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Revenue Committee  
February 27, 2009

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[LB59 LB67 LB357 LB447]

The Committee on Revenue met at 1:30 p.m. on Friday, February 27, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB59, LB357, LB67, and LB447. Senator present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Mike Friend; Galen Hadley; LeRoy Louden; and Dennis Utter. Senators absent: Tom White. [LB59]

SENATOR CORNETT: Good afternoon, and welcome to the Revenue Committee. My name is Senator Abbie Cornett and I'm from Bellevue; to my left is Vice Chair Cap Dierks from Ewing; Senator Greg Adams from York will be joining us shortly; to his left is Senator Hadley from Kearney; our research analyst is Bill Lock and he will be here shortly; committee clerk is Erma James. To my far right is Senator Utter from Hastings; and Senator Louden from Ellsworth; Senator Tom White from Omaha will not be joining us today; Senator Mike Friend from Omaha; legal counsel is Shannon Anderson. The pages today are Rebecca Armstrong and Elsie Cook. Before we begin today's hearing, I would ask everyone to please turn their cell phones off or to vibrate. Sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone wishing to testify. If you are testifying on more than one bill, you need to submit a form for each bill you are testifying on. When you come up, please hand your sheet to committee clerk. There are also clipboards in the back of the room if you wish to sign in but do not wish to testify but would like to indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door. The introducer or representative will present the bill, followed by proponents, opponents, and then neutral testimony. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and please spell it for the record. If you have handouts, please bring ten copies for the committee and staff. If you only have the original, we will make copies. Please give the handouts to the pages to circulate to the committee. Before I begin the hearings today, may I see a show of hands on LB59, the first bill, Senator Louden's. Okay. Thank you very much. With that, Senator Louden, you are recognized to open on LB59. [LB59]

SENATOR LOUDEN: Thank you, Senator Cornett and members of the Revenue Committee. My name is LeRoy Louden and that's spelled L-o-u-d-e-n, and I represent District 49. I'm here today to introduce to you LB59. I introduced LB59 to address a problem of violent crime in Nebraska. Sixty-six victims lost their lives to violent crime in 2007, and at the present time there's somewhere around 44 victims in Omaha alone this year, in 2008. Resources are required to guarantee the safety of citizens, and LB59 is intended to provide funds to our local and state law enforcement agencies to counteract violent crime in Nebraska. The bill would create the Citizen Safety Grant Fund to be administered by the Commission on Law Enforcement and Criminal Justice, commonly known as the Crime Commission. Law enforcement agencies would apply for grant money through the commission. The commission would develop and review grant

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applications. Funds could be used for personnel, services, or equipment. Some of the services could include DNA testing or services that many law enforcement departments cannot fund continuously. This is highly technical work requiring personnel and funds that the typical community law enforcement agency in Nebraska doesn't have, such as some of these sheriff's departments in some of our smaller rural counties across Nebraska. Some of the equipment involved could be surveillance cameras in high-crime areas. Some cities that have installed surveillance cameras in high-crime areas have seen crime decrease considerably. These cameras would have possibly been helpful last month here in Lincoln where a young woman was sexually assaulted in broad daylight. The suspect was arrested after being spotted on surveillance cameras in a gas station. Not only cameras, but other high-tech equipment could be purchased or rented. City police departments, county sheriffs, and the state patrol would be eligible to apply for and receive grants. Law enforcement departments that have violent crimes that overwhelm their resources would apply for grant money to purchase resources to protect citizens in these areas. Money in the Citizens Safety Grant Fund would come from excise taxes on beer, wine--excluding farm-raised wine, liquor, and spirits. LB59 would increase the excise tax on beer by 5 cents per gallon, which would be about one-half a cent per 12-ounce can; on wine by 3 cents per gallon; and on alcohol and spirits by 7 cents a gallon. The estimated yield from such increases would be about \$2.5 million per year. This money would go into the Citizens Safety Grant Fund. Generally speaking, Nebraskans believe that their property taxes are too high. But property taxes pay for local law enforcement. Therefore, if communities face crises such as an increase in violent crime, covering the cost will have to come from property taxes. Communities need non-property tax resources to help respond to these problems. There was problems such as all the way from southeastern Nebraska where they had problems with their having to go into their rainy day fund on some of these counties, to up in Dawes County where they've had two serious matters here in the last three years that required quite a substantial amount of investigation. That is why LB59 would use excise taxes for the Citizens Safety Grant Fund. When violence escalates and law enforcement cannot respond adequately because of financial resources can't pay for increased protection, citizen's safety is in jeopardy. The bill puts money where it is needed without burdening Nebraskans with increased property taxes. The influx of violent crimes into an area jeopardizes the safety of citizens. Other areas of the state have seen an increase in violent crime, because this is not just an Omaha problem. We have been seeing gang activity and drug violence in major towns clear across Nebraska. This can't be tolerated. It is the job of the Legislature to ensure the safety of the citizens of Nebraska. Violent crime threatens citizen's safety. Citizen's safety should be government's highest priority. I would thank the committee and members to address this bill and see fit to move it on out. Part of our reasoning for this is that we have this across Nebraska. Usually alcohol is a major problem of part of these crimes that are committed. At the present time, as you'll notice on the fiscal note, most of that comes from the purchase of beer. The amount of money received from wines and spirits is less than \$250,000 for both of them put together. So with that I would conclude my remarks

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and answer any questions that you may have. [LB59]

SENATOR DIERKS: Thank you, Senator Louden. Are there questions for Senator Louden? Think not. [LB59]

SENATOR LOUDEN: Thank you. [LB59]

SENATOR DIERKS: First proponent for LB59, please. Any proponents for LB59? Opposition? Hi, Walt. Go to it whenever you're ready. [LB59]

WALTER RADCLIFFE: (Exhibit 1) Thank you, Senator Dierks. My name is Walter Radcliffe, R-a-d-c-l-i-f-f-e, appearing before you today as a registered lobbyist on behalf of the Nebraska Liquor Wholesalers Association in opposition to LB59. There's several different areas relating to this bill and excise taxes that I'd like to touch on with the committee, and I will do so in an expeditious manner, Senator. First of all, the history of excise taxes and alcoholic beverages, at least going back to the Volstead Act when it was repealed in Nebraska, has been one of remarkable and responsible collections. In fact, alcohol excise taxes have the highest collection rate of any taxes that the state levies. It's just, for all intents and purposes, about 100 percent. And the reason for that is these excise taxes are collected by the wholesalers. Principally, well, obviously, the beer and the liquor wholesalers. They collect them; they hold products in a bonded warehouse until the taxes are paid and they are paid and then they are sold and they are audited by the Revenue Department and also by the Liquor Commission. Nebraska has had, historically, a very responsible approach towards excise taxes, and it's really centered around two principles. And very honestly, LB59 runs counter to both of those principles. The first principle is that the state's excise tax structure should be one which is compatible and comparable, not just to the surrounding states because of border bleeding issues, but also with regards to the entire United States. That we have, quite frankly, never been at the top end and never really been at the bottom end. Well, one time we were at the top end and, frankly, we're there again now on wine. And in the early '80s, this committee and the Legislature actually reduced the tax on wine because the tax was out of kilter with the other states. I'm going to give to the committee three pages here. The first is basically just a synopsis of where wine and distilled spirits taxes are, the second page is a map of wine taxes in the United States, and the third's distilled spirits. I'm principally talking about wine and distilled spirits because that's who I'm representing, and some people representing the beer industry will follow me. But I'm also going to give you an interesting little...this, you know, the old picture's worth a thousand words...this is a little graphic--actually, it's a refrigerator magnet, on beer and what percentage of the cost of every beer is in taxes, and that's 44 percent. So I'll just leave that for the committee to take a look at. But as I said, the foundation for Nebraska's excise taxes is focused on two things. The first being it's compatibility and responsibility with regards to our neighboring states. And you will see, from the information I gave you, that Nebraska is probably in the middle or the second quartile as

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far as our taxes are concerned. The second thing that, quite frankly, this committee and the Legislature--because it has come up once or twice on the floor--has always refused to do and that is to earmark any alcohol taxes for any specific projects no matter what that particular project was. In fact, the only real earmarking we've ever seen of excise taxes in the state relates to cigarette taxes and their earmarking to pay off bonds. And that was, quite honestly, because of the very predictable revenue stream that we got from them. So historically, you have always stayed away from earmarking. I thought it was interesting in Senator Louden's bill that he sent this money to the Crime Commission. The Crime Commission came about in the early '70s when Nixon passed what was called the Safe Streets Act, and it created the Law Enforcement Assistance Administration, federally, and then each of the states had their own commission. Historically, the Crime Commission in Nebraska does not receive General Fund appropriations. They historically serve as a conduit for federal funds and they do administer grant programs--actually, just exactly the type that Senator Louden's explained to you as far as law enforcement equipment. Now something else has happened--and this will be my last point--between the introduction of this bill and the hearing today, and that is the passage of the Federal Stimulus Package which earmarks a considerable amount of money for law enforcement, specifically for salaries for law enforcement officers, and to a lesser degree for the types of equipment that Senator Louden seeks with LB59. So I would submit to you that, both from a tax policy standpoint and from a public policy standpoint, that you should not advance LB59. I'd be happy to attempt to answer any questions. [LB59]

SENATOR DIERKS: Thank you, Walt. Questions for Walt? I guess not, thanks so much. [LB59]

WALTER RADCLIFFE: Thank you. [LB59]

SENATOR DIERKS: More opposition, please. Whenever you're ready, sir. [LB59]

JOHN FORDHAM: (Exhibit 2) Good afternoon members of the Revenue Committee. My name is John Fordham, last name's spelled F-o-r-d-h-a-m. I am the owner of a local beverage distributor, beer distributor here, located in Lincoln, Nebraska, and I also am president of the Associated Beverage Distributors of Nebraska. And I'm here today on their behalf to testify in opposition to LB59. The 21 members of our organization are all locally owned and operated distributors. Family-run businesses servicing over 4,000 retail licenses across the state. We employ over 600 people in the state, representing over \$32 million in wages last year. Our membership owns and operates over two dozen warehouses; hundreds of trucks, vans, trailers; with a total economic impact of another \$85 million in revenue last year. So we feel we pay our fair share of taxes. Every state, as you know, and the District of Columbia, pays or imposes an excise tax in addition to the federal tax which is 18 bucks a barrel--it was increased by 100 percent about 15 years ago, 1991. And in 2008, we paid over \$25 million in federal excise taxes

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from sales from the state of Nebraska and close to \$14 million in state excise taxes for a total of \$40 million. Compared to the rest of the contiguous states to Nebraska, Nebraska is the highest taxed per gallon on beer in the region at \$9.61 a barrel--and that information is in the handout that is available to you. We are 60 times--60 percent higher than the second highest tax rate and 16 times higher than the lowest tax rate. So at our current rate, I think we're probably ahead of where we need to be in putting incremental dollars on top of that. I think creates more of a regressive position from a tax standpoint than we are today, so. If we're looking at where we are comparably, we're ahead of the curve. And as I indicated, in 1991 when they doubled the tax, statistically it cost the brewing industry over 60,000 jobs. And I can tell you from a personal perspective I was in the business and unfortunately at that time--my timing wasn't great--had just purchased it, and to have the tax doubled adversely impacted my ability to run my business as effectively as I was before. So our association, for those reasons, remains opposed to LB59 and I'd be happy to attempt to answer any questions you may have regarding this. [LB59]

SENATOR DIERKS: Thank you, John. Questions? Questions from the committee?  
Senator Louden. [LB59]

SENATOR LOUDEN: Yeah, I have one. I guess you're telling me that if the price of a bottle of beer increased by half a cent you'd nearly go out of business? Is that what you're telling me? [LB59]

JOHN FORDHAM: Well, I suppose we can drill it down to a bottle or an ounce, but I can tell you that the numbers appear bigger than that when you start adding it to a case, because all of a sudden the profit margins are a lot slimmer today than they used to be because of the tax increases we've had over the last 15 years. And so the ability to support our staff and our equipment with all the increasing costs, Senator, at this point every penny counts. [LB59]

SENATOR LOUDEN: And you're...well, what I was wondering because sometimes, you know, if you go to some of these sporting events, I mean, they're asking five bucks for a little glass of beer or something like that. How can you justify that that whole half-cent cost per bottle of beer won't be just absorbed into it--nobody'll even know it ever happened because of the variation on the price of beer. If you walk down the street to a football game here in Lincoln for what you have to pay for it, how...you know, I guess I have a little bit of a problem when you say you're going to go broke if that is raised. Now I understand that you talk about difference in price and you show what Colorado has. Well, the reason Colorado is 8 cents is because they got breweries over there; they got Budweiser and they got Coors both over there. That's a big economic driver on there and, of course, consequently they don't tax it that high. Now if Budweiser or Coors wanted to move into Nebraska and put all that kind of tax money out there there would probably be more property tax money for whatever we wanted to do. Do you agree?

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[LB59]

JOHN FORDHAM: Yes, sir, I would agree that if we could entice one of the major brewers to come to the state of Nebraska and if we could get them, hopefully, closer to my territory and I could take advantage of some of their advertising and some of the economic influence that they would have that would be terrific. Unfortunately, the nature of our industry right now is all about consolidation and it's been under a lot of pressure in terms of our ability to compete. And as you well know, we're extremely highly regulated which is an expensive proposition as well. But to reply to your comment regarding the \$5 beers: if you go to a venue, whether it's the Qwest Center or to Lancaster County Event Center, where they are charging those kinds of prices, unfortunately, those aren't my margins. That's the third tier where the retailer's charging those because...and that's a function of, really, advertising and sponsorship dollars that are affecting those prices, quite frankly. For me, with the cost of fuel, the cost of equipment, my ability to operate...it's not a function of whether I'm going to go broke, it's my ability to operate and maintain the staff and to pay them well and to be a responsible distributor. Because I have a responsibility as a licensed wholesaler to make sure that all our products are properly...are served professionally and making sure that we manage our products in a responsible manner. [LB59]

SENATOR LOUDEN: Now then you're telling me that you don't pass those expenses on through to the consumer. Is that what you're saying? [LB59]

JOHN FORDHAM: Some of them I can. [LB59]

SENATOR LOUDEN: But I mean if this was raised you would have to eat that extra increase in tax--your company would--and you're, at the present time, taxed about the limit. You would have no way of passing that onto the consumer. [LB59]

JOHN FORDHAM: You know, quite frankly, Senator, I would probably, to my best ability, try to figure out how to pass it on to the consumer, but again, we're going to be impacting that consumer who's probably least able to afford it. So we're going to take this extra tax and pass it onto Joe Six-pack and make him pay for it. Well, maybe he's going to decide that he doesn't need to, you know, he's not going to enjoy his favorite beverage as often. So now that I've passed a tax on that I'm not profiting from--I'm not going to make a dollar off of it, I'm just going to pass that tax on--and now I'm going to potentially sell less product in an environment where my costs are higher, net is I'm going to make less money. [LB59]

SENATOR LOUDEN: Okay, I was just curious because we get back to when you say they can't afford...put a half cent on there and they can't afford to drink it but yet they can sell it for four or five bucks for a little glass full of it, so I mean, I have a problem with reconciling all of that together, I guess. But if you think that you're taxed to the utmost,

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I'll believe you at that. [LB59]

JOHN FORDHAM: Thanks. [LB59]

SENATOR LOUDEN: Thank you. [LB59]

SENATOR DIERKS: Other questions? I think not, John, thanks so much. [LB59]

JOHN FORDHAM: Yes, sir, thank you. [LB59]

SENATOR DIERKS: Further opponents, please. [LB59]

LEZLIE MAGUIRE: Good afternoon. I'm Lezlie Maguire, L-e-z-l-i-e M-a-g-u-i-r-e. I'm with the retailer Cubby's, out of Omaha, and I'm here as a member of the Nebraska Petroleum Marketers. As he just... [LB59]

SENATOR DIERKS: Pardon me, could you get a little closer to the mike and tell us your name and spell it again? We couldn't hear you. [LB59]

LEZLIE MAGUIRE: Lezlie, L-e-z-l-i-e; Maguire, M-a-g-u-i-r-e. [LB59]

SENATOR DIERKS: Maguire, thank you. [LB59]

LEZLIE MAGUIRE: Sure. I work for Cubby's and I'm a member of the Nebraska Petroleum Marketers Association. As stated before, we feel that another tax to our customers that they cannot afford it. It's rough times for our customers and everyone. It's just another thing to send Nebraskans over the river for. They already have, like, the Iowa motor tax, casinos, and now, if this goes through, maybe beer. We're already uncompetitive with these current taxes and the current beer tax is, as shown before, it's already high enough. As a retailer, we would prefer not to see the tax increase. [LB59]

SENATOR DIERKS: Thank you. Are there questions for Ms. Maguire? I guess not; thank you very much for coming. [LB59]

KATHY SIEFKEN: Senator Dierks and members of the committee, my name is Kathy Siefken, S-i-e-f-k-e-n. I am the executive director and lobbyist for the Nebraska Grocery Industry Association, here in opposition to this bill. And we are opposed to any kind of a tax increase, regardless of the size. We do pass those costs on to consumers and the consumers' cost has risen. And it's just one more in a long line of cost increases that, in poor economic times it's just too tough on citizens to step up and pay more taxes. And when the taxes get higher what it means to us is that they're buying less milk. and frankly, we'd rather they bought more milk. If you have any questions, I'd be happy to try and answer. [LB59]

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SENATOR DIERKS: Thanks, Kathy. Questions for Kathy? Thank you. [LB59]

KATHY SIEFKEN: Thank you. [LB59]

SENATOR DIERKS: More opposition, please. I think I should phrase that a little bit different. Let's say, anyone else in opposition? [LB59]

PATRICK VONDRA: (Exhibit 3) Good afternoon, Senators. My name is Patrick Vondra, V-o-n-d-r-a. I'm here in opposition of LB59. My family and I own the Clancy's Pub restaurants, along with a few other bars and lounges in Omaha. LB59 is a good idea. I like the idea of more safety. I have a family; I have a wife, I have children, I strongly support the cause. The way of funding this, of course, is always under attack. It seems like it's an easy cop-out to always go for the liquor, tobacco industry just because of, as it used to be called, a sin tax. Bars and restaurants in Omaha, Nebraska--more bars and restaurants per capita than anywhere else in the country. Competition is very fierce right now; it's very stiff. There are lots of bars and restaurants closing every day in the Omaha area. This tough competition means that if we have to pass this even small tax on to our consumers they may choose to go somewhere else. Our costs are a little higher as a bar and restaurant because we run a very reputable company: we offer health insurance to our employees--as a small corporation this is almost unheard of. There are very few bars and restaurants where you can go, in the Omaha area, and get full health benefits. We have about 140 employees. As I handed out earlier, that's our sales for Clancy's east, which is on 72nd and Pacific. In 2008, we paid \$115,000 in sales tax and employee taxes. Also, if you look at those numbers you'll notice in 2008 our family lost money in the restaurant. The restaurant was kept afloat by credit cards, lines of credits, anything else to keep it going through this economic downturn. This downturn won't last forever and we hope to be there in the end when everything shuffles out. We were talking a little bit about sporting events earlier. I agree--it's almost a crime to charge \$5 for a beer at a sporting event but, once again, our margins are not that high. If we can get \$3.50 for a bottle then we're doing pretty well for ourselves. Another reason border states could have lower taxes on their products is most states around us have a 2 a.m. closing time, hence they have more time to sell their products, generating a greater quantity. I'm really in opposition to this. Right now, our economy is so tough we're struggling and I guarantee this would be a hard hit for us, our family, and our businesses. I'll take any questions. [LB59]

SENATOR DIERKS: Thank you, Patrick. Any questions for Mr. Vondra? I guess not. [LB59]

PATRICK VONDRA: Thank you. [LB59]

SENATOR DIERKS: Thanks so much. Anyone else in opposition? Anyone else in



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opposition? Anyone in a neutral position on LB59? Neutral? Well, Senator Louden, would you like to close? Senator Louden waives closing. That ends the hearing on LB59 and we will now go to LB357, Senator Hadley. Whenever you're ready, Galen. [LB59]

SENATOR HADLEY: Senator Cornett, my name is Galen Hadley; that's spelled G-a-l-e-n H-a-d-l-e-y, and I'm lucky enough to represent the people of the 37th District in the Unicameral as their senator. I'm here to introduce LB357. And we hear a lot about equity; we talk about equity in taxes, we talk about equity in employment, we talk about equity in many, many things. And I see LB357 as an equity issue. Right now, the cigarette wholesalers are affixing a stamp to the bottom of every cigarette pack, and that is a state tax stamp. They do this to prove that the taxes have been paid on those cigarettes. They have to pay the state, in advance, for those tax stamps. There will be people coming behind me that go into more detail as to how they actually use stamping machines and such as that. But they are the people that actually affix the tax stamp. They pay in advance, and I think that's important because they're giving...the state is getting its money at the time that the wholesaler receives the cigarettes. The wholesaler cannot sell the cigarettes without the tax stamp on it. I think it's fair that we reimburse the wholesaler for at least its cost of doing business. I don't believe it is in the best interest of the state of Nebraska to ask tax payers, whether it be businesses or citizens, to subsidize state operations. And I think that's what's happening here. There are going to be people behind me that are going to talk about how much it costs them to do this for the state. What this bill does is it increases the discount rate. When they buy the tax stamps, they actually remit the full amount, less a small amount that they receive to cover their cost for affixing the stamps to the cigarettes. My bill would increase the discount rate from 1.85 percent to 3.0 percent. That doesn't sound like a lot; I must say I was surprised about the fiscal note, but the fiscal note is what the fiscal note is. And having sat here for a number of days, I will answer Senator Utter's question before he even gets to ask it. It does have a fiscal note of \$796,500, and this is because the revenue will decrease from the sale of the stamps. And part of this decrease in revenue must be made up by General Fund appropriations, according to the agreements we have with the areas that are listed. But I am here to answer Senator Utter's question that he didn't get a chance to ask, and I want to read you just a little bit of the bill: Upon proof by the Tax Commissioner that he or she can affix such stamps or meter impressions, warehouse and distribute such cigarettes, and collect such revenue at a cost less than any discount allowed to wholesale dealers pursuant to this section, he or she may then proceed to affix the stamp himself or herself after giving the wholesale dealer 60 days' notice. So my point is, yes, there is a cost to this. But what is the cost to this if we, as a state, have to get into the cigarette stamping business, the affixing of the stamps, the storage of cigarettes, the transference of cigarettes to wholesalers; what is that cost? So I would argue that the fiscal note only shows one part of that. A lot of times we talk about fiscal notes as being what-if type of propositions: what if we pass this legislation? What does it cost? What is the impact to the state? What I would argue is that we don't have the fiscal note for the "what if" the state is forced, or given the

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opportunity, to affix these stamps themselves? I hope you will listen to the people that follow me. I think they will give you a convincing argument that it is in the best interest of the state of Nebraska to keep this being done at the wholesale level, and in the best interest of the state of Nebraska to make it an equity issue and not ask wholesalers to absorb costs that are really costs of doing the work of the state of Nebraska. With that I would answer any questions. [LB357]

SENATOR DIERKS: Thank you. Senator Utter. Well, I thought you had a question. (Laughter) [LB357]

SENATOR UTTER: He utterly took care of my question. (Laughter) [LB357]

SENATOR DIERKS: Senator Friend. [LB357]

SENATOR FRIEND: Thank you. Thank you, Senator Dierks. Senator Hadley, so the...thanks for the analysis of the fiscal note too, by the way, because that always helps, I think. The problem is that you're saying there's an unfunded state mandate on wholesalers doing private business. [LB357]

SENATOR HADLEY: Yes, sir. [LB357]

SENATOR FRIEND: You know, you know other instances, probably, already, based on the time that we spend in here, that the state mandates all kinds of things to business. [LB357]

SENATOR HADLEY: Absolutely. [LB357]

SENATOR FRIEND: Can you draw an...I mean, I can draw an analogy and I can give you four or five different examples, but give me the reason that we should say, well, this mandate's a little bit different than some of the others. For example, state banking regulations: I'm sure we cost state charter banks a lot of money with our regulatory imposition. [LB357]

SENATOR HADLEY: Senator Friend... [LB357]

SENATOR FRIEND: Draw a distinction... [LB357]

SENATOR HADLEY: I'll show you...to me, the difference is we have mandates for the banking industry or other industries, and we pass legislation that forces them to do it. And I think the difference is, in this case, is you're going to hear from wholesalers who have the opportunity to say that if I lose money in doing this, I can turn to the state and say, you do it; you perform the service. And I think that's different from some of the other mandates, because I'm not sure the state is in a position to physically perform

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some of the mandates that we're forcing other places to do. [LB357]

SENATOR FRIEND: Okay, we'll talk further, right? I think I know where you're going. [LB357]

SENATOR HADLEY: Okay. [LB357]

SENATOR FRIEND: Thank you. [LB357]

SENATOR DIERKS: Other questions? I think Senator Utter is going to let you go by without it. [LB357]

SENATOR HADLEY: Well, I'm lucky to get out of here after...utterly amazed that it didn't happen. (Laughter) [LB357]

SENATOR DIERKS: Thank you, Senator Hadley. Do you have someone in support of the LB357? Go right ahead, sir. [LB357]

CHAD HENNING: (Exhibit 4) Members of the Revenue Committee, thank you for the opportunity for allowing me to get up in front of you today. My name is Chad Henning, H-e-n-n-i-n-g. I'm representing Cash-Wa Distributing of Kearney, Nebraska. I am the third generation in our company, and I'm here in place of my father, who wasn't able to make it today. Along with my testimony, I also submitted a document to you that shows a short summary with some pictures of Cash-Wa Distributing's stamping procedures. And real quick, I'd like to just run over some of the short history of the cigarette tax collections in Nebraska. Tax collection on cigarettes differ from other excise taxes levied today by the state of Nebraska in that, from the inception, the state chose to have what is known as a stamp placed on the individual packages to indicate that the taxes have been paid on the product. In an effort to simplify the collection process and guarantee the tax was collected, it was decided that the entity that would be responsible for the collection of the tax would be the cigarette wholesaler, as opposed to the retailer or another agency of government. The wholesaler was then required to purchase a state-approved stamping machine, hire labor, dedicate space, and then allocate capital to finance the cost of the stamps and the stamping process, in order to perform the function for the state. A formality for the collection process of the tax revenue was to have the wholesaler purchase stamps from the state of Nebraska with certified funds, and then apply the stamps to each package of cigarettes that was received from the manufacturer for sale to Nebraska retailers. As a result, the wholesaler purchases stamps as far as 7-14 days before the product is sold to a licensed Nebraska retail customer; and in the instance of some smaller wholesalers, that 7-14 days could be much longer. The state of Nebraska's requirement to pay the stamps at the time of purchase with the certified funds differed from most other states. For example, the state of Colorado gives the wholesaler 30 days to pay for the stamps with security being

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cigarette bonds that are purchased by the wholesaler in amounts commensurate with the payable exposure for the state. The state agreed early on that the wholesaler should have a fee for collecting the tax and placing it on the cigarettes. And the remuneration come from in the form of a discount off the value of the stamps, which the wholesaler would then take when he purchased the stamps. The terminology for the fee then became known as the stamping allowance. In the early days, the stamping allowance was set at 5 percent, but then over time it was reduced to the current rate of 1.8 percent. The intent of the stamping allowance was not to create a profit on the tax for the wholesaler, but to reimburse the wholesaler for the function that was provided for the state of Nebraska. The wholesalers understand that the state has the option to provide the function themselves if the wholesaler's unable to do it at somewhere around a break-even basis. In that case, the state would receive the cigarettes from the manufacturer, apply the stamps, inventory the product, and then reship the product to the wholesaler as it was ordered. In 1985, a study was conducted and it was determined that, conservatively, it would cost the state of Nebraska approximately double what it would cost the wholesaler to put the stamp impressions on the cigarettes and get the product to the wholesaler at the same delivered cost. The wholesaler has been able to live with the allowance that has been granted by the state up to a few years ago. A number of things have happened that have substantially increased the cost of stamping relative to the stamping allowances allowed by the state. They are: cigarette consumption decline: sales have decreased by approximately 25 percent in the last 15 years; anticipated consumption decrease: with the SCHIP legislation the Congress just passed, the industry is expecting an 8-10 percent decline in cigarette consumption in the next 12 months; labor costs: the cost of labor for the wholesalers have doubled in the last seven years; equipment cost: the cost of the machine to apply the impressions has increased from \$7,500 to \$75,000 in the last ten years, and today you can pay up to \$250,000 for one of the top-of-the-line machines, and most wholesalers are forced to lease older, inefficient machines that they cannot afford, because they cannot afford the newer models; and manufacturers today will no longer accept returns of cigarettes from the wholesaler: when stale products are returned to the wholesaler, the only process for receiving credit for the tax has been...that's been paid on the cigarettes that are stale, is through a process of returning cigarettes to the manufacturer who provides affidavits to the state, who in turn would credit the wholesaler on future purchases of stamps. Nebraska has 40 licensed distributors, 19 of which are Nebraska companies. The Nebraska Association of Tobacco and Candy Distributors believe that as many as 31 of the companies that are stamping cigarettes for Nebraska, which include 12 companies that domicile outside Nebraska, are realizing losses on the stamping process which are as great as 70 percent of the discount revenue that they're receiving from the state when they purchase the stamps. With a depressed economy and sales promising to shrink once the federal excise tax increases in April, we believe the losses will further increase, and that is the primary reason for asking for the discount of 3 percent. This concludes my remarks, and I will try to answer any questions you might have for me. [LB357]

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SENATOR DIERKS: Thank you, Chad. Questions for Mr. Henning? I guess not, thank you very much. [LB357]

CHAD HENNING: Thank you. [LB357]

SENATOR DIERKS: Next proponent, please. Go ahead, sir. [LB357]

WALLY SMOLINSKI: (Exhibit 5) Good afternoon, everyone. My name is Wally Smolinski; last name is spelled S-m-o-l-i-n-s-k-i. I am the division sales manager for AMCON Distributing. I'm here in favor of LB357. My first job, believe it or not, 29 years ago--I've been in the business 29 years--was to actually stamp cigarettes, so I kind of have some idea of what goes on when stamping cigarettes and what you have to deal with. And of course the equipment we use nowadays is just a little bit better than when I first started. We're here today to discuss increasing the current stamping allowance from 1.8 to 3 percent. Chad touched a little bit on the fact that this law was originated quite a while back to help offset the extensive labor cost involved in stamping the cigarettes. Since we serve as the collection arm for the state on all cigarette taxes affixed to the cigarettes, the state decided many years ago to give an allowance to each wholesaler that stamps cigarettes in Nebraska. The interesting fact is, of course, you've heard that, that all the cigarette taxes are paid to the state before we ever sell one carton of cigarettes, and prior to even receiving the stamps. So the state is guaranteed its money in advance, but the wholesalers did not collect the money--sometimes for days, sometimes for weeks; and something that's happening more and more often in our industry, sometimes we don't get our money at all. We do not have any laws in place to protect ourselves from people not paying their bills like some of the other industries, such as the liquor, so a common thing--just like the rest of the people in our economy these days--the convenience store operators and smoke shops are struggling as well, so it's not uncommon for them not to pay a wholesaler at all, lock the door, take the money, take the cigarettes, and disappear. At that point, we have a few options. That is to either turn them over to a collection, try to sue them, or to actually try to go back and get the product from them. None of those options are healthy, and none of them are even safe, and obviously, when you turn someone over to collection, your chances of even getting half your money are slim and none. There are two things that you might think we could do to help offset it, but one would be to go to a cash business. But even with reduced terms, our customers don't always pay their bill. Collecting the money is often difficult and many times impossible. This kind of scenario happens more and more every day. We are in a very low margin business with very high risks, and much of that risk is due to the percentage of tax that's added to the cigarette cost. Come April 1, every carton of cigarettes...once this federal tax is added, which is \$6.20 a carton, to help pay for the children's health bill...every carton of cigarettes, if you combine the federal tax, the state taxes, and the master settlement--which was Philip Morris and R.J. Reynold lawsuits that they had to pay in--each carton will have over \$20

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worth of taxes tied to it. The other option you're thinking of: cash is not a wise option for us. It's not safe for our employees. If you can imagine the risk of one of our drivers with tens of thousands of dollars in the cab of a truck; that might be a tough secret to keep from someone who's willing to do harm to them. The bottom line is that we take all the risk for collection of these taxes, sheltering the state from that risk. I wanted to take just a few minutes or a few seconds to talk about the stamping part of it--I actually had brought a roll of stamps to show you. Each week we come down to Lincoln to a Department of Revenue with a check for roughly \$188,000 to purchase the stamps we use for that week; that's just for a week. Last year, AMCON affixed 10 million Nebraska stamps, totalling roughly \$7 million worth of stamps, or taxes, that we collected, and we were just one of many wholesalers, as Chad mentioned, that stamp cigarettes in Nebraska. A roll of stamps is worth \$19,200. There's 30,000 stamps per roll and they're 64 cents per stamp. Next I wanted to talk a little bit about the equipment costs. I have some pictures of the equipment that we use. The equipment that we use to stamp the cigarettes in our industry, honestly, it's actually only become remotely efficient in the last 5-10 years. I realize that is our problem, but it is something we do for you. We purchased one of the better systems in the last few years called MEYERCORD; it's a V11.10 with a boxer, which you see in these pictures. The final cost of that equipment...most of this equipment comes with a...cost a pretty penny. This piece of machinery that you'll see cost us over \$80,000 to purchase, plus the annual maintenance fees, the parts, and supplies. Hand stamping: I actually had some other...I guess props are not legal to bring anymore to these meetings; I had a hot iron stamp I wanted to show you. Hand stamping is by far the biggest nightmare of stamping cigarettes. There's no automated way to do hand stamps. The reason we have to hand stamp the cigarettes is that our industry decided a few years ago that everyone needed to have a bigger cigarette, a wider cigarette; these cigarettes do not fit in the stamping equipment. It's by far the most labor-intensive process still remaining in the stamping process. I have a picture of what it takes to hand stamp. This is actually one of our hand stampers using the hot iron to put the stamps on. The hand stamping cigarettes really probably represent 5-7 percent of the business we do, but with an automated stamping system, in the course of one night you could stamp up to 20,000 cartons of cigarettes. It's a pretty smooth flowing process. You load them on, it stamps the cigarettes, it glues them, it sends them back to the boxers. When you're hand stamping cigarettes, you literally have to take the product off the shelf, set it on a table just like this, you take this little iron that you see, you take the little sheet of stamps, and you sit there and iron the stamps onto the cigarettes. And it would be comparable to trying to iron a T-shirt that might fit the size of a mouse. So it's a nightmare. There's no way to improve that system, and we're lucky to stamp 75 cartons an hour when you're hand stamping. Obviously, the wholesalers in this room choose to be in this business; we enjoy this business, but. Our business is more than cigarettes, but they still represent 70 percent of our annual business. And all businesses pay taxes, but the difference is that our business...we have additional risks and costs associated with the tax. We're just asking that you consider helping offset some of these costs. Thanks. [LB357]

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SENATOR DIERKS: Thank you, Wally. Questions for Mr. Smolinski? I guess not. Next proponent, please. [LB357]

WALLY SMOLINSKI: Thank you. [LB357]

SENATOR DIERKS: You bet. [LB357]

KATHY SIEFKEN: Senator Dierks and members of the committee, my name is Kathy Siefken, S-i-e-f-k-e-n, representing the Nebraska Grocery Industry Association. And every one of our wholesalers distributes tobacco products to our grocery stores. And with SCHIP coming, there's going to be additional taxes; there will be additional labor. These guys are having a tough time, some of the smaller ones. And I'm usually here representing the smaller retailers or the smaller wholesalers because we, sometimes, are the only voice that those people have, along with consumers. And the point is when costs go up, when taxes go up, when state is requiring our members to perform functions and not even reimbursing them enough to cover their costs, it doesn't seem right. And so we're asking you to consider increasing the collection fee so that these guys can stay in business; so that they can continue to provide jobs to people across the state; and so that they can remain competitive, and then life is good. If you have any questions, I'm happy to try to answer them. [LB357]

SENATOR DIERKS: Thanks, Kathy. Questions? Senator Louden. [LB357]

SENATOR LOUDEN: You were getting 1.85 cents, hundredths of a cent, I guess; a little over one and three-quarter cents per pack to do that. Is that what that is, right? Or you get that much of your total gross taxes that you collect? [LB357]

KATHY SIEFKEN: Ted is going to follow me, and he can answer the specific questions about what they collect and the percentages. [LB357]

SENATOR LOUDEN: Okay, then can you tell me how much you get for a pack of cigarettes in grocery stores? [LB357]

KATHY SIEFKEN: It depends. We have minimum markup, and so we increase the cost that we get from the manufacturers by 4 percent, so. And that's the minimum, so there isn't a set price in every store. There are varying prices across the state. [LB357]

SENATOR LOUDEN: Okay. [LB357]

KATHY SIEFKEN: It's a competitive price based on where you're located. So if you are close to a state that has a higher tax...I'm sorry, a lower tax, your margins are going to be lower, because you have to try to compete. [LB357]

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SENATOR LOUDEN: In other words, you're telling me you charge whatever the market will bear, huh? [LB357]

KATHY SIEFKEN: Yeah, and that cuts into margins. And then, again, you get to a point where, are you competitive or not? You know, before we saw the increases in tobacco taxes over in Iowa...and we've been before you before and talked about this where when the taxes in another state are higher, then the border bleed goes to the lower tax state. It's just the way it works. [LB357]

SENATOR LOUDEN: I was just trying to figure out how much money you're...it's costing you to do that business with, but yet how much does it cost you if someone comes in with a credit card and buys the cigarettes; then do you lose...are your margins that close you don't make anything if they buy with a credit card? [LB357]

KATHY SIEFKEN: On some products, yes. [LB357]

SENATOR LOUDEN: But yet you'll sell them to someone that buys them with a credit card, or do you refuse credit card sales? [LB357]

KATHY SIEFKEN: The credit card people have a special arrangement where we have to sign contracts...and this is a little bit off the subject, but we have to sign a contract in order to take credit cards, and that contract says that we cannot turn down a transaction. If we accept credit cards, we have to take every credit card that comes through the door, regardless of what the interchange fee is. And that interchange fee can be as high as 5 percent, if it's say, like a Cabela's card, or it can be as low as 1.5 percent of the total purchase if it is a...well, like something through Westgate Bank. [LB357]

SENATOR LOUDEN: Okay, thank you. [LB357]

KATHY SIEFKEN: You're welcome. [LB357]

SENATOR DIERKS: Other questions for Kathy? Guess not; thanks, Kathy. [LB357]

KATHY SIEFKEN: Thank you. [LB357]

SENATOR DIERKS: Next proponent, please. Go right ahead, sir. [LB357]

TED STESSMAN: (Exhibit 6, 7) Good afternoon. My name is Ted Stessman, T-e-d S-t-e-s-s-m-a-n. I work for Farner-Bocken Company; I'm out of Omaha, Nebraska. And I also am the chairman of the Nebraska Candy and Tobacco Association. And I would like to make a few comments before I get started here. There's a couple of wholesalers



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that had planned to testify today, Hadley Braithwait out of Columbus, and also C.T. Jewell out of McCook, Nebraska; and they aren't here today. And frankly, that's the reason why I am, because Farner-Bocken is not one of the wholesalers that's losing money by stamping cigarettes, being completely honest with you on that. And to answer your question, a carton of cigarettes...we get 11 cents to stamp it now, and we would be getting...11.5 now, and it would go to 19.2 cents if it goes to 3 percent--I should say back to 3 percent. And the reason I mentioned...there are probably five wholesalers in the state that can look you in the eye and say, we make money stamping cigarettes, but the problem is--and this should be alarming to everybody in this room--that there's 19 Nebraska wholesalers that aren't making money; 31 total, but 19 small wholesalers or midsize wholesalers in the state of Nebraska. And there is a handout...I didn't hand it out, did that get handed out?...where there's a stamping allowance analysis from several of our members which states all their costs and what they're losing by stamping the product. I also want to address one of the first questions that came out, and that has to do with the revenue, the fiscal note, that there would be \$709,000 lost in revenue here. And I can't tell you with any certainty what's going to happen there; I can only give you estimates, best, based on my best knowledge. This federal excise tax, which we rigorously (sic) fought against, that is going to come to fruition on April 1...based on the state's projected cigarettes sold in 2009 will generate an additional \$3,400,000 in sales tax revenue on cigarettes alone. Other tobacco products...actually, cigarettes are going up \$6.20 a carton, and I've been in the purchasing end of this for a while, and before the first tax-dollar one gets put on a cigarette, I could actually buy cigarettes for \$6.50. So as Wally had mentioned earlier, \$20 in the state of Nebraska goes to taxation first. And you know what? We applaud the state of Nebraska in the fact that they're fair, because we do business in ten states, you know, and I could tell you, or get you the information on what the tax rates are in the other states around us, and some are less and some are more; some are much more. But Nebraska is fair, and we appreciate this now and we've appreciated it in the past. In fact, five years ago when our stamping allowance went from 3 percent to 1.8, we were asked to come back in in five years and let you know how we were doing. And that, quite frankly, is why we're here. We understand that the state's financial situation, although better than most of the states that we do business in...you're not looking to give money away. It's very concerning for me personally, having been in this business close to 25 years, to look at the risk and the rewards of doing business in the tobacco/candy business. I mean, we probably carry 30...or 300 items that are tobacco-related, and another 11,000-12,000 products that aren't. And quite frankly, for some wholesalers, if they didn't get into another mix of business, they certainly wouldn't make it on tobacco alone. We've been a good partner of the state. Although we're an Iowa-based company, we have employed...we now employ about 80 people in the state of Nebraska. We're in Omaha, Lincoln, Grand Island, Kearney, Wakefield, South Sioux City...of the areas that I know. We have an office and cross docks facilities in South Sioux City and Omaha, Nebraska. We purchase and maintain over 40 trucks; we have warehouse space. The cost of doing business has dramatically changed, and because of that it's getting harder and harder

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for us to absorb these costs, and that's why we're here, you know. And as I said before, I'm not here just in Farner-Bocken's behalf, I'm looking at the Hadley Braithwaits; I'm looking at the C.T. Jewells; the Allied. These people have been going to state association meetings with me for the past 25 years and, quite frankly, they're not here today because they need to be running their businesses. They're the ones stamping the cigarettes; they're the ones making deliveries on trucks; they're the ones filling orders, and they just can't run their business and be in Lincoln at the same time. There is a definite need for a small wholesaler out there. The Farner-Bockens of the world are not going to take care of every small community that's out there; they're just not going to do it. It's not in our business model. That's where the small wholesalers come in. They need to make money; they're not making money if their stamping costs are outweighing what they receive in stamping allowance. And in some states...and I know the stamping allowance throughout the country, and there's only three states that don't give a stamping allowance and one is North Dakota. In North Dakota they don't have to put a stamp on there at all. Which in itself, I'm very surprised by. because that...with the different tax rates around the country it's very important that the product have some kind of insignia, and that's what that stamp is--to let the people in the state know that their product isn't getting sold somewhere where it isn't supposed to. I mean, you know what? Cigarettes bought in Nebraska going interstate and that could be a problem without the specific state tax stamps. We, however, do believe as prices rise that you will see more of a criminal element, and that's another reason to protect your wholesalers that are doing business honestly and ethically in the state. We're not asking you to make us wealthy. You know, last AWA (Phonetic) meeting of wholesalers that I was at...we're now to where wholesalers in our type of business make less than 1 percent of our sales, so we're not getting rich on you. We just feel that the state has been fair and reasonable with us in the past, and that's all we're asking for in this time; and hopefully you will consider this increase in the stamping allowance. And I'm here to answer any questions that you might have. [LB357]

SENATOR DIERKS: Thank you, Ted. Questions? I think not. Thank you very much. Are there more proponents? Anyone else in support? Is there opposition to LB357? Anyone in opposition? Does anyone want to testify in a neutral position on LB357? Well, that will close...do you want to close? [LB357]

SENATOR HADLEY: I'll waive my closing. [LB357]

SENATOR DIERKS: Okay, Senator Hadley waives closing, and that will bring us to the next...I'll close the hearing on LB357 and now we'll go to LB67; Senator Friend. [LB357]

SENATOR CORNETT: May I see a show of hands of how many people are here to testify for LB67. Okay. Due to the number of testifiers, we are limiting testimony to three minutes. Legal counsel will hold up her hand when we reach the three minutes. At that point, you need to wrap up your testimony. Thank you. Senator Friend, you are

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recognized to open. [LB67]

SENATOR FRIEND: (Exhibit 8, 9) Madam Chair, Vice Chair Dierks, members of the Revenue Committee, my name is Mike Friend; last name is spelled F-r-i-e-n-d. I represent northwest Omaha, District 10 in Nebraska Legislature. LB67 would create a state tax credit program for charitable contributions to qualified scholarship tuition organizations or, and I'll call them by their acronym from here on in, STOs. These STO programs would provide scholarships to lower-income children to attend the private school of their choice in the state of Nebraska. Nebraska Elementary and Secondary Educational Opportunities Tax Credit Program is what the title is. This would provide what we believe would be a powerful incentive for companies and individuals to donate to charitable scholarship programs in the state that serves lower-income families with children in the grades K-12. Donors would receive a full credit against their state tax liability, state income tax liabilities, based on their donations to these scholarship programs. In a lot of ways it's a very modest tax credit program that would generate significant increases in private funds donated to help low-income families find and take advantage of new educational opportunities. How this would work is that individuals and corporations who contribute to a qualified scholarship program would be able to deduct 100 percent of the amount of that donation from their state tax liability. STOs would establish their own eligibility rules, application procedures, and scholarship amounts within the income limits and other administrative rules within this legislation. The State Department of Revenue would establish procedures for reporting and monitoring participation in the program, as well as tax credit application processes for private donors to those STOs. The program is designed to provide, as I had mentioned before, a powerful incentive for charitable donations. The program's \$3 million statewide cap would allow for \$3 million in total private contributions to the STOs; \$1,000 average per student scholarships across all STOs; and the potential for 2,700 scholarships per year. Some of the components...a tax credit on state tax liabilities equal to 100 percent of the donation to a qualifying STO; I mentioned the \$3 million statewide cap. The STOs must be nonprofit, IRS 501(c)(3) charitable scholarship organizations. The scholarship eligibility extends to families with annual income below the federal HHS poverty rate. An STO can establish, like I said earlier, it's own guidelines. The STOs must contribute at least 90 percent of their annual tax credit donations to scholarships; the balance would be for administrative and outreach costs. Members of the committee, this...I want to be clear about something. You know what, I've been here for a while now, and I know the difference between a voucher, an exemption, a tax cut, a tax credit...this isn't a voucher. It's a credit program that I think aligns us with some of the equity that we seem to be talking about on a weekly basis now. Let me explain real quick. There's a squeeze right now on private schools; not just in this state, I think nationwide. There's a squeeze on everyone. The economy's in a weird place right now. But the bottom line is, we've got private schools that are getting squeezed. There's a potential for student loss in those private schools, and that would be natural. These folks...they pay tuition to get their kids into these schools. Some of the tuition is high, some of it's nominal, some of it's low; but

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it's always a squeeze when the economy gets strange. I would submit to you that I think public schools could be affected by this squeeze, and affected adversely. Especially if property tax is affected. If you have a 2 percent student loss at these private schools...we have some 45,000 students in the state that attend private schools, accredited private schools. You have a 2 percent loss, those public schools are going to absorb that loss; they're going to take it. And they're constitutionally and statutorily mandated to do so. That's going to affect one of two things: their property tax or the rate of state aid that they receive, or the amount of state aid they receive. Now some would say, well, that's good--they're going to get more state aid. The problem is, it's going to...I think it can be argued and submitted that it can put a pressure on their property tax. Now I think that an idea like this, fairly creative, not only would strengthen...the public schools have a vested interest in seeing private schools operate in a strong manner in the state, for a couple of reasons. One is just because they can't absorb...forget the 2 percent loss, let's talk about a 5 or 6 percent loss; the public schools can't absorb that. I think that would be very difficult. State aid comes from the General Fund, and it's not a bottomless well. We can't just keep dipping into it. Eventually it's going to catch up with us. So that, and the other standpoint is, I think that we're talking about from a competitive standpoint. We have strong, very decent public schools in this state; we're lucky. We have decent private schools in the state, too, but they benefit from each other's competition. And I think both of them benefit from each other's existence. So with that said, I think these are credits to provide incentive off of our income tax. Incentives aren't always a bad thing. I think those incentives could provide a tax shift. When those incentives are incurred, I think you're talking about sales gains; I think you're talking about capital gains; I think you're talking about research and development gains; and I think you're talking about gross domestic product gains; and increasing GDP. I'll close here. I can tell you that I've got four children; I've got children in the public schools in Omaha, and I've got children in private schools in Omaha. And I feel blessed because all of them are in fine institutions. But I think this is a creative idea. I think it's a creative approach. Now, I saw the fiscal note; you all did too. There is a reality that we're living with, and everybody that comes up here and sits here has to talk about it. But I also think there's room for discussion in regard to legislation like this. One more quick thing: I do have an amendment. Let me explain it really fast. I also have a handout that kind of has some frequently asked questions on it that could help the committee a bit. But the amendment...the first part of the amendment, really quickly, is to more accurately identify poverty guidelines. We were a little worried about that with the bill. Also to make compliance and accreditation, or approval requirements the applicable standard for a qualified school, in order to connect it to more specifically to the regulations prescribed by the State Board of Education. Mostly so that all aspects of those regulations, including, but not limited to, the school term requirements and teacher certification are incorporated into the definition of a qualified school. Also, to avoid redundancy, enhance, and provide clarity; we think that this amendment makes the bill a little bit clearer. So that's the thought process here. I will pass that out. Finally, I said this last year, I think Senator Adams has probably heard this spiel before: I'm a

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product of the Omaha parochial school system; the Omaha Public Schools; the Millard Public Schools; the St. Paul, Minnesota private school system, parochial school system; the St. Paul, Minnesota Public School system. I'm coming at it from just about every angle you can imagine. And I think this is pretty creative. I'll just leave it at that. I'd be happy to answer any questions. I know there are plenty of folks behind me that want to speak, as Senator Cornett pointed out. [LB67]

SENATOR CORNETT: Thank you. [LB67]

SENATOR DIERKS: Thank you, Mike. Questions? I guess not for now. [LB67]

SENATOR FRIEND: Thanks. [LB67]

SENATOR DIERKS: First proponent, please. Go ahead. [LB67]

BISHOP WILLIAM J. DENDINGER: (Exhibit 10) Good afternoon. I'm Bishop William J. Dendinger of the Roman Catholic Diocese of Grand Island, Nebraska. Dendinger is spelled D-e-n-d-i-n-g-e-r. Thank you for the opportunity to be a proponent for LB67, the Elementary and Secondary Education Opportunity Tax Credit Program. I am delighted to be a proponent of LB67 for several reasons. Faith-based schools and private schools in the state of Nebraska are a tremendous asset for all the people of Nebraska. It is in the best interest of the state to protect the continuation and development of these schools as a state asset. In simple terms, these schools are worth at least \$250 million to \$350 million annually for the state tax payers. Given the present economic climate and the future maintenance and development of these schools, I and many others are very concerned about the financing. In the Grand Island diocese we have six grade schools and four high schools. There are more than 1,000 students and 100 teachers in these schools. The diocese covers over 36 counties with more than 44,000 square miles. Presently, we rely on tuition, parish support, and endowment funds to run these schools. However, these three legs of support are stretched beyond limits now. Realistically, our only response can be to rely more and more on tuition, and thus limit the opportunities for parents to choose these schools. A scholarship tax credit program would allow us to reach out more to the low-income and even middle-income parents; and not just the few who can afford massive tuition increases. Our enrollment would certainly be sustained and increased with greater availability of tuition assistance for these middle- and lower-income parents; a real advantage to the state and to tax payers. A fourth leg of funding is critical to keep the other three legs in proportion. LB67 calls for a cap of \$3 million. This amount would be small compared to the cost for assuming the education of more than 38,000 or more elementary and secondary students in the state of Nebraska. We're not asking the state to assume financial responsibility for all the funding required for these schools. However, we cannot guarantee the long-range survival of all these schools without tuition assistance for parents in the middle- and lower-income range. We're very proud of the faith-based and

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private schools in Nebraska. They produce some of the finest graduates and future citizens of Nebraska. It would be a tremendous loss for the state if we could not maintain and further develop these schools for the good of the state and the financial advantage provided to tax payers. Thank you for this opportunity, and I and other proponents will be happy to answer any of your questions. [LB67]

SENATOR DIERKS: Thank you, your excellency. Any questions for the Bishop? I guess not now. Thank you very much. [LB67]

BISHOP WILLIAM J. DENDINGER: Thank you. [LB67]

JAMES STOLZE: (Exhibit 11) Good afternoon, Senator Cornett, senators of the Revenue Committee. Appreciate being here, the opportunity. My name is Jim Stolze, S-t-o-l-z-e. I am on the Archdiocesan School Board; I am on the board of St. Matthew School in Bellevue; and I'm here representing the Nebraska Federation of Catholic School Parents. The recent increases of state aid to public schools has put an extra burden on private schools. We're not complaining about the additional state aid, but only that we would like a small fraction of that amount to help parents struggling to send their children to private schools. Especially when they're not happy with what might be the only public school that's offered to them. Some will say, where is the money coming from to pay for this bill? But I guess I would ask the question, where is the money coming from to pay for the additional students each year that migrate from private to public schools, which is continuing to be a burden on state and local property taxes. Some may also claim this bill hurts public education when, in fact, this bill has no impact on state aid formula, thus rendering this argument invalid. If I could pass out a spreadsheet here...and Senator, I'm sorry, if I exceed my three minutes, is it possible that one of our other testifiers will not testify? Because I really think this is very important. We have several others that will forgo that. [LB67]

SENATOR CORNETT: That's fine. [LB67]

JAMES STOLZE: Okay. What you have in front of you is a very basic public/private school analysis. At the top of the spreadsheet, the year 2000, if you look at the public and private school attendees, private schools represented a market share of 13.19 percent. Seven years later, this has fallen to 11.76 percent, so another 4,717 students have been entered into the public system, based upon that rationale. Now if you take the approximate cost per student that the state pays: just simply taking the state obligation and divide that by the number of students, this is costing the state about \$3,000 per year. So the total additional state cost over the past seven years, from this leakage of private schools into public schools, is an additional \$14 million. Now let's take this 15 years further. If you look at the same market share, basically the same attrition rate of the private schools, and the same growth rate of the public schools, there will be over 8,000 more students into the public schools at that time. If you

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assume a 4 percent growth rate to the state obligation, that's going to cost the state over \$47 million. And some say that my numbers here are very, very conservative. Where is that money going to come from? Not to mention the additional property taxes. This state cannot afford the status quo, which is increasing state and local property taxes supporting more and more private school students coming into the public system, with many of these schools already overcrowded. A small investment by the state can help turn this detrimental trend around, providing more choice to parents while decreasing the state aid and local government financial obligation to education. And given the well-respected nature and solid test scores of private schools, this will benefit the state with better students in an improved business climate, as we produce a higher level of graduates. Increased competition will significantly help our public school systems improve. Conversely, decreased competition will cause the opposite effect. I urge you to pass this legislation. Six other states have passed tax credit legislations that have experienced great success with a similar program. The benefits are significant and the cost is low. If there are specific issues the Revenue Committee has, we would love to address them with you and work with you as cooperatively as we possibly can. And I thank you for your time. If there's any questions, I'll be happy to answer them. [LB67]

SENATOR DIERKS: Thank you, Mr. Stolze. Any questions? Senator Hadley. [LB67]

SENATOR HADLEY: Senator Dierks, Mr. Stolze. In the handout, frequently asked questions, it's...I'll quote, it says: Vouchers provide a parent with public funding to pay private school tuition or a transfer fee. And it says that this is different than a voucher system. [LB67]

JAMES STOLZE: Um-hum. [LB67]

SENATOR HADLEY: But I kind of ran the numbers, and you're giving a dollar-for-dollar credit up to \$5,000. [LB67]

JAMES STOLZE: That is correct. [LB67]

SENATOR HADLEY: A person, if they're in the 30 percent federal tax bracket, they get an itemized deduction of 30 cents for that dollar that they've donated. If they're in the 6 percent marginal tax bracket in the state, they're getting a 6 cent credit or itemization that lowers their tax. So the person who's making the donation is getting back from the state \$1.00 for every dollar they donate up to \$5,000...or a couple. [LB67]

JAMES STOLZE: Couple. [LB67]

SENATOR HADLEY: They're getting \$1.36 back from the state. So effectively, the state is paying for this. The individual people are not paying for it, right? [LB67]

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JAMES STOLZE: Well, sir, I'm just up here on behalf of the Nebraska Federation of Catholic School Parents. I can't answer that type of a technical question. If there are issues you... [LB67]

SENATOR HADLEY: I guess it isn't a technical question. The tax deduction for a person donating \$5,000 to this program...they're getting \$6,800 back from a government agency. If...I mean, I don't think it's a technical question; that's just the way the tax laws work. And so, basically, the person making a \$5,000 contribution is not out of their pocket at all. In fact, they're going to have--at the end of the year--they're going to have \$1,600 more in their pocket by making the \$5,000 deduction. Because you're getting a dollar-for-dollar deduction credit for every dollar that you donate, up to \$5,000. I...you know, you may not be able to...okay. [LB67]

JAMES STOLZE: I can't answer that because I don't know an individual's tax circumstances. [LB67]

SENATOR HADLEY: But I think that's a very important part of this discussion. When you're getting 100 percent credit for the donation, I think that's an important part of this discussion. [LB67]

JAMES STOLZE: Senator. [LB67]

SENATOR DIERKS: Senator Cornett. [LB67]

SENATOR CORNETT: I was just going to say you can donate up to \$1,000 per year. [LB67]

SENATOR HADLEY: \$5,000. [LB67]

SENATOR CORNETT: As a credit; a credit. [LB67]

SENATOR HADLEY: You've got \$2,500 a person, \$5,000 a couple, as a credit. It is also deductible as an itemized deduction as a charitable 501(c)(3) contribution. Assuming you're in the 30 percent marginal tax bracket for federal, 6 percent for state, it means you get \$6,800 back in your pocket at the end of the year for making a \$5,000 contribution. [LB67]

SENATOR DIERKS: Senator Adams. [LB67]

SENATOR ADAMS: As I look at your public/private school analysis, I'm curious about something. As you move from year 2000-2007, it shows private numbers dropping by 4,717--is that correct? Am I reading that right? [LB67]



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JAMES STOLZE: The market share. In other words, the market share... [LB67]

SENATOR ADAMS: I'm looking at total number of students. So you see, in the private school there's...in the year 2000 there's 43,000... [LB67]

JAMES STOLZE: No. I'm sorry, but what I'm saying is that had the market share remained at 13.19 percent... [LB67]

SENATOR ADAMS: Um-hum. [LB67]

JAMES STOLZE: ...there would have been 4,717 more private school students. [LB67]

SENATOR ADAMS: Why did the market share drop? [LB67]

JAMES STOLZE: Well, because families are having a very difficult time affording private education. [LB67]

SENATOR ADAMS: That could be one factor... [LB67]

JAMES STOLZE: Absolutely. [LB67]

SENATOR ADAMS: ...but not necessarily the only factor. [LB67]

JAMES STOLZE: My experience, after serving nine years on our staff and school board, is the main factor of the attrition rate of our schools has been economics. [LB67]

SENATOR ADAMS: Okay, the main factor, but not the only factor. [LB67]

JAMES STOLZE: The vast majority, yes. [LB67]

SENATOR ADAMS: I don't have any other questions. [LB67]

SENATOR DIERKS: Anybody else have questions for Mr. Stolze? I think not. Thank you, sir. [LB67]

JAMES STOLZE: Thank you. [LB67]

SENATOR DIERKS: Next proponent, please. [LB67]

SHERI ROBERTSON: Hello, my name is Sheri Robertson. It's R-o-b-e-r-t-s-o-n. And I am here today...I live here in Lincoln; I'm here today as an individual citizen. I serve on the local Workforce Investment Board, and as part of the Workforce Investment Board we have a youth council. It's a committee of the board which reports to the board, and I

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serve as an officer on that youth committee. And one of the goals of the youth committee is to assist and prevent at-risk youth from dropping out of school. Statistically, at-risk youth do not come from optimum family situations. A lot of times they have some negative factors--many negative factors--working against them. And by creating this opportunity for scholarships to private schools, you may be opening the door to someone that may have never dreamed of attending a private school. And often a less fortunate child will be bullied for not having the latest fashions and things like that. Well, you know, immediately that is taken out of their environment due to uniforms in the private schools. And it creates a better learning environment, a better learning opportunity for that person, for that child. Just because that one factor is removed. And I believe that, in my view, this is an excellent opportunity to help struggling families which can often be minority families. It's a chance to increase diversity in Nebraska's private schools, and when considering your support of this bill, think of not only the financial factors but the social factors as well. Thank you for your time. That's all I have. Any questions? [LB67]

SENATOR DIERKS: Thank you, Sheri. Questions for Ms. Robertson? I guess not, thank you very much. [LB67]

SHERI ROBERTSON: Thank you. [LB67]

SENATOR DIERKS: Next proponent, please. Go ahead now. [LB67]

PATTY RICHARD: Good afternoon. My name is Patty Richard, R-i-c-h-a-r-d, and I am a mother of four children who attend a private school. My husband is a small business owner, and we currently have made the decision to send our children to a private school. Like many small businesses and parents, we're affected by economic times. We currently pay twice for school. Our taxes both at the state and local level support public schools. Our tuition supports our private school that we have chosen. The choice saves money for government. LB67 provides an economic opportunity to continue to choose a private school and to help other children and families who are unable to afford school of their choice. [LB67]

SENATOR DIERKS: You're doing just fine. Take a deep breath. (Laughter) Besides, I need to ask you what your first name is, I didn't catch it. [LB67]

PATTY RICHARD: Patty, P-a-t-t-y. [LB67]

SENATOR DIERKS: Thank you. [LB67]

PATTY RICHARD: Nice and easy. I am sure there's other people who are in a better position to discuss details of the bill. All I can do is talk to you as a mother, and I don't work any more, so it's hard to go to a Catholic school--we have four children. And that's,

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you know, it's a big sacrifice that we make and choose to make. And Senator Hadley, to address your question. We pay taxes, and so the credit is just giving back to us what we are actually donating to some other family who maybe isn't fortunate enough to even pay taxes because they can't even make it. And I just wish you could support the bill and help all those children who can't make it to schools because it's just between education and the dentist. So thank you. If you have any questions, I'd be happy to answer them. [LB67]

SENATOR DIERKS: Sure. Anybody have questions for Patty? I think not. Thank you for coming. Next proponent, please. [LB67]

JIM BALLARD: Senator Cornett, Senator Dierks, members of the Revenue Committee. It's a privilege to be able to come up and testify on LB67. My name is Jim Ballard, B-a-l-l-a-r-d from Raymond, Nebraska. And I'm here, I guess, first as a parent of three children who attend Parkview Christian School here in Lincoln, Nebraska; and also as a school board member for Parkview. We've been involved with Parkview a number of years. In fact, our oldest is 17; a junior this year. He's been at Parkview since he was three years old, and we've had numerous nieces and nephews that have been part of the school for a number of years as well. I ask you to support LB67 for a couple of reasons. One is something you've already heard. I guess I'm just amazed that...it's mind-boggling to think of what the cost would be if you take a lot of the kids that are in private schools and they...just from the infrastructure...would go into the public school setting...just the cost that would be incurred by those public schools. Passage of LB67 would potentially create more savings from the state because of that. It would also allow individuals, corporations, others to be more willing to maybe make donations to scholarship funds. As a school board member of a private school, it would be easier for us to seek donations to help children go to school that maybe can't afford it if we could tell those potential donors they would get a tax credit for helping a potential student. Quite frankly, right now, many that give to the school are paying a double tax: they're paying taxes to support the public school while helping more pay tuition for education of children at private schools. And I've seen firsthand the difference that a private school can make in a child's life. There's a lot of kids that come through Parkview Christian that, quite frankly, would be lost in the public school setting. But because of teacher/student ratio, some of the advantages that we have in a private school, they flourished in those private school settings. And many of those kids couldn't or wouldn't be able to afford a private school setting, or tuition, in many cases. And so I guess LB67 will give an opportunity for some of these children that maybe wouldn't get that opportunity, again, to excel in the private school setting. So having said that I'll answer any questions that you might have. [LB67]

SENATOR DIERKS: Thank you, Jim. Questions? Okay, thank you much. [LB67]

JIM BALLARD: Thank you. [LB67]

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SENATOR DIERKS: Next proponent, please. [LB67]

GREG LOGSDON: Good afternoon. My name is Greg Logsdon, L-o-g-s-d-o-n. I am the superintendent of Grand Island Central Catholic School. I have worked in Catholic and independent schools in Nebraska for the past 29 years. I have been involved in trying to help keep Catholic education affordable. One of the things that, as a working administrator in Catholic schools, we talk about making sure that our schools also follow the proper accreditation and teacher certification situations that are mandated by the state of Nebraska. We want to make sure that this committee understands that we fully support the involvement of the state in trying to make sure that Catholic and independent schools are as well governed and use certified teachers as possible. I know that one of the concerns that one of the senators on this committee had was that there may be too much involvement by the state in terms of having this bill pass. And in this case, I think that private schools, Catholic schools, are involved in following all of the proper certification and state accreditation points that way. I just wanted to make that point, and thank you. [LB67]

SENATOR DIERKS: Thank you, Mister...how do you pronounce your last name? [LB67]

GREG LOGSDON: Logsdon. [LB67]

SENATOR DIERKS: Logsdon, thank you. Senator Hadley. [LB67]

SENATOR HADLEY: Thank you... [LB67]

GREG LOGSDON: Yes. [LB67]

SENATOR HADLEY: ...Mr. Logsdon. And I don't know if you're the appropriate one to ask, but obviously when I saw this bill I did a lot of reading and such as that, and how...I guess addressing the separation of church and state; I think that's an issue that we talk a lot about on the national level and such as that. Do we get involved in that, the problems of that separation, when we're giving a tax credit to a specific church-sponsored school, whether it be Catholic, Lutheran, Presbyterian, or whatever it is? [LB67]

GREG LOGSDON: I don't think so. I think since the money is going to run through the Student Tuition Organization, there's still going to be that separation there between...the money does not go...it goes through the organization and then to the school. Parents are the ones who are receiving this tax credit. This is something that families are going to have to apply for and the low-income families that will benefit from this are the ones who are going to get the benefit. It certainly is, in the long run, certainly schools are going to be able to keep their tuition more affordable if we have some help from this

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Student Tuition Organization. [LB67]

SENATOR HADLEY: Well, but would the recipients of the scholarship be chosen by the school or this STO? [LB67]

GREG LOGSDON: The STOs would be the ones involved in making that decision. [LB67]

SENATOR DIERKS: Other questions? I think not. [LB67]

GREG LOGSDON: Thank you very much. [LB67]

SENATOR DIERKS: Thanks, Greg. Next proponent, please. Go right ahead, sir. [LB67]

JAMES W. ROUSE: Yes, I am. Revenue Committee, Senator Dierks; my name is Jim Rouse, R-o-u-s-e. And for me, three minutes is three speeches so I'll make up some time here. I wanted to, first of all, address the issue of the total money back to the tax payer--that there is a cap on the amount of the contribution. So this is not an unlimited credit that would come back, so on the issue of going over the amount given, there will be other taxable items in there, I'm sure. I'm talking, in a couple of areas: from experience as an administrator in Nebraska schools, and in Minnesota, and in Iowa. And I'm speaking today from the precedent experience for this bill in our neighboring state of Iowa. Senator Mike Gronstal has effectively maneuvered the same kind of ideas over there in Iowa. We have the same rationale, structure, and process; they're nearly identical. It's an important resource for our families and in the school system we're in, in particular, 20 percent or 161 students in our school received an average of \$1,200. That's one-fifth of the senior tuition, and about one-third of elementary tuition, and there has been no major difference in enrollment. It has attracted maybe a handful of students, but it helped about 20 percent of our students maintain enrollment by their family being able to afford the tuition. We have one family of six children; their tuition bill this year was \$23,000, plus tax support for students who attend public schools, and they received \$7,200 in CTO support. As Mr. Logsdon said, the process involves the family going through a fair application process. It's a minimum of about three times the poverty level for the student to qualify, so this is not supporting a lot of families with means to send their students to a private school. This is supporting families in having their children have a choice where otherwise they may not. Thank you very much. Any questions? [LB67]

SENATOR DIERKS: Thank you, Jim. Questions? No questions. [LB67]

JAMES W. ROUSE: Okay. [LB67]

SENATOR DIERKS: Thanks for coming. Is there another proponent? [LB67]

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JEREMY MURPHY: (Exhibit 12) Good afternoon, Senator Dierks, members of the committee. My name is Jeremy Murphy, J-e-r-e-m-y M-u-r-p-h-y. I am the associate director for education issues for the Nebraska Catholic Conference, and the Nebraska Catholic Conference is in support of LB67. I'm having the page distribute my written testimony; I won't read that to you. But I guess primarily want to, I guess, give you the opportunity to ask questions if you have any of those. I did want to clarify: Senator Hadley, you had a question about the itemized deduction for charitable contributions and then the equity of an individual being able to also deduct that on their state tax return, without having the Schedule A itemized deduction added back in for state purposes. If the committee would be interested in discussing that, we'd certainly be happy to work with you on that. I know...I think the states that do have STO tax credit programs, I think some of them add that quantity back in before calculating state taxes, and I think some of them don't. So I just wanted to make that clear. [LB67]

SENATOR HADLEY: Well, I appreciate that, because I guess this is a concern of mine when you get to the point that you...that the government can be picking up more than 100 percent of any donation that anybody makes to a...whether it's a...I would have the same concerns if you were sitting here and you were the United Way and wanted 100 percent credit, and also then got to deduct United Way contribution as an itemized deduction, and could end up getting 130 percent. You know, your donation plus 36 percent back. So this is not aimed at your organization; it's a question I've had with other groups that have come in, especially when they start using tax credits. Because if it's an item that is also itemizable as a charitable deduction for people who are in the higher bracket, which a lot of people making donations can be; I'm not saying they all are. But they...if you have a situation where they get to itemize their deduction, and also they get 100 percent tax credit for it, it can...I would say if this were to pass in its current form you would have absolutely no trouble raising \$3 million, because you could it sell it that way. You could sell it to a couple by saying, give us \$5,000, you'll get \$6,800 back on your tax return. So I think we're... [LB67]

JEREMY MURPHY: Right. It's an issue where...I guess we understand your point. We're happy to speak with the committee and work with you on that. [LB67]

SENATOR HADLEY: Good. [LB67]

JEREMY MURPHY: It's a good point, and we appreciate you bringing it up. [LB67]

SENATOR HADLEY: Jeremy, I appreciate that. Thank you. [LB67]

SENATOR DIERKS: Senator Adams, please. [LB67]

SENATOR ADAMS: Jeremy, you...it sounds like you're struggling with your voice today.

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[LB67]

JEREMY MURPHY: I apologize for that. [LB67]

SENATOR ADAMS: Yet you volunteered to answer questions. (Laughter) [LB67]

JEREMY MURPHY: Well, I do what I can, Senator. [LB67]

SENATOR ADAMS: You had a response to Senator Hadley's question, and so maybe you can take a shot at this one. And if you can't, I understand, and maybe we can get the answer later. So if I'm understanding how this works, so...persons make donations to an STO. And they receive a tax credit. The STO then accumulates these donations to be then filtered out to scholarships for students in need. Am I correct at least seeing that much of it? [LB67]

JEREMY MURPHY: Right. I think, so far, that seems to be correct. [LB67]

SENATOR ADAMS: Okay. And I forget which section of the bill it is, but it says that 90 percent of the revenue has to go to scholarships. [LB67]

JEREMY MURPHY: Correct. [LB67]

SENATOR ADAMS: Okay. So aside from the scholarship part, here's what I'm wondering about next. So the STO has accumulated--pick a number--\$10 million. But they're trickling out \$1 million in scholarships. So we've still got nine sitting here. I guess what I'm...here's where I'm going at is, is there going to be interest earned by the STO on any of this money? And if so, does that interest also have to be used for scholarships, or can it go for other things? See where I'm going? [LB67]

JEREMY MURPHY: Okay. I don't know if interest is really dealt with in the bill. I guess that is something we could talk about and try to clarify if that's a problem. I guess we've talked about the issue of what happens if the \$3 million cap is hit, you know, with the Department of Revenue, then there would be no further credits given by the Department of Revenue. But I guess we haven't looked at it from the standpoint of, you know, what if money beyond the... [LB67]

SENATOR ADAMS: So if we hit the \$3 million mark but you don't give out nearly that much in scholarship, then what's this other money doing? Obviously, it's sitting there waiting for the next scholarship round. [LB67]

JEREMY MURPHY: Right. [LB67]

SENATOR ADAMS: But in the interim, anybody, I don't care who it is, you're going to

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invest that wisely. Does that interest also have to be used for scholarships? See where I'm going? I'm just wondering about this... [LB67]

JEREMY MURPHY: Right. [LB67]

SENATOR ADAMS: ...other money that's...if it were a wash, it would be easier to understand; dollar in, dollar out. But, I'm wondering. [LB67]

JEREMY MURPHY: Yeah, and I think...well, obviously if we're just dealing with \$3 million, if 90 percent of that is going out in scholarships, I mean, it's what...\$2.7 million would go out in scholarships; \$300,000 or so would be the 10 percent remainder to deal with administrative costs. I guess we haven't really thought of the interest issue and the accumulation of that and how that would be dealt with. But we'd have to maybe have some discussions about that and see if that can be clarified in such a way...but it's a good point. We appreciate you bringing that to our attention. [LB67]

SENATOR DIERKS: Questions? I guess not. Thanks, Jeremy. [LB67]

JEREMY MURPHY: Thank you. [LB67]

SENATOR DIERKS: Are there more proponents? [LB67]

JAMES JEFFERS: My name is James Jeffers, J-e-f-f-e-r-s. And I'm here in support of the resolution that we have before you. I have 13 grandchildren, and I'm in the same category, I think, as some of you sitting around the table. In your experience and your past we left reflections on how time gives you certain skills versus the person with one child, or looking at only one situation. I've got...of my 13 grandchildren, I'm fortunate to have half of them come from or in or involved with the private school system, and the other half from the public school system. So I've seen both sides of the issues, looking forth and what the schools consist and can bring. The private school system has been very, very effective in my grandchildren. I see things that have happened with them in their lifetime that reflect greatly on the values that they've established from that particular education. In many of those things, distinct advantages over the kids coming out of the public school system. The unfortunate thing we don't have is the capability of our kids to, in many aspects where they do need private school and the extra attention and benefits that come from a private school education, they can't get it because they can't afford it. It is an expensive proposition for those parents that are spending \$8,000 for some other student to go to school and then have to spend thousands of dollars more on their private education, just to get that advantage in the system. So it's not fair to those young kids growing up across this country that don't have that freedom of choice. They don't have it. And we're sitting here talking about dollars and cents in relationship to it. We shouldn't be talking dollars and cents; we ought to be talking the quality of education, period, for every one of these kids. Because that's the important



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thing we're after. We're wanting to make sure everybody's got the education they need and the best education, whether the kid can get into a private school, or they have issues with a public school that they can't resolve at that level, or don't get the proper attention they need. Those people need to have that opportunity to move on and try it somewhere else and make their situation better. So it's from that that I support the program. I had the opportunity this year to run for state senator; I lost by 20 votes, and if I would have been sitting in your place I would have voted for the situation that you have in front of you right now. I think it's that important. I've seen the difference from one end to the other, so. I highly support it and that's all I have to say. [LB67]

SENATOR DIERKS: Thanks, James. Are there questions for Mr. Jeffers? What district did you run from? [LB67]

JAMES JEFFERS: Twenty-one. [LB67]

SENATOR DIERKS: And where's that? [LB67]

JAMES JEFFERS: Ken Haar, it's Lincoln northeast-northwest. [LB67]

SENATOR DIERKS: I see. [LB67]

JAMES JEFFERS: Yep. [LB67]

SENATOR DIERKS: Well, thanks for coming over, James. [LB67]

JAMES JEFFERS: Yep. [LB67]

SENATOR DIERKS: Is there anyone else in support of LB67? Support for LB67? Anyone in opposition to LB67? Could I see a show of hands of the opponents to this bill? Okay, thank you. Go right ahead, sir. [LB67]

BRIAN HALE: I'm not alone. My name is Brian Hale. I represent the Nebraska Association of School Boards, and this looks a lot like some incarnations that we've seen before. It's ultimately on the...and I don't, we certainly don't have any qualms with the work that the private schools do in the state. Tax payers in general are all equally responsible for providing the public education system, which serves all the kids in the state regardless of abilities, regardless of needs, and in that respect we all do our share to pay those property taxes. When people get the opportunity or see a personal need and desire to pursue private education, that's a personal choice that we support. But it is a major policy shift from the state level to provide any means of state support for those programs, especially when it may come at the detriment of the public school system which is going to need to continue to be there to support kids who the private schools cannot, or in some cases, will not serve. So there's a lot of questions about how this

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particular proposal is structured. Basically, the private schools do provide a valuable service to their specific communities of interest, but their individual interests are narrower than the responsibilities that the state has to provide an education system for all of the students in the state. And so with that we'll issue our opposition to this bill and take questions. [LB67]

SENATOR DIERKS: Thank you, Brian. Are there questions for Brian? Your point's well-taken, thanks so much. [LB67]

BRIAN HALE: Thank you. [LB67]

SENATOR DIERKS: Next opponent, please. [LB67]

HERB SCHIMEK: Madam Chair, members of the Revenue Committee, my name is Herb Schimek; that's S-c-h-i-m-e-k, representing the Nebraska State Education Association. We've had a long-standing position against public funds going to private schools. Pure and simple, that's what it is. I come from a family that went to Catholic schools in North Platte. My father was on the school board; my mother was president of the Catholic Daughters, so I'm not coming from anything against the private school situation. This is a freedom of choice issue. In our family, the choice was we sacrificed so that I and my four brothers could go to the private school. We probably had less, but we did quite well. My father's education was in Conception, Missouri; his roommate was Father Hupp, who later became head of Boys Town. So we have a lot of connections that way. We are in a period right now when upstairs in the economic forecasting board is probably going to down our forecast by approximately \$300 million. The state can't afford this bill at this time. If you get into this area, some things you ought to think about: Will these teachers then fall under the CIR? Will they be able to negotiate their salaries? Will they fall under the Fair Dismissal Act of the state of Nebraska? If you take public dollars, you take public dictation on how you spend them. I stand ready for any questions you might have. [LB67]

SENATOR DIERKS: Thanks, Herb. Questions for Mr. Schimek? Senator Hadley. [LB67]

SENATOR HADLEY: Mr. Schimek, thank you for testifying. Is there a concern in the public school system with the declining numbers in private schools, as we were shown earlier, and the increased costs that this will have for the public systems? [LB67]

HERB SCHIMEK: Not really. Basically, I think many schools probably have the capacity to absorb these students. Especially in rural Nebraska, I know the capacity is there. [LB67]

SENATOR DIERKS: Other questions? Guess not; thanks, Herb. [LB67]

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HERB SCHIMEK: Thank you. [LB67]

SENATOR DIERKS: Next testifier, please, in opposition. Go ahead. [LB67]

AMY MILLER: (Exhibit 13, 14) Good afternoon. My name is Amy Miller; that's M-i-l-l-e-r. I'm legal director for ACLU Nebraska, the nonprofit, nonpartisan organization that works solely on constitutional rights. You have absolutely excellent financial reasons to oppose this bill, but I'm here to talk about the constitution and policy as well. There was a question earlier about whether there would be a violation of separation of church and state problem, and the answer is absolutely yes. It's clear from the previous testifiers that the money would be used in order to attend a religious organization. The U.S. Supreme Court hasn't decided this one yet. The U.S. Supreme Court has held there is no free exercise obligation on the part of the state to offer such tax credits to people who want to go to private religious schools. We think that it's inevitable, if Nebraska were to pass LB67, that you would see litigation that would go all the way up to the U.S. Supreme Court, which should add to the fiscal note somewhat. We're also concerned about the fact that, in Nebraska, it's clear that of the 287 private schools, only 22 of them are listed as nonsectarian, meaning that the bulk of these schools are directly proselytizing religious organizations. To put that more clearly, a child could be flunked out for refusing to take a bible study class, or could be flunked out for refusing to answer the question correctly, according to the religious denomination of that school. That clearly presents a First Amendment separation of church and state problem. We also have grave concerns on another constitutional ground, the Fourteenth Amendment, which requires equal treatment of all and equal protection of all under the law. Private religious schools are exempt from many state, federal, and local rules that prohibit discrimination. Private schools can discriminate on the basis of gender; private schools do not have to comply with Title IX; and most importantly, they do not have to comply with the IDEA, the Individuals with Disabilities Education Act. This means that private schools are perfectly free to reject a child with a disability, in a way that a public school never could or would. This means that the burden falls back onto the public schools of children with disabilities and severe accommodation needs. We also want to point you to the strong policy arguments to say no. My office is supposed to take complaints about constitutional issues, but people sometimes are confused about what the ACLU can do, and they call me when there's a school spending problem. Most of the time I turn them back to, you need to call your local school representatives, talk to your school board reps. But anecdotally, I can tell you that our public schools could certainly use any money that you want to kick their way; you don't need to be sending it to the private, religious schools. We had a school that was problematically facing the issue: they could not even afford to provide the free lunch programs. Even with the federal dollars that were available out there, they still couldn't make up their own because they needed to have an employee on staff. They were going to cut the lunch program entirely; all kids would have to bring their lunch. For kids who don't have food at home, of course, that means no lunch. We had a high school that eliminated the choir performance section

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because they could not afford to buy a new piano. The teachers and students who contacted us, they were confident that there was a constitutional right to have a piano and we had to tell them there was not. Again, this is just an illustration of what that money could be used for instead. And finally, we note there's a myth that people who put their kids in private religious schools are doing so because the public schools are failing in some way. Look to the experience assessed by two congressionally funded studies; they're in footnote one on page two. They examined the D.C. school system. They had a scholarship program that is identical to the one being suggested in LB67. They not only found that there was no increase in performance, but there were serious problems about the qualifications and performance of the private schools. Now I did not bring additional copies of this last item because I was positive someone else would point out how great Nebraska schools are, but I'm afraid I'm going to go ahead and hand it to you, then just beg kind permission for copies to be made. The great news here is that Nebraska is doing fabulously in our public schools. This is from the Nebraska Department of Education's Web site from their most recent report card. All of the rates on reading, mathematics, writing, are up over the last several years. We also are scoring number one in ACT test scores. There's no reason to pass LB67. If you have any questions, I'm happy to answer them. [LB67]

SENATOR DIERKS: Questions? Senator Adams, please. [LB67]

SENATOR ADAMS: I'm not an attorney, but I'm...and they're...it's a good thing. (Laughter) But let me inquire a bit. Aside...and I know this is the Revenue Committee, we ought to be talking about revenue; but aside from that for just a moment. Has the Supreme Court...the Supreme Court has attempted to set a standard for this wall of separation between church and state, and am I correct in remembering that that standard is one of neutrality? [LB67]

AMY MILLER: That's correct. [LB67]

SENATOR ADAMS: The state must remain neutral? [LB67]

AMY MILLER: That is correct. [LB67]

SENATOR ADAMS: So I guess then the question comes, is giving a tax credit...the state, in giving a tax credit, have we stepped out of that neutral zone? Your assumption is--well, more than an assumption, I bet you're going to say--is that we have. [LB67]

AMY MILLER: The ACLU's position is absolutely yes. [LB67]

SENATOR ADAMS: So then if we allow students to...if we allow private school students in lunch programs to tap into Department of Ag surplus foods, we are...the government is neutral in doing that, is it not? [LB67]

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AMY MILLER: It is, and the idea there is that all children have a fundamental right to receive food. Food is distributed in a variety of ways; through private faith-based organizations, as well as through public schools, as well as through the state. [LB67]

SENATOR ADAMS: I suppose we could also say, correct me if I'm wrong, that in doing so...offering a kid peanut butter at lunch is not promoting religion. [LB67]

AMY MILLER: That is correct. [LB67]

SENATOR ADAMS: Okay. And if the public school wants to use...or sell at some nominal fee its used textbooks to the local private school for use, we can do that as long as it's secular: science, math, not promoting religion, correct? [LB67]

AMY MILLER: That is also correct. [LB67]

SENATOR ADAMS: So along those same lines though, your contention is that we are not neutral in this tax credit: unlike school lunch; unlike transportation, in some instances, I believe, has been found by the court to be permissible; unlike textbooks. [LB67]

AMY MILLER: That is also correct. Senator Adams, for a non-lawyer you're putting me to shame for your knowledge of the separation of church and state laws. (Laugh) [LB67]

SENATOR ADAMS: Well, it's pure luck. So, show me the distinction one more time. [LB67]

AMY MILLER: The distinction is that the schools in question that are receiving, then, money from the government, have a curriculum that is based on a specific set of religious tenets and religious principals, and with a desire to proselytize and inculcate those belief systems. Which is absolutely acceptable and absolutely 100 percent okay, as long as it is a private entity that's doing that. Once the government is giving money to that private organization, and you literally are in theology classes or in a Christian class, you're being tested on whether or not the answer of the student agrees with the theology or the doctrines of that individual religion. You're no longer in a situation where it's neutral. The child's compliance with the religion triggers whether or not they succeed in the school. I can also make an illustration... [LB67]

SENATOR ADAMS: And writing this...okay. [LB67]

AMY MILLER: I can make a distinction about what happens in the public schools versus the private schools. Public schools, of course, do teach about religion on occasion. They may ask, what are the primary tenets of the Christian belief system. The answers,

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then, are being given in a neutral way. We study Christianity; we studied Hinduism. It is entirely acceptable for a religious private school to ask, who is the Messiah? Who is God? What will happen after life? And the answers then, are not a black and white question that one can look up; they are not a black and white question that is scientifically provable; it is a matter of religious belief. And again, it's acceptable to teach that within a religious private school, but it is not acceptable for the government to give a passing or failing grade to children based on whether or not their belief system matches the schools. [LB67]

SENATOR ADAMS: Okay, thank you. [LB67]

SENATOR DIERKS: Senator Hadley. [LB67]

SENATOR HADLEY: Ms. Miller, thank you. To follow up a little on what Senator Adams was asking, would it be possible that we could use a tax credit to fund a student going to a religious school who might eventually be banned from returning to that school because of some problems with their religious beliefs versus the religious beliefs of the school? [LB67]

AMY MILLER: That sort of banning or expulsion of students from private schools certainly has happened all around the country, and that would be another reason why any government money supporting a child in that situation would be problematic. To give another example, I should point out this is not just the children whose issue is at stake, but also the employees. Private schools are free to discriminate on the basis of religious beliefs in a way, of course, that we would never allow public school to do. There's been recent news stories, for example, about a teacher who became pregnant out of wedlock and was fired from her job. Federal laws would prohibit that. There are federal laws in place that protect women from discrimination, and especially on the basis of pregnancy. But a private religious organization can say, this is not setting a good example for the children that we are telling you should not have sex before marriage. So they were free to discriminate against her. So you actually have two people at stake here, that if you give that money over to private entities, you're giving them a green light to discriminate against employees and students in a way you never would to the public schools that receive money as well. [LB67]

SENATOR HADLEY: Thank you. [LB67]

SENATOR DIERKS: Other questions for Ms. Miller? Senator Cornett. [LB67]

SENATOR CORNETT: Yes. What is the difference between this money and voucher money? [LB67]

AMY MILLER: I don't see any difference, to be fair, Senator. [LB67]

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SENATOR CORNETT: Then how many states have voucher programs? [LB67]

AMY MILLER: I don't have a current figure on that, I'm sorry. I could find out and get it to you. [LB67]

SENATOR CORNETT: I was going to say, what is the ACLU doing in those states? [LB67]

AMY MILLER: We have lawsuits pending in a couple other states. Arizona, I know for sure, is the one that's currently pending; I can find out the... [LB67]

SENATOR CORNETT: Have you sued in other states and won or lost? [LB67]

AMY MILLER: They are all in active litigation. The last one that reached the U.S. Supreme Court was an ACLU case out of Arizona. [LB67]

SENATOR CORNETT: And how was that? [LB67]

AMY MILLER: The U.S. Supreme Court said that it needed to go back for resolution. The state was arguing that the federal courts did not have the ability to make a decision on a state tax issue; that the federal courts had no jurisdiction, that it was a state law issue. So it went up to the U.S. Supreme Court on a legal, procedural matter. The case is *Hibbs versus Winn*. So that has come back down to the federal courts and is still in active litigation, and we have no binding decision yet. But I can follow up and get you figures. [LB67]

SENATOR CORNETT: How long have you been in litigation with other states? [LB67]

AMY MILLER: This version of the tax credit/scholarship scheme has only been seen, to my knowledge, since about 2002. [LB67]

SENATOR CORNETT: How about vouchers? [LB67]

AMY MILLER: Vouchers, since the late '90s. [LB67]

SENATOR CORNETT: And you haven't won a lawsuit in regards to vouchers yet? [LB67]

AMY MILLER: There's not been a binding decision on the issue as far as I know. [LB67]

SENATOR CORNETT: Thank you. [LB67]

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SENATOR DIERKS: Other questions? I guess not. Thank you for coming. [LB67]

AMY MILLER: Thank you. [LB67]

SENATOR DIERKS: Further questions? I guess not. Thank you for coming. [LB67]

AMY MILLER: Thank you. [LB67]

SENATOR DIERKS: Further opposition? Anyone else in opposition? Does anyone want to testify in a neutral position? Neutral, anyone? Senator Friend, would you like to close? [LB67]

SENATOR FRIEND: Thank you, Senator Dierks, and Madam Chair, and members of the committee. Thank you for your patience. Quickly, page 3 of the bill, subsection 4: a school tuition organization...this is the definition on page 3, the "school tuition organization means an organization in this state that (a) is exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code as amended, (b) allocates at least 90 percent of its annual revenue for scholarships, and (c) provides scholarships for eligible students without limiting availability to eligible students of only one qualified school;" and then it goes into subsection 5. Forget about the fact that people are losing money in the market. Nobody's going to make a whole heck of a lot in an annual revenue type of situation; nobody's going to make a whole heck of a lot of money in interest when 90 percent of the annual revenue needs to be spent on those scholarships. That's what the STOs charter is. Now...but all of that said, if there are unintended consequences from that language, which I think is what you were pointing out, Senator Adams, I would be happy...you know, I'll be here...I'd be happy to go through that, and we can try to work our way through that problem. So I don't know if my reading is a little bit different, but I...it may be a problem, but I don't think...I'm not sure that it is. [LB67]

SENATOR ADAMS: I think we read it the same. [LB67]

SENATOR FRIEND: Maybe. [LB67]

SENATOR ADAMS: I'm just wondering, if you don't give it out...I mean, if you can't give 90 percent of it out... [LB67]

SENATOR FRIEND: It reads to me that you have to. So if you have 600 students in your school, everybody's going for free. I don't...I shouldn't say that on the...I don't know. [LB67]

SENATOR ADAMS: But yet it's got to meet the...the student also has to meet the income qualifications. [LB67]



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SENATOR FRIEND: Well, now if the STO...once the cap is reached and the STO has reached its, you know, limit...that can be discussed. But the 90 percent, I'm not sure...I'm not...I guess my point is I'm not worried about the interest. The 90 percent's got to be spent, but as far as that being amended, I'd be happy to if we need to do that. Second point, and final point, it is...the opposition...and I've heard this before, but the problem is that...and the folks that have come up in opposition are not necessarily...they're not intellectually lazy, but I'm saying the argument's intellectually lazy because I've heard it over and over again, and a voucher argument is different than what we're talking about here. We're talking about a 501(c)(3), and we hand out tax credits to 501(c)(3)s...or I mean people that give to 501(c)(3)s. So vouchers are significantly different, and it would be intellectually lazy to read this as a voucher bill. I said that from the very outset. That's not what this is. Now, is it still problematic with our revenue environment, with our fiscal environment? That part of the opposition I totally understand, because I've heard all those arguments this session. But what I won't listen to, and I have a huge problem with it, is this church and state divide and this voucher thing. Because if somebody wants to challenge a voucher situation in Arizona, challenge it. But right now there are six states that are using these STOs, and I'll guarantee they don't go down because what you'd end up having to do is, you'd have to go after the United Way and everybody else who's receiving money...I mean, people are writing off those donations. This is a different...this is a different breed of cat. It might be a cat that they're, you know, unfortunately still a little bit worried about and they want to shoo it out of the kitchen...I'm not going to listen to the voucher argument any more, and I will drive that home as much as I possibly can. And that includes in executive sessions. So all that said it's been a long day, thank you for the time. I think that...I'll finally just say I think that this is creative and timing is weird. We can talk about that and we can also talk about sections of the bill that I think we need to talk about. That's all I have. [LB67]

SENATOR DIERKS: Thank you, Senator Friend. Thank you, everybody, for your attendance and patience with the process. We have one more bill. Senator Schilz is here to present LB447. Whenever you're ready, Ken. Well, maybe we ought to wait a minute. I think we're ready to go now, Ken. [LB67]

SENATOR SCHILZ: Okay, Senator Dierks, thank you. Senator Cornett and the rest of the members of the Revenue Committee, good afternoon. I am Ken Schilz, K-e-n S-c-h-i-l-z, representing the 47th District. I sit before you today to introduce LB447. LB447 would annually index the net worth threshold of qualified, beginning farmers or livestock producers under the Beginning Farmer Tax Credit Act. The index would be calculated using the annual change in the producer price index and the new threshold, if not divisible by 25,000, would be rounded to the next lowest amount divisible by \$25,000. The net worth threshold of qualified beginning farmers and livestock producers under the Beginning Farmer Tax Credit Act is currently set at \$200,000. I've introduced

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this bill on behalf of the Beginning Farmers Board and I appreciate the work they put into this legislation and hope that this will make the Beginning Farmer Act more responsive to economic realities in the future. Thank you for your time and consideration, and if there's any questions I'll be happy to answer, and I know there's some folks that would like to testify. [LB447]

SENATOR DIERKS: Thanks, Ken. Any questions from the committee? I think not. [LB447]

SENATOR SCHILZ: And I'll probably waive closing. [LB447]

SENATOR DIERKS: Okay. [LB447]

KEN SCHILZ: All right, thank you. [LB447]

SENATOR DIERKS: Thanks for coming over. First proponent, please, to LB447. [LB447]

MARK GRAFF: (Exhibit 15) Good afternoon, members of the Revenue Committee. My name is Mark Graff, G-r-a-f-f. I'm a resident of McCook, chairman of McCook National Bank. We're a \$235 million community bank in southwest Nebraska with a significant investment in agriculture in our state. I'm also currently the lending representative of the Beginning Farmer Board and a past board member of the Nebraska Bankers Association. I appreciate the opportunity to testify in support of LB447 because my service on that board that reviews the applicants for the Beginning Farmer Tax Credit Program clearly illustrates to me that the program is accomplishing its intended mission incenting landowners to give beginning farmers the opportunity to lease ground and initiate their operations. In just the short year and a half that I've served on the board I've been impressed by the growth in beginning farmer and landowner applicants. As a former practicing CPA, I've also been impressed with the manner in which the original tax credit bill was drafted so that it clearly targets those that it most desires to assist with the legislation. Further, I appreciate the work that has been undertaken to ensure that the legislation continues to evolve as economic circumstances facing beginning farmers and landowners change. It is with this intent that I testify in support of LB447. The bill, which implements a mechanism to ensure that the net worth limitations in the program grow in line with inflation, should help prevent beginning farmers from being eliminated from the program because of inflation creep. If a beginning farmer's operation remains unchanged other than an increase in their net worth solely due to inflationary pressures, I would believe that it should be the intent of the program to have the beginning farmer retain their eligibility. I believe this legislation will help accomplish that. I thank you for time and consideration of LB447. I commend you on your vision which created the Beginning Farmer Tax Credit Program and encourage you to constantly review the program to help to continue to benefit those desiring to enter the profession of

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agriculture production in our state. And I'd be happy to answer any questions that you might have. [LB447]

SENATOR DIERKS: Thank you, Mark. Are there questions for Mr. Graff? Well, I think you've done very well. [LB447]

MARK GRAFF: Thank you. [LB447]

SENATOR DIERKS: Next proponent, please. Whenever you're ready, Doug. [LB447]

DOUG EWALD: (Exhibit 16) Vice-Chair Dierks, members of the Revenue Committee, my name is Doug Ewald, D-o-u-g E-w-a-l-d, Tax Commissioner for the Nebraska Department of Revenue. I appear before you today as a proponent of LB447, but in particular to give you some of the specifics with respect to the technicalities of the program. LB447 would index the net worth threshold for a beginning farmer or livestock producer under the Beginning Farmer Act. Currently, the Beginning Farmer Act provides an income tax credit to an owner of agricultural assets for agricultural assets rented to an eligible beginning farmer or rancher. An eligible beginning farmer or rancher must be a Nebraska resident, have a net worth of less than \$200,000, have farmed or ranched for less than 10 of the last 15 years, provide the majority of the day-to-day physical labor and management of the farming or livestock operation, participate in a board-approved financial management educational program, not be closely related to the owner of agricultural assets, and comply with several other requirements. LB447 would annually index the net worth threshold of an eligible beginning farmer or rancher. The legislation would average the change in commodity prices over a 12-month period against the \$200,000 threshold. The adjusted threshold would be rounded to the next lowest \$25,000. The Department of Revenue anticipates the investment threshold would not increase during the next two or three years. The index proposed in LB447 is similar to the indexing used for other tax incentive programs such as Nebraska Advantage. In conclusion, I'd urge you support LB447. I look forward to answering any questions you may have with respect to this legislation, but then it follows with a table here that kind of identifies the history of the Beginning Farmer Credit Act from 2001 through where we are in 2009, the number of applicants and the number of credits that have been provided under the program. With that I'd love to answer any questions. [LB447]

SENATOR DIERKS: Thank you, Doug. Questions for Doug? I guess, do you have a question? Senator Friend, you act like you're ready to talk, I don't want to... [LB447]

SENATOR FRIEND: No, sorry. (Laughter) [LB447]

SENATOR DIERKS: Okay, thanks Doug. [LB447]

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DOUG EWALD: Thank you. [LB447]

SENATOR DIERKS: Next proponent, please. [LB447]

DOUG PARDE: Senator Dierks, members of the Revenue Committee, my name is Doug Parde; that's spelled D-o-u-g P-a-r-d-e. I'm a farmer and cattleman, and currently I'm the vice chairman of the Farmer Stockman Council for the Nebraska Cattlemen. My farm is near Sterling in Johnson County. I'm a fourth generation farmer from Sterling and my wife Amy, who is a teacher, is a sixth generation cow-calf producer from Custer County. I am here today representing Nebraska Cattlemen membership in support of Senator Schilz and LB447. The hearing for LB447 is very timely. The past three days I have participated in a young member development conference hosted by the Nebraska Cattlemen. Nine other young cattlemen originating from the communities of Hay Springs, Rose, Bridgeport, Gothenburg, Albion, Anselmo, Wisner, West Point, and Fairbury, representing all sectors of the beef industry, have learned many facets of becoming the next generation of leaders in the beef industry, Nebraska Cattlemen, and ultimately, the state of Nebraska. As you heard in Senator Schilz's opening, LB447 helps address annually the index regarding the net worth threshold of qualifying beginning farmers or livestock producers under the Beginning Farmer Tax Credit Act. Even in today's tough economic times, the net worth threshold of \$200,000 within this act needs to give consideration for the ability to index for inflation. This committee is fully aware of costs to operate in agriculture and the livestock business. The burden on qualified, beginning producers can be enormous. The passage of LB447 would be a very positive step in helping beginning farmers and ranchers like me. I would ask for your support of LB447 out of committee and for the rest of the body to consider. Thank you, Senator Dierks and Revenue Committee members for your consideration. I would be happy to try to answer any questions at this time. [LB447]

SENATOR DIERKS: Thanks, Doug. Questions for Mr. Parde? I guess not, thank you very much. Next proponent. [LB447]

JESSICA KOLTERMAN: Senator Cornett, Senator Dierks, and members of the Revenue Committee. For the record, my name is Jessica Kolterman, J-e-s-s-i-c-a K-o-l-t-e-r-m-a-n. I'm a lobbyist for Nebraska Farm Bureau Federation. I'm here this afternoon on behalf of the organization to support LB447. First, we'd like to thank Senator Schilz for introducing the bill. As noted by previous testifiers, this bill is needed. Basically what the bill would do is update the Beginning Farmer Program to the reality of today's agriculture. Engaging in agriculture is an expensive proposition and it's easy for beginning farmers to exceed the net worth threshold of \$200,000, especially since this threshold includes the spouse's holdings as well. I wanted to give you a couple of examples: 80 acres of land valued at \$2,500 per acre would meet that \$200,000 threshold. Last year's survey by the University of Ag Economics Department pegged the average value of dry land crop land with no irrigation potential in the eastern part of the

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state beginning around \$3,200. I just talked to my grandmother last week; she has a farm in Seward County. A land right next to her farm just sold for \$5,600 an acre--that's irrigated. Even our modestly sized livestock operations would require a sizeable investment. Pork producers estimate their costs at approximately \$240,000 in capital investment for 1,000-head finishing facility. I share these figures with you so I can demonstrate the cost to invest in agriculture today and to show it doesn't take much for equity to exceed that threshold. Increasing the net worth threshold would help make this program more attractive. I might also add that while you're looking at this provision you might consider raising the underlying number, perhaps from 200,000 to 300,000, 500,000--whatever you see fit. That might also help to address some of these issues. With that I'll answer any questions if you have them. [LB447]

SENATOR DIERKS: Thanks, Jessica. Questions for Ms. Kolterman? [LB447]

JESSICA KOLTERMAN: All right, thank you very much. [LB447]

SENATOR DIERKS: I guess not; thank you very much, Jessica. Are there more proponents for LB447? Anyone else in support for LB447? Is there opposition to LB447? Anyone testifying neutral on LB447? Well, and Senator Schilz has waived closing; I think that closes the hearing on LB447 and the hearings for the day. Thank you very much for your attendance. [LB447]

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Disposition of Bills:

LB59 - Indefinitely postponed.

LB67 - Held in committee.

LB357 - Placed on General File with amendments.

LB447 - Placed on General File.

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Chairperson

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Committee Clerk