue stream themselves so that they can make a budget and plan it. The way it is now, they're more or less at the mercy of the county commissioners and whatever is left over from the county for any kind of taxing authority. [LB569]

SENATOR LANGEMEIER: Okay, thank you. [LB569]

SENATOR JANSSEN: Any other questions? I don't see any, Senator. [LB569]

SENATOR LOUDEN: Thank you, Senator. [LB569]

SENATOR JANSSEN: All right. We will take the proponents first, followed by the opponents, and then those in a neutral capacity. So we're asking for proponents to come forward right now and give us your testimony. Don't be bashful. Somebody's got to start. How many proponents do we have in the room? I know we have some...one more here. All right, we'll go that route and then we'll go to the people out in Scottsbluff.

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Welcome. [LB569]

JACK W. ANDERSEN: Good afternoon, Mr. Chairman and members of the Revenue Committee. My name is Jack Andersen, A-n-d-e-r-s-e-n. Thank you for the opportunity to appear before you today in support of LB569. I am currently serving the first year of my second term as the Sheridan County Commissioner. Today I'm going to speak about a hospital in Sheridan County, though I feel that much of what I'm about to say also applies to hospitals in other hospital districts within the state. Gordon Memorial Hospital is the only hospital, as Senator Loudon mentioned, between Chadron and Valentine. I think it's closer than he said. I only had 137 miles, he said 140. We're not going to fight over that. It is located in the northeast corner of the fourth largest county in the state by area with a population of less than 7,000 residents. After much soul-searching, the elected hospital board realized they needed to levy a tax to help bring the hospital out of a slump. What they didn't realize was that the few cents they needed came under the constitutional 50 cent limit, which applies to county government, and Sheridan County was at the limit. Sheridan County, not unlike other counties, contains many taxing entities--rural fire districts, special road districts to name a couple. Some of the boundaries overlap and the tax limit cannot be exceeded in any tax district within the county containing the majority of the district property. Gordon Memorial Hospital District consists of land in two counties--Sheridan County and Cherry County. Sheridan County elects commissioners by district. The vast majority of the hospital district in Sheridan County lies within District I. When hospital district voters goes to the polls to elect a county commissioner, some of them vote for a Cherry County commissioner. A few of them vote for District II commissioner and even less vote for District III commissioner. Yet it is the Sheridan County board that must either make the levy fit or refuse it. Since the boundaries of other subgovernmental districts do not coincide with the hospital district boundaries, allowing the levy would mean cutting the budget more than one other entity or cutting a levy that is countywide, maybe the road fund or the sheriff's budget. This is where cents equal more than dollars. To allow a relatively small amount of dollars for Gordon Hospital District, the road department budget would have to be cut several times that amount. One cent in a subgovernmental entity equals a lot less than one cent countywide. It would be hard to explain that the reason we cannot repair a road or send a snow plow to a road in the southwest corner of Sheridan County is that we gave some of our levy authority to a hospital that is more than 80 miles away. Though I have lived in the southern part of the county for over 30 years, my son was born in Gordon as my wife preferred the care provided there. Gordon Memorial provides a needed service in its area and it does a good job of it. After so many years of not levying any tax why do they need one now? I could tell you it's due to medicare cuts or increased regulations. Frankly, I don't know. Yet my one vote of those three helps determine if the district will get their levy or be forced to put it to a vote of the people within the district, which they did last fall and it passed by an overwhelming majority, and is now for one year outside of the 50 cent limit. I ask for your support of LB569 which will give the levy authority to the board elected by the citizens and taxpayers of

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the hospital district. Give the authority to the board that can tell you why they now need that tax. And if I could I would like to say a little bit about Senator Langemeier's question to Senator Louden. I don't know the total answer, but my feeling is that if it was an entity outside of the district and they wanted to support a clinic or something there they probably could with the board's approval, use some of that money there. But remember it's a board elected by the citizens and taxpayers of the district that is collecting the tax and I would think they'd have to have a very good reason or that board would have new members next election. Thank you and I would answer any questions if you don't give me too hard of ones. (Laughter) [LB569]

SENATOR JANSSEN: All right, we'll take some questions. Not too hard of ones, though, all right? I don't see any, Jack, thank you. [LB569]

JACK ANDERSEN: Thank you. [LB569]

LARRY DIX: Senator Janssen, members of the committee, for the record, my name is Larry Dix. I'm executive director of the Nebraska Association of County Officials. And just want to bring up a couple of points because I know we have some folks out in the western part, and we certainly appreciate the committee allowing those folks to testify on that scenario. So one of the things though that I want to touch on is as you've heard already, we're starting to get to the point and when we talk about the county's constitutional 50 cent limit, we're starting to get to the point where we're hearing testimony saying one cent is starting to make a difference. It's getting that drastic in some of our counties across the state that our levy limits and our budget limits are getting to the point where a penny makes a lot of difference. And I know I've sat here for a number of years and talked to a number of the Revenue Committee, but now we are really talking about one cent. And what we're seeing today, my belief is we're seeing the first stages of what we're going to see year after year. We're going to see more and more of the taxing entities that fall under the county's 50 cents saying what do we do, because the county board has taken away our authority to levy a tax, and so we've got to go out to the vote of the people. We're going to start seeing it in fire districts. I don't think there's any question about it. We're certainly seeing it in hospital districts. So it's one of those things that I think from a broad perspective, from a Revenue Committee, from NACO on our behalf, it's a problem that we're at the very, very tip of it and we're going to see more and more of it in years to come. I certainly don't have all the answers to that, but certainly would hope that the Revenue Committee would explore and look at and have a broad mind in some of the bills that we look at to give us opportunities for enhanced revenue in county budgets. With that, I'll try to answer any questions anyone may have. [LB569]

SENATOR JANSSEN: Any questions? I don't see any, Larry. [LB569]

LARRY DIX: Thank you. [LB569]

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SENATOR JANSSEN: Are there anymore proponents in the audience here? Okay, then I believe we'll go to the proponents from Scottsbluff. Okay, fellas, let's get some... [LB569]

LOREN PAUL: Can you hear me? [LB569]

SENATOR JANSSEN: Yes we can. [LB569]

LOREN PAUL: My name is Loren Paul, my last name is spelled P-a-u-l. I am from Gordon, Nebraska and I farm and ranch and am a board member for Gordon Memorial Hospital District. (Inaudible) And so they set these districts up and they provided that those (inaudible)...and that puts us in a (inaudible) spot than anyone else that was (inaudible). The other challenge that I see is when you have a health care provider that entails more than one county and involves less than a (inaudible) county commissioners, it seems to me that would be a challenge to that county board to have the knowledge and the background of the (inaudible) to know whether or not they did, in fact, need to levy a tax. And the fact that Gordon Memorial Hospital District did not levy a tax for several years was a good thing. And when we decided to levy a tax, most of (inaudible) were not aware that the Legislature had taken our ability to levy that 3.5 cents away from us. And not that that tax in itself is going to (inaudible) to the health care system, but it's certainly going to provide the means to where it give us a little more breathing room. And so I think one of the things that the way the tax code is now, as Larry Dix brought out and Jack Andersen before me, it pits one political subdivision against the other at the county board level. And the county board then must decide whether or not, if they cap the county out or one subdivision, the rest of them then are capped out and do you cap a hospital because the Historical Society needs the money or vice versa? So I would simply ask you to support this issue. It would be a benefit to the hospital districts of the state (inaudible)...the Auditor's Office, I do believe there's only nine hospital districts in the state that are recognized under the structure that we are. And most of those hospital districts have the regular tax and continue to levy tax. If those counties did not have a lid problem then they have not experienced the same problem that we have and maybe if they get to lid problem, they would be more aware of what the lid does and what the law does. I mean, it took the ability to levy that tax away from a newly elected board. And with that, I guess I would take any questions and attempt to answer them if I could. Thank you. [LB569]

SENATOR JANSSEN: Any questions? Seeing none, thank you very much for your testimony today and we'll take the next proponent from Scottsbluff. Are there anymore? [LB569]

JAMES PARKS: Yes, sir. Good afternoon Mr. Chairman and members of the Revenue Committee. My name is James Parks, that's spelled P-a-r-k-s. I'm the chief operating

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officer at Box Butte General Hospital in Lyons, Nebraska and I'd like to also say this afternoon that our facility is a member of the Nebraska Hospital Association and my testimony this afternoon would be on behalf of both organizations. I think we've heard up to now how we (inaudible) districts financially. If I could I'd like to focus my testimony (inaudible) why it's so important to keep those small hospitals open. As you've heard, Gordon is the only hospital between Chadron and Valentine. If you look at the travel time, it's (inaudible)...to get to a facility that can help you. There's a tentative medicine called the (inaudible) situation, if you can get to (inaudible) your chances of living are far greater. If a hospital such as Gordon would have to close because they do not have the financial support to keep it open, to put it bluntly, people are probably going to die that don't need to. The other thing, I think it's important, we hear everyday of the potential for mass tragedies from Homeland Security. We hear how important it is to be prepared for disaster. We hear (inaudible). I think it's important to realize that small hospitals such as (inaudible) such as Gordon, if there were a mass casualty situation it maybe our salvation, because if a large metropolitan area was targeted, maybe rural areas are not, this hospital is probably going to be the ones that are going to have to take care of the patients. And if one of these hospitals close, it's just one more resource that we don't have. I don't think anybody that works in that area, again, would like to travel the distance that would be required to get to health care if Gordon were to close. I think, from our hospital's standpoint, we have working relationships with (inaudible). For example, (inaudible) we were completely full. We had no beds. (Inaudible) that happens, we have to have resources to be able to send out excess patients and if small area hospitals were to close and disappear, it's just one less place that we have to send those people if we need to. It's critical that these hospitals stay open. If the passage of this bill will help provide the funds to keep those hospitals open, I would strongly encourage the committee to support it. I'll attempt to answer any questions. [LB569]

SENATOR JANSSEN: Are there any questions from the committee? Seeing none, thank you, sir. Take the next proponent. [LB569]

JIM McHUGH: Good afternoon. My name is Jim McHugh, M-c-H-u-g-h. I work with Regional West Medical Center in Scottsbluff and (inaudible) under management agreement that Regional West (inaudible) Gordon Memorial Hospital. (Inaudible) the administrator of Gordon just over six months and since that period of time has ended two of our (inaudible) administrator. I appreciate the opportunity to testify (inaudible). (Inaudible) touched upon several points that I think are really important. I want just to reemphasize Gordon is the access to health care for the people of that region. It's an unreasonable distance to travel if Gordon Memorial Hospital isn't there in terms of (inaudible) health care system that can provide the level of care that is necessary, but sometimes that means transfer to a larger facility that it may have technology or specialty care. And that's where our interest lies in this. Regional West (inaudible) and its success is inexorably intertwined with the entire region and all eight of the critical access hospitals, which we serve as what's called the network hospital, the bigger

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hospital. At the time that I was CEO of Gordon, you know, it was really easy to pick up the division and the people were very fair in their commitment to maintaining this facility, but they had had tough times and it was reflected actually with the reimbursement process. Critical access hospitals are paid on the basis of their costs. The federal government defines what those costs are. (Inaudible) capital improvement and in health care that's really very critical. I think you're all aware of what equipment and facilities, you know, cost nowadays with health care (inaudible), because the community standard is really defined as what happens in the region. So each hospital really needs to have, for instance, a CT Scanner. And that technology is (inaudible). (Inaudible) about 1 percent of the cost of capital to be reimbursed. And on a national basis, capital expenditures for hospitals (inaudible) in the area of 7-13 percent and 7 being really rock bottom estimate (inaudible). So on a long-term basis, (inaudible) and in Gordon's case and all of the hospitals districts of this state, that does provide a reasonable means to access some capital and can help maintain the competencies and the capabilities that a hospital should have. The last point I'd like to make is the magnitude of the importance of Gordon Memorial Hospital to the economic system of Gordon and Sheridan County. It's probably the largest conglomeration of jobs in the region and there's (inaudible) better jobs in health care. It's a real economic engine within the community and it's very important that those be maintained in Gordon as of all the other rural communities. Thanks again for the opportunity to testify on this matter. I'd be happy to try and answer any quotation. [LB569]

SENATOR JANSSEN: Thank you, sir. Are there any questions? Senator Raikes. [LB569]

SENATOR RAIKES: Yes, sir. My questions is when you're faced with the issues of distance from the patient to a hospital, how do you do the trade-off between investing in more hospital facilities at different locations and simply investing instead in better transport facilities so that you can transport people more quickly longer distances to care? [LB569]

JIM McHUGH: That comes down to transporting patients unnecessarily. It's possible to give good primary care (inaudible) and the patient never needs to go to a specialist. Another thing that plays into this is that as a regional center we're not alone in this (Inaudible) Bryan LGH in Lincoln has to do a lot of this and other hospitals, but our specialists go out (inaudible) clinics. So there can be outpatient follow-up or outpatient (inaudible) the local communities. If you don't have to travel, if you don't have to see a subspecialist, it's far more efficient for both the system and for the patient to leave that level of care out of the communities. (Inaudible) trauma and cardiology that you really (inaudible) a lot up by going to a more centralized area. [LB569]

SENATOR JANSSEN: Any other questions? Seeing none, thanks for your testimony. Next proponent, please. Are there anymore proponents? Is that it? We're losing the

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audio from you. I think we lost the whole works. [LB569]

_____: There are no other proponents in Scottsbluff. [LB569]

SENATOR JANSSEN: There are no more? [LB569]

_____: There's no other testimony (inaudible) in Scottsbluff. [LB569]

SENATOR JANSSEN: All right. Then we will open it to opponents. We'll work here in Lincoln first then we'll come back to you. Are there any opponents here? I see no opponents in Lincoln. Are there any opponents in Scottsbluff? [LB569]

_____: There are none. [LB569]

SENATOR JANSSEN: All right. Then we will go to those in a neutral capacity. Are there anyone here in Lincoln in a neutral capacity? Is there anyone in Scottsbluff in a neutral capacity? [LB569]

_____: There are none. [LB569]

SENATOR JANSSEN: All right. Then that ends the hearing on...we'll have closing, yes, but that will end the testimony. Senator Louden to close. [LB569]

SENATOR LOUDEN: Thank you, Senator Janssen and committee members. I just mostly want to reiterate when I close. Thank you for doing this hookup. Like I say, it saves people a lot of driving, a lot of time. I appreciate it. And as Senator Raikes asked, you know, what we do for transportation we do have Air Link out there. We've got helicopter service out of Regional West. It has been there for a long time and they fly Alliance, they fly Hyannis, they fly in the Sandhills. If you've got your GHP coordinates now you can give them your GHP coordinates and they'll set the thing down out there providing there's already an EMT onsite to order them in. And that's been quite a boon for that country we live in. Not only that, Regional West now has bought into the Medical Center of the Rockies, which is that brand new operation outside of Loveland, Colorado and I think they have an interest into that so that this is more of a...like I say, if you need a new head transplanted this is where they do it, I guess. This is a high dollar, you know, high technical facility in there and so they've bought into that. And so we're getting this network all the way from, you might say, Gordon, Nebraska through Alliance, Scottsbluff, and on into the Medical Center of the Rockies, and that's all connected with your Air Link along with the regional hospital in Rapid City has their own Air Links, too. So I suppose when you look back 15 years ago what medical practice was now, I mean this is looking back like when they, you know, sawed your leg off without anesthesia. That's about the difference between now and what it was 20 years ago. It's amazing what those hospitals have done out there. And of course, this is just

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one link in it and we'd like to have this hospital district have their own budget authority so that they can go ahead and move forward with the rest of us. And again, I want to thank you for hooking up like this. [LB569]

SENATOR JANSSEN: You bet. I wish that it could have been a little better audio there, LeRoy, but I don't hear very well and you don't either. So it's kind of hard for us. Senator Raikes. [LB569]

SENATOR RAIKES: LeRoy, you said you want their own budget authority. You mean, levy authority. They have budget authority. [LB569]

SENATOR LOUDEN: Levy authority. Well, this is what gives them their budget authority is if they have their own levy. I guess it would probably be correct to say their own levy authority. [LB569]

SENATOR RAIKES: Would this issue be addressed in part if hospital district lines corresponded with county lines? [LB569]

SENATOR LOUDEN: Well, I mean well, you've been working with school district lines for a long time, I guess. (Laughter) You'd probably have... [LB569]

SENATOR RAIKES: I've never been interested in moving any either, right? (Laughter) [LB569]

SENATOR LOUDEN: That's kind of the way I feel. They did try to expand their hospital district at an election here, the last general election, in Gordon, and it is a case where the people that were out had to vote to come in and the people that were in had a vote to take them in. And between the two they didn't get together and it didn't happen. So they did try to expand their hospital district some. Now not saying that they won't try it again sometime. I think people realize they've got to have health care and some of that stuff. I think it may come around again, because I've talked to people that said it really wasn't, you know, promoted that well, but there are districts. But in that Gordon area you're only about, I don't know, 10 or 15 miles or so from the Cherry County line. And that Gordon School District, as you know, goes clear over to Merriman in Cherry County, and that hospital district probably comes closer to following some of the school district lines in Cherry County than it does any other lines really. [LB569]

SENATOR RAIKES: The issue I was aiming at is the one you brought up about the miscellaneous levy and the fact that you've got only a small part of the county involved in a hospital district that needs the levy and so that disrupts the levy in the rest of the county. [LB569]

SENATOR LOUDEN: Right. [LB569]

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SENATOR RAIKES: If the hospital district lines and the county lines correspond, whether it's one county, two county or more, that seems to me would address that issue that you're raising. [LB569]

SENATOR LOUDEN: I don't think so. Not when you talk about Sheridan County, because you see, Gordon is nearly 60 miles from the south end of Sheridan County. Down at the south end of Sheridan County, most of those people go west to Alliance area. So you're getting facilities that are working two different sides of the street, I guess you might say. So I think you couldn't necessarily go by county lines. I think what Commissioner Andersen had mentioned that they are the ones that have the--what do you call it--budget authority or the levy authority in Sheridan County, but yet they have the land that goes over into Cherry County, but they're the ones that set the levy for both of those areas. So Cherry County may not be against their maximum, but Sheridan County is because that's where the headquarters are. So consequently, it wouldn't do any good no matter what the levy level is in Cherry County, because the budgeting authority is in Sheridan County. [LB569]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, LeRoy. [LB569]

SENATOR LOUDEN: Thank you. [LB569]

SENATOR JANSSEN: And that ends the hearing on LB569. Senator Kopplin here? Okay, hang on just a second, Gail. Chuck wanted to clear some stuff out there. Are you done? Okay, all right. Okay, all right, Gail. [LB569]

SENATOR KOPPLIN: (Exhibit 1) Okay, thank you. Senator Janssen and members of the Revenue Committee, my name is Gail, G-a-i-l, Kopplin, K-o-p-p-l-i-n, and I represent the 3rd Legislative District. I'm before you today to introduce LB272. This bill would allow a natural resources district whose boundaries encompass a city of the metropolitan class to issue flood control dam and reservoir bonds. At this time, this would only apply to the Papio-Missouri River Natural Resources District. Our intent with this bill is to provide general obligation bond authority. Natural resources districts are one of the few political subdivisions that regularly engage in major construction and development projects that lack bond authority. Such authority is a major tool in financing large scale project. Without this tool, NRDs are seriously limited. Why is this important and why now? The Papio NRD and its partners, the city of Bellevue, Bennington, Boys Town, Elkhorn, Gretna, LaVista, Omaha, Papillion, and Ralston along with Douglas and Sarpy Counties have been working together as the Papillion Creek Watershed Partnership to develop policies and projects to address the issues of flood control, clean water, and recreational opportunities in the Papio Creek Watershed. To fully realize the needs of this area to save lives and prevent potentially catastrophic property loss from runoff and flooding, the partnership has determined that as many as 29 regional flood

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control reservoirs and water quality basins may be needed in addition to two large dams. The total estimated cost for all these structures is \$400 million. \$100 million of the total cost is expected to come from a partnership with private developers leaving the NRD to come up with \$300 million. In order to keep pace with just the current level of development in the area, these sites need to be constructed in the next 20 years. Bonding authority is essential to allow the NRD to complete its mission. The green copy of LB272 would allow the NRD an additional 3 cent levy for flood control purposes and would also provide a mechanism to allow a vote of the people to exceed that limitation. I would like to offer an amendment that strikes the additional 3 cents of levy authority and the language allowing for an override from the bill. I am offering this because I believe it is more important to give the NRD the bonding authority and let them work within their existing levy limit rather than provide them the 3 cents of additional levy. LB272, as amended, would then just provide an NRD encompassing a city of the metropolitan class with general obligation bond authority for flood control purposes within their existing levy limits. So with the amendment in mind I would ask the committee's favorable consideration and would be happy to answer questions you might have if I can. [LB272]

SENATOR JANSSEN: Any questions? Senator Dierks. [LB272]

SENATOR DIERKS: Senator Kopplin, what would 3 cents on the tax roll, what would that raise for the Papio District? [LB272]

SENATOR KOPPLIN: I'll have to leave that to someone following me. I don't know how much that would raise. [LB272]

SENATOR DIERKS: Thank you. [LB272]

SENATOR JANSSEN: Any other questions? Senator White. [LB272]

SENATOR WHITE: Senator Kopplin, would this bond be subjected to a vote of all of the people affected by it? Or would this be... [LB272]

SENATOR KOPPLIN: This would give the NRD bonding authority. [LB272]

SENATOR WHITE: So it would be the board and it would not be subject like a school bond, for example, to the vote of the people. [LB272]

SENATOR KOPPLIN: Right, correct. [LB272]

SENATOR WHITE: Does that cause you concern? [LB272]

SENATOR KOPPLIN: Not really if this passes, because then we would have acted to

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give them that authority. [LB272]

SENATOR JANSSEN: Senator Kopplin, how many NRDs...is it just the one NRD that...in this area that you mentioned? [LB272]

SENATOR KOPPLIN: That is what's being considered now, the Papio-Missouri NRD. [LB272]

SENATOR JANSSEN: And how far north does that NRD go? [LB272]

SENATOR KOPPLIN: I think it covers Washington County is probably the northern most county, and then... [LB272]

SENATOR JANSSEN: All right. And then Douglas and Sarpy County... [LB272]

SENATOR KOPPLIN: Sarpy and on down. [LB272]

SENATOR JANSSEN: All right. Does it go all the way south, that NRD, to the border? [LB272]

SENATOR KOPPLIN: No, there's a Nemaha. [LB272]

SENATOR JANSSEN: Nemaha. Okay, excuse me. That's correct. [LB272]

SENATOR KOPPLIN: It connects with the Nemaha district. [LB272]

SENATOR JANSSEN: Okay. So then everyone would be affected within that NRD then? Am I correct in saying the obligation would be through that whole NRD district? [LB272]

SENATOR KOPPLIN: To the entire Papio-Missouri NRD. [LB272]

SENATOR JANSSEN: Okay. All right. Any other questions? I don't see any, Gail, thank you. [LB272]

SENATOR KOPPLIN: Okay, thank you. [LB272]

SENATOR JANSSEN: We'll have the proponents first? Those in favor of LB272. How many proponents do we have? Five, okay. How many opponents? Quite a few. Okay, that's a lot of testifiers so when you come up maybe it would be best if you could kind of get together and share your thoughts, collect half a dozen or so testifiers to do your talking for you. It would speed the process up a little bit. And if you can't do that then try not to be repetitive and, you know, speak about the same thing all the time. And we will

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try to limit our questions here on the committee also. Go right ahead. [LB272]

JOHN WINKLER: (Exhibit 2) Good afternoon Chairman Janssen and members of the Revenue Committee. My name is John Winkler, J-o-h-n W-i-n-k-l-e-r. I'm the general manager of the Papio-Missouri River Natural Resources District. I am here to testify in support of LB272 on behalf of the Papio-Missouri River NRD and on the Nebraska Association of Resource Districts. Also I'd like to note, a few of our board of directors are here today, Fred Conley, Jim Thompson, our board chairman, and Dorothy Lanphier. So I'd like to recognize them if the committee would so entertain me to do that. As you know, the Papio Watershed consists of 402 square miles in Washington, Douglas, and Sarpy Counties. To answer your question, sir, we have also Burt and Thurston Counties as also part of our resource district area. The watershed is experiencing conversion of farmland to urbanization at a rate of approximately three square miles per year. The flood plain update maps that we recently have conducted have shown an increase of as much as 25 percent in flood flows and this is pegged to increase by 30 percent in the near future. Also we've had preliminary results on the Big Papillion Creek basin which shows that potentially 3,400 acres and approximately 758 homes and businesses would now be subject to flooding. A future prediction may increase that to over 3,500 acres and 851 total structures. To address this problem in the Papillion Creek Watershed, the NRD has taken several steps to do that and at the current time we're starting to run out of options to tackle this problem. Currently, we do floodplain management which is zoning enforcement, updating and improving floodplain maps, and also we have a volunteer buyout program. The NRD does not, of course, have zoning enforcement, but we do work very closely with our counties and cities. So we've got a lot better of that over the last 30 years or so. Also, we conduct channel improvements and we've been doing that...we've got approximately 60 miles of channel improvements and levies, but we are of course running out to the end of our ability to continue to do that. Conservation measures. Those of course have focused more on the rural areas, but the partnership policies and plan have also stressed that those occur in urban areas as well, including low-impact development and best management practices. And then obviously reservoir and flood control structures are another component of addressing floodwater. What is needed? When I first took over this position, one of the board members asked me do you understand the mission of the NRD. And I did. And I do. And one of the main statutory objectives of the NRD is flood control and prevention. And obviously it's a prevention of damages from floodwater and this is what this addresses. Over the past several years, the Papio-Missouri NRD has been working in coalition with nine cities and two counties. That in itself is a monumental task to even get those entities to meet together, let alone to work on a plan. If you try to get two entities to work together, sometimes that's a monumental task just to get them to even meet. So that has been something that they've spent a considerable amount of time and resources developing this plan. Obviously, the basis of the partnership was to address the storm water management. The EPA requirements that came down to address storm water permitting. But obviously flood control is also a

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major component of that plan. Of any plan, the biggest challenge has been the financing. As Senator Kopplin stated, there are hundreds of millions of dollars in potential outlays to address this plan. As Mr. Kopplin also stated, that the partnership has come up with a funding mechanism of one-third private development and then two-thirds obviously public involvement. Right now, we are facing further financial burden is about five of these structures are in the planning stages in about 3-5 years. The total cost of those five structures is roughly \$81 million. Currently, the NRD allocates roughly \$3 million to \$5 million of its current property tax levy to flood control. The requirement of these five projects would roughly take \$18 million a year to be able to finance them, and which obviously we do not have the ability to do. To answer Senator Dierks' question, the 3 cent levy, sir, if we had that authority would raise roughly \$9 million to \$12 million with that additional authority. [LB272]

SENATOR DIERKS: Per year. [LB272]

JOHN WINKLER: Per year. But we're not asking for that in this bill. We've worked very closely with bond council and we've worked very closely with the financial sector and we are very confident that we can fund these plans and this project within our current budget authority. The bottom line is that we have a statutory obligation to provide flood control and at the current rate of savings we are financially unable to do that. I would be remiss in my duties as the director of the NRD to not go for the ability in my arsenal to take care of this problem. This is a serious problem that will not get any better as urbanization continues through the district. In conclusion, though, the watershed is projected to build out in 40 years. We've got about a 20 year window of opportunity to tackle this issue. You'll hear testimony from the cities and counties that we've worked with very closely on what this means to them, but also from the development community. I think you'll hear that development will occur regardless of where...have the ability or not to build these structures. I've talked a lot about what the cost of action would be. We've given you numbers on, you know, how much this will take to put this plan into place. The one thing that we do not have a handle on is what will be the cost of inaction. I don't want to be back in here in a number of years when we've had a significant storm event and try to explain to you that we weren't able to have the ability to address this problem. So on behalf of the Papio-Missouri River NRD and the Nebraska Association of Resources Districts, I would like to thank you for your attention and positive support of this bill. And I'd be happy to answer any questions that you might have. [LB272]

SENATOR JANSSEN: Any questions? Chris. [LB272]

SENATOR LANGEMEIER: Thank you, Senator Janssen. Let's see if I can keep things short. John, thank you for your testimony. [LB272]

JOHN WINKLER: Sure. [LB272]

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SENATOR LANGEMEIER: When Senator Kopplin gave his intro a little bit ago, he talked about all the entities that participate and would it be a fair statement to say all those entities except for the NRD have bonding authority? [LB272]

JOHN WINKLER: Yes. [LB272]

SENATOR LANGEMEIER: So in this measure, in Section 1, where you're asking for the bonding authority, is that to cover the NRD's share of the project or would that bond the total project that would be refunded then or paid by all the entities that are participating? [LB272]

JOHN WINKLER: The intent would be that the NRD would have that bonding authority to pay the partnerships, basically, share of that project, and then of course you would have the revenue from the building fees that the development community has agreed to participate. [LB272]

SENATOR LANGEMEIER: Right. And there's some hesitance to go back to each of the individual partners and let them bond their share separately? [LB272]

JOHN WINKLER: I think the idea was that obviously the NRD crosses all kinds of jurisdictional boundaries. We encompass the entire district. I believe it would be...the idea was it's more efficient and more cost-effective, and to have the NRD be the main source of that funding. The metropolitan district probably makes up 65-70 percent of our bonding or our levy authority. So that was the, I think, the intent there. [LB272]

SENATOR LANGEMEIER: Okay, thank you. [LB272]

SENATOR JANSSEN: Any other questions? Seeing none. Oh, I'm sorry. Tom. [LB272]

SENATOR WHITE: That's all right. Is the Papiro NRD at its levy limit now? [LB272]

JOHN WINKLER: No, sir. [LB272]

SENATOR WHITE: How much money could you raise by moving up to your levy limit? [LB272]

JOHN WINKLER: We're at, I believe, about 3.9 and we have a 4.5 cent limit. So we could bump it up another half cent. [LB272]

SENATOR WHITE: If I understood your previous testimony correctly, if private money is not paid in then the property owners who are paying the additional bond money are on the hook. Is that correct? [LB272]

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JOHN WINKLER: If we aren't collecting those fees? [LB272]

SENATOR WHITE: Yes. [LB272]

JOHN WINKLER: Yes. [LB272]

SENATOR WHITE: What mechanism has been set in place statutorily to properly manage the money that's coming in? [LB272]

JOHN WINKLER: That, I believe, is still in the works. [LB272]

SENATOR WHITE: So let me get this right. Then you want us to give you the right to risk \$400 million from the public and you don't even have fiscal controls in place yet? [LB272]

JOHN WINKLER: I don't think we would ask for that until we have those controls in place, Senator. Ordinances will have to be passed by the political subdivisions that are members of the partnership to be able to collect those funds. [LB272]

SENATOR WHITE: Has every reasonable zoning rule been adopted to use--for example, permeable parking lots, dispersion mechanisms--as part of the anticipated zoning in order to anticipate whether or not these are actually necessary for flood control programs? [LB272]

JOHN WINKLER: I think recently you probably read about Douglas County has passed or is in the process of passing zoning ordinances that call for that. I know Sarpy County we've worked very closely with them and other entities to get those built into their zoning ordinances and comprehensive plans. And are those totally completed? No. Would there be more work to do there? Yes. [LB272]

SENATOR WHITE: And don't you think it prudent that all those reasonable steps on conservation water dispersion, permeable parking lots, all of those multitude of different methods be in place before you come and ask for almost half a billion dollars? [LB272]

JOHN WINKLER: And I would agree. The issue is, though, even with those things in place, even with the current projects we have which would have, you know, very little impact on those; we're looking at four or five projects right now that we would need significant authority to pay for those. So we're at a spot right now where we need this authority to be able to conduct those projects. If we don't have the ability to build the structures those areas will develop and we will lose that ability to come back and correct that. So we're trying to be progressive and get in front of the curve. And I'm not saying the plans are completely done. There's much more work to be done with our partners,

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but we are at the point where it's time. We have to act. [LB272]

SENATOR WHITE: And I want to be parochial. I represent District 8 inside of Douglas County. You're talking about a substantial additional property tax burden which, among my constituency, is just incredibly unpopular. They already feel overly burdened. And what you're asking is that we build dams in Washington County. Those generally result in higher property values, but that money will not come back to the people in Douglas County, will it? It will stay in Washington County as part of their tax base. [LB272]

JOHN WINKLER: Actually this current plan only addresses Douglas and Sarpy Counties. Washington County is not included in the partnership, although they've been invited... [LB272]

SENATOR WHITE: Aren't the dams going to be in Washington County? [LB272]

JOHN WINKLER: There's proposals to have dams in Washington County. [LB272]

SENATOR WHITE: Does this bond not cover those? [LB272]

JOHN WINKLER: Actually if we stay within our current levy limit, which we are proposing, we would not have the ability to build those. [LB272]

SENATOR WHITE: All right. So then let's take it from the Sarpy County level. [LB272]

JOHN WINKLER: Um-hum. [LB272]

SENATOR WHITE: Sarpy County will be paying taxes to increase the property value in Douglas County. Do you think that equitable? Land along the lake is worth a lot more than land along a gully. Correct? [LB272]

JOHN WINKLER: I agree. [LB272]

SENATOR WHITE: Okay. Final question. Why didn't you propose bonding that you go to the vote of the people? Why do you not want to put this to a vote of the people? [LB272]

JOHN WINKLER: That was not the proposal. I think the fact that we wanted to stay within our current levy limit, which most political subdivisions enjoy, if they stay within a certain limit they don't have to go to a vote of the populous. Everybody, you know, our board is similar to any city council or...they're represented by elected representatives from their districts. The representative government, people have a voice in that elected representative. I think that's why we chose not to do that. Now if we were to exceed a certain levy limit, which we originally anticipated, then we have that mechanism built in.

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[LB272]

SENATOR WHITE: Thank you for your answers and your courtesy. [LB272]

JOHN WINKLER: Yes, thank you. [LB272]

SENATOR JANSSEN: Chris. [LB272]

SENATOR LANGEMEIER: One more. One more and then I'll quit. What kind of cooperation are you getting from the counties as far as the areas where these potential structures or conservation needs to happen? What kind of cooperation are you getting from the counties in denying permits to put houses in these areas to keep them open for potential use or is the county just, let's put houses in them? [LB272]

JOHN WINKLER: Right. The particular structures I talked about, the four or five, are in the planning stages right now actually. There's some that the development is being platted. So the county zoning and the developers know that, you know, there's a potential site there. So we've actually had very good cooperation working with not only the development community but with the counties or the zoning jurisdictions of cities in saying, hey, there's a plan here. And so we've had some very good cooperation. I can't speak to things in the past, but personally I've opened up as much communication as I can with our partners and I hope that if there's any plan, this is evolving. You know, this isn't written in stone. And so we're very willing and able to try to get all of our partners on board to get a plan that everybody can. And not everyone agrees and not everyone has probably signed up yet, but we are very close in the process of hopefully doing that. So that's why we're here in front of you today. [LB272]

SENATOR LANGEMEIER: One more follow-up question, Senator Janssen, is would it be in the Papios best interest to go look at conservation easements on some of this ground to per se tie it up for potential dams until you can afford to do them at some later time? [LB272]

JOHN WINKLER: Again, we would have to look at that more specifically. I haven't been involved in that and maybe someone behind me can answer that more specifically, but that is a good suggestion. [LB272]

SENATOR LANGEMEIER: Thank you for your testimony. [LB272]

SENATOR JANSSEN: Senator Dierks. [LB272]

SENATOR DIERKS: John, you mentioned partners. Who are your partners? [LB272]

JOHN WINKLER: We have the nine cities and I think Senator Kopplin identified them,

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and also the two counties, Sarpy and Douglas County, are members of the partnership itself. [LB272]

SENATOR DIERKS: Okay. And so you evidently had a study conducted by the various partners and yourself to determine what these costs are and where the dam is going to be placed, and was that study done by...who did the study for you? [LB272]

JOHN WINKLER: HDR Engineering did the majority of the studies. The partnership, obviously, worked through the NRD to have those authorized and arranged, but studies continue. I mean, we have hydrology studies. We have hydraulic studies that still need to be done, you know, to really flush out where exactly these structures need to go. And so it's not done, but it continues. But we do know and we are fairly confident that, you know, 29 might not be the number. It may be something less, but we do know that we have some projects coming up fairly quickly that we have a small window of opportunity to fund that we have to get to. [LB272]

SENATOR DIERKS: You're talking mostly about the water structures. [LB272]

JOHN WINKLER: Yes, flood control reservoirs and water quality basins. [LB272]

SENATOR DIERKS: I'm not sure how to put this exactly. And maybe you answered it partially, but when you go to a given area and decide this is the place where you need to put a water structure, do you go to the people in that area and ask for their support or their input? Is that part of the process? [LB272]

JOHN WINKLER: What the plan is, you know, I've heard you give us this authority we're going to go bond hundreds of millions of dollars and go condemn a bunch of land and build structures. The idea of a partnership and the plan is to work with the development and work with the development communities where they actually acquire farmland like they would if they were going to build a residential area, and then to work with those to build those structures. And we want to follow development as occurred. And this is actually a good time for us because the housing market has slowed considerably and it's kind of given everybody an opportunity to catch their breath and plan a little better. So that is the plan, Senator, is to follow those areas as they develop, to follow that development, and not go out and build 29 structures in the next two years and then say okay, we're done. That's not the intent. We would financially be unable to do it. [LB272]

SENATOR DIERKS: Okay, thanks, John. By the way, Mr. Chairman, we have two different copies of LB272. One of them that's in our book here doesn't have the page 2 that's in this one that I got from the bill drafters. Page 2 is the one that... [LB272]

SENATOR JANSSEN: I do not have page 2 either. [LB272]

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SENATOR DIERKS: ...Senator...you got at the bottom of page two it looks like 11 instead of a two, right? [LB272]

SENATOR JANSSEN: Yeah. [LB272]

SENATOR DIERKS: Well, there should be another copy that's correct. [LB272]

SENATOR JANSSEN: Okay. Any other questions while we're discussing our books here? Abbie. [LB272]

SENATOR CORNETT: The EPA is the one that's requiring the National Clean Water Act, correct? [LB272]

JOHN WINKLER: Correct. [LB272]

SENATOR CORNETT: Over the lunch hour I was provided some information this morning on the EPA's website itself in regards to how to manage storm water. Have you actually went to that website? [LB272]

JOHN WINKLER: I've personally not, no. [LB272]

SENATOR CORNETT: Well, it was really rather enlightening in the fact that the website did not recommend dams as one of the means of control for storm water runoff. It was not listed at all. And then this is from some information I got earlier, but I did go to the website this afternoon, but they do offer a number of other methods of implementing the storm water runoff legislation. Don't you think it would behoove the NRDs to look at some of these rather than look at condemning quite a bit of land to build these dams? [LB272]

JOHN WINKLER: Senator Cornett, the intent is not, like I said, to go out and condemn and build these structures all at once. [LB272]

SENATOR CORNETT: But isn't that what's going to happen if the people don't want to sell their land? [LB272]

JOHN WINKLER: I mean we have that capability to do that, although it's not the obviously preferred method of any public entity to operate like that. The issues we also have...we have storm water issues, but we do have a genuine flooding concern in the district, and our issue is no different--well its different--but it's a unique issue to us as the Republican River area is working with, you know, not enough water. We have an opposite effect in the Papio-Missouri River NRD. We have to plan and operate from a time of having too much water. You know, those type of developments that the EPA website has talked about and those type of techniques are called for in the plan. It's

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called for in the policies, but we still have a flooding issue that we need to address.
[LB272]

SENATOR CORNETT: Do you feel that 29 dams are necessary to control the flooding issue? [LB272]

JOHN WINKLER: Quite frankly at the end or after the hydraulic studies and those things are done, again, that number might not be the correct number. It may be considerably less, but that's something that we need to go through as part of the process of our engineers and our technical people and our experts in this field to continue to look at. Twenty nine, that was the number that was something to work with when the plan was originally drafted. Again, that's not totally decided yet. So to say 29, I don't know if that's entirely accurate yet. [LB272]

SENATOR CORNETT: I guess it concerns me that we're looking at funding 29 if 29 isn't necessarily the number, and offering that levy authority for that many and that much money when we're not exactly sure how many we need or what that final dollar amount would be. [LB272]

JOHN WINKLER: And the intent of having that levy authority is to address the needs as they arise. For example, I talked about the five structures that we may need in the next 3-5 years. That may be another 3-5 years before we're talking about any additional structures, you know, depending on how development occurs. So that will be a progressive type of thing. And to work within our current levy limit, that's going to...if you're worried about a reign on what we spend, that will definitely control as far as what projects we are able to fund. Obviously, the most important ones first. So that's the intent, is not to bond for this \$300 million and have it just sitting there so we can go build all these 29 structures. You're talking a 20, 30 year period before we get to that final number. [LB272]

SENATOR CORNETT: One last question. Having looked at all of the e-mails and mail that I've received on this and there's quite a bit from Washington County specifically, have you had any citizen input in regards to the fact that they want this to occur? That they want to sell their land? Because most of the letters and e-mails that I've gotten are they do not want to participate. [LB272]

JOHN WINKLER: Um-hum. And obviously, there will be people that will not want to participate. Again, this particular plan focuses on... [LB272]

SENATOR CORNETT: Do you have anybody that wants to participate in Washington County? [LB272]

JOHN WINKLER: In Washington County? I don't know. I haven't talked to anybody

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specifically, but I mean, we're talking about Douglas and Sarpy in this particular issue. [LB272]

SENATOR CORNETT: Where are you planning on building the first dams? [LB272]

JOHN WINKLER: The five that we identified will be in Douglas and Sarpy Counties. [LB272]

SENATOR CORNETT: Okay, thank you. [LB272]

JOHN WINKLER: That's the first five that are identified that I spoke of. [LB272]

SENATOR CORNETT: Okay, thank you very much. [LB272]

SENATOR JANSSEN: Senator Preister. [LB272]

SENATOR PREISTER: Mr. Winkler, thank you for appearing today. [LB272]

JOHN WINKLER: Yes, thank you. [LB272]

SENATOR PREISTER: You get to be first, I assume, so you get the brunt of what comes down. [LB272]

JOHN WINKLER: That's fine. [LB272]

SENATOR PREISTER: And I apologize. I had to introduce a bill in another committee. So if you hear a question from me that you've already answered, I haven't heard it and I wasn't here. It seems to me that...and maybe there's only one issue and maybe I don't understand it. We have an issue of storm water runoff... [LB272]

JOHN WINKLER: Um-hum. [LB272]

SENATOR PREISTER: ...and that's a part of the second phase of the Clean Water Act, and we have issues of storms and excess water and the flooding that ensues from that. Is that all the same issue? [LB272]

JOHN WINKLER: For example, I mean it is and it isn't. For example, obviously the more water you retain, obviously you control your flooding problem, but also that does help with the storm water issue with water quality, with removing pollutant sediment, all of those things. So they kind of go hand in hand. To deal with quality quantity without each other, it's more effective when you can deal with the quantity and that also affects the quality of the water. So they're kind of separate, but they're pretty related. We can do many things, you know, together that will benefit the storm water phase II as well as the

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flooding. [LB272]

SENATOR PREISTER: Sure. So there's a relationship between the two. They're interrelated--quality and quantity--do work together. [LB272]

JOHN WINKLER: Yes. [LB272]

SENATOR PREISTER: But they're two separate issues as we look at them. [LB272]

JOHN WINKLER: Yes, and I think that's the way the partnership wanted to address it. You know, and also besides the whole quality of life issue creating green space and wetlands, and habitat, and things like that. That all goes hand in hand. If you can make it multipurpose, multifunctional, then I think the whole district and everyone benefits. [LB272]

SENATOR PREISTER: So you're encouraging development of habitat and practices to keep the storm water from running off, but that doesn't necessarily mean building a dam does it? [LB272]

JOHN WINKLER: In some areas, you know, and we do encourage those things. And for example, Douglas County is going through their process of adopting many of those low-impact development and best management practices. We encourage those and those are a very big piece of the plan. And sometimes they'll get overlooked because everyone focuses on the dam-reservoirs issue, but we encourage those. And it's kind of the same thing. They benefit each other and to have one without the other is probably not a good thing, but if you have both of them together then I think everybody's better off. And so it's another one of those, they feed very well off of each other. [LB272]

SENATOR PREISTER: Okay. Does the component of the Clean Water Act, the phase II that we're implementing or attempting to for the storm water runoff, require that any dams be built? [LB272]

JOHN WINKLER: And I don't know that technically so I can't answer. Maybe somebody can that's later. I don't know that specific detail on that legislation. [LB272]

SENATOR PREISTER: Somebody can answer that that follows you? [LB272]

JOHN WINKLER: Yes. [LB272]

SENATOR PREISTER: They know the question. In regards to the dams, if the NRD builds the dams and if you have the bonding authority, and if you've gone through all the process, how long do those structures normally last? What's their life span approximately? [LB272]

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JOHN WINKLER: We build for, obviously we build for the 500 year events, and as technology has enhanced and engineering...I mean, dams have gotten safer and more efficient and more long-lasting. I would say I think it's 50 years, I believe, is the current life span. [LB272]

SENATOR PREISTER: Okay. So if we say fifty years, who pays for the maintenance and all of the costs of that dam... [LB272]

JOHN WINKLER: Right. [LB272]

SENATOR PREISTER: ...over the life of the dam and including at the end of whatever its useful life is? [LB272]

JOHN WINKLER: There is maintenance issues, obviously--operation maintenance issues--and we've begun to figure those out. Actually the Papio-Missouri River NRD we maintain dams and that's something that we would not only work with in the NRD, but also with the partnership to see who would be responsible for those and get that cost factor worked out as those developed. For example, if we built a dam and then the area was annexed then it would probably fall to one of the subdivisions that annexed it or the county or the Papio-Missouri River NRD may end up maintaining them and operating them. [LB272]

SENATOR PREISTER: So some taxing authority would have to have additional charges, probably property tax, to do the ongoing maintenance after they're built as well. [LB272]

JOHN WINKLER: Right. And actually the ONM is not a big component...it's not a big dollar figure to operate and maintain those. [LB272]

SENATOR PREISTER: Okay. Let's shift, then, to the structure of the bonding component. Currently, there's a consortium, a group of cities, NRD, counties, have each of those bodies all had a vote of their governing boards--the county boards or the city councils--to approve the bonding authority? [LB272]

JOHN WINKLER: You will hear from some today that have had action by their city councils and their support. Not all, I believe, will testify in support, although some will. Some have had votes and some have just directed either their city administrator or the mayor or someone to respond to that, but no, not everyone has had a formal vote to support. [LB272]

SENATOR PREISTER: Okay. Can you tell me has the Papio NRD board had a formal vote to support and approve the bonding authority? [LB272]

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JOHN WINKLER: I've been directed to put the bill together and work within the Legislature to do that. [LB272]

SENATOR PREISTER: But my question was has the Papiio-Missouri NRD board had a vote to instruct you to do that? The board has the governing authority... [LB272]

JOHN WINKLER: Right. [LB272]

SENATOR PREISTER: ...and I'm just asking if they voted to have you do that. [LB272]

JOHN WINKLER: I don't think we had an official vote on it. [LB272]

SENATOR PREISTER: They haven't? Then if the authority were granted again... [LB272]

JOHN WINKLER: Yes. [LB272]

SENATOR PREISTER: ...would any of these governing bodies have a vote after the fact on whether or not and to what extent the bonding authority was done? Or would all of that authority be vested in the NRD solely to make all that decision for everybody else? [LB272]

JOHN WINKLER: I don't believe there's any plan in the...to have individual entities vote. If we're giving the authority to have any restrictions or any... [LB272]

SENATOR PREISTER: Then it would just be up to the NRD, correct? [LB272]

JOHN WINKLER: Then it would be up to the...correct. [LB272]

SENATOR PREISTER: Okay. All right, thank you for your answers. [LB272]

JOHN WINKLER: Thank you. [LB272]

SENATOR JANSSEN: Senator Cornett. [LB272]

SENATOR CORNETT: Sorry. I'm not done yet. Are the dams that you're talking about building and the developments around them going to be public or private? [LB272]

JOHN WINKLER: Public. [LB272]

SENATOR CORNETT: What about dam site 6? [LB272]

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JOHN WINKLER: The Bennington? Bennington Lake, I think you're... [LB272]

SENATOR CORNETT: That's private, am I correct? [LB272]

JOHN WINKLER: That actually occurred before my tenure. I was not the general manager at that time. I can help answer maybe specific questions, but I don't know a lot of detail on that particular project. [LB272]

SENATOR CORNETT: Okay. Yeah, you don't know why it was private and not a public dam site then? [LB272]

JOHN WINKLER: I believe the...and again, I wasn't involved in that process so I would be speaking out of school if I tried to answer what the motivation at that time was. [LB272]

SENATOR CORNETT: Okay. One more question. What type of bidding process do you use for the development companies for them to develop the land? I see that on a number of the dam sites that were developed there was no competitive bidding process. Why is that? [LB272]

JOHN WINKLER: The development community if they, I mean, typically they own the land. I mean they purchase it from the community. [LB272]

SENATOR CORNETT: Well, I was going to say Dial Development purchased land at \$3.5 million and they were supposed to pay the NRD \$1 million in December, and they missed that payment. Am I correct? [LB272]

JOHN WINKLER: No, we received that. We have that funds. [LB272]

SENATOR CORNETT: You received that when it was sold to the SID. You never received it from Dial, did you? [LB272]

JOHN WINKLER: We received the funds. That's all I know. [LB272]

SENATOR CORNETT: Okay. They were supposed to pay a 2 percent over prime interest for that late payment and that was never received was it? [LB272]

JOHN WINKLER: Again, those agreements were done before, again, my tenure so I can't answer specifically without researching. I can research it and respond to you then, Abbie, but I can't just off the cuff, because I don't know the specifics. [LB272]

SENATOR CORNETT: Okay. That's fine. [LB272]

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JOHN WINKLER: I'm sorry I can't answer them. I just don't know the specifics. [LB272]

SENATOR CORNETT: Oh no, that's fine. I just, again, I'm just concerned on what type, who is going to be developing these, whether you should be offering no interest on these, what happens when they default. I noticed one of the SIDs went bankrupt and left a debt of \$15 million. [LB272]

JOHN WINKLER: That (inaudible) that's the debt on the SID. It didn't affect the district or the taxpayers of the district. [LB272]

SENATOR CORNETT: Wasn't it district money, though, that helped develop it? [LB272]

JOHN WINKLER: Yes, but the fault on that loan, I mean, that's the development's issue. We would have no obligation to that. [LB272]

SENATOR CORNETT: Okay. Thank you. [LB272]

SENATOR JANSSEN: Any other questions? Senator White. [LB272]

SENATOR WHITE: Well, but if that district, that SID, had obligations on the land to pay you, you can't collect anymore. They went into bankruptcy, correct? So did you lose any funds? [LB272]

JOHN WINKLER: I don't believe so, to my knowledge. Again, I'll check all of those, but a lot of that occurred, again, before my tenure. [LB272]

SENATOR WHITE: Does this law provide for a lien to be placed on land purchased for development so it would protect the private contribution? That it will, in fact, be made? [LB272]

JOHN WINKLER: Not at this time. [LB272]

SENATOR WHITE: Again, I'm asking you, and I'm trying to do this in the spirit of friendliness, why on earth should we give you nearly half a billion dollars when so much is left undone? [LB272]

JOHN WINKLER: We have very serious flooding issues that we need to address. [LB272]

SENATOR WHITE: I've litigated flooding issues in the southern Papio. I understand the cost of not promptly moving. I understand the cost of floodplain infringement, and I understand the cost of moving structures after development occurs. I respect all of that, but I also understand the cost of putting money in people's hands who have not

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prepared to receive it, to administrate it properly, or make sure that it's actually necessary before it's expanded. What choice do you give us to make us believe that if we improperly...and thankfully you guys are thinking ahead. I mean, there is no way I know of more important than flood control and doing that, but why haven't you gotten many of these fundamental issues resolved in the bill with hard core plans before you came here? [LB272]

JOHN WINKLER: I think part of that answer is if we do not have the ability to bond then that financing structure is thrown into a state of flux again and then we have to go another direction. [LB272]

SENATOR WHITE: I understand Douglas County does not support this. Is that true? [LB272]

JOHN WINKLER: At this point, correct. Hopefully, though, we're continuing to--and I've talked to a few of the commission--hopefully we're continuing to work with them where they will at the time that they are developing their own plan and that they get together with the partnership and we come up with a compromise. And I think that's very plausible. And hopefully they've expressed that to you. [LB272]

SENATOR WHITE: Thank you. I appreciate your courtesy. I do. [LB272]

SENATOR JANSSEN: Senator Cornett. [LB272]

SENATOR CORNETT: John, I just wanted to let you know I don't mean any spirit of ill will. [LB272]

JOHN WINKLER: Oh, no. No, I appreciate the questions. [LB272]

SENATOR CORNETT: It's just these are questions that have been brought to light and before I'll feel comfortable moving on this in any way, I'd like a little bit more clarification. [LB272]

JOHN WINKLER: Um-hum. And we will get those answers to those questions. [LB272]

SENATOR CORNETT: Okay, thank you very much. [LB272]

JOHN WINKLER: And again, I'm sorry I didn't have all the answers, but... [LB272]

SENATOR CORNETT: That's okay. I know you're new to the position. [LB272]

SENATOR JANSSEN: John, possibly there will be someone, a board member, that can answer some of these questions for us or who have been there for quite some time.

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And I apologize for you being put on the spot, but that happens to the new kid on the block, you know? [LB272]

JOHN WINKLER: That's okay. [LB272]

SENATOR JANSSEN: All right. I don't see any...oh, Don. I'm sorry. [LB272]

SENATOR PREISTER: Thank you, Senator Janssen. John, I don't apologize for putting you on the spot. (Laughter) You got the position and if we did not ask these questions, if we did not take the taxpayers' money and how it's spent seriously, we would be, in my view, in dereliction of our duties. So we need to ask the hard questions and we need to ask more of them before we ever vote to advance something that's going to put even more of the citizens' tax dollars on the line. So in all deference and respect to the chairman, I don't personally apologize. But hopefully we've done it in a respectful way. [LB272]

JOHN WINKLER: Yes, and I appreciate the hard questions. And again, if you put yourself in this position, you expect them. But also to reiterate your comment, Senator, I would consider it a dereliction of my duty if I was not sitting up here asking you for this authority. And I work for an elected board that also takes that duty very seriously. And we do have an issue that we need to address and we're trying to be proactive about it. So that's why I'm here in front of you. And I will continue to be back until I think I have all of the weapons I need to address these issues. And I appreciate your candor and your honesty and I look forward to continuing to work with you. [LB272]

SENATOR PREISTER: Thank you. [LB272]

SENATOR JANSSEN: Thank you, John. [LB272]

JOHN WINKLER: Thank you. [LB272]

SENATOR JANSSEN: Next proponent. Now I think we can probably nail this guy. He's getting paid pretty good. [LB272]

DEAN EDSON: You can be mean to this guy. (Laughter) Senator Janssen and members of the Revenue Committee, my name is Dean Edson, that's spelled D-e-a-n E-d-s-o-n. I'm the executive director of the Nebraska Association of Resource Districts, testifying in support of LB272. I'm glad I got up here after all the questions have been asked and so I'll try to be brief. As we were working on this bill and on this issue, there was a startling resemblance of other issues that I've been involved in where we waited too long to act. And I think all of you are aware of what water problems we have in western Nebraska right now. I started looking at this issue and I see a lot of similar issues here. We'd ask the Legislature for additional authorities to regulate ground water

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more extensively or maybe put moratoriums in place. Filled the hearing rooms with opposition, people that didn't want to stop or limit any development or didn't want to do any preventive water management in western Nebraska. We ran into this problem where the NRDs did not have the statutory authorities needed to address the problems out there. We didn't get those until LB962 got passed where we could implement some water management plans in areas where there were no water declines. That's the key thing. We couldn't do anything before until there were ground water declines on water management and that's because the Legislature and the politics of that issue forced that to happen. They didn't want any regulation done that might regulate a person's personal property or property rights. What that led to is a lot of development occurred. Now NRDs are in the position of trying to undo a lot of that water development out there to fix this problem. I see the same thing happening with the flood control issue. We're trying to put together funding mechanisms and authorities for the districts to stall these flood control projects around communities to protect lives and property. There's a lot of opposition to that because you have to put these structures on somebody's private property. There's just no way around it and so it automatically becomes a very emotional issue. And I don't blame people for getting emotional about it, but what we've got to do is try to figure out what's the best way to implement these programs. How do we finance them? What authorities are needed for the districts to implement it. One of the questions that was brought up to John Winkler was have you taken every reasonable action that you can take up to this point and did those actions solve the problem. That is very similar language to what used to be in the statute up until 2004 that NRDs had to go through a laundry list of every possible management action before they could put a moratorium in place. Conceptually, we're talking about the same thing. You have to do all these other things before you can do a moratorium or, in this case, you have to do all these other things before you look at putting in a flood control structure. What I don't want to see happen is somewhere down the road, 10, 15 years down the road or five years that the front page of the Omaha World-Herald has a picture of flood damage in Omaha and the headline is the same as what the headline was last Sunday--"Cost of Inaction." And that whole story this Sunday was about the cost of inaction on the Legislature, the NRDs not putting proper managements in place, not trying to control the development of ground water, not trying to prevent disasters from happening. That's what we're asking you for today. Let's work together. Let's figure out some kind of funding mechanism and authorities to address the problems that are occurring with the flood water and storm water and get these authorities put in place and the funding mechanisms. It's a lot easier to fix this right first than it is to go undo it. And that's what I'm faced with and the NRDs in western Nebraska are faced with right now is going out, raising the money, and undoing the development out west. And it would be much more expensive in Omaha to undo than it is out west. With that, I'll close and take any questions you might have. [LB272]

SENATOR JANSSEN: Don. [LB272]

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SENATOR PREISTER: Yes, Dean. Thank you, too, for testifying. From what Senator Cornett said, on the EPA website they're not seeing dams as a functional solution for flood water. And my understanding is that dams are kind of outdated methods of dealing with...there are better best management practices. What are we going backwards to something that isn't currently the best system and trying to use something that's outdated anyway? [LB272]

DEAN EDSON: Well, I think what you're referring to is the EPA website on storm water. If that was the only issue we were trying to deal with I would agree with you that there's other things we can do, but we're also looking at flood control structures and flood control. And so I think what John Winkler was trying to get across is that we can address both of those issues with putting in these type of structures. Now they don't have to be the mammoth structures that some people think about. They can be smaller structures. They don't have to cover 150 surface acres. They may be less than that, but they're multipurpose. The other thing that gets incorporated in that, the other funding mechanisms that the NRDs use in the development fund to put in structures for flood control, they have to be multipurpose. So you have to include the recreation component has to include ground water recharge etcetera. There's got to be cost benefit ratios to that as well. [LB272]

SENATOR JANSSEN: Senator Cornett. [LB272]

SENATOR CORNETT: How long have you been with the NRD? [LB272]

DEAN EDSON: Ten years. [LB272]

SENATOR CORNETT: Okay. Explain to me what happened with Dam Site 6, how that was funded, why it's a private lake. If I'm not mistaken, \$3.5 million of taxpayers' money was used to build a private lake basically. [LB272]

DEAN EDSON: I'm not personally involved with the project. That's the Papio project. I can give you some generic... [LB272]

SENATOR CORNETT: Isn't that what we're looking at though is kind of a partnership between the Papio and the NRD here? [LB272]

DEAN EDSON: Between developers and the NRDs? [LB272]

SENATOR CORNETT: Yes. [LB272]

DEAN EDSON: That's one way to look at it. Let's look at Dam Site 6. [LB272]

SENATOR CORNETT: Okay. [LB272]

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DEAN EDSON: Okay and I'll give you an example. If the NRD wanted to go in and put that (inaudible) structure in that particular location and we wanted to finance that all ourselves, that project would cost approximately \$50 million. Okay? That's not the development around it. So what the district did is partnered with private sectors, said you guys buy the land, private sector buy the land. What we want is just the flood control component of that. [LB272]

SENATOR CORNETT: Sorry, one quick question. When you say private sector buy the land, was eminent domain used on any of those properties? [LB272]

DEAN EDSON: No. [LB272]

SENATOR CORNETT: Okay. [LB272]

DEAN EDSON: The private sector bought that from willing buyer, willing seller. [LB272]

SENATOR CORNETT: Okay. [LB272]

DEAN EDSON: And so this is where we get the private sector cooperation. Private sector buys the land, they own the land. We put the dam in, the NRD puts the dam in and what we get out of that is only the flood control component of that. So what's above the baseline of the lake, the water level of the lake, up to the flood stage which is about, I think it was about, on the face of the dam, approximately 3-5 feet. That's the only part of that that we purchased. And so when you have a rain event, we get the storage in that to keep that flood water from going on down the channel and hitting the downstream property owners. Instead of costing \$60 million it cost the district \$3.5 million to get that flood control portion. What we got in addition to that was some public access land on one side of it where there's a wetland and there's some public access to that fishing, etcetera, but the developer--since they put in \$57 million--they get to control what happens on the rest of the property. [LB272]

SENATOR CORNETT: One last question on Dam Site 6. Like I said earlier, it said that it cost \$3.5 million of taxpayers' money for the flood control issue. What are the flood control benefits? The percentage of benefits coming out of that dam site? I have a number here from, and I was wondering if that was accurate. [LB272]

DEAN EDSON: I'm going to defer that to somebody who might follow me. [LB272]

SENATOR CORNETT: Okay, because it's showing that there's only 1.2 percent of the watershed is being controlled by Dam Site 6. It seems like an awful lot of money for 1 percent. [LB272]

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DEAN EDSON: Yeah, I'm going to defer that to someone who's involved in that project personally. About all I can give you is kind of the in the nutshell, what we bought, and the purpose of that partnership. [LB272]

SENATOR CORNETT: Thank you. [LB272]

SENATOR JANSSEN: Senator Langemeier. [LB272]

SENATOR LANGEMEIER: Chairman Janssen. Dean, thank you for your testimony and this comes at a unique time, which a good portion of my district is experiencing flooding. I'm told the water is about a half mile from my house and coming closer as I just talked to my wife about 10 minutes ago. She's a little nervous. This proposal was brought up last year. And I know NARD supports it this year, I think with the municipal class, the first class portion of it. Last year, am I correct, they did not support it? [LB272]

DEAN EDSON: We did. [LB272]

SENATOR LANGEMEIER: You did support it as the entire NARD last year. [LB272]

DEAN EDSON: Yes. [LB272]

SENATOR LANGEMEIER: Okay. [LB272]

DEAN EDSON: All 23 districts did support that last year, too. [LB272]

SENATOR LANGEMEIER: Okay, thank you. [LB272]

SENATOR JANSSEN: Any other questions? Dean, I have a couple. Do you feel as though the metropolitan area could have prevented some of the storm water runoff? A portion of the problem. Has there been adequate planning when we put in shopping centers, church parking lots, streets? Have they taken the right controls over the last 30 years to protect some of the things that are happening now? Did they do the right planning in the city? [LB272]

DEAN EDSON: I don't think our level of knowledge 30 years ago meets what it is today. [LB272]

SENATOR JANSSEN: Well, maybe someone from the city will be here to answer those questions. [LB272]

DEAN EDSON: Yeah. And I'm not a native of Omaha. I've been there several times, but you go up and you look at some of these creeks that go through and you look at the development that's right up against the banks. That might not have been the wisest

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idea. (Laughter) When Steve Oltmans was manager I used to go up there and do some tours. I haven't done that yet with John. I'm planning on doing that this coming summer, but he relayed to me and also showed me some of these properties where you had houses that were right up against these banks and the banks are now caving in. Okay? And they're coming to the NRD and wanting the NRD to fix their problem. And so what we're trying to do now is, you know, we're losing three square miles of farm ground annually around Omaha. Let's not run into this situation again. Let's get some foresight. We do have some new zoning regulations in place now, but then let's also take a look at maybe putting some of these structures in so that you prevent this damage into the future. [LB272]

SENATOR JANSSEN: And as fast as the city is growing, or the metropolitan area, you know, it's kind of hard to stay ahead of it actually. And you know, it's good for the city of Omaha. I mean, in the metropolitan area and the state that we are growing in that area, but hopefully there is more planning ahead. [LB272]

DEAN EDSON: And that's what we're trying to do. [LB272]

SENATOR JANSSEN: Yeah, I realize that. [LB272]

DEAN EDSON: And we'd like to work with the committee to make sure that we've got the proper authorities and we've got the proper financing mechanisms, and also the proper control. So if you're concerned about the controls of the funds, let's figure it out what you would like to have us do with that to make sure that we have the proper assurances in place, that the money is well-kept, and the taxpayers protected. [LB272]

SENATOR JANSSEN: Thank you, Dean. Next proponent. [LB272]

MARTY GRATE: (Exhibit 3) Senator Janssen, members of the Revenue Committee, thank you for giving us the opportunity to testify today. My name is Marty Grate, M-a-r-t-y G-r-a-t-e. I'm the environmental services manager for the city of Omaha. Being handed out to you today is a letter from Mayor Fahey confirming Omaha's support of LB272. As a member of the Papillion Watershed partnership, Omaha collaborated with the eight other cities, two counties, and the NRD to develop regional policies to responsibly manage both storm water quantity and quality. One component of this overall management plan, which was incorporated into Omaha's master plan with the approval of our city council, was to develop a system of regional detention basins and water quality basins. A key to this overall plan was a financing mechanism for the system and what was envisioned and written into the policy was that the NRD would have bonding authority and that is something that, by policy, we do endorse. The city of Omaha supports LB272, considers this bonding authority to be a critical element of the overall plan that is more than just regional detention, but this is a critical element. And it's just important for us to continue to develop responsibly and to protect the public's

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safety and the environment. With that, I'd be happy to answer any questions. [LB272]

SENATOR JANSSEN: Tom. [LB272]

SENATOR WHITE: Have you looked at financing mechanisms other than property taxes such as user fees for development? [LB272]

MARTY GRATE: Yeah. In fact, the city of Omaha supported this year a different legislative bill, LB534, to look at regional storm water fees that could potentially be used for capital projects, but also would address the question that came up earlier about how do we operate and maintain either regional detention or any of these other low-impact or other kind of technologies. [LB272]

SENATOR WHITE: None of those proposals are embodied in this bill. [LB272]

MARTY GRATE: Excuse me? [LB272]

SENATOR WHITE: Those proposals aren't reflected in this bill. I mean, did you... [LB272]

MARTY GRATE: But they are reflected in the policies we adopted. [LB272]

SENATOR WHITE: Okay, so did you reject the idea of charging developers on land based on amount of runoff that comes off of it? [LB272]

MARTY GRATE: No, we support that. [LB272]

SENATOR WHITE: You do support that? [LB272]

MARTY GRATE: Yes. [LB272]

SENATOR WHITE: Is there a provision in here for that taxing authority? [LB272]

MARTY GRATE: Well, this is the NRD's bill for bonding authority. That's the topic of that. But the city of Omaha supports, again, legislation that would allow all system users of our drainage system to be assessed fees based on impervious service area. [LB272]

SENATOR WHITE: All right. So are those revenues being directed at this bonding authority or where will those revenues go? [LB272]

MARTY GRATE: Well, that would be a decision that would be made at a later date on a community by community basis. In terms of... [LB272]

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SENATOR WHITE: Don't you think that ought to be an integrated decision so you can come to us saying we have an overall plan. We're going to raise X amount of direct fees based on discharge. We're going to raise direct fees based on actual development. We're going to have a plan so there are liens on properties that are benefitted by the dams that we build in case they're sold so that we can get our development fee back. We have plans for investment. We have a timetable. We have consensus so everybody whose benefit actually is bought in. Don't you think those things should be done before we spend half a billion dollars? [LB272]

MARTY GRATE: Ideally, yes, it would be great to have a total plan that covered every contingency. My experience has been it's very difficult to do that and sometimes you have to go at it a step at a time. Again, this bill is one key part of an overall strategy that will have to come together. [LB272]

SENATOR WHITE: Thank you. [LB272]

SENATOR JANSSEN: Other questions? I don't see any, thank you. Proponents? [LB272]

GARY TROUTMAN: Good afternoon, Mr. Chairman, members of the committee. My name is Gary Troutman. I'm the city administrator in Bellevue and I'm here today in support of LB272. My testimony would be very short, Mr. Chairman. The city council did, on January 10, 2007, have a hearing on the legislation of LB272 and support it. And I was asked to come down and advise the committee of that action the council took. And I'll answer any questions you may have. [LB272]

SENATOR JANSSEN: Any questions? Gary, I have one. I'll ask you the same question I asked the last gentleman. Has Bellevue imposed any kind of restrictions on storm water runoff and where the homes are being built now? If they could be within a flood zone and so on and so forth. [LB272]

GARY TROUTMAN: We are looking at that, Senator. I believe that in Bellevue we were like many of the other communities in the area that really didn't pay much attention to it. When it rained in Bellevue there are certain places you don't want to be at. And Bellevue sits at the bottom of the basin and everything comes our way. But no, our planning director has been working with the planning commission during this issues that we need to really get on top of. [LB272]

SENATOR JANSSEN: Abbie. [LB272]

SENATOR CORNETT: Gary, about how many times a year do you suppose that parts of Bellevue are under water now? Specifically, like 36th Street at the Papio, 25th Street at the Papio, and how it impacts the city. [LB272]

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GARY TROUTMAN: Okay, whenever we have a heavy rain, and I can't tell you what a heavy rain is, we do have flooding problems. And we have them not only in those areas, the NRD has done a lot of work on the Papio Creek going through there. But we have a lot of underwater streams that flare up during a situation such as on Fort Crook Road. That is under water quite a bit of the time. And what it does is creates a public safety issue for us. We do respond by closing the roads and redirecting traffic. The police department has a plan in place for that, but you can just about go to the bank when we have a heavy rain of where we've got to institute those road closings. [LB272]

SENATOR CORNETT: One last question. I can't remember and I understand there's a lot of opposition to this bill and there's a lot of questions in regards to the funding and runoff money, the question is do you feel that the lower part of the basin definitely needs something at this time and can you remember a year since you've started with the city that a portion of Bellevue hasn't been under water? [LB272]

GARY TROUTMAN: No, I do not recall any year that we have not had...we've been under water somewhere. And I'm sorry, the first part of the question? [LB272]

SENATOR CORNETT: Do you feel that we need to address this issue? [LB272]

GARY TROUTMAN: Right. Yes, we do. As I understand the NRD's plan, the area within the Bellevue zoning jurisdiction would receive one type of a water protection dam, if you will. But as I said earlier, the water comes from all over into our area. So I think it's critically important that the district address those issues out in the western Douglas and western Sarpy Counties. [LB272]

SENATOR CORNETT: Thank you. [LB272]

SENATOR JANSSEN: Any other questions? Thank you, Gary, for being here. [LB272]

GARY TROUTMAN: Thank you, Senator. [LB272]

SENATOR JANSSEN: How many more proponents do we have? One more? Okay. [LB272]

FRED UHE: Senator Janssen, members of the Revenue Committee, my name is Fred Uhe, the last name is spelled U-h-e. I'm the chief deputy clerk for Sarpy County and the county's registered lobbyist. I can echo a little bit of what Mr. Troutman said. Being at the bottom of the watershed, we do have a very vested interest. For instance, this morning at 10:00 our sheriff's office emergency management agency, Cass County emergency management, Saunders County sheriff, and the highway patrol had a press conference and basically are into a flood watch mode, per se, comparing it to a tornado

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situation where, you know, it's not quite the warning but our goal is to get as many people in the lower areas to be advised that if the weather predictions are accurate, we could be in for a lot of trouble. I think Senator Langemeier's water may be heading our way, unfortunately, and the little part of Sarpy County he has could be under water by Monday. But the Sarpy County board has been a member of the partnership since it began. And Senator Kopplin's amendment to remove the additional taxing authority definitely made it much more palatable to my board. I'll try to respond to a couple questions and probably not as well as I should, but there is an issue of both quality with the storm water issue and quantity with the flood water issue. Senator White, to touch on a little bit about one of your comments, we have tried for the last three to four years now to actually enable us to collect a storm water fee based on impervious surfaces and that has not happened. Through the zoning process, yes, we can take a look at certain impact fees and a policy to alleviate some of that, but on the current buildings and structures that are in place we were unable to collect any fees. And we have felt for a long time that if you contribute to the problem you should contribute to the solution. And that includes county government. I mean, we would be assessed a fee based on our square footage not only for the rooftops of our courthouse and all of our buildings, but our parking lot. Feeling that would give it incentive for any of the entities, private sector as well, having to replace parking lots, looking at impermeable concrete, etcetera, and with the idea that any fee imposed could be waived based on best management practices. We have been unsuccessful in getting that through the Legislature so I think this is where we are at today on the bonding authority. I think also as far as the discussion of a plan, and I guess growth is not necessary equal or predictable and so I think the NRD would need a little bit of flexibility. For instance, there's two new structures southeast of Papillion. That was a partnership between the city of Papillion, the developers of Shadow Lake Shopping Center, and the NRD. And those probably weren't on anyone's map 10 years ago, but now with the inclusion of hundreds of thousands of square footage of retail and parking lot they realize there would be a potential problem downstream. Under the current NRD plan, Sarpy County is, I believe, in line for one additional dam out in western Sarpy. I think proposed development patterns, etcetera, will impact that. So I think on one hand versus the NRD attempting to come here and say this is what we're going to do for the next 30 years would be an awful tough effort to make. So I think there needs to be a little bit of flexibility similar to a school district that may site school buildings based on development and attendance areas. I think probably the other thing, again, Sarpy County's interest, being at the bottom of the watershed we do need help. I've been around long enough to remember boating in beautiful downtown Papillion when I was nine years old and hopefully my kids will never get to share such a similar experience. And you know, I think Senator Cornett, your question is very accurate because I've got photos of down by Twin Creek, 36th Street being under water last spring. And every year it comes and every year we run into...in fact, every year I think there's greater development in the Omaha area that comes with a little bit more force and a little bit more fury. And we've been very, very lucky due to previous efforts on dikes and channelization, but as the area continues to

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urbanize I think we're going to see another major disaster in the Sarpy County area. So with that, I'd be willing to take any questions. [LB272]

SENATOR JANSSEN: Any questions? Tom. [LB272]

SENATOR WHITE: Yes, first of all, can you tell me does the county currently have in place, county wide, regulations that require runoff controls? [LB272]

FRED UHE: We are in the process as most other agencies, of redoing our comp plan. [LB272]

SENATOR WHITE: So the answer is no? [LB272]

FRED UHE: No, currently. And then you're probably also well aware from our hearing the other day on the pockets of zoning that are being taken by the cities and stuff to look at it. One of the reasons we got involved in the partnership is that over the years I've been working with this body it seems like government efficiency has been a little bit...and I'm very much encouraged by the Senators. So by approaching it on a watershed partnership, we realize we have a role, but it's something we are heading to. [LB272]

SENATOR WHITE: Did the cities in Sarpy County, have they imposed impact fees and best practices requirements for new construction? [LB272]

FRED UHE: That I do not know, but would be glad to contact them. If you remember the map from the other day, Sarpy County is split between the two watersheds--the Papio Watershed and the Platte--and probably most of the urbanization is in the Papio Valley which is basically where the cities are. So as far as the current situation, they have a little bit more direct interest, but I would be glad to contact our cities and follow-up with you on that. [LB272]

SENATOR WHITE: Will any of these dams that are proposed with this bond solve Bellevue's immediate problem? [LB272]

FRED UHE: I'm not a hydrologist. I'm not sure if I could answer that. [LB272]

SENATOR WHITE: But don't you think it prudent that before we spend \$400 million, a fundamental question like will it stop flooding in Bellevue, be answered? [LB272]

FRED UHE: Well, I would hope from the final plans, and again I'm not a hydrologist and not seeing the HDR report, hopefully that can answer some of that questions. Because I know previous efforts have been designed to do that and then with further organization what was projected to take care of Sarpy County for 10, 15 years suddenly within a few

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years is outdated already. [LB272]

SENATOR JANSSEN: Senator Cornett. [LB272]

SENATOR CORNETT: Fred, we have dams that, like you just said, that were built to control our flooding. Am I correct? [LB272]

FRED UHE: Um-hum. [LB272]

SENATOR CORNETT: Have you seen that it has helped at all at this point? When you said that we're headed what you feel is a major disaster because of the urbanization. [LB272]

FRED UHE: Well, I would think it somewhat has, because probably I'm thinking the pictures that their sheriff's office sent me on Twin Creek and the 36th area last year were, it was kind of just barely over the bridge, but... [LB272]

SENATOR CORNETT: It was under water. [LB272]

FRED UHE: ...I mean not as much as it had been. The Daniel (phonetic) family there are actually relatives of mine and I remember that whole area being 10 feet under water versus, you know, we've made progress. Papillion has not seen the major floods that they did like say in '63-64 which, you know, wiped out bridges and put the downtown under water. So there has been progress, but I think you can also see that with the continuing and more concrete being added in west Omaha does impact and I guess I bring the Papillion experience being a resident there as far as what's happening on the west Papio. Of course, where Bellevue down by Twin Creek where you're getting all the major branches. So I think it's been slowed. I think if things would not have been done and that's not only including the dams, but it's also channelization efforts and even clearing the creek bed which has been done, I think, on a fairly regular basis. I think those steps have helped alleviate the problem. Solved it? Probably not. [LB272]

SENATOR CORNETT: That just brought me to a question that Don brought up. When you say that there are other means that have been used to control flooding, do you feel that this number of dams--and I know that this may be too technical for you, I apologize--is the best method or do you feel there's other methods we could use to control the flooding? [LB272]

FRED UHE: Well, I would probably defer--well, I shouldn't say defer to the engineer experts. Our house engineers would disagree that I very seldom refer to them. You know, I think it needs to be a package. You know, efforts, I mean even the storm water, the EPA website which I have been at. I mean, even there's an educational component on that. I mean, stuff is, you know the underthesink.org where you can take household

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chemicals instead of pouring them, you know, down the storm drain outside. You know, that all counts credits and stuff. You know, requirements on permeable concrete and larger developments probably would help. I think definitely the problem is there's more rooftops and more concretes in the watershed that tends to flow down and whether you get, you know, the series of small retention ponds. All that depends on the development. I don't want to necessarily say it's the only solution, but I think it's definitely a large piece of the puzzle. [LB272]

SENATOR CORNETT: Do you feel that we would be better served having a bill that was a combination of dams and other means of flood control being brought to us rather than just looking at the one component? [LB272]

FRED UHE: Well, I think currently...I know, dams, you know, are the expensive component. I mean, the ongoing things--improvements to dikes, the channelization, clearing the creek bed--is occurring currently. I think, unfortunately, the dam... [LB272]

SENATOR CORNETT: Whose paying for that? The clearing the creeks and the... [LB272]

FRED UHE: The NRD. [LB272]

SENATOR CORNETT: The NRD, okay. Thank you. [LB272]

FRED UHE: Yeah, I think we've hit a point where probably some of the easy fixes have been taken, and unfortunately we still have a problem and as Senator Janssen mentioned it's due to growth which is good. I mean, the economy of the state of Nebraska is probably being driven, in large part, by the metro area. Again, there's probably no easy solution. I don't think dams are the only one, but are probably necessary evil. [LB272]

SENATOR CORNETT: Thanks, Fred. [LB272]

SENATOR JANSSEN: Senator Preister. [LB272]

SENATOR PREISTER: Fred, good to see you. Thank you for coming. I'll use the same analogy I used on the way we're using water and encouraging the water use. At the same time we're trying to conserve it with this issue. We've got one foot on the accelerator and we've got one foot on the brake. You're saying we need growth, so growth is good, but the more we grow the more the land becomes valuable, particularly in flood plains, the more we have problems. Senator White was really getting at doing preventions and counties and cities doing better prevention of putting things in flood ways and flood plains and preventing it in the first place so you have a more orderly growth. I tend to support that kind of prevention. Dams are a prevention, but dams are

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also costly. They're not always the best answer. And other best management practices may be. I guess my question is I would encourage Sarpy County, and maybe there's more than what we've heard, but when I hear about the development along the Platte River and breaking up good farm ground or very sensitive ground areas, that the Sarpy County commissioners are about to okay and probably septic tanks will go in there which could affect the quality of the ground water in addition to putting just more demand and more impervious surface there. It makes me wonder if Sarpy County is doing, or the city of Omaha, or the city of Bellevue, or anybody else doing the best management practices and the best prevention and just using dams as kind of a fallback position after the fact. Your comments? It still seems like we've got one foot on the accelerator and the other foot on the brake. [LB272]

FRED UHE: You're not totally wrong. I think in our case, you know, our county board has been struggling, particularly the development in the Schramm Park area. Actually not much has been approved. There's been some ongoing discussions, including some litigation. I know when our board did a hearing on buyouts and property down by Iske Park and areas south of Bellevue to get them off the Missouri River where the Papio comes into the Missouri. So there has been some things where we've participated with the NRD on removing some of the structures. We've also done that out in Vencil Island where Elkhorn and Platte come together. It becomes sometimes difficult, I mean, flood maps are adjusted on kind of an ongoing basis on what's flood way, flood plain, etcetera, and that can actually change again due to the potential runoff coming our way. So we've attempted to be, I think, proactive in meeting some of those needs, but shortages identifying a large swatch of the county that say hey, no one can come here at all which probably was subject to litigation from landowners that are looking at their properties as their 401K, if you will. And on the septic question, we actually had a bill last year dealing with the county sewer authorities. Sarpy County does have an industrial sewer authority. We wanted to add a residential component because we're very, very aware of the potential environmental degradation of septics within that Platte Valley, but we were unsuccessful and actually are going to attempt to probably ask for an interim study this year of some of those issues, because there's so much pressure on the I-80 corridor. So... [LB272]

SENATOR PREISTER: Good. I hope you do pursue that. One last question. We heard earlier that the Papio NRD board has not voted even to approve the seeking of this authority. Has the Sarpy County board voted to approve supporting? [LB272]

FRED UHE: Not officially. And primarily because they vote on very few issues because realizing the process, and actually I think Senator Kopplin's amendment taking the additional taxing authority probably was what allowed my county administrator to call me this morning and say hey, are you going down there? So if you would have asked me Tuesday if I was coming down to testify on this bill I probably would have said no. I was going to monitor the discussion, but you know, our county board is very cognizant

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of the taxpayers and the complaints on taxes, but we also know we are at risk and feeling that since it is part of a partnership, because again, going back to the efficiency and the question about dam maintenance and stuff. I mean, you don't want to necessarily have Sarpy County have a department of dams and the city of Papillion and, you know...so I think the idea of using the NRD as kind of the global agency that could come together, oversee it, and hire the dam professionals and hydrologists and, you know, approach it from a watershed build, a more efficient... [LB272]

SENATOR PREISTER: And I certainly understand efficiency, and I understand the partnership, and I understand and support the concept of flood control. We do want to protect lives. We do want to protect property. And I think all of the members of this panel support that and are concerned about that. It's just looking at how we do it and what other methods have been implemented and how we go forward from here. The issue is very different for me. Do we do flood control versus how we do flood control. Thank you. [LB272]

SENATOR JANSSEN: Cap. [LB272]

SENATOR DIERKS: Fred, I just want to tell you something that might temper what's going on in here today and why we're asking so many questions. Senator White and I are the only two on this legislative panel who have just gone through an election, and every place we went we had complaints about the property taxes. That was the sole question we had every place we went. Once in awhile we get into abortion. Once in awhile we get into education, but property taxes everyday and everyday. I've got rancher friends out in my country which is out in Wheeler County. They're paying \$95 a cow in property taxes. And those cows aren't worth...well, that's about maybe 20 percent of what they're worth. It becomes so "overburdensome" that we've got ranchers who are leaving. I have a good friend who's leaving Holt County and moving to Oklahoma where the taxes are something he can live with. So these are the reasons that we're asking some of these hard questions. I think everybody in the room ought to know that. Property taxes are uppermost in our minds and I think the rest of the committee members have gone through this same thing, but I know Senator White and I had that particular experience this year. [LB272]

FRED UHE: Senator, I can definitely appreciate that. As the county government being the collector of those property taxes, we hear it quite often also. And I think most of the questions today have been good. I don't think, necessarily, any plan is solid. I know as far as Sarpy County I will commit to work with the committee or, you know, whoever we need to kind of make sure that...I like win-win situations. One of the reasons for the press conference on the potential flooding this weekend was to kind of be proactive and heighten public awareness because the expenses of potential loss of life, even deputies going into areas when ice chunks are floating down the river and attempting to evacuate people. So we thought by getting as much notice out as possible that everyone would

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be aware of it could hopefully save some of those tax dollars as well. But I definitely understand the situation and appreciate the questions. [LB272]

SENATOR DIERKS: Well, that really wasn't a question. It was more of a statement, but I appreciate your answer anyway. (Laughter) [LB272]

FRED UHE: Oh, okay. [LB272]

SENATOR JANSSEN: Any other questions? Thank you, Fred. [LB272]

FRED UHE: Okay, thanks. [LB272]

SENATOR JANSSEN: Proponent? Is this the last one? [LB272]

JOHN FULLENKAMP: Last one I believe. [LB272]

SENATOR JANSSEN: Last one? Okay. [LB272]

JOHN FULLENKAMP: Mr. Chairman, members of the committee, my name is John Fullenkamp, F-u-l-l-e-n-k-a-m-p, and I'm here on behalf of the bill. I'm a lawyer by trade and my concentration in my practice is land use and zoning so maybe I can...while I wasn't supposed to go last because I figured Mr. Uhe would get all the hot questions, I'm here to surrender myself on some of the zoning issues, and perhaps I can help a little bit with some of this discussion. Technically, I'm here on behalf of the Eastern Nebraska Development Council, the Home Builders Association, and the developments and the developers that I represent. Our office, I guess, has the good fortune at least in the Omaha Sarpy County area, we probably represent about half of the real estate developments that have occurred in that area. So I think I can help with some of these questions that have been asked a little bit and tell you why we're here to support this. And we understand this is a difficult issue. Let me get to the first question. Mr. Thompson who's the chairman of the committee, informed me with regard to your question, Senator Preister, that the NRD did actually vote to authorize the seeking of this authority and it was either at their November or their December meeting. I don't have firsthand knowledge of that. I was just informed of that. The Eastern Nebraska Development Council has relied on a long process and a long history with the NRD and the engineers and professionals that they hire who have informed us that they believe that the proper way for the amount of flood control that is necessary for this basin is the implementation of regional detention. Certainly there are alternatives to regional detention. This issue is much like a hundred page book, you know. Is 25 of those pages best management practices and are 75 of those pages regional detention? I don't know. But I suspect and I guess I have to believe that the largest engineering firm in the state of Nebraska had some reason to believe that regional detention was the proper way to have this kind of flood control. There were questions that have been asked, very pointed

and difficult questions to answer with regard to what the zoning authorities do in the various areas, and I can give you some enlightenment on that, I hope. Twenty, 50 years ago, you could develop anywhere. If you wanted to butt up against the creek, Cold Creek in Omaha, you butted up against the creek. In Bellevue, being at the bottom of the basin, I mean, you would normally think that the people at the bottom of the basin would want the dams at the top of the basin because the rain water doesn't know whether it's falling in Bennington or Omaha or Papillion or LaVista. It goes down the hill. And it just makes common sense to me that you need to put the valleys in the higher ground because of the necessity of geography. Nothing more than the landforms dictates if permanent basins are the thing to do that that's where they should be. So I guess that's my point with regard to that. With regard to my statement about what occurred 20 years ago or 50 years ago in the older parts of town and in the relatively new developments, it is a shame that when development occurred in those times that they didn't have the benefit of the sight in the eyeglasses through which we're looking at it today. Because today--and let's take Omaha which is probably the largest jurisdiction--Papillion, LaVista, I think Bellevue's in the process of doing this, you don't develop in the floodplain anymore. You protect the 100-year flood. You set back from the creek. You have temporary sediment basins. You have temporary water-holding ponds, commercial developments in many instances--it depends on where you are--and I agree there needs to be a comprehensive view for all of this. Some of them have onsite detention. Some of them do not have onsite detention. Everybody likes to talk about the Wal-Marts, because Wal-Mart is kind of this big leaping giant out there that ruins cities. And Wal-Mart is in my neighborhood and I didn't like it, but at least one thing they did do if you go out in front of the Wal-Marts you'll see two great big landscape holes that are detention for that parking lot. And talking about the old Avaya property I don't like the way it looks. I don't like the wall around it. I don't like a lot of things about it, but they did do a pretty good job with regard to retaining their water on their site. When the Avaya property came along, the east half of that property where the new Target store, I guess, is going to go, if you drive by that property you will see these gigantic metal tubes that are there. And what those are--those aren't storm sewers--that's underground detention. And so that may be 25 pages of that book and so I don't think just focusing on well, the EPA's website says there are other things. Certainly there are other things. Certainly those things are important. Everything, I think, has to be taken in concert. The development community, we look to the experts, we look to the NRD and we look to their engineers. And their engineers said regional detention is the way to go. Also, as part of that effort, you may have heard of an effort going on in Omaha with regard to design that's called Omaha By Design. There's also part of that effort was something called Watershed By Design. Watershed By Design and these policies which will be enacted by this partnership have such things as no net increase in the rate of flow off of your site, increased setbacks on the creek, limits on development, certainly no development in the floodplain, very limited filling in the floodplains. Papillion, for instance, has now required onsite detention in a residential subdivision. Never been done before. Now while it sounds like a good thing--and it is a good thing--you must

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understand that every time you buy a \$40,000 an acre farm in a suburban area of development and you set aside four or five acres for a regional detention site, you've upped the price of those houses and if you're in the business of doing affordable houses as most of our clients are, every time you add \$1,000 to the price of a house you eliminate one person for the market, one percent of the market. We are having a terrible time trying to find houses for teachers and firefighters and sewer workers and all of that sort of stuff, and it's very easy to say let's just spread it all out. Let's let the rain fall on the grass. Let's make big lots. Let's do all these things. And then we won't have this problem and we won't have to deal with these detention issues and these water issues, but I would urge you to consider that there is a balancing act that has to be done here. The reason we supported the NRD's proposal here is we thought it was the first time that somebody had gotten everybody together in this partnership. And then who would you pick, logically, to be the captain of this ship? Well, we felt the NRD in cooperation with everybody, in a concerted effort, could come up with the right way to do this. I am not a flood expert. I can't tell you if regional detention is the way to go. The experts that we talked to said it was. Uhe may have more expertise in land use than I have, but it just seemed the way to go. So because there was a comprehensive effort and because everyone was signing on, and because the rain didn't know what jurisdiction it fell in, and it seemed to be that there needed to be this consolidated approach, the development community said okay, we know it's going to cost us money because as part of this there will be a fee on development. There will be even a fee on the poorer houses that will pay into this fund that will go along with the funds raised by the NRD and their taxing authority. Know full well I represent the tremendous number of SIDs who set their tax rates every year just like you guys do and know the sensitivity to the tax issue. I don't think that means that we just don't address the problem. And I think the amendment that was offered to you was an attempt at a compromise to say okay, this is not an additional tax. We have a certain amount of authority. The NRD will impose on itself its restrictions to cut its costs which will allow for it to have room in its budget levy much like you heard about the hospital and the 50 cent requirement on the bill you had before to allow them to raise that money in conjunction with permitting fees that will be paid. And hopefully, some of those structures--if that's the appropriate thing to do--will be built in a timely fashion so all of the doomsday that people talk about doesn't occur. Be happy to answer any questions. [LB272]

SENATOR JANSSEN: Questions? Tom. [LB272]

SENATOR WHITE: First of all, Mr. Fullenkamp, there's probably nobody in the state that knows more about zoning than you do. That's a fact, isn't it? [LB272]

JOHN FULLENKAMP: Well, I don't know that that's the fact, but thanks for the compliment. [LB272]

SENATOR WHITE: John and I are old friends. John, I have a number of questions for

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you. I mean this is a tremendous amount of money that we're talking about spending.
[LB272]

JOHN FULLENKAMP: Certainly it is. [LB272]

SENATOR WHITE: And you've planned a large number of very large investments. What concerns me is not ultimately whether or not we have to bite the bullet and build the dam. I understand that if we have to do that we need to do it. And I also understand the need to do it earlier rather than later, because it's less expensive and it's safer. But what concerns me is I have not seen any evidence of a systematic zoning plan. For example, the NRD is the captain of the ship, but it seems like you've got mutiny on the crew. Douglas County's not signing on, Sarpy County hasn't voted. Would a systematic zoning law for runoff across the NRD be helpful in coming to a place like this and saying, okay, development can still develop. We can make a fair profit. We can provide affordable homes and we've taken across the watershed, systematic controls to reduce the problem and minimize the expense across the watershed. Would that be helpful?
[LB272]

JOHN FULLENKAMP: Yes. [LB272]

SENATOR WHITE: That doesn't exist, does it? [LB272]

JOHN FULLENKAMP: I think it does. [LB272]

SENATOR WHITE: Good. [LB272]

JOHN FULLENKAMP: Here's the difference. The Watershed By Design that I talked about is not just the issue of let's find a way to fund the construction of local retention. The Watershed By Design has 15, 16 different policies that when a subdivision platt is reviewed by the zoning authority be it Bellevue, be it Papillion, be it Omaha they will look to those policies because they've all agreed to adopt those policies. It doesn't take the form of a zoning law, but it takes the form of a policy on how to handle storm water. So there is A, a map that shows where everything's going to be. There is B, a set of regulations that says this is the...every platt is routed through the NRD. Every development is routed through the NRD. And those policies, which are agreed to by everybody, which say, for instance along major branches of Big Papillion, not only is it 3 to 1 plus 20...now what 3 to 1 plus 20 is the creek looks like this. Three to 1 plus 20 means you take the distance and lay the slope back to this is three feet and this is one foot, and then you go another 50 feet back or so from that and you can't develop anywhere in there. The reason for that is that that allows the corridor of water to flow through. It also allows for the potential that the NRD will come in and engineer that channel and if you engineer the channel you get water to flow through it more quickly and it gets out of your area and it doesn't back up, because if you're in a thing like this

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and the trees are falling in then all of a sudden you've got all this junk in there and the water explodes over the top. Now personally, I don't like the looks of an engineered channel. There's one down 87th and Center in Omaha down by the nursery there and I don't like the looks of it, but I will tell you it will convey the water away from that part of town that flooded like crazy in the sixties. So there are, and I can't, Senator White, can't quote you each one of those regulations but there is probably 15 different policies that are being implemented and that's kind of why I was maybe glad to be last, but get up here and explain to you because I think your concern, legitimately so, is well you guys are just asking us to do this and how do we know that anything else has been done? [LB272]

SENATOR WHITE: Exactly. [LB272]

JOHN FULLENKAMP: Well, there is a lot of things that have been done. And perhaps part of the presentation should have been a comprehensive education that showed you the things that Watershed By Design did and how everybody's going to be dealing by that set of rules. [LB272]

SENATOR WHITE: Now let me ask you bluntly, are you saying every zoning authority in the watershed is now legally obligated to follow the rules and regulations of Watershed By Design? [LB272]

JOHN FULLENKAMP: If they have signed. And I don't know, Senator, who has signed and who's not. I think that most everybody has signed. I don't know that. That's not my job. We spent engineers, representatives of Audubon Society, representatives of all sorts of organizations, we've stayed to the NRD meetings until midnight listening to people come and complain that didn't want to do them and didn't feel they were included in the process who you will again hear from them today, to come up with this set of criteria. And then it's to go around. And I, Senator, I know Douglas County has an issue with it and I think there are certain members of the Douglas County board who believe that the upstream, the hill people shouldn't have to have the water quality ponds or the retention ponds for the people who live in the flats or live downstream from them. If I lived up there I might feel the same way parochially, but I am here to tell you that that policy was worked out by an awful lot of people and I think most everybody signed off on it and I don't know for sure who has or hasn't. [LB272]

SENATOR WHITE: Is it fair for this committee to want to know that before we authorize half a billion dollars? [LB272]

JOHN FULLENKAMP: Oh sure. Absolutely. Sure. [LB272]

SENATOR WHITE: We don't know that, though. [LB272]

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JOHN FULLENKAMP: That's correct. [LB272]

SENATOR WHITE: And then we also don't know if Watershed By Design, in fact, carries out the maximum realistic amount of zoning controls. I hope it does. [LB272]

JOHN FULLENKAMP: That's correct. I can tell you it's pretty restrictive. [LB272]

SENATOR WHITE: Were you involved in that? [LB272]

JOHN FULLENKAMP: I was. Yes. I've been on that committee for three years. I mean, we've spent hours and hours and hours. I wish somebody would've explained to you what Watershed By Design was, what those policies were, because I think perhaps your approach to this bill could have been a little different if you understood that there was a concerted effort by everybody who develops--regulators, subdividers, financial agents, environmental groups--all involved in that process that came up with a comprehensive set of guidelines. We all know we're under the regulations and the future impositions of the Clean Water Act and so hopefully we're trying to be not only responsive to what the law of the land is, but also responsive to environmental stewardship that's necessary. And yet, balance that with the ability to keep a pretty viable real estate industry going in the eastern part of the state, hope that that kind of industry and progress could be shared throughout the entire state. And I'd be happy to answer any other questions. [LB272]

SENATOR WHITE: I feel better. Senator Langemeier tells me he was on the NRD for how many years? [LB272]

SENATOR LANGEMEIER: Seven. [LB272]

SENATOR WHITE: And he's never heard of Watershed By Design before today. And neither had I. But it's very difficult to be in this position, Mr. Fullenkamp, and be asked for this kind of money given the political climate without any kind...and we still haven't heard from a bond attorney talked about how we're going to ensure the private contributions are made, how the money's going to be managed, how it will be assessed, what kind of lien position if any we would have on the properties that are benefitted by a dam. Major, major holes. [LB272]

JOHN FULLENKAMP: And I'm sure there are very difficult details and I certainly can't answer all of those for you other than to try to aid some enlightenment to what has been done with regard to storm water regulations. [LB272]

SENATOR WHITE: Thank you. [LB272]

JOHN FULLENKAMP: Any other questions for me? [LB272]

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SENATOR JANSSEN: Don. [LB272]

SENATOR PREISTER: Yes, Mr. Fullenkamp. You mentioned all of these procedures and practices that are being implemented or are there to implement. Can you tell me do planning commissions or zoning boards or county boards ever grant any waivers? [LB272]

JOHN FULLENKAMP: There generally isn't an argument about a review by the NRD and what they suggest should be done. There's always, I suppose, waivers to something, but usually waivers that are asked are in regard to, say, a setback or something like that. I would never say never, but as a rule, you know, you have a professional engineer prepare a storm water plan, it's reviewed by the city engineer who adopts the NRD's policies and reviews the NRD letter. You know, you get a recommendation from the NRD on what, perhaps, isn't included in your plan and generally it's included. I mean, it's a fairly sophisticated process of review for a development to go through. Now that is more so on a subdivision platt as opposed to an individual building permit. Like the Avaya, for instance, that I talked about. That went through a subdivision platt. Now if that property would have been zoned for a certain use and somebody as a matter of right could get a building permit, unless the building was of a certain size it wouldn't have a site plan review. But if it's a major building over 40,000 square feet it has to have a special site plan review and those requirements would be imposed. [LB272]

SENATOR PREISTER: My point is you make it sound like all these things are in place and there's never even a waiver. I know of specific instances where in the floodplain the city of Omaha has allowed the land to be elevated and right in the floodplain they give permits to build. So many of these procedures are in place, but if you keep granting waivers and you keep violating the spirit of your own regulations it's counterproductive. Enough on that. [LB272]

JOHN FULLENKAMP: They must have better lawyers than I have, because I don't seem to get those waivers because... [LB272]

SENATOR PREISTER: Well, I know of an instance where you did, but that's beside the point. [LB272]

JOHN FULLENKAMP: Okay. [LB272]

SENATOR PREISTER: My last question to you is the director just said, from the Papio NRD, that their board did not vote and take a vote as a board on supporting this bonding authority. You just came up and I was somewhat distracted, and said that they did. From where do you get that knowledge? [LB272]

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JOHN FULLENKAMP: What I thought he said is he didn't know for sure whether they did or they didn't. I'm sitting next to Chairman Thompson who told me that he would like you to know that they did approve it at either their October or their November meeting. And I said--and I don't know if you were here--that I didn't have independent knowledge whether they did or didn't. [LB272]

SENATOR PREISTER: Okay. That's what I wanted to clarify. [LB272]

JOHN FULLENKAMP: I just reported what I was told that the board did, in fact, vote to authorize the seeking of this legislation. [LB272]

SENATOR PREISTER: Okay. That's what I want to clarify. [LB272]

JOHN FULLENKAMP: Thank you. [LB272]

SENATOR PREISTER: Thank you. [LB272]

SENATOR JANSSEN: Abbie, did you have a question? Anyone else? Seeing none, thank you John, for being here. [LB272]

JOHN FULLENKAMP: Thank you. [LB272]

SENATOR JANSSEN: This is the last proponent? [LB272]

JIM THOMPSON: Proponent. [LB272]

SENATOR JANSSEN: Okay. And we'll move on to opponents after this testifier. [LB272]

JIM THOMPSON: Jim Thompson, T-h-o-m-p-s-o-n. I'm currently chairman of the board of the Papio NRD board of directors. I want to clarify a few things firsthand and I'll try and keep it brief. I'm not an engineer so the hydrology issues I hope I can defer that for further discussion. We did vote in, I believe, it was October, the full board voted to adopt our policies that had been developed over the three year period. In that policy was coming forward to the Legislature for bonding authority. So that did pass our board. And unfortunately, Senator White had to leave, but a couple of the issues about the plans you talked about these 29 dams. Back in 1960, I believe, the core of engineers did the study. It was redone in the seventies. Again, in 2006 they were redone. This is a long-term plan. I've been on the board, this is my seventh year, and when we had a lot of discussion--you'll hear a lot more comments on it--and then certainly we'd like to continue the education process. I look at this as a long-term 30, 40 year plan. We are not going to go out and build 29 dams if we get authority this year. We cannot do that even if we wanted to, because we have not studied in detail the hydrology of each and

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every location. John Winkler mentioned a few higher priority areas. This is how we have to tackle this elephant. We can't eat it all at once. We're going to take one bite at a time. Senator Cornett, your questions about the Bennington issues and the funding issues, although not related to this legislative bill, I'll be happy to give you any answers I can on that. But again, that was built with the majority of a developer, his funds. We said, hey, that's the site for a dam. Can we tap into this literally and it saved the taxpayers quite a few dollars, because the developer was doing most of the work. Those are the partnerships that we have developed, whether Dial Realty or whoever else. And I don't know if John Fullenkamp represents them or not quite frankly. But as John Winkler said, as Omaha develops, the developers buy the land, they're going to build houses and we're saying time out. Let's look at what it takes to control the runoff. The storm water issue is a significant issue. Right now, Omaha is studying what they are required to study to separate the sewer system and create the water quality basins within the city limits. This is an adjunct process that the Papio NRD and our entire district must...it's only logical and right that we look at both issues, because as someone else said rain falls and it doesn't care if it's falling in Bennington or LaVista or Ralston. It's going to flow where the ground grows. Omaha is like this. We can do and we have in our policies best management practices which includes low impact development. We, in our October meeting, adopted our own policy. We require developers to look at these particular things, literally, as a checklist. Is there a holding pond on your development site? If not, why not? Is there runoff control? And right on down the line. I hope and I put this on record during our discussion that we will not build 29 dams. That's my goal as a...well, in 40 years I don't know if I'll be on the NRD board or not, but the realistic portion of that is as these best management practices get implemented we may not, in fact, need them, but we need some tools available now because we don't want to go back like a Cold Creek situation and have to buyout houses and tear them down because there's flooding issue. Right now we've got green space and we are working very closely with developers as we can or private landowners as we can to tackle the runoff problem on a regional basis. We do not have zoning authority in our policy. We say hey, cities and counties, please--not only please, we have directed that they must, I believe--look if the language is correct--look at the zoning. We don't have that power. So that, I guess in a nutshell, and I hopefully addressed some of the issues. [LB272]

SENATOR JANSSEN: Any questions? Don. [LB272]

SENATOR PREISTER: Mr. Thompson, I appreciate you being here and particularly being on the NRD board. It's frequently a thankless job. We certainly know it doesn't pay you anything, but is difficult, and these issues make it more so. I don't think any of us are questioning the need for the partnership, the need to better utilize resources, the need to do flood control, the need to deal with sewer separations. All of those things are not really the issue. They're part of it. We support those things. The issue is how do we do it in the most effective way and how do we pay for it. And that's why we're here. So I appreciate your effort and the NRD's efforts and we're just making sure the taxpayers'

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money is well spent and whether bonding is the way to do it. My question to you is could you get me a copy of the actual language in the vote that you say was taken in October that includes the authority for the bonding so that we can actually see it? [LB272]

JIM THOMPSON: If John Winkler has his phone handy, he'll get it e-mailed to you before you get home. [LB272]

SENATOR PREISTER: That would be wonderful. Thank you. [LB272]

SENATOR JANSSEN: Any other questions? Seeing none, thank you for being here. [LB272]

JIM THOMPSON: All right. Thank you. [LB272]

SENATOR JANSSEN: I believe that was the last proponent. We will now open with the opponents. [LB272]

SENATOR DIERKS: Go right ahead. [LB272]

MIKE RYAN: My name is Mike Ryan, last name R-y-a-n, and I'm from Omaha. A little background on me. I live in a residential neighborhood in Omaha. I do not own any property that would be affected in any way by the construction of dams proposed in this bill. I'm here as a concerned citizen that feels that dams are unnecessary and the wrong way to deal with the quality and quantity of storm water in the Papio Creek Watershed. I'm a member of the Douglas-Washington County joint storm water committee that is preparing policies to deal with storm water using methods and strategies outlined by the Environmental Protection Agency, and I'll talk more about those in a second. I guess I'm a little torn between whether to stick to what I've prepared or maybe just deal with some issues that have been brought up. I know there's been a lot of questions about are dams the right thing to do and I know Senator Cornett talked about when she looked at the EPA's storm water sites there was no mention of dams. And I've spent days and hours on the internet looking at all the EPA storm water sites, looking at the sites for storm water management utilities and agencies all across the country. And I have spoke to managers, superintendents of those utilities and agencies. I've spoken with the head storm water guy with the EPA in Washington D.C. and nowhere could anybody tell me where in the United States dams are being used for storm water control. The EPA recommends best management practices and a part of best management practices is the concept of low-impact design, low-impact development. Low-impact development is used primarily in new construction. And the concept that the EPA is using...you know, we're talking about rainwater here. They call it storm water. It's, you know, I've always called rainwater. And whether we're talking about flood control or storm water control, quality or quantity, it's all the same rainwater and the real difference is how you deal with it. The EPA with their best management practices is proposing to deal with the

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storm water as close as possible where it hits the ground. The objective is to take that storm water, get it into the ground, get it filtered and into the ground water as quick as possible before it gets to the stream, because if it gets to the stream it's traveling across the ground, the streets, the sidewalks, the farm fields. It's picking up chemicals, oil from cars, fertilizer. All these bad things that get into our creek. And whether you have a dam or no dam, if it gets to that point--either the dam or the creek--it's polluting the creek and it's causing a problem. So if you can capture the storm water using the strategy of low-impact development as close to where it falls, I think you've solved both your quality and your quantity problem. I know there's been some questions about Dam Site 6 in the northern part of Douglas County. It's called Newport Landing now. And I remember when that project was being developed, a friend of mine, the late Dr. John Andersen who is a noted limnologist, was with the Corp of Engineers. He was the head of their rivers and waters division there. He called me up and he told me about this dam that the NRD was building for a private development. And he says if that doesn't make you mad enough, he says I've studied the flood control benefits of that dam and he said they're nil. He said that there's so little water coming into that proposed lake that they have pump it out of the Papio Creek which runs below the dam alongside the lake, below the dam. Doesn't come into the lake. He said there's virtually no flood control value to that facility. If there's two things that I'd like this committee to conceptualize at the end of testimony today it's, number one, this is not the funding mechanism for storm water control. People have mentioned that there's LB534 that's sitting in the Natural Resource Committee now and this is a method of funding storm water control through the amount of impervious surface you have on your property. In other words, the person that creates the biggest storm water problem is going to pay the most to solve the storm water problem. The second thing is dams are not the way to deal with storm water. As I looked through the internet and talked to people across the country, I saw what they're doing in other parts of the country. They're actually tearing out dams. In Wisconsin there's a group called the River Alliance and they have taken 130 dams out in Wisconsin. In fact, for \$18 you can order a citizen's dam removal kit from them that will instruct you how to remove dams in your own community. This is happening from coast to coast. As Senator Preister mentioned, dams are old technology. You know, this NPDES permit is concerned about what's going into the stream, what kind of contaminants are going into the stream. Dams don't stop those contaminants. Low-impact development stops those contaminants. And in the older part of the Omaha what's going to probably be necessary is government is going to have to go into that older part of the city and retrofit low-impact design into the older part of the city. They're going to have to ensure that when it comes time for the Target or the Wal-Mart to repave their parking lot, it's done with permeable concrete or permeable asphalt. They're going to have to ensure that maybe some infiltration cells are built around town, possibly in parks, to capture storm water coming off of private property, streets, etcetera. Dams are bad and I'm not going to go, you know, into liens because I know Dr. Marian Maas is here and she's going to talk in more detail about that. Another bad things about dams is the concerns that we have about floods, I think, can be narrowed

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down to two important things--loss of life and loss of property. I did a little research on the internet and used some statistics I found that were produced by the state Health Department on drowning deaths. And in Nebraska, there are far more drowning deaths in lakes and reservoirs than there are in floods. I think the ratio is like 20:1. So, you know, dams...the solution is actually going to cause part of the problem that you're worried about. More people are going to die in the reservoirs that would be built to solve the flooding problem than are going to die in the floods. I suppose I ought to stop and give some other people a chance to testify. If you've got any questions on what I said I'd be happy to try and... [LB272]

SENATOR DIERKS: Thank you, Mike. Are there questions for Mr. Ryan? I think it's just the four of us over here right now. [LB272]

MIKE RYAN: Thank you. [LB272]

SENATOR DIERKS: Thank you very much. Next opponent, please. [LB272]

DUANE WILCOX: (Exhibit 4) My name is Duane Wilcox. I reside at 111 West 4th Street in Kennard, Nebraska, P.O. Box 176. I am the chairman of the Washington County Board of Supervisors. I'm in my fifth year of that position. I'm on my seventeenth year on the county board. Excuse me. Sir, I do have handouts, and I don't really think I'm going to take up a lot of your time here today. I've heard a lot of things said today and I'm going to address something that I think is the most important part of this. My position on this bill is primarily a fiscal basis. This bill asks for an additional levy authority of 3 cents. The NRDs currently have the ability to levy 4.5 cents. This bill addresses NRDs that have cities of metropolitan class. The Pappio-Missouri River NRD is in this class so I will use them as an example. At present, they are levying 4 percent. The levy of 4 percent shows that they are not using their maximum rate. Why ask for more authority when they're not at their allowed limits? The 2006-2007 budget indicates that they are asking for \$17 million in tax-asking dollars. The same budget also shows that they have a million dollars in cash. If the demands for this remediation are so great, why is there an abundance of cash at their disposal and not being put to work? This is an agency that is not exhibiting fiscal control. This proposed legislation gives them the ability to accelerate their reckless taxation. If you doubt this, examine the financial statements which, by the way, commission members, I have attached to the back to the handout. I'm not going to take time to go through them. You can read them at your leisure, but the facts that I'm quoting you are in those documents. The plea from the citizens is to lower property taxes. This bill allows for an increase of 75 percent of the current rate. This is far from the request that the electorate, the Governor, and the Legislature have proposed a number of plans to cut the taxes. This bill does the exact opposite and I say again, the exact opposite. There currently is a working group of local government officials and concerned citizens that have a goal of controlling water quality and quantity with no new levy authority. It currently is their opinion that no spending vehicles are needed. I feel

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the proposed change in LB272 are premature and most likely unneeded. In my summary, I would like to urge you not to advance this bill. I believe your action would demonstrate the committee's commitment to the control of government spending. I told you I'd make it short and brief. If you have any questions I'd try to answer them. [LB272]

SENATOR JANSSEN: Thank you, Duane. Any questions? Senator Langemeier. [LB272]

SENATOR LANGEMEIER: One short one. Thank you, Senator Janssen. You talked in your testimony and I appreciate the handing out of it so we can read along... [LB272]

DUANE WILCOX: Thank you. [LB272]

SENATOR LANGEMEIER: ...you talked about the 3 cent additional authority being your focus of your testimony. If we adopt the amendment that was offered to us that would strike that 3 percent does that make this go away? [LB272]

DUANE WILCOX: I believe that 3 percent, and I can be corrected if I'm wrong, I think that would make up the bonding authority to where that rate would go to 7.5 cents rather than 4.5 if they went up to the maximum rate. [LB272]

SENATOR LANGEMEIER: But if we took the amendment that strikes the 3 cents back out of the bill... [LB272]

DUANE WILCOX: It was my understanding, Senator, and I stand be corrected if I'm wrong, because I have been wrong just once in my life and that was my wife that caught me, but anyhow getting back to the serious part of it, it was my understanding that the amendment that was handed when this bill was introduced today was the additional right that they had to go above the levy. I believe they still have the right, if they get bonding authority, to go up 3 cents with no questions asked. [LB272]

SENATOR LANGEMEIER: Thank you for your testimony. [LB272]

DUANE WILCOX: Thank you. [LB272]

SENATOR JANSSEN: Any other questions? Seeing none, thank you for being here today. [LB272]

DUANE WILCOX: Thank you very much for the opportunity to speak. I know it's a long afternoon. [LB272]

SENATOR JANSSEN: Next opponent. Welcome to the Revenue Committee, Paul. [LB272]

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PAUL RUWE: (Exhibit 5) Thank you. Senator Janssen and members of the Revenue Committee, I'm Paul Ruwe, R-u-w-e. I'm a member of the Washington County Farm Bureau and I'm here today on behalf of the Nebraska Farm Bureau Federation in opposition to LB272. I might also add that I recently served on the planning commission for Washington County. Nebraska Farm Bureau policy opposes providing NRDs the authority to issue bonds for the purpose of constructing flood control projects. Our primary concern with giving NRDs such authority is we question whether the NRD's primary interest in these structures is flood control, but instead is to assist private development. As such, we question the use of public funds for structures whose benefits are primarily private in nature. I and other members of the Washington County Farm Bureau have been concerned with the proposed flood control structures for more than 20 years. We are interested because some of the structures are proposed to be built in Washington County. It is our sense, in observing these issues over that period, that while flood control benefits do exist with these structures, flood control isn't the primary reason for the structure. For example, a lake was built near Bennington providing flood control for a small portion of the Papio's watershed and in my view was built primarily to provide lake front development for the private developer. In our opinion, if flood control is the underlying purpose for these structures, it could be better achieved with zoning restrictions on building in a floodplain and using the area for green space. This can be done for less cost and within existing NRD funding authorities. Again, Nebraska Farm Bureau opposes LB272 and I'd be happy to answer questions that you might have. [LB272]

SENATOR JANSSEN: Thank you, Paul. Any questions? I don't see any. You got off lucky, Paul. [LB272]

PAUL RUWE: Thank you for your attention. [LB272]

SENATOR JANSSEN: Thanks for being here. Next opponent, please. [LB272]

JENNIFER ANDERSEN: Thank you, Senator Janssen and Revenue Committee members. My name is Jennifer Andersen. I live at 7272 County Road 25. I live just north of Kennard. My family owns ground within the proposed project area of Dam Site 1 and 3C. This NRD did not come to me and tell me that my family's land could be taken for large reservoir projects. I had to hear about it because of a lead story in the Omaha World-Herald. In 1969, the Nebraska Legislature passed LB1357 which created Natural Resources Districts in Nebraska. A legislative council interim study committee on water and resources reported to the Nebraska Legislature on several amendments to be made to the LB1357 and as a result LB540 was introduced and passed into law before NRDs became operative in 1972. This amendment eliminated the authority to issue general obligation bonds for all NRDs around the state. And fortunately, these legislators had the foresight to restrict NRDs from having this ability to issue these

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bonds which would have been a result of higher property taxes if NRDs were allowed to issue these general obligation bonds. LB272 is a dam-building bill and fortunately, there are many proactive measures and strategies that should be used to control the excessive storm water runoff. Strategies which should be paid for by those who are responsible for creating this runoff. And earlier, Mr. Jim Thompson hit the nail right on the head--developers are going to build houses. But LB272 will unfortunately allow this NRD to shift the financial responsibility of controlling excessive storm water runoff from the developers creating it to the backs of the taxpayers of the district in the form of property taxes to pay back the bonds. And as a taxpayer, I do not feel confident that this NRD has the fortitude to responsibly safeguard my tax dollars. In May 2005, the Papio-Missouri River NRD changed its own district policy manual and gave themselves the authority to not have to take competitive bids for projects and as a result I cannot, as a taxpayer, be assured that my tax dollars are being well-spent for any project this board does now or in the future, especially for large unnecessary dam and reservoir projects. Another thing, if this NRD is allowed the authority to issue these bonds there is no doubt in my mind that this legislation will create a domino effect. Every other NRD in the state will be introducing legislation arguing in front of this very committee why they also need to have this authority. The results of such legislation will be higher property taxes. And so today I'm just asking this committee to uphold prior legislation and vote against LB272 and to keep our property taxes in the state under control and to restrict NRDs to only the authority they were intended to have. And now, does anyone have any questions for me? [LB272]

SENATOR JANSSEN: Any questions? Cap? No. All right. [LB272]

JENNIFER ANDERSEN: Thank you very much for your time today. [LB272]

SENATOR JANSSEN: All right. Thank you for your testimony. Next opponent, please. [LB272]

SHAWN MELOTZ: (Exhibit 6) Good afternoon. I know it's getting kind of late and I'll try to be brief. My name is Shawn Melotz. I live at 10404 North 132nd Street, Omaha, Nebraska and my name is S-h-a-w-n M-e-l-o-t-z. I would like to thank Chairman Janssen and the members of the Revenue Committee to allow me to express my concerns with LB272. I urge this committee not to advance this bill to the floor even with the amendments. I come before this committee as a concerned citizen in my capacity as a taxpayer and in my capacity as a practicing tax CPA--so I shouldn't be here, I should be home working--and an officer of the Papio Valley Preservation Association. We are a grass roots organization with over 500 taxpaying members who are committed to protecting the resources and land rights in a 257,000 acre farmland rich region known as the Papillion Creek Watershed. My interpretation of this bill is that it will authorize the Papio-Missouri River NRD to levy a minimum of an additional 3 cents per hundred dollar taxable valuation, plus an unlimited increase with the vote of people. With current

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property valuations within this NRD at \$43 billion, the potential property tax burden would be vast. I've studied the financial data of the Missouri River NRD and I would like to share it with this committee. I direct you to the exhibits that I handed out. The first exhibit displays the increase in cash balances over a five year period within this NRD. It has increased to the year 2006 to \$11.6 million, almost a \$6 million increase. The property taxes have increased almost the same at \$7 million. The 2006 levy was \$15.7 million. The valuations within this district have increased 30 percent over the last five years and I would suspect that they will continue to increase, because this bill will let this organization compound the increases in our taxes. The last fiscal year's increase was, I believe, 9 percent. On exhibit B I have displayed the entities actual budget, or the budget that they have had over the past five years, as well as their total expenditures and I direct you to the section that shows they have over-budgeted every year over the last five years by at least \$7 million. I also direct you to the budget that lists the amount included in their budget for dams. The 2007 budget is actually \$8.3 million. I believe general manager Winkler said \$4 million, but it is \$8 million. And on the last page of this report, I tried to do a statistical analysis because that's what I do, of what this would cost taxpayers in the amount of bond repayment. And as you will see by the chart, I believe that if all of these dams are built the numbers are \$400 million to build the 31 dams and mind you this was 2004 numbers, and I do know--I'm serving on a steering committee for the study of Dam Sites 1 and 3C--the price from 2004 to HDR's 2006 study has had the infrastructures have doubled and the cost of construction has tripled. But I would be remiss not to mention that in their study they have had land values go down. Now that has upset quite a few farmers in the Washington County area and hopefully they'll react to it accordingly, because they have cut the values, when they've done their studies, in half over the last three years. At this point, I would like to direct you to the dealings that Senator Cornett has mentioned today. Newport Landing we've discussed. It cost taxpayers \$3.5 million. It was built under the premise of flood control and it controls 1.2 percent of the watershed. I would also like to point out the dam on 192nd and Dodge. This dam, too, was built under the premise of flood control. It has .5 percent flood control and it will cost the taxpayers in excess of \$6 million. And I believe what the million dollar payment that Ms. Cornett was referring to deals with the up front contract with Dial Corporation and the NRD. To acquire the land, NRD exercised the developer's option on the property for \$3.5 million. In exchange, \$1 million of this amount was to be contributed back to the NRD by December 15, 2005. That did not occur and when I asked the general manager at the January meeting of '06 I was told that they were renegotiating that contract as Dial did not have the wherewithal to return the funds. These funds were received in November of '06. The total price received was \$1.35 million with no interest other than the theory was the \$35,000 was to cover interest which, in my calculation, is approximately 2 percent. There's a second loan on this same dam where the NRD sold to Dial a piece of property for \$580,000. This note is not due until 2011 and it provides for interest on \$120,000 of that balance. So one other issue on 13 is the construction of the dam. Dial was commissioned to construct the dam. The NRD was to reimburse them. The engineering cost on it was estimated at, I

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believe, \$1.4 million. The contract reads that if the developer goes over budget he's reimbursed dollar for dollar. If he goes under the estimated cost he would be paid a 20 percent bonus for staying under the cost. I believe this is a win-win for the developer and it's paid by the taxpayers. Now I'd like to turn to the bill itself. I bring these things up because I feel that this bill, as it reads page 1, is a bill to build dams and give the NRD bonding authority, period. It does not have anything to do with storm water runoff, although they have created that issue with the Papio Creek Watershed partnership, but this NRD has historically over-budgeted its funds. It holds excess cash reserves. It no longer requires competitive bidding for dam projects and they basically answer to no one. Based on the history, I believe this NRD will use these funds recklessly with little regard to the taxpayers they're serving. Therefore I ask this committee not to advance the bill to the floor. I would also like to comment--and I apologize for going long--regarding the inaccuracies of the pretense that developers are going to pay a third of these fees. According to the policies drafted by the partnership, the fees are assessed at the time the building permit process occurs. With this in mind, the developers stripping the land, causing the runoff are not necessarily the developers who are building the houses and when this cost of the permit is bore by, I believe, the homeowner who is going to buy the home not the developer causing the runoff. With that in mind, we are not fully developed in Omaha. For example, Dam Site 6, I believe, is approximately 40 percent developed. So the estimated fees on a project such as that will be 40 percent of what that partnership projected. So I think that we are under-budgeting what the potential on this cost is and we will, by my estimations, bring taxes up over the next two years threefold on the NRD level up to at least \$45 million a year. Thank you. If you have any questions I'd be happy to answer them. [LB272]

SENATOR JANSSEN: Any questions? Seeing none, thank you for being here. Next opponent, please. [LB272]

JOE KOHOUT: (Exhibit 7) Chairman Janssen, members of the Revenue Committee, my name is Joe Kohout, K-o-h-o-u-t, registered lobbyist appearing here today on behalf of the Douglas County Board of Commissioners. I am passing out a letter to the committee from Commissioner Clare Duda who had hoped to be with you today, but unfortunately due to a conflict was not able to do so. I would point the committee to the second paragraph of his letter as well as the final paragraph on the first page. There he reiterates sort of the experience that they have had with the partnership as well as what Douglas County is doing now in conjunction with Washington County to come up with an alternative. If you have any questions for me I'd be happy to try to answer them. Otherwise, that will be the end of my testimony. [LB272]

SENATOR JANSSEN: All right. Thank you, Joe. [LB272]

TYLER MOHR: My name is Tyler Mohr, M-o-h-r, and I'm from 12101 Pawnee Road, Omaha, Nebraska, and I'm a resident of Douglas County. I want to thank Chairman

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Janssen and this committee for the opportunity to address them. I think, first, to really understand how it came about that they were seeking bonding authority you have to understand who come up with that idea. The Papio-Missouri River NRD created kind of a NRD within the NRD called the Papio Creek Watershed partnership and they had a policy task group that come up with policies for this partnership. This was a group of either handpicked or self-appointed individuals consisting of developers, their attorneys, consultants that represent them, and others and this was a group that was not an elected group. It was all private people. And they came up with policies that first didn't require the developers to control any of the additional runoff that they create on new development. It served for very little protection of the natural flood way where the flooding would occur, but part of their policies was to seek bonding authority and to use the eminent domain to acquire property. I'm concerned as a taxpayer about the new language in LB272, language that would expand the NRDs and particularly the Papio-Missouri River NRD's ability to increase our property taxes. The Papio NRD, as you well know, is in the business of what they call partnering with developers. Under the guise of flood control we have seen the Papio NRD funnel millions of taxpayer dollars into reservoir-based private development projects with minimal public benefit. Development projects that have historically been financially unstable. The use of bonding authority to force the public to shoulder the risk associated with these four profit ventures is wrong. When the Legislature empowered the NRD some 30 years ago, I don't believe that anyone intended or expected to have that power used to create wealth for a few individuals by forcing wealth from others whether it be through the use of eminent domain or through the use of bonding authority. Therefore I'm asking this committee not to allow the NRD bonding authority. And I'd be happy to answer any questions. [LB272]

SENATOR JANSSEN: Any questions? Don't see any, thank you, Tyler. [LB272]

TYLER MOHR: Thank you very much. [LB272]

SENATOR JANSSEN: Next opponent. [LB272]

JULIE THACKER: Good afternoon, Senator Janssen, members of the Revenue Committee. My name is Julie Thacker, T-h-a-c-k-e-r. I reside at 16506 Dutch Hall Road, Bennington, Nebraska. I want to, again, thank you for the opportunity to speak today. I am here to voice opposition to LB272. I'm very much against this bill for many reasons, but I promise to be brief and limit just a few here. This proposed legislation gives bonding authority to the Papio-Missouri River NRD which would be used for dam and reservoir projects. If this occurs, I will lose my home. My neighbors will lose their farms and their homes and their heritage. There are several hundred year farms in the project area for the Washington County dams. Over the last three years, I have regularly attended NRD meetings. Not by choice, believe me. I continue to go each month out of concern. One of my biggest concerns is representation. And when the proponents were

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speaking they were talking about the counties that this NRD serves. I don't think anyone ever mentioned Dakota. It's Sarpy, Douglas, Washington, Burt, Dakota, and Thurston. That's quite a big area. There is an 11 member board to cover those six counties. There is just one representative for the four northern counties which is where I reside. The majority of the proposed dams, or the two largest dams, are in this board member's area. Yet, he rarely attends the meetings. I do not feel that we're getting fair representation on this board and as the previous party spoke, I don't think that they're being fiscally sound with the way they spend our money. The next issue is property taxes. We know that in this state taxes are high and they need to be addressed. The preliminary estimated cost of approximately \$300 million, \$400 million, half a billion as Senator White stated, to build these dams is unfathomable to me. By granting bonding authority to this NRD, taxes will increase and I don't believe this is a wise use of our resources. Also, I understand that flood control measures need to be implemented and I am on record to say I am not against flood control. But before my NRD is given the legal authority to issue general obligation bonds for hundreds of millions of dollars, I would like them to look at alternatives. As Ms. Andersen, I am on the steering committee with HDR as well to do the feasibility study of dam sites 1 and 3C. There will still be a floodplain and there will still be structures in the floodplain even if these structures are built, these dam structures or reservoirs. The NRD already has the power of eminent domain. By passing LB272, you give all the rights and powers to this governmental agency. Where, I ask you, are the landowners' rights? And finally, one last consideration. Senator Cornett represents the Bellevue area. She was asking the gentleman about flooding issues down there. You can build these structures. You can build the two big ones up north. If you get the rain south of there, you're still going to have problems. Thank you for your time. You have any questions? [LB272]

SENATOR JANSSEN: Any questions? Seeing none, thank you, Julie. [LB272]

JULIE THACKER: Thank you. [LB272]

SENATOR JANSSEN: Next opponent. [LB272]

CURT BROMM: Good afternoon--or I think it's still afternoon--Mr. Chairman, members of the committee. For the record, my name is Curt Bromm, B-r-o-m-m, and I am a lobbyist representing the Papio Valley Preservation Association and several of those folks have testified. About 400 people, they don't all live in the Papio, but they are concerned about the original mission of the NRDs and how this fits in with that mission, primarily. And I will be very brief because you've heard an awful lot today, but two years ago I was present when the hearing was held on a very, very similar bill in Natural Resources. And that bill proposed very much the same thing only it went a little bit further and it attempted to give credibility and legal authority to partnership agreements between developers and NRDs. And that language is not in this bill, but the bill that did propose bonding authority and a 3 cent levy increase was not advanced by the Natural

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Resources Committee. And one of the primary concerns, I believe, is do you make a one district policy like this one that is such an important topic and such a terrible amount of money? This is an NRD with a \$43 billion tax base. About 670,000 people, and that is huge. However, if we make a unique taxing policy and authority of bonding for one district, I don't know how we can justify that. I think there will have to be further efforts made to make that uniform throughout the state. If we relax the additional authority we're asking for now and if we find that we don't have enough money, I can assure you there will be efforts and requests to increase that levy authority made to you. Two years ago, and I have a copy of the testimony--I'm not going to hand it out--but there was not one mention made in the same bill of the storm water problem. The word storm water did not appear in that transcript. Now we did have the storm water issue rolling around here two years ago. It's been a problem that's been with us for awhile, trying to figure out how to deal with it and I understand that, but it seems that we have attempted today to characterize this whole effort in the nature of storm water needs to curtail that, which is a terrific need. The bill itself doesn't mention that. The bill mentions, in Section 2, design, rights-of-way acquisition, and construction for flood control dam and reservoir projects. And I think it is convenient to argue storm water, but I think the reality is we're talking about building dams here and to a good deal for private access, for recreation, for development. I have pictures here that we've talked about the Bennington Dam and just to show you how it smarts with folks who live in that area and who are taxpayers. Signs are up all over, no trespassing. One picture depicts the pumping out of the Papiro up into the dam to provide water so that the people who live there can boat, but people who don't live there--the public--cannot boat on that lake. There is a small dock area you can fish off of. In the upper areas beyond the dam, there are some areas where you could hike, but the dam itself is primarily available for those people who have the houses. So there's a lack of trust here, terrific lack of trust, and until that trust is restored, I think it will be very unacceptable to the people that you've heard today to have any kind of additional taxing authority or bonding authority. Thank you very much for your patience and I won't take anymore time. [LB272]

SENATOR JANSSEN: Any questions? Don't see any, Curt, thank you. Next opponent. Opponents? [LB272]

MICHAEL LARIMORE: Thank you, Senator Janssen, members of the Revenue Committee. My name is Mike Larimore, L-a-r-i-m-o-r-e. I'm a resident of Washington County. My address is 19590 Dutch Hall Road, Bennington, Nebraska. And I also sit on the steering committee for dam sites 1 and 3C in Blair with several other people who have testified earlier. And earlier Senator Dierks mentioned he had a friend that was forced to leave his farm or was considering leaving his farm out west to go to Oklahoma, because of higher taxes probably being assessed on him to cover some inadequacies in the Republican River Basin. And I know that that's going to affect everybody throughout the state. And we have a big ethanol industry that's blossoming in this state right now and several of these projects are going to take a lot of productive

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ground out of this state, good productive ground, non-irrigated ground. And we've set a moratorium on irrigation out west where we're actually going to pay people not to irrigate. That's going to cost us money. It's going to be detrimental to our ag industry altogether to take this ground and use it in unwise manners. In fact, this building we're in here today is sitting on ground that was used in a wise manner to create this forum where we're at here and I appreciate that very much and I hope that in the future people will be able to use ground just as wisely. Any questions, I'd be glad to answer. [LB272]

SENATOR JANSSEN: Any questions? [LB272]

MICHAEL LARIMORE: Thank you very much. [LB272]

SENATOR JANSSEN: Good seeing you, Mike. Thank you for being here. Opponents? Anyone in a neutral capacity? [LB272]

MARIAN MAAS: (Exhibit 8) Hello, my name is Marian Maas, last name is M-a-a-s. I live in Bellevue, Nebraska and Chairman and committee, I appreciate the opportunity to speak with you today. I am not a landowner in Washington, Douglas, or Sarpy County. My husband and I own a home in Bellevue. I have a master's and a doctorate in biology from the University of Nebraska. I have worked for the city of Omaha's Public Works Department and for Iowa's Department of Natural Resources in the Water Quality Bureau where I was a supervisor of the program responsible for water quality and for TMDLs across the state of Iowa. I am currently the project manager of an EPA grant that is focused on improving water quality in the Papillion Creek. As a professional biologist, I am here today to speak on behalf of the biology and I wish to increase your understanding of the severe impact that dams have on streams and rivers in general and that a free flowing Papillion Creek is a valuable natural resource for Omaha residents. Dams or water control structures, whatever name you choose to give to them, are artificial barriers that obstruct the flow and destroy streams. Dams built today to create flood control or recreation ponds ruin hundreds even thousands of miles of free flowing streams. They fundamentally alter the riverine ecosystem and its natural functions, and unfortunately, these things are seldom considered at the time of construction. Specifically, I'd like to explain some of these impacts and I know I need to hurry because it is getting late. Dams break up the continuity of a river system. And this means that native fish populations, mammals, birds, any of our wildlife that rely on moving up and down the Papillion Creek corridor will no longer have that opportunity. In fact, as our landscape has changed to intensive agriculture and urban development, just about the only habitat remaining for many of our mammals, birds, amphibians is the stream corridor. This will be lost if dams, reservoirs, and the accompanying housing developments are built without sound forethought and restraint. Preventing the free passage of fish and other aquatic animals affects the biological quality of any stream, but is even more severe to streams like the Papillion which is already under stress from pollutants and degradations. Dams keep mature fish from reaching spawning and

feeding sites. It is important for our fish to be able to escape from polluted areas and in the lower reaches and find refuge upstream if there's a catastrophic event such as a chemical spill, elicit discharges, or toxic leaks in the lower urban areas, if there is a dam fish cannot reach upstream and nearly all of the best habitat is found upstream. Lastly, dams cause habitat fragmentation and this is a terminology that you might not be familiar with, but this is referring to when a large area is subdivided into smaller separate isolated areas. This weakens the genetic pool of any of the fish or any of the aquatic organisms and eventually leads to die-off. This is considered by many scientists to be the most important problem threatening survival of many of our native species. Water quality is often said to be improved by dams. However, this concept does not portray the whole picture. First of all, sediment settles out behind the dam in the reservoir. This in itself presents several problems. Number one, the sediment continues to accumulate, filling in the reservoir, and eventually requires the community to do costly dredging and dirt removal such as what is happening with Lake Cunningham right now. Sediments contain contaminants that are attached to the soil particles. And number three, native species actually need the nutrients and the turbidity of prairie streams. Soluble phosphorous, nitrates, and other water-borne chemicals like dieldrin. Actually dieldrin is a soil particle, but there are other chemicals that are actually soluble in the water column as well as bacteria. They remain in the water column of the reservoir and can come in contact with anyone that's swimming, boating, or fishing in the water. When the water is released through the spillway, these contaminants in the water actually enter the downstream portion of the stream. Dams do nothing to control pollutants from entering the stream and certainly do nothing in the stream reaches below the dam which are often the major portion of the watershed. Thus, to request funding for dams as a solution for reduction of storm water pollutants is misguided in my opinion. Stream flow below the dams is usually reduced, almost on all occasions, below a dam the stream level is reduced and the water becomes more shallow. Shallow water has higher water temperatures, lower dissolved oxygen levels, and low dilution capacity which means that any chemicals or other pollutants that enter the stream have greater impact because there's less water there to dilute it. As history has shown, water levels in reservoirs will always take precedence over the flow in the stream below. Thus, if it is a dry year and reservoir levels are low, very little water will be released leaving fish stranded in a streambed of very low or intermittent flow, low dilution capacity, and likely to suffer winter-kill. Dam density in a watershed. When multiple tributaries in a stream system have dams placed on them, the damage to the stream system is compounded. This is referred to as high dam density and is a major criteria in states that are removing dams such as Wisconsin, Illinois, and a number of the others. Dams alter the natural flow pattern. Naturally fluctuating high flows in the spring and lower flows later in the summer are lost when dams are built. With the loss of a spring high flow, native fish species lose out on that cue for reproduction. They're dependent on that high flow to kick in the reproductive activity. The Clean Water Act of 1972 requires for waters of the nation to be swimmable and fishable. As directed by USEPA, municipalities are required to address storm water pollution problems, but neither federal nor state agencies

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require or mandate dams as a means to control storm water. Government entities and watershed managers need to control rain drops where they land with the use of low impact development methods. Porous paving, bioinfiltration cells in and around parking lots, native grass landscaping and increased agricultural conservation practices are but a few of all of these. Infiltration restores natural hydrology, filters out pollutants, and eliminates runoff and I call this management in place. A number of cities at or north of our latitude actively incorporate low-impact development in their planning regulations which, in turn, better facilitates natural stream flows, habitat, and human-stream interaction. And I thank you for your time today and I'll be happy to take any questions. [LB272]

SENATOR JANSSEN: Any questions? Don't see any, thank you, Marian. [LB272]

MARIAN MAAS: Thank you. [LB272]

SENATOR JANSSEN: Any other in a neutral capacity? Seeing none, that ends if Senator Kopplin, would you like to close? He waives closing. That ends the hearing on LB272. We move on to Senator Raikes. Thank you all for being here. Changes LB362. Would you please...we still have three more bills left, folks. Would you please...if you want to visit, visit outside the doors there. Oh, we do have a testimony on the last bill, Erma, that was handed to me that I wanted to read into the record from Mr. Edson on the last bill. [LB362]

ERMA JAMES: That's on this bill, it's on LB362. [LB362]

SENATOR JANSSEN: Oh, Dean Edson. Is it Dean Edson? [LB362]

ERMA JAMES: Yeah. This bill. [LB362]

SENATOR JANSSEN: Okay, all right. All right. Thank you. Ron, go ahead. Senator Raikes, open on your bill. [LB362]

SENATOR RAIKES: Senator Janssen... [LB362]

SENATOR JANSSEN: You've got three minutes. Oh wait, no. (Laughter) [LB362]

SENATOR RAIKES: (Exhibits 9 and 10)...members of the Revenue Committee, I'm Ron Raikes here to introduce to you LB362. I represent District 25, that would be the "prevailing district." My topic today, and by the way I have some good news, there will be very little time taken from the end of this introduction to the first opponent testimony. (Laughter) Now I can't promise you, however, it will be a short hearing. My topic today is levy lids, budget lids, but specifically interlocal agreements and the budget lid exceptions that are now provided for along with interlocal agreements. As you know,

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very quickly, beginning I think with LB1114 back in 1995 or 1996, the Legislature undertook a path to impose levy lids on various subdivisions to control property taxes. Along with those levy lids or shortly thereafter, the Legislature also imposed budget or expenditure lids. It's my view that both are very important. If you're going to have levy lids you need to have spending lids. If you don't, then spending can increase along with valuation so that really there is no control on spending other than valuation. It also leads to an equity issue. That being that areas that experience rapid valuation growth without budget lids are able to spend a lot more money than those that have low or no valuation growth. So I think an equitable state policy around lids aimed at controlling local government spending needs to include effective levy and budget lids. Now about the time--and I can't give you the exact date--that these lids were enacted as a part of the Interlocal Cooperation Act, the Legislature decided to make exceptions to the budget lid for entities that entered into interlocal cooperation agreements. And I think the notion was that this would help in enticing or incenting subdivisions to work together to create more efficient operations than they otherwise could singly. My proposal today is that we have come to the end of the time when budget exceptions associated with interlocal cooperative agreements are an appropriate part of state policy. It's my belief that the institution, if you will, of an interlocal agreement is well enough known. People full well understand their advantages that the budget exception is not a necessary incentive for those to happen. And secondly, that there are instances where the budget lid creates a sideshow or a shenanigan, so to speak--that's too strong a word, I shouldn't use that--but there is a gamesmanship--I think is a better word--where people use an interlocal agreement simply to avoid the budget exception and that is made possible. I know there are lots of other good examples where that is not done. I've given you a couple of handouts. One of them is the small print, statewide school district budget data. This particular proposal deals with all subdivisions not just school districts, but for a case in point, consider school districts. School districts statewide budgeted approximately \$2.7 billion in 2006-2007. Of that, just over \$2 billion was subject to the budget lid. That means over \$700 million in budgeted spending was exempt from the lid due to one of the various exceptions, a large portion of it due to special educations. Special education is exempted from the budget lid. Still, nearly 26 percent of the total amount budgeted by school districts this year was not subject to the lid. In terms of the general fund lid exclusions, the total amount for school districts was \$133 million. You see that down there about the sixth line. Of that, \$98.6 million or 74 percent was attributable to interlocal agreements. Thus, interlocals represent the biggest chunk of the general fund expenditures that are excluded from the lid. This bill is an effort to say okay, this is where we are now and bygones are bygones, but as we head forward we're going to do things differently. The proposal here is that from here forward we are not going to have budget exceptions with interlocal agreements. But to balance that, we are going to provide a one-time or two-time increase in the budget base available to those entities so that they can be held harmless or nearly so given the present circumstance. The green copy of the bill had a one-quarter percent increase in the budget base for each of two years--the first year and the second year. The amendment I have offered

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you changes that. For school districts in year one, the options to increase the budget lid would be one of three. The greater of a quarter percent additional growth the same as in the green copy, or 85 percent of the amount of the budgeted interlocals as of January 1, 2007 for one year only, or 95 percent of the formula needs as an ongoing proposal. Keep in mind now that the budget base is a...once you get an increase in the budget base you increase from that base. So it's more or less an ongoing number. You don't have to adjust it every year. In year two for schools it would be the greater of the quarter percent that's in the green copy or 95 percent of the formula needs. In year three, the greater of 95 percent of the formula needs or the regular budget growth. And for other local entities, year one the greater of the one-quarter percent or 85 percent of the amount of budgeted interlocals as of January 1, 2007. Year two, a quarter percent additional growth. Year three, regular budget growth. Again, the idea here is moving forward we're getting away from the gamesmanship. We're not going to allow budget exceptions with interlocals, but we are bringing subdivisions, entities, up to a hold harmless level or nearly so--85 percent would be the worst case--so that they can proceed on from there. Now I will just mention, I want to make it clear that this bill will not penalize entities that serve as the fiscal agent for an interlocal agreement. And this seems to be some source of misunderstanding. A concern has been expressed that the entities serving as the fiscal agent would have the entire cost of an interlocal agreement count against its budget authority, while the other participating governments would be excluded from sharing the budget impact. This is not the case as I understand it. Each entity would be responsible for its respective share of the agreement. For instance, if two governments cooperate on a particular venture and one puts forth \$500,000 and the other \$300,000, each entity would be responsible for its share of the agreement. The entity that serves as the fiscal agent would not be accountable for taking on the full \$800,000 in his budget. With that, I will attempt to answer Senator Dierks' question. [LB362]

SENATOR JANSSEN: Any questions? Cap? [LB362]

SENATOR DIERKS: Just refresh my memory, Ron. What are interlocals and exclusions? [LB362]

SENATOR RAIKES: Are you looking particularly at the information for schools or just a general description? [LB362]

SENATOR DIERKS: No, schools. Yeah. [LB362]

SENATOR RAIKES: Okay, the \$133 million total would include lid exclusions, interlocals, and others. And you're asking me what are some of the others? [LB362]

SENATOR DIERKS: Yeah. [LB362]

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SENATOR RAIKES: Special ed is outside of this number so...oh I'm sure one of my opponents will be able to rattle some off, but there are several that have been introduced over the years to accommodate certain situations that school districts face. And, you know, I will just mention in that connection there are budget exclusions that have been offered specifically to address certain situations. We in the Revenue Committee, as you may remember, occasionally will have a situation where an entity is expected to take on a new task, provide a new service. In that case, it has been occasionally that we give a once and for all increase in the budget base, grossing it up or whatever you might want to call it. So both of those have been...but I would just mention that those are sort of directed by the Legislature in full view of what is the purpose of the budget lid. It differs materially, I think, from creating a situation--a loophole, if you will--where entities can go into interlocals with the purpose of escaping a budget lid for reasons that may have nothing to do with those directed by the Legislature. [LB362]

SENATOR DIERKS: Thank you. [LB362]

SENATOR JANSSEN: Any other questions? Carroll. [LB362]

SENATOR BURLING: Thank you, Senator Janssen. Senator Raikes, I think I heard you say at least two reasons for introducing this bill. One was you thought it was no longer necessary to incent interlocal agreements and the other one was that you feel it has been abused in some cases. Actually caused some people to enter into interlocal agreements just for the purpose of being outside the lid. Would that be... [LB362]

SENATOR RAIKES: I would amend the first one. I don't think this incentive is necessary. For example, there are many valid--or well, I'll give you one in particular--very valid incentive outside of this arrangement. If we go together as two government entities to provide a service, we can do it much more efficiently than we can if we each try to do it on our own. And that incentive is absolutely there without a budget lid exception, but the second one is correct. [LB362]

SENATOR BURLING: Okay. I don't know how much abuse there is in the second point, but if it accomplishes interlocal agreement is that bad? [LB362]

SENATOR RAIKES: No. [LB362]

SENATOR BURLING: I mean, is it still good to have...I mean, even though there may be some bad players out there. [LB362]

SENATOR RAIKES: Absolutely. Absolutely. This is not intended to say we shouldn't have interlocal agreements. [LB362]

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SENATOR BURLING: Okay. [LB362]

SENATOR RAIKES: I do think interlocal agreements are not only useful, they're very desirable. And I think we will continue to have interlocal agreements even if this is adopted. It's just that some interlocal agreements that are for a specific purpose, namely to get spending outside a budget lid, won't happen anymore. [LB362]

SENATOR BURLING: Okay. [LB362]

SENATOR JANSSEN: Any other questions? Don't see any, thank you, Ron. Are you going to stick around to close? (Laughter) [LB362]

SENATOR RAIKES: Let me think about it. [LB362]

SENATOR JANSSEN: Okay, proponents first. Those in favor of Senator Raikes' bill. Any proponents? Don't all get up at once. (Laughter) All right, I see no proponents. Any opponents? Oh, now don't all of you get up. That's fine. [LB362]

STEVE HUBKA: Mr. Chairman and members of the Revenue Committee, my name is Steve Hubka. I'm the budget officer for the city of Lincoln and I am here on behalf of the city in opposition to LB362. As Senator Raikes mentioned, part of this bill removes the exemptions from the restricted funds lid for costs that are subject to either existing or new interlocal agreement. Lincoln has many decades long history of cooperating with other levels of local government to provide joint services as efficiently as possible. We currently have 31 interlocal agreements in place mostly with Lancaster County, but also with Lincoln Public Schools and our natural resources district. These interlocals have saved taxpayers dollars and eliminated duplication of services between Lincoln and Lancaster County. These interlocals cover many services that would cost additional millions of dollars if duplicated by more than one level of government. They include services such as our health department, purchasing, 911 communications, aging services, personnel planning, the public defender, and corrections. Lincoln has never entered into a single interlocal agreement for the sole purpose of creating a lid exemption. In fact, most of our large interlocals were in existence long before the lid was passed in the nineties. When this lid was adopted by the Legislature about 10 years ago, it was clearly the intent of the Legislature to encourage cooperation among various levels of government to provide taxpayers services in the most efficient way possible. I think Senator Raikes reiterated that intention again today. The law as it was originally written accomplishes that. The change being proposed to eliminate the exemption would no doubt put some local governments in immediate danger of not being able to provide these vital services by putting them over the lid limit. And of course, I wrote this testimony before I heard Senator Raikes possible amendments to the bill. In our situation, we use \$19.9 million of exemptions for interlocal agreements, but we're only \$6.6 million under the lid limit. So if the amendments were not adopted

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and the bill was passed we would be well over the lid limit immediately. Now the amendment as I understand it would give us 85 percent of that \$19.9 million. Well, that would take nearly \$3 million off our available lid authority and I don't think that the city of Lincoln or Lancaster County or the NRD has behaved in a way that that should be allowed to happen. So I urge the committee to oppose this bill. [LB362]

SENATOR JANSSEN: Any questions? Don't see any, thank you, Steve. Next opponent. [LB362]

MARK SHEPARD: (Exhibits 11 and 12) Senator Janssen and members of the Revenue Committee, my name is Mark Shepard. I'm the assistant superintendent of business for the Fremont Public Schools in Fremont. I'm here today representing Fremont Public Schools and the Greater Nebraska Schools Association offering testimony in opposition to LB362. The Greater Nebraska Schools Association represents 33 school districts across Nebraska. The GNSA has a standing legislative resolution indicating the need to preserve interlocal agreements. For this reason GNSA opposes LB362 as currently written. And that would be prior to the proposed amendment. Our opposition to LB362 is an issue of concern relating to the changes that would occur and the impact to those changes on local school districts. When LB299 was passed in 1995 the Legislature provided a mechanism and encouraged school districts to utilize interlocal agreements designed for efficiencies in government outside the expenditure limitation. Many school districts took advantage of the opportunity provided by the Legislature and investigated ways to provide efficiencies and entered into interlocal agreements. LB362 proposes eliminating the expenditure limitation exemption and providing relief to the limitation by modifying the basic allowable growth rate. The difficulty with the proposal as originally drafted is the modifications related to the increase in the basic allowable growth rate fall short of the budget authority school districts are currently utilizing based on the exemption. The Fremont Public School District and many other GNSA schools have utilized interlocal agreements for the purposes of workers compensation insurance, utilities, distance learning and technology services purchases. The incentive provided through the exemption encouraged Fremont and many other school districts to enter into discussions with each other and other governmental entities to provide for efficiency. Fremont Public Schools also utilized an interlocal agreement for joint purchases of a piece of property for a new middle school, a new water park, cogeneration power plant in Fremont, as well as a tree nursery and a future fire training facility. Fremont Public Schools, like many other GNSA schools, are among the most efficient schools in the state. When the LB299 lid legislation was passed, Fremont was spending \$440 below the state average. Currently, the district is \$733 below the state average in spending. During this same time frame, Fremont has experienced an increase in students eligible for free and reduced lunch from 27 percent to 40 percent--this year we're going to be at 44%--and an increase in our Limited English Proficient numbers from several students to over 260. Fremont would need to spend approximately \$3.4 million additional dollars to meet the state average. Fremont has

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neither the budget authority nor the levy authority to get close to the state average. Eliminating the utilization of interlocal agreements would create a \$1 million shortfall between what the district is currently budgeting in the General Fund and what Fremont would have access to in the General Fund budget authority. LB362 does identify and recognize one of the challenges school districts are dealing with in relation to the expenditure limitation. The Greater Nebraska Schools Association remains open to dialogue about the spending lid relief contained in LB362 and are anxious to discuss the needs as well as the impact of any spending lid modifications or exclusions that would assist our school districts in meeting the needs of all students. We would request the Revenue Committee hold this bill until next session so there would be adequate time to thoroughly explore the many ramifications of the bill and to address the concerns that fostered the need to have the bill introduced. I thank you for your time this afternoon and am available to answer questions. I do have an answer for Senator Dierks on what those other lid exemptions would be. Not only does our interlocal agreements exempt from the lid, there are also repairs to infrastructure, damage by a natural disaster--I think that was implemented when Norris Public Schools had the situation that they had several years ago. There are judgments. So if a court orders a judgment you have the ability to pay back that judgment outside of the lid. And there's also the voluntary termination of employment. So if you have an early retirement incentive program within your school district policies it would allow you to do that outside the lid as well. I think it's also important to note that these are outside the lid for expenditures. They're not outside the tax levy limitation. [LB362]

SENATOR DIERKS: Thank you. [LB362]

SENATOR JANSSEN: Any questions? Thank you, Mark. [LB362]

MARK SHEPARD: Thank you. [LB362]

JACK VAVRA: Senator Janssen, members of the committee, my name is Jack Vavra, V-a-v-r-a. I am city administrator for the city of York, Nebraska, speaking against LB362 as amended. A little bit of background. We have three major interlocal agreements with York County and the York Rural Fire District. One is a landfill which is outside of this lid because it is totally self-supporting through user fees. We have one with the York Rural Fire District where we provide services for them and that one is funded by both taxes from the city of York and the York Rural Fire District. And we also provide countywide ambulance services throughout the entire county of York that's funded by the county board and also by the city government. Totally our impact is approximately \$200,000-some, \$250,000. York County would be in the \$100,000-some range and then the Rural Fire District would be somewhat less than that. To give you some background, our property tax in York is 13 cents. Composite tax rate for all taxing entities is \$1.91. We are the third lowest property tax rate of any first class city, Lincoln or Omaha, in the state of Nebraska. We have what you have been wanting us to have. We have low

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property taxes in York, Nebraska. This bill, even as amended, would take away some of our ability to spend some of those restricted dollars and we would have to cut the budget in some way or use up some of our balance that we have in those restricted funds. Eventually it would cause a reduction in services of some kind. In an area where we have low property taxes and we just don't feel that playing with this on an annual basis...you know, we deal with this year after year after year. We react to the bills that this body passes. We do the best we can. We have lowered property taxes as have a lot of governmental subdivisions across the state of Nebraska. We have entered into interlocal agreements not for the purpose of bypassing the rules and the laws. Both these interlocals were in existence well before these lids were passed. So they've always been something that have been there for the service of people to the city of York and York County. We feel that passage of this bill would restrict our ability to provide services in York County and the city of York, and would have a negative impact on the taxpayers and the people that we provide service to. [LB362]

SENATOR JANSSEN: Any questions? Thank you, Jack, for being here. Next opponent. [LB362]

BRIAN HALE: Senator Janssen, members of the committee, my name is Brian Hale, B-r-i-a-n H-a-l-e. I'm representing the Nebraska Association of School Boards today and we would like to express our opposition to LB362. I think that a lot of attention was raised when the auditor came up with the number of the \$98 million and that is a big pile of \$1 bills, but it has delivered tremendous benefits to communities throughout the state. Things that might not otherwise have been done. Things that it has also avoided a duplication in services when school districts can combine forces to do things in a more effective manner. And so delivering programs to communities that might not otherwise have gotten them is one of the benefits that I think that the creators were thinking of back a decade or so ago when they decided that incenting local governmental subdivisions to work together was a positive thing, and it is really the one real resource that some communities have in their public entities. We understand that in the course of a dozen years the legislative intent and the desire may shift, and if that's true we ought to talk about ways that we can sharpen the pencil a little bit and exclude things that we find distasteful. But I think in order to do that in a thoughtful manner, we ought to do it not only with the costs on the table, but we ought to take a full look at the benefits that those costs have purchased in communities and weigh everything involved in setting a future policy. We believe this, at least in the original form, was an effort to potentially throw cold water on an idea that really has served Nebraska well. So we would urge you, before we throw the baby out with the bath water, that we take a look at all of the details involved in what this program has delivered for the state. [LB362]

SENATOR JANSSEN: Any questions? Thank you, Brian, for being here. Next opponent. [LB362]

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JAMES B. GESSFORD: Good afternoon, Senator Janssen, members of the committee. My name is James B. Gessford, G-e-s-s-f-o-r-d. I'm an attorney here in Lincoln. I'm appearing here today on behalf of Lincoln Public Schools. Specifically, my appearance would be in opposition to that portion of the bill which would eliminate the spending exemption for interlocal cooperative agreements. Certainly we have no objection whatsoever to the kind of third portion of the bill, if you will, which is the auditing portion, which puts a provision in that to the extent there are any abuses in the process that they're subject to being audited and so forth. So we certainly have no objection to that piece. The second point I'd want to make would be I think this was a good policy when it was adopted 10 years ago and I think it's a policy that many political subdivisions have entered into and I don't think it's one that should be changed. I think there is a problem with the bill in that 10 years ago when the levy lids and the spending lids came in the school districts did not receive a levy exemption for interlocal agreements. However, cities and villages, and in some cases counties had both a levy and a spending exemption put into place. This bill attempts to address all political subdivisions including cities, villages, and counties, and it seems to me would create a very inconsistent state policy where if you adopt this bill, on the one hand you're saying that cities and villages and counties can levy for interlocal agreements, but if this bill is adopted then you would be saying but they can't spend for interlocal agreements. So I think that would be not a wise change in policy and I think that's an important point to make. In terms of Lincoln Public Schools, well first of all, generally, this \$98 million statistically--at least according to the information that I have--in terms of total expenditures for school districts, this amounts to about 3.6 percent of total expenditures. Now granted it's a significant number, but when you look at the big picture and you try to say that there are shenanigans or that kind of a thing going on...I mean, if you look at a larger scale, clearly that number is not up in a percentage where there's wide amount of abuse. And again, we have no objection to the auditing portions of the bill. I'd make one further point in terms of the largest interlocal agreement that Lincoln Public Schools has. It's with the Lincoln Electric System in terms of utilities. And there have been some discussions about well, these interlocal agreements have been done with utilities, and you'd be paying the utility bills anyway and somehow that exempts from the lid. Well, what I'd like to do is just give you just a brief history of what this incentive did in Lincoln Public Schools. It allowed for an interlocal agreement with the Lincoln Electric System, which had never occurred before. And you heard testimony earlier today about how hard it is to get political subdivisions together. And I think the incent is an important aspect to that. It's not a major number, but yet it's important. In Lincoln Public Schools' case, it allowed the district access to a full-time energy engineer specialist which they had never had before. That energy engineer works in close collaboration now, as you may know, the district has a lot of building going on. That engineer is actually supplied to the district and works with the architect in design of the facilities to make sure that energy efficiencies are obtained. The interlocal agreement further fostered an energy review committee, which it's been public in the Lincoln papers, has saved the district over \$1 million a year. There have been rate reductions. The other area that's been very

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significant is in the energy area in terms of studies that have been conducted to achieve efficiencies and cost savings. Actually there's one study that was a collaboration as a result of this interlocal agreement between the school district, LES, and an organization called the Oak Ridge National Laboratory that was conducted for the U.S. Department of Energy where as a part of the construction process, ground-coupled heat pumps were examined in terms of their life cycle costing and their efficiencies, and there's been significant savings there. In my mind, the major interlocal agreement that the district has, has been very good for the taxpayers and for the state and there have been substantial savings. I'd be happy to answer any questions. [LB362]

SENATOR JANSSEN: Any questions? Seeing none, thank you for your testimony. How many more opponents do we have? Why don't you get together and have one person testify for several people? It's 5:30 and we have two more bills to hear. Go ahead, sir. [LB362]

DENNIS MEYER: (Exhibit 13) Okay, I'll just kind of start off with good evening, Chair and members of the committee. My name is Dennis Meyer, that is spelled M-e-y-e-r, and I am the budget fiscal officer for Lancaster County. In a previous life, which was only about three months ago, I was a budget coordinator for the state auditor's office. So as far as the lid on restricted funds and everything like that goes, I was really the one kind of involved in putting together documents, those lid forms that you probably heard fire districts and all that complaining about...well, that was really my responsibility. So the main thing with my testimony really comes down to, you know, I'm the counterpart of Steve Hubka with the city of Lincoln and Lancaster County. You know, from the days that I was with the state auditor's office was kind of the poster child for interlocal agreements, and now when I take a look at it, you know, as far as the budget and the lid goes there's no doubt. You know, the county is excluding twenty some million dollars for interlocal agreements and you know, with the unused authority sitting there, if the interlocal agreements was just removed from the lid without affecting that base amount, Lancaster County would be in major noncompliance issues. You know, the 85 percent came up. You know, to me Lancaster County would no doubt be interested in talking about, you know, about the lid and whether that base amount is increased up. You know, I don't know if 85 percent would quite meet the requirement that we would be looking for. To me, it sounds like we just want to remove the interlocal agreements from the lid. You know, I don't know if there's anything out there that says we want to remove it and cut somebody's base amount. I think that's the main thing right now at Lancaster County. We're at 26.5 cents for our levy. So at this point in time the levy limit is not really coming into play for us, but if you take that lid, you force us to stay at that base amount, remove the interlocal agreements, we've got some major noncompliance issues. If we're looking at increasing that base amount back up to a reasonable amount--which I don't know if 85 percent meets that--we would be more than willing to discuss that. I think you also have to remember and there's a lot of things that could come into play. I think of fire districts out there from my days with the State Auditors

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Office that have formed those MFOs. A lot of those MFOs were formed because of interlocal agreements, because they were able to use that interlocal agreement exception to the lid. If you remove that ability for those fire districts to claim that...don't get their base amount back up to where it should be at, I think you're going to start having MFO problems. So I think it's maybe not just a simple let's remove it from the lid. I think there's other issues that could come into play and I think if you just make this simple change you might find out down the road how many bigger problems there are out there. So from Lancaster County, you know, I would just kind of urge you at this point in time with the way the bill is to defeat that. We'd be more than willing to discuss options, but at this point in time we would be against it. Questions? [LB362]

SENATOR JANSSEN: Questions? Seeing none, thank you. [LB362]

DENNIS MEYER: Okay. [LB362]

SENATOR JANSSEN: (Exhibit 14) Before I forget I'm going to read into the record from Mr. Edson, the Nebraska Association of Resources District is in opposition to the bill. [LB362]

LYNN REX: Senator Janssen, members of the committee, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities. I'm also testifying on behalf of NACO, the Nebraska Association of County Officials, and Jack Cheloha representing the city of Omaha in strong opposition to this measure. I think it's important to look back in terms of what happened. In 1996, when the Legislature passed LB299 and also LB1114 at that time, Senator Warner was then chair of this committee and the plan that was in place at that point was to have a lid in effect, a lid on restricted funds for a period of two years from 1996-1997. And then the plan was that in 1998 the levy limits would go into effect and that has had an absolute devastating effect on certainly municipalities across the state and other entities as well. And we really appreciate the fact that we'll be having a hearing later today on LB628 so I won't go into details about why we need more flexibility under this law not less. By removing the exemption on interlocal agreements it would absolutely have a devastating impact on local governments across the state, and I would submit to you ultimately on taxpayers, because when you have deferred maintenance it just costs more. The incentive for folks to work together was a huge part of LB1114 as well as LB299. And as I stated, the original plan was that the lid would be in effect for two years and then go off, and in 1998, the levy limits would go in. The plan was that in fact there were places in the state of Nebraska where people were not paying enough property taxes, and other areas where they were paying too much. But what occurred in 1998 is that, in fact, the lid on restricted funds continued so we have a double hammer. We have a hammer of the lid on restricted funds plus the levy limits. Speaking for municipalities, we have right now over 240--at last count--municipalities up against the maximum levy of 45 cents plus five. We have municipalities within those categories they can't even raise the money to spend the 2.5

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percent. But with respect to the issue of interlocal agreements, there have been literally tens of millions of dollars saved across this state with municipalities, with counties, with schools, and I would probably say when you included the counties and the schools it's in the hundreds of millions of dollars with risk management programs. The city of Fremont is one and is joined in an interlocal agreement with other municipalities across the state and have had tremendous savings in terms of what they've been able to do and not just on risk management, but also on the other kinds of things that you want cities to do for efficiency. So I think that by removing this it just has a devastating impact. I think others have already indicated that I don't know how you go back and recapture this. There will be such a significant noncompliance factor here, because when you look at regional landfills, 911 systems, any number of things from risk management and insurance, any number of these major interlocal agreements, it translates to significant taxpayer savings. And by removing that authority I, frankly, don't know what else in the budgets they're going to cut. This has been an effect where we, again, later today will be talking to you about the need to give more flexibility to some local governments. We are absolutely strapped on the local level. I'd be happy to respond to any questions that you might have. [LB362]

SENATOR JANSSEN: Any questions? [LB362]

LYNN REX: Thank you for your patience this afternoon. [LB362]

SENATOR JANSSEN: Thank you, Lynn. [LB362]

JERRY SELLENTIN: (Exhibits 15,16, and 17) Senator Janssen, members of the Revenue Committee, I'm Jerry Sellentin, J-e-r-r-y S-e-l-l-e-n-t-i-n. I'm the executive director of the Nebraska Council of School Administrators. As per your request, Senator Janssen, I'm also speaking on behalf of the public schools of Crete, Grand Island, Plattsmouth, Newman Grove that have handed me materials to be distributed for your reading. It is my understanding that the concept for interlocal agreements actually began in 1963. The intent of LB657 in 1963 was to permit subdivisions to engage in cooperative agreements which were mutually beneficial. Discussion on this issue of the interlocal agreements has merit as was done in 1975, 1991, 1996, and 2002. Our position is that interlocal agreements are working. Let me give you another example of what has already been discussed. The need for substitute teachers was very, very competitive in the earlier stages as there was a shortage. And between the Omaha and Metro school districts, competition to find quality teachers also got into the issue of cost for those teachers. As a result, 14 school districts went with ESU3 with an interlocal agreement where now ESU3 is responsible for getting those substitute teachers to those 14 schools. This is good public policy of cooperation and efficiency. It is a willingness of our association and other school districts of Nebraska to work with the Revenue Committee and Senator Raikes on this issue and to work on any needed changes. We appreciate this opportunity to visit with you and I welcome your questions.

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[LB362]

SENATOR DIERKS: Thanks Jerry. Are there questions for Mr. Sellentin? I guess not, thanks so much. Next opponent. [LB362]

THOMAS SHARP: (Exhibit 18) Senator Dierks, my name is Tom Sharp, T-o-m S-h-a-r-p, and I'm going to take a few minutes to talk about this simply because in 2005 I wrote my dissertation about interlocal agreements, so I've studied the whole thing extensively and some of the notes that Jerry provided to you, I helped provide with that as well. The thing about interlocal agreements, everything that the Legislature has done in '71, '75, '91, '96, '97 was all to make it more user-friendly and to encourage the use of interlocal agreements. So to take a quote from the floor discussion in 1991, the Interlocal Cooperative Act is necessary for the welfare of the state and its inhabitants and shall be construed liberally to affect its purposes. It was intended to be used widely with great variety, with great ingenuity, with great creativity in order to make people form mutually beneficial agreements. So I have a table that I could pass out. It just shows you that in 2001-2002, what type of interlocal agreements existed and what they were used for. And so even that has been updated. So not too long ago we had an interim study on interlocal agreements. I don't know if some of you attended or not. But during that time, people came and they testified. I remember that when we talked about this and we said, when I read that statement, that it was for the liberal use and a lot of the senators said well, good that's what we want it for. So the support from that interim study I'm sure didn't recommend any changes in the way interlocal agreements are used. The whole idea of the taxing authority, which took place in 1996...I'll read what this says. The words taxing authority were inserted into the section 2 dealing with the purpose of the act in order to clarify the deficiencies and the use of tax authority were a reflection of fiscal responsibility. State Senator Jerome Warner stated in the floor debate, this is an incentive to insure efforts to become more cost effective in the area of cooperative agreements. This exemption is an incentive. There are many people that I talk to...of the 17 people I interviewed that have used interlocal agreements, 13 of them mentioned the exemption part of it. And just to cap off, because I know it's running late, just to emphasize what was said about how important this is--this is from a fairly good-sized school in this area--the one thing that has to be good in the way of the interlocal agreements are structured from our fiscal picture. To have that opportunity to have that outside our lid allows our board of education to indicate we're going to continue to support these programs. That's a critical piece, I think, because it's like anything else in this day and age. You have so many quality programs that our districts offer, but depending on your individual funding considerations, you may or may not be able to sustain that effort from year 1 to year 2. And so in order to sustain what we have, it's critical that if we lose that expenditure exemption then the programs have to be considered in respect to its importance, its sustainability, like any other program. So all the extra programs that we have been able to devise like ulterior education, like the substitute teacher, like the joint city library, school library that's in St. Paul. All those

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ventures were created and that incentive is necessary and that exemption has to continue to exist. We can't have a one time kind of catch-all. That exemption needs to continue to exist in order for the innovation to keep going and for what has been started to prevail. So anymore questions? [LB362]

SENATOR DIERKS: Thanks, Tom. Questions for...Senator Langemeier. [LB362]

SENATOR LANGEMEIER: I've got to ask one. We're getting late here, but okay. So would it be your testimony that if we do this, if we remove the interlocal agreement extension, interlocal agreements will cease to exist? [LB362]

THOMAS SHARP: No, that's not my...but it will greatly curtail their future development. It will greatly derail some existing programs that are in existence, because if you look at some of the schools that have interlocal agreements, they have exemptions, and they're doing something with the funds they're generating, they're spending it for legitimate educational purposes. So some programs that have been started, because they have allowable exemptions, those programs could be at risk to continue to exist. [LB362]

SENATOR LANGEMEIER: Thank you. [LB362]

THOMAS SHARP: Thank you. [LB362]

SENATOR DIERKS: Tom, who are you quoting in the beginning of your testimony? [LB362]

THOMAS SHARP: The very first quote... [LB362]

SENATOR DIERKS: Yeah. [LB362]

THOMAS SHARP: Gosh, I'll look that up. I'll get that to you. [LB362]

SENATOR DIERKS: Okay. [LB362]

THOMAS SHARP: Let me get that to you. [LB362]

SENATOR DIERKS: Thank you. Any other opponents? Is there neutral testimony? Would you like to close, Senator Raikes? [LB362]

SENATOR RAIKES: Would you like me to close? I think not. (Laughter) [LB362]

SENATOR DIERKS: All right. That closed the hearing on LB362, Mr. Chairman. [LB362]

SENATOR JANSSEN: All right. We'll move to LB409. Senator Preister is here, I believe.

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Thank you, Senator. How many testifiers do we have on LB409? One, two, anyone else? Okay, all right. Don, the floor is all yours. [LB362]

SENATOR PREISTER: Thank you, Chairman Janssen, members of the Revenue Committee. My name is Don Preister, P-r-e-i-s-t-e-r, and I'm here as the primary introducer of LB409. Used to be a song by that name as I recall. I used to enjoy that back in the old days, but I won't digress. However, this is about schools and that was the time when I heard that song. The intent of LB409 is to allow the community colleges to increase their capital levy from the current levy of 1 cent per \$100 of valuation to 2 cents per \$100 of valuation. The community colleges are a little over 30 years old and many of their buildings require a great deal of repair and maintenance, which takes almost the entire current 1 cent levy to accomplish. As the community colleges continue to grow the need for more capital expenditures will increase, and thus, the colleges will need more capital levy authority to meet the needs of their areas. As an example, the Metro Community College in my district is currently building a new health sciences building. They're also partnering with the city of Omaha in order to build a new library. That partnership where they're sharing resources has been crucial and I think vital to the development of the new library. They are working on building a nice facility and making that facility functional. It's a rapidly growing campus, well used, but again, aging and in need of a tremendous amount of repair. The main campus, the old Fort Omaha buildings, are far older and in even greater need for repair. I see this as a way to assist them in those building repairs and the needs that they have on the campuses. I would be happy to entertain any questions. And Senator Raikes' smile just gets me wondering what he's thinking right now. (Laughter) [LB409]

SENATOR JANSSEN: Any questions? [LB409]

SENATOR RAIKES: I'm waiting for Baack. (Laughter) [LB409]

SENATOR PREISTER: Good. [LB409]

DENNIS BAACK: (Exhibit 19) That's what I was afraid of. Senator Janssen and members of the Revenue Committee, for the record, my name is Dennis Baack, B-a-a-c-k. I'm executive director of the Nebraska Community College Association here to testify in support of LB409. The members of this committee that have been here a number of years have seen this bill consistently over the last few years, and it's a little bit discouraging when you're sitting back there watching several of the senators shaking their hand no before you ever get up to testify, but it is something that we just feel that we have to continue to talk to you about and it's something that's very important to us. At one point in time, the community colleges got 1.8 cents of capital levy. And when they did the changes back in '97-98 they lowered that to 1 cent. And as you can see from your sheet, you'll see down towards the second line from the bottom will show you what we are able to get for 1 cent of property tax, and then you will see how much of a

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shortfall that is for each of the areas. And Senator Preister, I do appreciate the fact that you've introduced this for us several times and I know it's not something that...you've never introduced very many tax increase bills, but I think it's something that you see being used very much in your district. Metro Community College had set aside a number of dollars over the years. They built up a very good reserve in their capital fund and now they're starting to expend those funds and starting to better meet the needs of the students there. And one of the projects is there on the south Omaha campus, which is a wonderful project and it also includes the city of Omaha with their library. And it also will be the hub for the transit system, for the bus system. All the buses in Omaha will go right through the campus and so everyone will have good access to that. So it's a very good partnership between them and the city. One of the things that Senator Preister did mention, too, is that we have some facilities that were given to us and sometimes that's not always the best thing, but the Fort Omaha campus is one of them. As they try to do repairs and maintenance on those buildings it gets very, very expensive because they're historical buildings. They have to deal with historic preservation and a number of other things. They put a couple of roofs on and they are all those Spanish tile roofs and that will cost about \$1.25 million to put two roofs on just recently on a couple of their smaller buildings. So those things do get very expensive. And then you've got the Hastings campus which is built on an old Armed Forces reserve site and that is very expensive when they go into those buildings to remodel and do anything in those, it adds up to be an awfully lot. So those are some of the things we're facing. I can't tell you for sure if we went to 2 cents how many of them would use the full 2 cents. I doubt that they all would. Only one college used the full 1.8 cents in those days. Western had used that. The rest of them used parts of it, but they didn't use it all. And today, quite frankly, we have one college--Southeast Community College--which does not use all of the penny today. They are under that. They only use about half of it. And they're able to make that work for them, but some of the other colleges are at their limit. They're struggling. We're looking at other ways that we can deal with this. We don't have very many avenues. We don't get any state dollars for our facilities. We get no dollars out of the 309, so one of the things that we're looking at is possibly adding on facility fees to our students, and I know Metro does a little bit of that now, but the other colleges are going to have to be starting to look at those things. And the thing that you run into when you start doing that is you raise that rate for those students, and as you raise tuition and fees rates you cut access. And that's something we want to be very cognizant of. That we don't want to cut access for students. So it's an issue with us. It's an ongoing one. I'm sure it's not going to get any better quickly. We would really like to see this bill advance and I know that last year, I think, we had a bill that actually just increased it a quarter of a cent each year or something and was not the full penny. We would certainly be willing to work on that kind of thing if that was more acceptable. We just need some relief in this area because we're having a difficult time keeping up with our repair and maintenance. With that, I'd be happy to answer any questions. [LB409]

SENATOR JANSSEN: Dennis, if I understand you correctly, you said you cannot

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access any 309 dollars? [LB409]

DENNIS BAACK: No, no. We're not allowed to do that. No. All of our capital and maintenance and stuff has to come from that 1 cent. We are not allowed to have any state dollars in those. [LB409]

SENATOR JANSSEN: All right, okay. [LB409]

DENNIS BAACK: Because they're locally owned and operated facilities. [LB409]

SENATOR JANSSEN: Right, yeah. Senator Langemeier. [LB409]

SENATOR LANGEMEIER: Thank you, Chairman Janssen. Before Senator Raikes gets to you, just for my own knowledge, excluding the inheritance of old facilities, if a community college builds a new facility is there any mandate or requirement to set aside a--you know I'm calling it an endowment for better lack of anything at this time of night and my brain can think of... [LB409]

DENNIS BAACK: Yeah. [LB409]

SENATOR LANGEMEIER: ...to pay for ongoing maintenance of that building? [LB409]

DENNIS BAACK: No, there's nothing in statute or anything that requires that. I think they all do that, you know. Whenever they do a building they also do projections as to what the ongoing maintenance and stuff is going to be for those facilities and try to set aside dollars out of their capital levy each year to cover those. I mean, they do try to do that. And some of the newer facilities that we have don't require as much work. I mean, you know, they're doing okay and that's part of Southeast. I think, you know, their facilities are fairly new, especially the ones here in Lincoln and so they haven't needed as much repair and maintenance as some of the other facilities. But they do have some issues at Milford, because that was another site that was given to a community college and they do have some issues there but they work through those. But I think they try to take that into consideration what some of those costs are. It's difficult when you get onto the, like the old...I can't remember. Was it a navy or army base outside of Hastings? I can't remember. [LB409]

SENATOR BURLING: Navy. [LB409]

DENNIS BAACK: Navy. It was a navy base outside of there. When they get into some of those buildings they have the main classroom building there, the Platte building there, which is where they hold probably 80 percent of their classes on that campus is in need of a new heating and air conditioning. And they have priced that out and it's going to be about \$1.5 million just for heating and air conditioning for the building, and they'd be

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required to shut the building down for a year. And they don't know how they're going to do that because they don't know where they're going to put the students while they do it. So these are some of the kinds of things they run into with some of the older facilities that they have. [LB409]

SENATOR LANGEMEIER: The reason I asked that is that we develop apartment complexes. We put right in our cash flow every 14 years we're going to have to reroof. [LB409]

DENNIS BAACK: Um-hum. [LB409]

SENATOR LANGEMEIER: Every 16 years we're going to have to put new siding in. Every eight years we're going to have to replace all the stools and stoves and refrigerators. We build that in our cash flow as we decide whether we can afford the project or not. [LB409]

DENNIS BAACK: Yeah. And I think they try to do that as much as they can, but every once in awhile you get a surprise like, you know, you'll get one that like Western just this year all the sudden their boilers went bad in their main facility and that's a huge expenditure for them that they weren't anticipating. Nobody guessed that that was going to happen. And that kind of then eats into the capital levy that they're kind of setting aside for some of the other things that are occurring on campus. So it makes it difficult to do. They try to plan. It's difficult. [LB409]

SENATOR LANGEMEIER: Thank you. [LB409]

DENNIS BAACK: Um-hum. [LB409]

SENATOR JANSSEN: Any other questions? Don't see any, thank you, Dennis. [LB409]

DENNIS BAACK: You bet. Thank you for your patience this afternoon. [LB409]

SENATOR RAIKES: I'll save my comments for exec session. (Laughter) [LB409]

SENATOR JANSSEN: Any other proponents? Proponents? Opponents? Okay. I saw you bouncing up off that chair. I thought maybe you were neutral. You had it in neutral or something. (Laughter) [LB409]

PETE McClymont: (Exhibit 20) Chairman Janssen, members of the Revenue Committee, I'm Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. You guys have an odd way of celebrating happy hour here so I'll try to make it brief. (Laughter) I'm VP of legislative affairs for Nebraska Cattlemen and I'm here to testify as an opponent. We have shared our beliefs with Senator Preister and his staff so this is not a surprise. Our membership,

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obviously, recognizes the importance of why community colleges serve so I'm not here to minimize what Mr. Baack said and what Senator Preister has introduced here. Obviously, capital construction is important. As an example, obviously, we have young people that become welders and go to diesel mechanics school at these facilities, so they serve a vital role in agriculture. But obviously, we are consistent in our testimony in property taxes and we're adamantly opposed to them. From the most recent 2005 Nebraska Department of Property Tax Assessment annual report, 3.91 percent of all property taxes levied go to community college, and obviously that's a significant number. The dollars that that 3.91 percent would represent is over \$89 million. So the chart that I handed out to you comes from...I found it off the website. It comes from the 2005 American Community Service taken from the U.S. Census and it's put together by a nonprofit tax foundation. I think the number that's important is if you go to that middle column, tax as a percentage of home value, and this does not take into effect agriculture businesses, this is just on a home value. We rank third. And, you know, that's higher than we all want and you've heard consistently from your constituents that reduction of property taxes is important. So even though the need of this bill is obvious, but nonetheless property tax increase is something that we are, as I stated earlier, adamantly opposed to. And with that, I would conclude my testimony and be happy to answer any questions, Chairman and committee. [LB409]

SENATOR JANSSEN: Any questions? I don't see any, Pete. [LB409]

PETE McClymont: Thank you. [LB409]

SENATOR JANSSEN: Thank you. Other opponents? Anymore opponents? Neutral? Don't see any, Senator Preister to close. Senator Preister waives closing and that ends the hearing on LB409. Senator Dierks to introduce LB628. Go ahead, Cap. [LB628]

SENATOR DIERKS: Senator Janssen, members of the Revenue Committee, my name is Senator Cap Dierks, that's spelled C-a-p D-i-e-r-k-s. I represent District 40 and I'm here today to introduce LB628. LB628 would amend current law regarding the restricted fund lid and levy limits. The restricted fund lid for political subdivisions other than school districts is amended in two ways. One is to change the definition of allowable growth and the other is to change the definition of capital improvements. The allowable growth change would give political subdivisions the opportunity to increase their lids by the amount of growth and taxable valuation due to improvements to real property as a result of construction or annexation. Current law only allows increases in the lid for growth over 2.5 percent. The definition of capital improvements for the restricted land fund is amended to include equipment with a useful life of more than five years. This change would allow purchases of equipment with a useful life of more than five years to be outside of the restricted fund lid. This was the definition of a capital improvement when the lid was first imposed in 1996. LB628 also applies the same definition of capital improvements to the levy law governing municipalities and counties. LB628 would

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amend section 77-3442 which sets the levy limits for municipalities and counties to provide that the maximum levy limit for counties, cities, and villages shall not include any funds budgeted for capital improvements under the new definition and lid law. With that I'll conclude my testimony and entertain questions. [LB628]

SENATOR JANSSEN: Would anyone like to be entertained by questioning Cap?
(Laughter) [LB628]

SENATOR DIERKS: It will be entertaining. [LB628]

SENATOR JANSSEN: I don't see any, Cap. We'll take proponents first. [LB628]

LYNN REX: Senator Janssen, members of the committee, my name is Lynn Rex, R-e-x, representing the League of Nebraska Municipalities and I'm also testifying this afternoon on the behalf of the city of Lincoln. First I'd like to thank Senator Dierks for introducing this measure. And I think it's important to note that if you look on page 2 of the bill and the language that would be deleted on lines 6 and 7 on page 2 of the bill, that language would actually allow us to capture and actually have some growth. We have less than a handful of municipalities across the state--and this bill would also apply to counties and some others--that would for the first time be able to have any growth at all, because unless you have growth in excess of the base limitation which is 2.5 percent, you don't get any growth at all. And so for years, for close to obviously over a decade, we've had cities and villages, counties and others in the state that have never had a growth factor. You have student growth when it comes to community colleges. There's growth in the school formula, not that I understand school finance because I do not. But certainly there's other growth that is allowed, but when it comes to other political subdivisions, counties, cities, NRDs, basically we've had again less than a handful of cities in the state of Nebraska that ever had growth above 2.5 percent base limitation, therefore, everybody else has had no growth whatsoever. That's an important element of this bill. The second element which we think is really important as well, is the definition of capital improvements. It also would be on page 2. And if you look on lines 20-25, you'll note that it is just adding basically in as a definition of capital improvements, it would also mean furnishing or equipping of any improvement except the routine maintenance and the acquisition of any equipment with a useful life of less than five years shall not be considered capital improvements. And it applies that same definition to levy limits. And again, this has been a very, very long afternoon, but just to recap for a moment in 1996 when the Legislature passed LB1114 that established the levy limits which took effect in 1998. In 1996, you also put in effect the lid. The lid never went off even though it was supposed to go off after two years. Secondly, in terms of the levy limits, second class cities and villages in the state of Nebraska of which there are hundreds--we have 532 cities and villages, one metropolitan class, one primary class, 32 cities of the first class, all the rest are second class cities and villages--second class cities and villages, in a matter of two years, were to go statutorily down from \$1.05 per \$100 of valuation down

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to 45 cents plus five. Most of them, the overwhelming majority, some were even over the \$1.05, because in fact they had had voter approved bond issues. So those folks, the small cities, particularly the villages, were just dramatically impacted by this and had been facing a double hammer ever since in a way that the first class cities--Lincoln and Omaha--quite frankly have not been in the same way, because of local option sales tax. And I think that just underscores the fact that we're not living in a culture in this state with municipalities where we have folks out there that are trying to just spend, spend, spend. York, Nebraska is here this afternoon. They're at 13 cents. They could be up at 45 plus five. They're not. Norfolk, I think, is the lowest in the state at 11 cents per \$100 of valuation, because local elected officials run and try very hard to keep property taxes low. Nobody runs on a platform of let's raise property taxes. And so basically what we're asking for here is an accommodation. An accommodation which we think is long overdue. Since 1996, the Legislature has tightened up the lid, and in so doing, also impacted the levy limits. But there's been no flexibility given and we would really appreciate it because especially for these smaller entities out there. I mean, Omaha is going to be testifying in support of this today, too, but for the smaller entities as well. We really need to look at this. And for those of you, Senator Janssen, that serve on the Urban Affairs Committee, you heard testimony just this week about the tremendous growth in Sarpy County, the fastest growing county in this state. The five cities in that county, three of which are the fastest growing cities in the state of Nebraska. Now that also means that your coffers as a state Legislature grow, because when you have cities growing that means you also have economic development in this state. That's also increasing your base and increasing what is the economy for the state of Nebraska. But in order to do that you've got to provide roads. You've got to be able to provide sewer, water systems, and with all the mandates that have happened since 1996 I thought about reading you the list of mandates that have come down from the federal government or state government without any dollars. And the list is long. So all that accommodation has occurred within what is now this lid law. And when second class cities and villages went from \$1.05 to 45 plus five within a matter of two years, first class cities, on paper, went from a maximum 87.5 cents per \$100 of valuation down to 45 plus five, but the reality was most of them weren't even close to 87 and most of them even today are not even close to 45. So we would really sincerely appreciate any accommodation. It's been over a decade. One of the reasons why our board has fought so hard for years, and it's been at least four times since I've been around the last 30 years, to oppose any constitutional levy on the state or its political subdivisions when these constitutional amendments come and go, is because of the fact that we do want the Legislature to have some flexibility. And what's in statute we know that you can give us that and we would really appreciate it. We know schools have had flexibility, which they well deserved, on certain types of retirement benefits having been outside the lid for various times accommodations have been made. They have growth in student factors. And I'm not saying their life is a panacea. I'm just suggesting to you at least they've had a little flexibility. We've had almost--well not almost--we have had none. So again, I'd be happy to answer any questions and we sincerely appreciate any efforts you

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can give us on this very important bill. [LB628]

SENATOR JANSSEN: Any questions? Seeing none, thank you, Lynn. [LB628]

LYNN REX: Thank you very much. [LB628]

SENATOR JANSSEN: Next proponent. [LB628]

JACK VAVRA: Jack Vavra, city administrator, city of York. That's V-a-v-r-a. If you like the lid bill you should like this bill also, because this bill will help guarantee that there's some fairness to the lid bill as it's currently written. And I'll give you an example of what's happened in York and other towns across the state over the last several years. There's two ways that we need money. We need more money because of two reasons. We have inflation on this side. We have new people moving to town, new businesses, new construction. So we have to serve more people and we have to take care of inflation. Now the current bill as it's written allows us 2.5 percent inflation. If we have no growth over that we don't get anymore. We just get the inflation. And for many years in York we had very, very minimal growth. I'm talking half a percent. So year after year we would get 2.5 percent and that covered inflation in these last eight or nine years. And we are pretty much the same today as we were eight or nine years ago relative to the lid. We got our 2.5 percent. You have other towns, though, who have growth of 2.5 percent and they also have to deal with inflation of 2.5 percent. And the town that comes to mind is Kearney whose had pretty much some stable growth over the years, you know, in the 2.5-3.5 percent range. Well they get 2.5 percent inflation plus a little bit maybe over that for growth, but in essence what they get is their growth most of the time. So every year they're losing 2.5 percent to inflation. What this bill will do is it will take care of the Kearneys of this state and the Yorks of the state will not benefit if we do not grow. If we have another year of .5 percent, we get the 2.5 percent which is basically inflation, and this bill doesn't really impact us any. Towns like Kearney who have the inflation to deal with and also an annual growth that's significant that compounds over the years, will get some benefits. What will happen eventually is if towns that are growing, the towns that you need in Nebraska to continue growing to fuel our economy, if they keep getting squeezed, squeezed, squeezed, squeezed, sooner or later something's going to have to be done with this lid bill that's going to be much more serious than just making this one exception. This exception does not, in essence, help York and a lot of other towns and a lot of other governmental entities. It helps the ones that are growing, the ones in Sarpy County. It helps Norfolk. It helps Kearney. It helps towns like that. The towns that really need the help. It is not a blanket (inaudible) across the state, approve more money, higher taxes. It truly addresses where the need is today. And last year I testified on the bill and the year before, and the year before. So I kind of sound like a stuck needle in a recording, but truly when you look at this bill and think about it, it really only impacts those people who need it the most. Towns like York who have had very little growth over the years really don't benefit by this bill. So it's not

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a blanket give up something or raise taxes. I would answer any questions. Thank you.
[LB628]

SENATOR JANSSEN: Any questions? Ron. [LB628]

SENATOR RAIKES: You mentioned the 2.5. You also have 1 percent that you can vote.
[LB628]

JACK VAVRA: We could, yes. [LB628]

SENATOR RAIKES: But you don't. [LB628]

JACK VAVRA: And the city council has in the past done that probably, oh, four of the last maybe eight years. [LB628]

SENATOR RAIKES: So there's some money left on the table, spending authority left on the table there. [LB628]

JACK VAVRA: And understand what I'm talking about. Inflation truly has been around 2.5 percent for the last many years. And the Legislature in that section of the law does allow, as you know, for changing that on a periodic basis, which to my mind insinuates that they wanted to reflect inflation and they may change it because of inflation, that base factor of 2.5 percent. [LB628]

SENATOR RAIKES: You also have access to occupation tax money in York? [LB628]

JACK VAVRA: As far as telephone, natural gas... [LB628]

SENATOR RAIKES: Yeah. [LB628]

JACK VAVRA: Yes. [LB628]

SENATOR RAIKES: Yeah, and that's... [LB628]

JACK VAVRA: We have all the gamut of... [LB628]

SENATOR RAIKES: And that's not a restricted... [LB628]

JACK VAVRA: No. [LB628]

SENATOR RAIKES: So that's outside the budget lid. [LB628]

JACK VAVRA: Yes. [LB628]

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SENATOR RAIKES: And you have a sales tax in York? [LB628]

JACK VAVRA: We do. [LB628]

SENATOR RAIKES: And what's happened to your sales tax receipts? [LB628]

JACK VAVRA: The last two years we've had some significant improvements. Prior to that they were fairly flat. [LB628]

SENATOR RAIKES: Okay, thank you. [LB628]

SENATOR JANSSEN: Any other questions? What do you attribute that growth in sales tax receipts to? [LB628]

JACK VAVRA: In the mid-nineties it was construction out at the interstate... [LB628]

SENATOR JANSSEN: Okay. [LB628]

JACK VAVRA: ...dealing with Petro Truck Stop mainly and things that kind of came after that. And in the last two years, I hesitate to bring it up, but it was a Super Wal-Mart that also located... [LB628]

SENATOR JANSSEN: No, you don't...we'll forget about that. [LB628]

JACK VAVRA: Yeah, but it was a retail...it expanded our retail territory. [LB628]

SENATOR JANSSEN: Okay. That was one good thing. [LB628]

JACK VAVRA: Yes. [LB628]

SENATOR JANSSEN: All right. [LB628]

JACK VAVRA: Thank you. [LB628]

SENATOR JANSSEN: Next proponent. [LB628]

DENNIS MEYER: Okay, members. Dennis Meyer, M-e-y-e-r, Lancaster County. I thought since I spent most of the day here I might as well get up one more time. It was either that or go home to three kids. So I opted for one more time up here. For the most part, all I really kind of want to do is go on record for Lancaster County that, you know, the change in the allowable growth and the change in the definition of capital improvements, we see no issues with that. You know, it would just possibly give us a

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little bit more lid room. As far as the levy that's put into the bill, I don't know how much that really means to us because as a county we've still got the constitutional 50 cent limit. So whether this says we can go over and above it, the 50 cents is going to hit the counties anyway. But I think as far as the growth goes, again, back to some of my previous experience, there are some counties out there that have zero unused authority when they do their lid calculation. So every year they're really living off of that 2.5 percent or 3.5 percent depending on the vote. So I think that allowable growth change would no doubt help some counties out there. So questions? [LB628]

SENATOR JANSSEN: Don't see any. [LB628]

DENNIS MEYER: Okay, thank you. [LB628]

BETH BAZYN FERRELL: Good afternoon, Chairman Janssen, members of the committee. For the record, my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm assistant legal counsel for the Nebraska Association of County Officials. I won't repeat the testimony you've heard. Mr. Meyer set out our support of the bill. There are some counties that this bill would help because of the growth factor. [LB628]

SENATOR JANSSEN: Okay, any questions? Don't see any, thank you. Next proponent. [LB628]

STEVEN WARING: I'm Steve Waring with the city of Tecumseh and here representing the League of Municipalities also if they'll let me speak for them anyway. Maybe they'll change their mind later. I'm here as a proponent requesting the change in the definition of allowable capital growth basically. This change basically puts us back almost to the point or about where we were with restricted funds when we started this program. During the time that we've operated under the other, I would submit that we probably have not operated at the full value and have lost those restricted funds during that period. Many of the cities have different concerns on lids and levy limits. We have concerns probably both ways. We haven't really come to the point where we're coming close to hitting our lid or anything like that. We've been fortunate. With the prison and so forth we have had some growth. We've put in a sales tax. The sales tax has, until this year, been increasing every year partly due to the fact that we've had quite a bit of development in town. In fact, we were one of the probably few cities that did have some growth above the 2.5 percent in a couple of years, in the last six or so. One of the changes has come about though just from the way the lids and so forth have impacted the city is that our year ending investment carry overs have changed from where we were carrying \$200,000-\$300,000 to now where we're carrying maybe \$50,000-\$100,000. And that amount is actually mostly restricted funds or it's already been spent or committed to some other type of program. In other words, we're basically out of cash is where we worked and we are scrimping to get by with our budget each year. With large increases in all the different insurances, whether you're talking health,

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liability, property, casualty, and so forth that has carried us where we're paying more for those areas than where we did in what we were able to raise just by the 2.5-3. And actually we've gone about 3.5 percent every year on our increases that we've taken. The action that's going on now with the change in the sales tax allocations that go for purchases of automobiles and so forth has affected us in how we are able to spend money in different categories. When you make that go strictly to the roads and so forth, it creates a problem for us and we have restricted funds. We've only got so many funds to go around. If we have to spend it in streets it does cause a problem for us. And I would like you to kind of look at it from the angle that really we put in a sales tax to replace our property tax and that was not a fund that was restricted in any way that went to a particular fund or anything. When we take that money out of what we have coming in from sales tax and now say it has to go to streets, it does affect our ability to fund our other departments other than streets really. And also the same thing would be true on what is happening to the portion that went to economic development. And we have been active in economic development down there. We have an excellent economic development director and I think you heard from him here a week or two ago possibly. But he has done an excellent job and he's probably one of the primary reasons to put packages together that is attractive to people that are developing in our community. I'm trying to eliminate some of this if I can. Basically, when we put that sales tax in, we were around \$1 on our property tax give or take 5 cents probably a year. We went down with the sales tax to where we were running probably 34 or 35 cents when we started out. Our sales tax receipts have increased. Our property taxes went down each year that it came up. We were eligible for municipal equalization funding because of the fact that we were over 30 cents. Here lately we have just gone this year to where we've gone through a period and our tax rate this year is actually under 30 cents. So we won't be eligible for municipal equalization funding which is costing our people about \$70,000-some that they're going to start coming up with on their own out of property taxes. So we would go one year where we would tax at 30-some cents. We would be eligible for municipal equalization funding then our tax rate would come in somewhere around 15 or 16 cents when we started. Now those rates are down to where we're between 28 and 29 cents this year, and when we had the municipal equalization funding we would go from approximately, well that 14 cents and so forth, down to this year where we're in at 13-14 cent range--well, this past year actually--but when we add that municipal equalization funding. So basically it looks like we may be coming off your state...so you may have another \$70,000 you can spend plus or something. Basically, to close, I'd probably just like to say I am in favor of representative government not only at the state level as evidenced by our participation in seeing that you don't have lids put on you, I would like for you to think of our representatives that being able to handle their end of it down there as well and be able to give us the same respect on that. I can assure you that our property taxpayers will be in to let us know if there is a problem. I had one in here just this last year and that was because we went from that one year where I was charging less than 15 cents for property taxes to this year where I'm charging 28 cents. So they want to know why we're raising their property taxes. And if it

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had come back they would have let us know that we were not running the business properly and it would have been all over town I guarantee you, in a small town. So I think we are being there and I think we're doing things I think the right way and I hope that we can continue and you'll approve these things to help us stay where we are, because it is a tough task right now. Thank you for your time and consideration. Any questions? [LB628]

SENATOR JANSSEN: What city did you say you represent? [LB628]

STEVEN WARING: Tecumseh. [LB628]

SENATOR JANSSEN: Tecumseh, okay. [LB628]

STEVEN WARING: Yes. [LB628]

SENATOR JANSSEN: Thank you. Any other questions? Seeing none, thank you for your testimony today. [LB628]

STEVEN WARING: Okay, thank you. [LB628]

JACK CHELOHA: Good evening, Senators. My name is Jack Cheloha, last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I have good news and bad news. The good news is I'll be brief. The bad news is even the Judiciary Committee is done today already. (Laughter) So the city of Omaha would like to support LB628 and thank Senator Dierks for introducing it. Right now where our levy is set, this bill will, down the road, be more beneficial for us on the lid to try and capture, you know, the growth since Omaha is one of the growing cities in the state. And for those reasons we ask for you to support the bill and move it forward. Thank you. [LB628]

SENATOR JANSSEN: Thank you, Jack. Any questions? Seeing none, you're excused. [LB628]

JACK CHELOHA: Thank you. [LB628]

SENATOR JANSSEN: You may go. Are there anymore proponents? Any opponents? Anyone in a neutral capacity? Senator Dierks, would you like to close? He waives closing and that ends the hearing on this particular bill and that ends the hearings for the day and you are all excused. [LB628]

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Transcriber's Office

Revenue Committee
February 22, 2007

Disposition of Bills:

LB569 - Indefinitely postponed.
LB272 - Indefinitely postponed.
LB362 - Indefinitely postponed.
LB409 - Indefinitely postponed.
LB628 - Indefinitely postponed.

Chairperson

Committee Clerk