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Revenue Committee
March 05, 2013

[LB14 LB82 LB308 LB475]

The Committee on Revenue met at 9:15 a.m. on Tuesday, March 5, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB308, LB475, LB82, and LB14. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Charlie Janssen; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: None.

SENATOR HADLEY: Welcome to the Revenue Committee. My name is Galen Hadley. I am...I represent Kearney and Buffalo County. Appreciate your being here this morning. This is the makeup session for the snowstorm. To my left is Senator Paul Schumacher from Columbus, and to his left will be Senator Pete Pirsch from Omaha. It's not uncommon, if you're new to the committee system, people get up and leave and come back because we are introducing bills in other committees or having speeches to make and such as that. So please do not take it personally if someone gets up in the middle of your bill and walks out. That happens. To his left will be Senator Pirsch from Omaha; and to his left will be Senator Sullivan from Cedar Rapids. On the far right is Senator Burke Harr from Omaha who is introducing a bill in Judiciary right now; and to his left is Senator Janssen from Fremont; and then Senator McCoy from Omaha; and Senator Hansen from North Platte. Our committee counsel is Mary Jane Egr Edson to my right; Bill Lock is our research analyst; and Matt Rathje to my far left is our committee clerk. Our pages for today--I think we have some new pages, is that correct, yes, we do--Evan from Lincoln and Grant from Stanton. For those of you that don't know, the pages help us in the committees and help us on the floor. They're university students or college students and we very much appreciate all the work they do. Please turn off cell phones or put on vibrate while in the hearing room. The sign-in sheets are for testifiers are by both doors and they look something like this. So we appreciate your filling one out before you come up to testify and handing it to Matt, our clerk. We need that to be completed. If you're testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up to testify. When you come up, again, hand them to Matt. There are clipboards in the back of the room to sign if you 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. This agenda will be a little different than the one that was posted in the record, and the reason for that is Senator Krist has three or four bills that he's introducing this morning, so we're working...trying to work a little around his schedule. The introducer or representative will present the bill, followed by proponents, opponents, and neutral. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies to the committee and staff. If you only have the original, we will make copies. Give the handouts to the page to circulate to the committee. I do want to reemphasize to make sure that we appreciate it if you would state your name and spell it so the clerk can get it right for the record. With that, we're going to start with LB308.

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Senator Schumacher, the floor is yours. By the way, while he's walking up, we've been joined by Senator Pirsch from Omaha and Senator Sullivan from Cedar Rapids and Beau McCoy. Well, I want everybody to know Beau. [LB308]

SENATOR SCHUMACHER: (Exhibit 1) Thank you, Chairman Hadley, members of the Revenue Committee. I'm Senator Paul Schumacher representing District 22 in the Legislature and here today to introduce LB308 which proposes to repeal a tax, an income tax provision that is not found in the vast majority of the states. And it's called the Alternative Minimum Tax, sometimes called AMT. This unique provision of the Revenue Act is imposed on residents, partial residents, and nonresident's individual income taxpayers, as well as residents and nonresident's estates in trust that must pay Nebraska income tax. LB308 would repeal related prior year AMT credit for individual income taxpayers and estates in trust that must pay Nebraska income tax. The best way to understand AMT is to view it as a separate tax system. It has its own set of rules and rates, its own rules for deductions which are harsher than the regular rules. And because of these confusing rules, the only way you can tell if you owe the tax are by filling out the forms a second time, essentially trying to compare which tax system charges you more and that's the one you get saddled with, or if the IRS audits you and determines that you should have done the AMT calculations and didn't. I've provided the committee today with a sample of what is involved from the Nebraska income tax booklet that they used to print and send you, but now we've gotten cheap and we just put it on the Internet. But if you go down and look down the sheet when you're signing or filling out your income taxes, you see at line 16 a line for the minimum, Alternative Minimum Tax. And so you say what's that? And then you go to the tax booklet and it gives you more instructions for line 16 as to how you begin to calculate it. And then you go and you read Revenue Ruling 22-12-1 and make yourself more confused because that sets out what you have to do to come up with that particular number that it wants on the front form. And in order to do that, you have to fill out or refill out the federal form, which is the last one, 6251. And if we were going to analyze that, we'd be here all day. And you can see the implications of this very complicated tax system which has dealt the federal government grief because it was affecting people who were never intended to be brought into this federal mechanism. And so they're struggling with trying to relieve the burden of the complexity of that, and we're saddled right on the back of that federal system with our Nebraska AMT. If it turns out you do have to pay the AMT and you did not, you will owe back taxes plus any interest or penalty that the IRS and the state decides to dole out. A taxpayer should definitely run the numbers if gross income is above \$75,000 and is otherwise allowed write-offs for such common things as personal exemptions, tax and home equity loan interest, or exercise work related incentive stock options during the year, or owned a business, rental properties, partnership interests, subchapter S corporation interest. As a matter of practice, any return reporting more than \$100,000 for a family is high risk simply based upon the level of income alone. In fact, the AMT forces a taxpayer to surrender some, if not all, income tax deductions and income exclusions normally allowed in order to arrive at a number called the alternative

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minimum taxable income. Here's what the middle class...how the middle class is affected. First of all, you have to add back your personal and dependent exemption deductions, which is \$3,800 each in 2012. Then your standard deduction if you didn't itemize. That's \$11,009 for joint filers, \$5,900 for singles. You also lose your state, local, and foreign income and property tax write-offs as well as your home equity loan interest if the proceeds of a loan are not used for the home improvements. The AMT also disallows some normal itemized deductions such as investment expenses and employee business expenses and some medical and dental expenses. It also accounts as income...the interest on some private activity bonds, a type of tax exempt bond issued by governments. And, finally, it, the AMT rules, force an employee to pay taxes on the spread between the market price and the exercise price of any incentive stock options earned by the employee. For example, if you exercise an option to buy 100 shares of stock for \$3 a share and the share is trading at \$10 at the time you exercise it, there's a spread of \$7 or \$700. Under the regular rules, you don't have to pay taxes on the profit on a stock until you actually sell the stock. But under AMT, the spread is considered income and you have to pay taxes then and there. Under our current Nebraska law, the AMT is imposed at a rate of 29.6 percent of the Nebraska federal AMT liability. The AMT is required by statute to equal eight times Nebraska's primary rate which is currently 3.7 percent. Nebraska's AMT and its prior year AMT credit would be repealed under the proposal operative for tax years beginning or deemed to begin after January 2014. Nebraska is only one of nine states that has AMT on the books. The others are California, Colorado, Connecticut, Iowa, Minnesota, New York, and Wisconsin. And Nebraska's AMT is exceptionally high at the 29-plus percent rate. To the extent that the tax foundation's ranking system has an impact on business decisions, Maine removed the AMT from its tax structure in 2012 and at the same time experienced a change in its ranking from 31st best to 27th best. The AMT is very low-hanging fruit, and, quite frankly, I was surprised to see that the fiscal note was not much higher than what it shows up at roughly \$8-million range. I'm offering this particular measure as part of our continuing effort to look at taxes in Nebraska, look at their impact on the business climate, and try to come up with something that is simple and fair. And the great number of Nebraska taxpayers who are aggravated by the extra procedures here for what appears to be very little revenue, this may be one of the things that an easy consensus can be reached on that it is one of the reforms we should make. I'll be happy to take any questions. [LB308]

SENATOR HADLEY: Are there questions for Senator Schumacher? Senator Sullivan. [LB308]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Schumacher. Can you give us a little background on why this was put into in the first place? [LB308]

SENATOR SCHUMACHER: I think...I mean, taxes are one of those screwy deals where you levy a tax and then you say, oh my gosh, this isn't working. So we're going to have

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to create exceptions, credits, incentives, and things in order to make life right. For example, the home interest deduction. All right. Well, you know, the decision was you probably should be able to deduct home interest. So we allow for that. We allow for the whole series of things that are listed in that, the federal sheet on this, and those were policy decisions made over time by the...by the federal government basically. For example, property taxes. Well, you should be able to deduct your property taxes, and depletion things. Medical and dental are on that form, exercise those stock options, interest from specific private activity bonds. All those different things, they said, gee, you know, we probably should allow a deduction or a credit or something for those things because it just doesn't fit our general thought of taxing. Okay. Well, all of a sudden people accumulate those things. And we say, well, gee whiz, maybe we overdid it with credits and taxes and incentives. Maybe we should fill out another form just in case this thing...somebody has too many of these things. And then that was the Alternative Minimum Tax. And the idea was that basically there would be a minimum level of tax that everybody paid as a percentage of their income, but it really doesn't work that way. We've all heard folks like Warren Buffet say how he can get by paying 14 percent and Mr. Romney and folks like that. So basically I honestly thought the number would be bigger, that it would get more people. But it...the \$8-million figure for the amount of taxpayers that have to file is...it's a real complication for people to go through to see if they own it. And as you might look at that form, many people would say minimum...Nebraska minimum or other tax thing, whatever it is, that must not be me and skip right over that particular line not realizing that this thing is lurking out there. So it's one of those...I think that's the reason we have it, to try to undo what we undid in credits and exemptions and deductions that we did because we didn't want to do the taxes that we did. [LB308]

SENATOR SULLIVAN: Thank you. [LB308]

SENATOR HADLEY: Other questions for Senator Schumacher? Seeing none, thank you, Senator Schumacher. [LB308]

SENATOR SCHUMACHER: Thank you. [LB308]

SENATOR HADLEY: I assume you'll stay for closing. [LB308]

SENATOR SCHUMACHER: I think I'm kind of stuck here for the morning, so. (Laughter) [LB308]

SENATOR HADLEY: Okay. Proponents. [LB308]

RON SEDLACEK: (Exhibits 2 and 3) Good morning, Chairman Hadley and members of the Revenue Committee. For the record, my name is Ron Sedlacek, that's spelled S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce and

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also been authorized to sign in the record on behalf of the Greater Omaha Chamber of Commerce. And the Greater Omaha Chamber of Commerce also has a letter for committee members in support of the legislation. This committee has already heard in previous hearings bills that the state chamber has supported in regard to efforts to improve tax policy in Nebraska. I wouldn't necessarily characterize it as tax reform or tax modernization but perhaps just good public policy. And those bills are Senator Pirsch's LB328 which deals with the corporate income tax rate. The second bill dealing with the carryforward rules for net operating losses, and that's Senator Krist's LB457. This is the third in a series of bills that we would support, LB308. When the state chamber held its economic forums during the interim of 2012, we had several speakers including those from the tax foundation that people had been hearing from or looking at for particular guidance as to what might be a good tax policy for Nebraska, and that certainly there's a number of items on the menu that we could look at. Previous sessions we've talked about repealing a tax, and that would be the county inheritance tax, but we run into the problems of affecting all the particular local subdivisions, the government including state aid formula and so on, and it takes a lot of effort to repeal that tax. Senator Cornett in a previous session introduced legislation that would actually repeal the tax, and that was the Alternative Minimum Tax as well. And so we bring this item back to the committee for consideration. Certainly we don't want to look just the rankings and that's not what we're promoting here is to make Nebraska improve rankings just because one particular organization is doing this. But by the same token, Nebraska is one of only nine states that has the Alternative Minimum Tax yet in place. And to answer your question, Senator Sullivan, the reason for the tax in the first place was in the Carter administration back in the early seventies. And there were literally just over a handful at that time. I can't remember the exact number and I'll stand corrected, but like 14 taxpayers that for whatever reason had the excessive deductions and write-offs and so forth that felt that there needed to be a policy to provide that there be some contribution. And that's how the Alternative Minimum Tax started. However, as time evolved, more and more people were captured, many unwittingly captured. When Nebraska in the late eighties decided to have an independent income tax system and yet piggyback with federal laws, that's when the Alternative Minimum Tax essentially was adopted in Nebraska, it was parroting the federal law in that regard. So it was really never specifically discussed. It was just part of the overall package. At least I cannot remember it being specifically discussed except for the overall policy that we were going to have our own tax system and that would be somewhat parallel to the federal system. Many states since then have repealed their Alternative Minimum Tax. And, again, this is just another idea that we've put forward with the other pieces of legislation that would, we believe, make good tax policy in Nebraska. I do have...Senator Schumacher certainly went through the details, and much of that is...would be repetitive. But did want to speak to the fact that this would be a good alternative. And I do have a background paper in regard to the 2013 State Business Tax Climate Index that the Tax Foundation did publish, and on the front page it does mention Maine. And they did a combination of loss carryforward as well as the AMT repeal, and it certainly improved their overall

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business tax climate. And with that, I'd be happy to entertain any questions. [LB308]

SENATOR HADLEY: Are there questions for Mr. Sedlacek? Senator Sullivan. [LB308]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Mr. Sedlacek. Just one quick question. So the Alternative Minimum Tax still exists at the federal level. [LB308]

RON SEDLACEK: Oh, absolutely. Yes, it does. [LB308]

SENATOR SULLIVAN: Yeah. Okay. All right. [LB308]

RON SEDLACEK: And there's always debate as to the level at which that tax kicks in. And like to keep up with inflation but that doesn't always happen with Congress. [LB308]

SENATOR SULLIVAN: Okay. Thank you. [LB308]

SENATOR HADLEY: Seeing no other, thank you, Mr. Sedlacek. Further proponents. [LB308]

BRUCE BOHRER: Good morning, Mr. Chairman, members of the Revenue Committee. Bruce Bohrer appearing on behalf of the Lincoln Chamber of Commerce in support of LB308. For the record, my last name is spelled B-o-h-r-e-r. I would just maybe summarize by saying we would align ourselves with the comments and support that's previously been mentioned...has previously been stated. I think the way I could summarize our position right now, and this is just we are in favor of simplification in a more competitive environment over the confusion and complexity that you heard Senator Schumacher recite earlier. This is, as he also noted, we're one of nine states that has this remaining. It is a competitive issue for us. It's also a simplification issue on kind of the principles you want to look at when you look at your tax code. So we are very supportive of this proposal and along with the other LB328 and LB457 as Mr. Sedlacek mentioned as well. So I would close and answer any questions you might have. [LB308]

SENATOR HADLEY: Any questions for Mr. Bohrer? Seeing none, thank you, Mr. Bohrer. [LB308]

BRUCE BOHRER: Thank you. [LB308]

SENATOR HADLEY: Further proponents. Opponents. Those in the neutral. Senator Schumacher, would you like to close? [LB308]

SENATOR SCHUMACHER: It's always good to see no opponents and those in the neutral. I think that means because nobody understands it. (Laughter) But this is a tax

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that Nebraska has. We can pick up something in the ratings to the extent those things are looked at by business. It probably saves a lot of our taxpayers from unwittingly getting clipped on something they didn't understand and all of a sudden are audited at the federal level and end up with a state not only back tax but the penalties and everything else that go with it. So I would encourage the committee to seriously consider this particular measure as a way to accomplish something with very little cost. Thank you. [LB308]

SENATOR HADLEY: Are there questions for Senator Schumacher? Seeing none, with that, we will close LB308. Senator Carlson. We'll change yours since I think LB82 can follow while we're getting Senator Carlson. So, Senator Schumacher, if you want to take LB82? [LB308]

SENATOR SCHUMACHER: (Exhibit 4) Chairman Hadley, members of the Revenue Committee, my name is Paul Schumacher, P-a-u-l S-c-h-u-m-a-c-h-e-r. I represent District 22 in the Legislature, and I'm here today to introduce LB82, talk about something nobody understands. This particular measure is an effort to bring together a lot of forces and try to accomplish something. You would probably more often see it in business than in government, but I have yet to convince myself that it does not belong here in government. Now I have handed out, or having handed out, an amendment to clear up a problem with the definition of the functionality of a comma, because the comma ended up causing the Revenue Department and the Fiscal Office, I think, to misinterpret the bill. There was a situation where there was a rate applied within the bill that was supposed to be (a) plus (b) times number of years. And they combined (a) plus (b) times the number of years rather than as intended which was (a) by itself and then plus (b) times the number of years. So the amendment clarifies that by basically reversing the order of (a) and (b) and makes it what its original intent was, not 45 percent return, but somewhat closer to 4 percent return in today's market. For those of you remembering the hearing on Senator Conrad's bill to repeal LB84, I was asking some questions. And the questions that I was asking was of witnesses to see whether or not in today's climate, a 4 percent return was what we could expect off of road improvements. And we heard testimony that actually it could be a lot more than that but that 4 was certainly a reasonable anticipation. So what this proposal does is it looks at reality. And it says, you know, we really could use road construction. On Senator Conrad's bill, we heard about various roads that were very much needed by Lincoln, between here and Omaha, out toward Grand Island, the Heartland Expressway between Columbus and Schuyler or between Schuyler and Fremont and Norfolk and Fremont, and a great need for infrastructure development. LB84 put some money toward that, but only about half the rate that was originally thought would be good when we considered that measure a couple of years ago. So there's a need for infrastructure and spending on infrastructure. At the same time, we have a very, very unusual situation going on with our savers. Nebraskans save money and it's really disheartening when you save money and you have no place to put it. Put it in the bank, get maybe a

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percent if you're lucky but probably not. You put it in the stock market and you watch it go up, it hit an all-time high already this morning, but hold your breath because we've seen it drop 40 percent real quick. And generally Nebraskans are conservative folks and don't like that downhill part of the roller coaster ride. You can bid up farmland and gamble whether or not that is the kind of thing that is sustainable or whether you're going to get burned on that. No place to save your money. And that's really pretty disheartening. So we got plenty of cash out there. We got plenty of needs for roads infrastructure. We have right now an artificially suppressed inflation rate and an artificially suppressed interest rate that the best guesstimate says is going to go on for a couple of three years before who knows what happens because that's the full extent of the theory that we're operating under at the federal reserve level. But for right now the things are there. When I questioned the Roads Department, the contractors, and the engineers at the hearing on Senator Conrad's bill, it was almost the most refreshing thing that I've heard since I've been down here. The Roads Department said, we can do it. The engineers said, standing by, ready to go. The contractor says, we're here, we're ready to roll. And it almost made me feel like this was the 1960's and I was back in America. We could do it. Now the only thing missing is the money. Now I don't know and it's impossible to know how much money this particular idea would put toward roads. If it puts nothing toward them, we're no worse off than we started. If it puts a lot toward them, then we built roads that we're going to have producing revenue, producing GDP when very well perhaps down the road we do not have cheap contracting services available, cheap engineering available, and low interest rates. So what does this thing do? This idea says if you want to pay in extra taxes, you can, and here's what you get in return. If you're under 65, and let's just talk about that for now, if you're under 65, five years from now you can claim a credit on your Nebraska income taxes, which means you're going to still be in Nebraska in five years, you're still going to be working, you won't have moved to Florida or to Arizona or someplace like that, that you'll be a taxpayer in Nebraska. In five years, you can claim a credit. And that credit will be inflation adjusted so that if you put in a dollar's worth of value in the beginning, you're going to get a dollar's worth of value out then. Fair enough. I mean, nobody gets cheated on that deal. Fair to all parties. And you are going to get a very modest interest-like calculation equal to the ten-year T-bill. Right now it's a little less than 2 percent but in that neighborhood. So 2 percent inflation right now, 2 percent T-bill interest is what you would get. So roughly 4 percent. State gets road money out of it. If you're 62 or older, you don't have to wait the five years in order to claim the credit. And there's also provisions in the bill that would kick in in the event you wanted to transfer the credit you could do it, but only at like a 10 percent discount. If you died, there were ways that your heirs could get the benefit of the bulk of the credit so it wouldn't be a complete loss if you happened to end up dying before your money was used out. So it basically allows the taxpayers to invest in Nebraska. And downside? Well, there's two downsides. I mean, and there's no...nothing in life is without a little risk. When the credit is claimed back, let's say we were to raise \$50 million in this mechanism, when that credit is claimed back, you won't be coming in five, six, seven years from now in tax

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revenues because it will be already used up. But those tax revenues would have to pay for more expensive roads then. So I think it is an even break. I think it's revenue neutral as far as the big long-term picture, dynamic picture is concerned, even though the fiscal people tell me they don't do dynamic calculations. The other thing is it might bring in so much money that the Roads Department couldn't chew it all. And I thought maybe the idea of putting a limit in there of \$100 million a year or something but then I figured, ah, it wouldn't sell that well. But that's something if the committee takes me seriously here we might want to consider putting in there is a limit of how many years or how much money a year that we would try experimenting with this. This is an experiment. You will not find it in any book anywhere. It is a self-dreamed up Sunday afternoon thing. And I think it could work. And if we can get those roads built in the next two or three years before whatever happens with interest rates and inflation starts to happen, and if we could give our savers a little relief while they're waiting for bank interest rates and things like that to return to a more real world, then I think we've done something good and we've created wealth for the saver and for the state. And that I'd like to see as part of our theme of our tax study. You know, how do we create public and private wealth using a tax mechanism to do that? There's big issues there. Now there's some time urgency on this because every year that something like this goes on is a year closer to what might become interest rate and inflation Armageddon three, four years from now if the QE3 or 4 or whatever will be up to by then fizzles out and we do not have fiscal responsibility in Washington, which I don't think anybody is holding their breath to see. So that's my idea. I bring it to the committee. Happy to try to answer questions. I don't suspect there's a big crowd in support of the idea because no one understands it. But I think it works. [LB82]

SENATOR HADLEY: Senator Schumacher, we always appreciate your ideas. Senator Pirsch. [LB82]

SENATOR PIRSCH: Start trying a little bit to think outside the box. That would be helpful. No. I'm just kidding everyone. Everything, (laughter) I appreciate that. So I have a question with respect to the...it's a tax credit, is that right? [LB82]

SENATOR SCHUMACHER: Um-hum. [LB82]

SENATOR PIRSCH: Is that transferable? [LB82]

SENATOR SCHUMACHER: Yes, it is transferable under the specifications set forth in the bill. Basically you can transfer but you take a 10 percent transfer fee that the state gets to keep, and that pulls ahead and would offset the...it would not be a very good deal if you transferred it but you wouldn't lose your principle, very much of it, either. [LB82]

SENATOR PIRSCH: How would you characterize the difference conceptually between,

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you know, say traditional bonding for to achieve the ends of road building and this type of mechanism? [LB82]

SENATOR SCHUMACHER: We can't do bonding in Nebraska because the state is prevented from pledging the faith and credit of the state. We can't do bonds. What is pledged here is not the faith and credit of the state. You could not, if you have one of these things, go and turn it in and get any cash back for it. What you're pledging is your faith in credit that you're going to be around in five years paying taxes. And that is what is being pledged here. It's only a credit to you, much like if you start a business here and we promise you we'll give you a bonus. This is a buying a credit on your future taxes. [LB82]

SENATOR HADLEY: Senator Schumacher, do you see this as replacing LB84 or in addition to LB84? [LB82]

SENATOR SCHUMACHER: Right now under the present scenario, I see it in addition to LB84. Now to the extent, and I understand there's quite a list of road projects that are supposed to be done over the next 20 years with LB84, to the extent we are able to accelerate those projects and get them done early while they can be done cheap, it may shorten up the need for LB84 down the road when we may be having all kinds of other financial problems and could use that quarter percent. But I see it as supplementing LB84 certainly. And if this...if all of a sudden we see 6 percent interest rates again, we see inflation, this thing would have to come to a screeching halt. You would not do any more of them. But right now, this is an extremely unique time in history. We have a federal reserve which has decided not to pay savers any interest and to print money at will in order to try to stimulate jobs. We can take advantage of that unique situation or we cannot take advantage of it. Whatever we choose is a matter of our own particular will. And if you think about what is really going on, how we are financing the system without raising taxes and without cutting spending, we are financing the system by stealing from savers. [LB82]

SENATOR HADLEY: Other questions? Senator Sullivan. [LB82]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Senator Schumacher. I applaud you for always thinking out of the box. Be surprising if you live farther away than Columbus, what wild ideas you might come up with. [LB82]

SENATOR SCHUMACHER: I'd be an expert then. [LB82]

SENATOR SULLIVAN: (Laughter) Now just to clarify, so the tax credit could not be claimed until five years out if you're younger than 62. [LB82]

SENATOR SCHUMACHER: Right, right. [LB82]

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SENATOR SULLIVAN: And then it shortens if they're 62 years or older. [LB82]

SENATOR SCHUMACHER: Right, right. [LB82]

SENATOR SULLIVAN: So you're gambling to a certain extent that, as you said, you'll be around in five years to be...still paying taxes and then cashing in on that tax credit. [LB82]

SENATOR SCHUMACHER: Right. You're somewhat gambling, but your heirs, I mean, it'll apply toward inheritance tax. [LB82]

SENATOR SULLIVAN: Okay. [LB82]

SENATOR SCHUMACHER: So if there's inheritance tax, it'll apply toward that. Apply toward your last taxes. If you happen to have gotten Medicaid and there's a claim for Medicaid that is...comes up, like they're trying to recoup Medicaid, it could be applied toward that. And your heirs can get it at a...you don't get the full benefit of it, but your heirs would be able to basically be passed on the principle amount of it. [LB82]

SENATOR SULLIVAN: Okay. Thank you. [LB82]

SENATOR HADLEY: Any other questions? Thank you, Senator Schumacher. We always appreciate your ideas to give us things to think about. [LB82]

SENATOR SCHUMACHER: Thank you, Senator Hadley. [LB82]

SENATOR HADLEY: Are there any proponents? [LB82]

LORAN SCHMIT: Chairman Hadley, members of the Revenue Committee, my name is Loran Schmit, L-o-r-a-n S-c-h-m-i-t. I had originally intended to testify in support of LB308, but after reading the bill LB82, I decided that was more interesting. (Laughter) I was glad the issue was raised about the use of bonds. In 1987, the Legislature authorized the construction of the freeway system. It was estimated to cost about \$212 million. And had we issued bonds at that time to build it and build it in a hurry, we could have done so. At the present time, we would have spent about \$600 million building the freeway system, and we are about 60 percent complete. And I doubt if Senator Pirsch will be around to see the completion of that freeway system. I certainly will not be myself. The proposal by Senator Schumacher is unique, but it is one of those ideas where I believe it will work. And certainly we'll take advantage of the availability of money at a time when it's needed. And we can expect the cost of construction to continue to increase. So the fact that you can have money available for Department of Roads at the present time and use them now, and beats the inflationary costs which I'm

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afraid will continue, it is a very distinct advantage. I thank Senator Schumacher. He did an excellent job of explaining the bill. And, Senator Hadley, you've been looking for new ideas. I think you got someone right there on your committee. And I'm sure that other members will come up with the same idea. So that's concludes my testimony. Appreciate the chance to testify. Answer any questions. [LB82]

SENATOR HADLEY: Thank you, Senator Schmit. Are there questions for Senator Schmit? [LB82]

LORAN SCHMIT: Thank you. [LB82]

SENATOR HADLEY: Seeing none, thank you, Senator Schmit. Further proponents? Opponents? Neutral? Senator Schumacher, do you wish to...waives closing. With that, we will end LB82. And Senator Carlson is here. Senator Carlson, please come up and tell us about LB475. [LB82]

SENATOR CARLSON: Good morning, Senator Hadley and members of the Revenue Committee. I am Tom Carlson, T-o-m C-a-r-l-s-o-n, representing the 38th District here to introduce LB475. LB475 would amend sections of the Angel Investment Tax Credit and the Business Innovation Act. As a bit of review and background, the Legislature passed LB389 in 2011 on a vote of 49 to 0. The Angel Investment Tax Credit Act approved refundable income tax credits for investments in high-tech businesses. That legislation provides up to \$3 million in annual tax credits for investments made in a business with at least 51 percent of its work force and payroll in Nebraska and 25 or fewer employees primarily engaged in researching, developing, and using products and services in the high-tech field. The Department of Economic Development asked me to introduce LB475. And the bill proposes changes to the Angel Investment Act, including: define investment date, authorized corporations to participate, eliminate pass-through certification as a qualified investor, and require investors to provide notice within 120 days after making an investment. It also adds a confidentiality provision except for information required for annual reports. The bill also makes some adjustments to the Business Innovation Act which authorizes a variety of programs to encourage innovation in Nebraska. LB475 eliminates reference to the Economic Development Commission and allows the Department of Economic Development to submit required action plans to the Governor. Business innovation funding is increased for several programs to encourage the use of available funds. Now it also eliminates the requirement that DED spends 70 percent of the funds on microlending and 30 percent on microenterprise assistance. This will allow DED to determine needs for microenterprise assistance rather than being required to use 70 percent for lending as there are other sources of loan funds. And the proposed changes to these two economic development programs would ease the administration of the program for DED and allow a wider array of entities to participate in the program. I think it's good to remind ourselves that angel investors take substantial risk. They may make money but

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certainly many times they're going to lose money. And if there's been \$100,000 invested and it's lost, then 40 percent of that or \$40,000 can be taken as a tax credit if the investment was made in a distressed area. So on \$100,000 investment, they're still going to lose \$60,000 and they can only recover the other \$40,000 if they have a tax credit against which to recover it. If the investment is made in what isn't a distressed area, they can only use 35 percent for a tax credit. So on \$100,000 investment, they could only recover \$35,000. But, again, that's going to depend on their tax bracket and whether or not they can take advantage of it. There are those that follow me that would go into more detail, but I would try to answer any questions that you may have. I think this is a worthwhile request to a program that is good for Nebraska because it brings in investment dollars that are certainly outside the realm of state tax dollars. And there's risk involved and this tax credit is a partial reimbursement for that risk. [LB475]

SENATOR HADLEY: Are there...Senator Pirsch. [LB475]

SENATOR PIRSCH: Yeah. Thank you, Senator Carlson. I...just in terms of being the sponsor, is this something you're envisioning being your priority bill then? [LB475]

SENATOR CARLSON: No. This is a big water state and I have another idea... [LB475]

SENATOR PIRSCH: Oh, sure. And I don't mean to put... [LB475]

SENATOR CARLSON: ...for that. That doesn't make this a bad bill. [LB475]

SENATOR PIRSCH: Sure. And I appreciate that. [LB475]

SENATOR HADLEY: Other questions for Senator Carlson? Senator Schumacher. [LB475]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you, Senator Carlson, for bringing this. Is the fundamental notion here that, I mean, even if you're a California investor, you invest \$100,000 in a business that meets these qualifications, we'll write you a check for \$40,000 if it's a depressed, otherwise \$30,000. It's a refundable... [LB475]

SENATOR CARLSON: Well, \$40,000 or \$35,000. [LB475]

SENATOR SCHUMACHER: Okay. [LB475]

SENATOR CARLSON: But my understanding would be there would have to be enough tax paid in Nebraska to offset that. Now if that's not the case, then I'm wrong. But it's based on Nebraska income tax. [LB475]

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SENATOR SCHUMACHER: I thought this was a refundable credit and that you actually got the money. And I guess we can check that out. Thank you, Senator. [LB475]

SENATOR CARLSON: Yeah. I don't have the total answer to that. That's not my understanding. But I may be wrong. [LB475]

SENATOR SCHUMACHER: Thank you, Senator. [LB475]

SENATOR CARLSON: Okay. [LB475]

SENATOR HADLEY: Further questions for Senator Carlson? Seeing none, thank you, Senator Carlson. [LB475]

SENATOR CARLSON: Thank you. [LB475]

SENATOR HADLEY: Are you going to grace us for closing or are you going to go back... [LB475]

SENATOR CARLSON: I'll try and be here for closing. [LB475]

SENATOR HADLEY: Okay. Could I see a show of hands of those people that are going to testify on this bill either...one, two, three, four. Did I count right? Okay. I'll try not to use the light system, but we are under the gun a little bit on time to get done. So if you would remember that so would the first proponent come down. [LB475]

CATHERINE LANG: (Exhibits 5-7) I do have three handouts. Good morning, Chairman Hadley and members of the Revenue Committee. For the record, my name is Catherine Lang, C-a-t-h-e-r-i-n-e L-a-n-g. I'm the Director of the Nebraska Department of Economic Development and the Commissioner of Labor. I appear before you today as the director of economic development in support of LB475. I first want to thank Senator Carlson for introducing LB475, and to thank Senator Hadley for originally introducing the bill for the Business Innovation Act during the 102nd legislative session. LB475 amends both the Angel Investment Tax Credit Act and the Business Innovation Act, which authorizes programs that are administered by the Department of Economic Development. Both of these acts were part of the Governor's talent and innovation initiative in 2011. The department has been administering these programs authorized under these acts for about a year and a half now. In that time, we have determined that certain improvements can be made to the programs. These are both technical and substantive. I will speak to each of these changes as they are specified in LB475. I've provided you with a copy of my testimony, an amendment that I'm going to talk about in just a moment, and a copy of a report to indicate to you how these funds are being used so that you can see that in detail. The angel investment tax credit authorizes a program that provides refundable income tax credit for qualified investors that invest in qualified

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small businesses. This is a program that assists in providing small start-up businesses with a source of capital by giving an incentive to investors to make investments in such business. Those investors must be Nebraska residents, but we do allow out-of-state trusts and estates to be investors, but otherwise the investors have to be Nebraska residents. The changes in LB475 to the angel investment tax credit include the following: Eliminating certain advantages that accredited investors have under the act as accredited investors can make investments in qualified small businesses prior to obtaining certification as a qualified investor, so we're making everything the same regarding the timing of the investment; allows entities such as corporations to participate as part of a qualified fund even though they are not eligible for a tax credit under the act; defining the investment date in the act as the latest of the following, the subscription agreement, the date of the investor's check, or the deposit date of the investment; establishing a date by which investors must notify the department that an investment has been made; changing penalties for failing to turn in required reports; adding an additional exception to the holding period requirement in the act; and strengthening the language regarding confidentiality of investor information. We believe these changes will encourage additional investments to be made in qualified business and ease some challenges involved in administering the program. I do want to turn attention to the amendment that we've offered. This amendment will impact the angel investment tax credit portion of the bill. I've provided a copy to you. The angel investment tax credit currently allows investors to participate as either qualified investors or part of a qualified fund. LB475 as drafted makes an adjustment that takes away the ability of a pass-through entity to participate as a qualified investor. This amendment restores that ability. After further evaluation of the way investors have been participating in the program and the effect this change would have on participation and qualified funds, we have determined that limiting the ability of pass-through entities to participate as qualified investors will significantly limit participation in the angel investment tax credit program. We no longer seek to make this change. So the amendment restores the provision relating to pass-through entities back to the way it currently is in state law. Turning attention to the Business Innovation Act, the BIA authorizes the department to administer several different programs which assist Nebraska businesses and entrepreneurs. And there's a list of all of the programs in my testimony. The act also requires the department to prepare an action plan by January 1 of each of the even-numbered years that addresses the department's plans for administering each of these programs. This action plan is available for public review and comment prior to submission to the Governor. The changes in LB475 to the BIA include the following: authorizing grants and other financial assistance to match the Federal Small Business Technology Transfer grant program; increasing the maximum amount of grant that can be awarded for a prototyping from \$50,000 to \$150,000; clarifying the matching requirements for the commercialization program; eliminating the requirements that microenterprise assistance be distributed as 70 percent for microenterprise lending and 30 percent for technical assistance and modifying the microenterprise activities eligible under the act; establishing a limitation of \$4 million on each program funded

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under the act and eliminating the current funding limitations, this will provide greater flexibility to the use of the total \$7 million annually; modifying language to allow the department to submit the annual action plan to the Governor rather than the Economic Development Commission; adding language to keep Business Innovation Act information confidential with the exception of information required in the annual report. And we believe these changes will improve the department's ability to encourage and support Nebraska-based technology and innovation. And I would be happy to answer any questions you may have. [LB475]

SENATOR HADLEY: Are there questions for Ms. Lang? Senator Sullivan. [LB475]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Ms. Lang. So with your amendment, that keeps in the fact that pass-through entities can claim the tax credit. [LB475]

CATHERINE LANG: That is correct, Senator Sullivan. [LB475]

SENATOR SULLIVAN: So it changes the fiscal note from probably a positive to a negative. [LB475]

CATHERINE LANG: It will...I believe right now the fiscal note is indicating that it would reduce General Funds by some millions of dollars. This would take it back to zero. So we would be operating under the way we currently are operating. It will not take additional resources to fund the program. [LB475]

SENATOR SULLIVAN: Even though you're raising...okay, what about that component where you're establishing a limitation of \$4 million on each program. [LB475]

CATHERINE LANG: That's only in the Business Innovation Act. We are not proposing in our bill to increase the angel investment tax credit amount. [LB475]

SENATOR SULLIVAN: Okay. All right. [LB475]

CATHERINE LANG: It was stated, there's an article in the Omaha World-Herald today that seems to indicate that our bill is increasing it and it is not. [LB475]

SENATOR SULLIVAN: Okay. All right. Thank you. [LB475]

SENATOR HADLEY: Senator Pirsch. [LB475]

SENATOR PIRSCH: Thanks for your testimony. That feature, that was originally in the language of the bill, but that is being, by amendment, taken...your proposed amendment, taken out to eliminate pass-through entities, what was the, I guess, the

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thought that originally with respect to maybe we should...I mean, the underlying bill, what was the concern underlying the pass-through entities? [LB475]

CATHERINE LANG: I think that our original concern was more technical than it was substantive, and I think we believe that it was...as we were looking at the way the credits were being utilized in the entities that were utilizing the credits, we didn't think that it was necessary to have a pass-through entity as a qualified investor because they could be part of a qualified fund. But based on the feedback that we've received since drafting it that way, we believe that our original opinion was incorrect. [LB475]

SENATOR PIRSCH: What...of those entities that were participating in angel investment last year, how many of those were pass-through type of entities? [LB475]

CATHERINE LANG: I don't know that right now, but, Senator Pirsch, we will provide that information to the committee. [LB475]

SENATOR PIRSCH: Oh, okay. I appreciate that. And then there...with respect to the other feature that it...which would remain and even after the amendment that would eliminate certain advantages that accredited investors have under the current act, can you speak to that a little more how that functions or what those advantages are that are being... [LB475]

CATHERINE LANG: We believe that there should not be a differential treatment among investors just because some are accredited according to the SEC and some are not. In many cases, they are investing similar amounts. But accredited investors have an advantage of investing prior to the certification as an investor. So we are just treating everyone the same. You must become certified as an investor and then make your investment no matter who you are, what you are. [LB475]

SENATOR PIRSCH: Okay. And it's pretty early in the...so the angel investment tax credit had been offered the last three months, I understand, 2011 throughout 2012. How does it seem to be going generally in terms of, you know, when it was originally passed? The hopes for the program? Is it meeting its... [LB475]

CATHERINE LANG: I believe that we are seeing at the Department of Economic Development a lot of activity and interest in this program. And we notice it, you know, occurring much earlier in a year than it did originally. So we believe that it's a very valuable program. [LB475]

SENATOR PIRSCH: Good. Well, thank you for your testimony. [LB475]

SENATOR HADLEY: Senator Schumacher. [LB475]

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SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony, Ms. Lang. Is this a refundable credit? [LB475]

CATHERINE LANG: Yes, it is. [LB475]

SENATOR SCHUMACHER: So it's like getting a check. [LB475]

CATHERINE LANG: Yes, it can be. [LB475]

SENATOR SCHUMACHER: Okay. And I'm looking through the...at least what portions of the bill I have here and I don't see where it's restricted to Nebraska investors. Is there a provision that restricts it to Nebraska investors? [LB475]

CATHERINE LANG: There is or a Nebraska resident. So there is and we can make sure we can provide that for you, cite that for you. [LB475]

SENATOR SCHUMACHER: Because it cites that a qualified investor is somebody defined in 6305. And in looking through 6305, I don't see the word Nebraska. [LB475]

CATHERINE LANG: It's in the Nebraska tax code, so it'd be in Chapter 77. So we can provide that to the committee to... [LB475]

SENATOR SCHUMACHER: Okay. But this is only going to Nebraska investors. [LB475]

CATHERINE LANG: That is correct. [LB475]

SENATOR SCHUMACHER: Now is there any either in your rules or the way you're interpreting the statute, any restriction on here the group of angels come in, and young person has got a bright idea, and they say okay. We'll take our 35 or 40 percent check from Nebraska. And we will...we want 90 percent of the company. Any restrictions on how much they got to leave the bright young person with? [LB475]

CATHERINE LANG: I don't know the answer. No, there is not such a restriction. [LB475]

SENATOR SCHUMACHER: Okay. So basically these guys could take virtually all the stock in the company if they wanted to. [LB475]

CATHERINE LANG: We do not get involved in terms of the relationship between the angel and the company. [LB475]

SENATOR SCHUMACHER: Okay. And then once a company, once the taxpayers have written their check for 35 or 40 percent, and this company, let's say it's one of those that actually works and grows up to be something, is there any restrictions on how long they

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got to stay before they are merged with somebody else and taken out of Nebraska?
[LB475]

CATHERINE LANG: I do not believe so, but we'd be happy to assure that my answer is correct to that and provide that information to you. [LB475]

SENATOR SCHUMACHER: Okay. Would those kind of changes in the act be good to require that the young entrepreneur retain at least respectable shares of the company and that the business remain in Nebraska for ten years or so? I mean, we're writing a check here. This is not a credit. We're writing a check. Would that be desirable? [LB475]

CATHERINE LANG: I don't believe that the Department of Economic Development would support that, but if that were to be a provision of change, then obviously we would implement it. But we would not at this time want to be involved in that, in those restrictions. [LB475]

SENATOR SCHUMACHER: Okay. Thank you for your testimony. [LB475]

CATHERINE LANG: You bet. And let me clarify something. As we do look back at the tax code, staff has let me know that nonresidents can participate, but they are not eligible for a credit. So we'll clarify and make sure that we provide that information to committee counsel. [LB475]

SENATOR SCHUMACHER: Okay. Thank you. [LB475]

SENATOR HADLEY: Ms. Lang, I have two or three questions. We had an earlier bill to increase the angel fund from I believe \$2 million, \$3 million to \$5 million. [LB475]

CATHERINE LANG: It's \$3 million now. [LB475]

SENATOR HADLEY: ...\$3 million to \$5 million, and the department did not come in and testify on that bill. Do you have any thoughts on that? Has it been so successful that it's time for the Legislature to look at increasing that amount or do we need more time to look at it or what's your thoughts on that? [LB475]

CATHERINE LANG: I think at this point our recommendation would be to continue to look at it. And other than that, we would not have any additional thoughts, no. [LB475]

SENATOR HADLEY: Okay. Second question I have, and somebody may talk about it later. I was involved in some negotiations between the department and some others dealing with the microenterprise lending... [LB475]

CATHERINE LANG: Okay. [LB475]

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SENATOR HADLEY: ...a couple of years ago when we put this together. And I wonder if you could...in your fourth bullet, you talk about eliminating the requirement for assistance to be distributed and modifying the activities, and also I believe it allows you to dedicate from zero to \$4 million for this activity. Can you explain to me why you want these changes in the microenterprise lending? [LB475]

CATHERINE LANG: Well, number one, we believe that there are many resources available to actually do the lending, the loan piece. What we're finding and what we're hearing from individuals involved in this process is that to find resources for the technical assistance is very, very limited. So what we have proposed to do in this bill is to move all of our resources dedicated to this program to technical assistance. And that's based on the feedback that we've received from individuals involved in this process. [LB475]

SENATOR HADLEY: In the process. Okay. If I see your Business Innovation Act, and I haven't had a chance to really completely look at it... [LB475]

CATHERINE LANG: Sure. [LB475]

SENATOR HADLEY: ...but it looks like the microlending that you've used all the funds available for the microlending. Is that correct? It says available funds zero... [LB475]

CATHERINE LANG: Yes, we have. [LB475]

SENATOR HADLEY: ...funds. So you've got a program that you've used all the money but you're saying now that really you don't need that program. [LB475]

CATHERINE LANG: That's correct. [LB475]

SENATOR HADLEY: And then the microtechnical assistance which you say you need to have the funds in, you haven't used all the funds. Would that be correct? [LB475]

CATHERINE LANG: That is correct. [LB475]

SENATOR HADLEY: Okay. I just...interesting dichotomy there. [LB475]

CATHERINE LANG: We're still working on the contract for that, so it will be utilized. It's just not utilized yet. [LB475]

SENATOR HADLEY: Okay. Another question I have is, on your number six, modifying language to allow the department to submit the annual action plan to the Governor rather than the Economic Development Commission submitting the action plan to the

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Governor. I'm probably slow and can't figure things out. Tell me a little bit about the Economic Development Commission, who it reports to and who sets that up and... [LB475]

CATHERINE LANG: The Economic Development Commission has been around for a long time and it's established by appointment by the Governor. And they serve as advisory and review capacity in some programs to the department. We recently approached the Government and Military Affairs Committee with a request to remove that commission and repeal it, and I believe that was LB78 and I believe that may have already passed. [LB475]

SENATOR HADLEY: Okay. I guess I wasn't probably as quick as I should have been under that because the department does report to the Governor, right? [LB475]

CATHERINE LANG: That is correct. [LB475]

SENATOR HADLEY: So the Governor is...you're submitting a plan to the person to whom the department reports without an outside agency or outside group of advisors looking at it. [LB475]

CATHERINE LANG: That's correct. [LB475]

SENATOR HADLEY: Okay. Other Questions? Seeing none, thank you, Ms. Lang. I appreciate it. [LB475]

CATHERINE LANG: And do...let me back up and clarify as Gary Hamer was just telling...reminding me, we will have a public comment period on the annual plan. So there is an opportunity for public comment. [LB475]

SENATOR HADLEY: Okay. Thank you. Thank you. [LB475]

CATHERINE LANG: Just to clarify. Thank you very much. [LB475]

SENATOR HADLEY: Thank you. First proponent. First proponent. Second. One, two. I'm glad I have Ms. Edson here to keep me on the straight and narrow. Second. [LB475]

RICHARD BAIER: All right. Good afternoon, Chairman Hadley, members...or good morning, Chairman Hadley, members of the committee. Throw me off a little. For the record, my name is Richard Baier, R-i-c-h-a-r-d, the last name is B-a-i-e-r. I appear before you today as a registered lobbyist for the Nebraska chamber, and I'm also offering our support on behalf of the Greater Omaha Chamber, and here in support of LB475. Senator, you wanted to keep it short, and I would just tell you we think that somebody that helped craft LB475 originally, some of these changes make a great deal

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of sense to give some flexibility to the program administration. And also when we put this thing together, it was kind of a shot in the dark to be honest with you, was something very new for Nebraska. And now that they've got a couple of years of history, these things tend to make a lot of sense in terms of the process. So we would support the efforts that we're looking at. And, Senator, a follow up on your question, you have to be a Nebraska taxpayer to qualify for the credits. So you may very well have a project that has outside investors, but in this case because they are not a Nebraska taxpayer as the individual investor, they are not going to qualify for the tax credits. I need to go back and refresh myself in that section of statute, but I'd be happy to visit you about it and see if we can talk through the concerns. [LB475]

SENATOR HADLEY: Okay. Questions for Mr. Baier? Thank you, Mr. Baier. [LB475]

RICHARD BAIER: Yep. [LB475]

SENATOR HADLEY: Further proponents. [LB475]

BRUCE BOHRER: Good morning, Senator Hadley, members of the committee. Bruce Bohrer appearing on behalf of the Lincoln Chamber of Commerce. For the record, last name is spelled B-o-h-r-e-r. I'll be very brief as well. We supported this as part of the talent innovation initiative a few years ago. We do think it's having very positive impact in Lincoln and across Nebraska in doing exactly what we want to do, is develop more of a entrepreneurial culture, a culture that supports innovation. I'll just use two recent examples of some of the things that we've seen. A gentleman that's a student at Columbia University in New York coming back to Nebraska, tying up with a programmer out of...that's involved with Hudl to do a prototype for a Web site to help organize travel and logistics for different events. I think it's called Travefy, something similar to that. And we see that as a win and trying to get those talented individuals that are in this type of work space, highly technical, often related to computers and programming. So we see that as a win. Also something that we've organized through our partnership for economic development, something called Healthcare Connect. We're trying to marry up the programmers to go in with healthcare providers and look at certain issues that they're dealing with and having problems with and help to develop a technical program. And we just did a business plan competition and selected a winner, and then that will be prototyped through the assistance of the Business Innovation Act. And hopefully that will be something that if it works out correctly, they'd be able to do a trial run with the hospital here in Lincoln and then hopefully expand it across the board. So like Mr. Baier said, it was kind of a, you know, we think this is what we need to do, so it's not unusual that we would come back in and say let's tweak this a little bit. We do, overall, think the Business Innovation Act and the angel investment tax credit are doing exactly what we'd hope for. With that, I'd answer any questions. [LB475]

SENATOR HADLEY: Questions for Mr. Bohrer? Senator Schumacher. [LB475]

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SENATOR SCHUMACHER: Thank you, Senator Hadley. And thank you for your testimony. Any calculation yet on how much...many dollars per job are in average jobs that have been created under angel investing yet? [LB475]

BRUCE BOHRER: It's probably too soon for that. It'll be interesting to see though. I mean, because they are very high, you know, venture funding, and angel funding is very high-risk venture. I just saw a presentation on this last Friday from a gentleman from Nebraska Global or, excuse me, Nebraska Angels, and, you know, most of the ventures that they fund, you know, the reason that they ask for such a high equity stake is most of them that they fund turn out not to actually pan out, that go onto something else. [LB475]

SENATOR SCHUMACHER: What do they get for equity in a company? Do they get 80 percent of it, 90 percent of it? [LB475]

BRUCE BOHRER: I have not heard that high. I've actually got a nephew that's involved in a start-up that's been very successful up in Omaha, and I know he was shocked. This was ten years ago when they were talking about a 40 percent stake. I think they negotiated down below that. I've not heard an 80 to 90 percent stake, but, you know, I guess it would be very individualistic. You know, you see it on the show Shark Tank. It just depends on how developed the person asking for the angel investment really truly is and how sophisticated they are. [LB475]

SENATOR SCHUMACHER: Is there any effort to marry up this program with, we see a lot of, I mean, we pass a lot of bills that call for computer programming and subcontracting, things like that, of the state government to kind of leverage this back and encourage, put some of this effort back into people that will program for the state so we don't have this huge expense of every time we see a computer thing outrageous number in a fiscal note for a computer programmer. [LB475]

BRUCE BOHRER: Wow! I had never thought about that. I think that's kind of an interesting idea. Intriguing. I don't know why you wouldn't be able to have some of these folks tackle some of the issues that state government is dealing with in computer programs or different technical issues. They're extremely bright and I don't know why you wouldn't want to do that. [LB475]

SENATOR SCHUMACHER: Thank you. [LB475]

SENATOR HADLEY: Any other questions for Mr. Bohrer? Thank you, Mr. Bohrer. [LB475]

BRUCE BOHRER: Thank you. [LB475]

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SENATOR HADLEY: Further proponents? Seeing none, opponents? Welcome, Regent. [LB475]

CHUCK HASSEBROOK: (Exhibit 8) Good morning. Thank you for having me. I'm Chuck Hassebrook, C-h-u-c-k H-a-s-s-e-b-r-o-o-k. I'm here representing the Center for Rural Affairs of Lyons, Nebraska. I urge you to amend the section of LB475 that addresses microenterprise, that's businesses with up to ten employees in two ways. One, to retain a minimum funding level for microenterprise assistance and increase it to \$1 million. And, two, to retain authority to use the program to capitalize loan loss reserve funds. This is a place where Nebraska has been a leader. Nebraska was among the first states to use state funds for microenterprise development. In over nearly two decades, it's been a leader in the field. Today, Nebraska is the only state in the union where microenterprise development services are available statewide, rural and urban areas, across the entire state to provide loans, business training, and technical assistance to small businesses, things like helping people put together a business plan so they can get a bank loan. For most of those years, the state helped to finance those microenterprise services through a freestanding program that was its own statute and its own line in the appropriations bill. Two years ago, the microenterprise program was rolled into the Business Innovation Act. As originally proposed, the act set no minimum for the portion of Business Innovation Act funds that would be committed to microenterprise development. But as you, Senator Hadley, recalled earlier, you conveyed representatives of the department and the programs providing microenterprise services and reached a compromise. That's at a \$500,000 minimum for the amount of Business Innovation Act funds that go to microenterprise. And also expanded the potential uses for the microenterprise funds to include capitalizing loan loss reserve funds. As drafted, LB475 would undo that compromise that you helped bring about. I urge you to retain those provisions. I do agree with one change in LB475, and that is getting rid of the requirement that 70 percent of all funds for microenterprise go to revolving loan funds. I think it's good to give the department more flexibility to move those funds to where they're most needed. However, I oppose providing the authority to zero out all funding for microenterprise development. In fact, the Legislature has made microenterprise development a core part of economic development policy in this state for nearly two decades. This body has made Nebraska a leader among the states in support for small business and microenterprise development. And I urge you to not allow that leadership to be undone by administrative fiat. I also urge you to retain the authority to capitalize loan loss reserve funds because it is a very cost-effective use of state funds. Microenterprise programs, and the Center for Rural Affairs runs one, make loans to small businesses. And by and large we do that with funds that we receive from the federal government through the Small Business Administration or, in some cases, U.S. Department of Agriculture. But we can only get those funds if we can capitalize loan loss reserve funds. And here's my point is that for every dollar the state of Nebraska puts forward to capitalize a loan loss reserve funds, we can leverage \$7 of

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federal loan funds. Now I think that's a pretty good deal and I don't see any reason to undo that. This body's leadership, this Legislature's leadership in microenterprise has created a success story. Now currently the state is funding a partnership, \$300,000, for the rural enterprise assistance program, which is part of the center for rural affairs, Catholic Charities, based in Omaha, and Community Development Resources based here in Lincoln to provide support to microenterprises, businesses with up to ten employees statewide. Last year on that \$300,000 contract, those groups together, we served over 2,500 small businesses, we loaned or leveraged private loans totally \$3.5 million, and we saved or created 800 jobs, all on a modest state investment of \$300,000 and technical assistance. In addition, the state provided loan funds that have, I think, been valuable and provided a payoff, too, through the Northeast Nebraska Economic Development District and other organizations as well as my own organization. But to give you an example of the impact this has had, the partnership providing technical assistance, last year we used those funds to provide technical assistance to a woman by the name of Lory Power. With the technical assistance she got, Lory got a bank loan and she acquired a store in McCook that sold textbooks to homeschoolers. And with that assistance, she turned it into a national on-line retailer, and in the process not only saved three jobs but created two new jobs. Now this is not an isolated success story. In the most rural parts of Nebraska, over three-fourths of the new jobs come from microenterprises, from businesses that provide just self-employment or hire up to ten people. And microenterprise is always critical in the most rural parts of Nebraska. But in times of recession, it's critical everywhere in Nebraska and frankly everywhere in America. During our last recession it was microenterprise that led Nebraska out of recession. From 2000 to 2003, microenterprise expanded employment by 5 percent while larger businesses were reducing jobs and reducing employment. That's a success story. And I urge you not to undo this success story and to amend LB475 so it doesn't allow this success story to be undone. Thank you. [LB475]

SENATOR HADLEY: Questions for Regent Hassebrook? Seeing none, thank you for coming down very much. [LB475]

CHUCK HASSEBROOK: Thank you. [LB475]

SENATOR HADLEY: We appreciate it. [LB475]

CHUCK HASSEBROOK: Thanks. [LB475]

SENATOR HADLEY: Other opponents. Neutral. Senator Carlson, will you wish to close? [LB475]

SENATOR CARLSON: Thank you, Senator Hadley and the committee for your participation in the hearing this morning. I have to admit when I read refundable tax credit, it's not what it seems to mean. And I always have thought that a refundable tax

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credit was something paid back, refunded back against tax paid, and I'm surprised that that's not the case. It was your bill. It was a good bill. It continues to be a good bill and it's a way for people in start-up businesses that take a high risk to be helped by someone that's willing to make an investment. And I guess even if the tax credit is there regardless of profit, there's substantial risk on the part of angel investors to help these new start-up businesses get going and hopefully several of them succeed, and it doesn't take a high percentage of success to make the whole project worthwhile. So appreciate you listening to this and hopefully you will advance the bill. Thank you. [LB475]

SENATOR HADLEY: Are there questions for Senator Carlson? Thank you, Senator Carlson. Is this your first trip to the Revenue Committee this year? [LB475]

SENATOR CARLSON: This year maybe. I'll be back. [LB475]

SENATOR HADLEY: You survived. You survived. Thank you for coming. Would the pages see if we could get ahold of...is Senator Krist here? Oh, I didn't see him over there. Senator Krist, if you would come forward. Senator Krist. [LB475]

SENATOR KRIST: Good morning, Senator Hadley and members of the Revenue Committee. For the record my name is Bob Krist. That's B-o-b K-r-i-s-t, and I represent the 10th Legislative District in northwest Omaha, along with a north-central portion of Douglas County, which includes the city of Bennington. I appear before you today in introduction and support of LB14, a bill I introduce at the request of the Nebraska Catholic Conference. As you will hear from them in the subsequent testimony, the Nebraska Catholic Conference has invested a significant amount of time and resources to thoroughly examine the positive fiscal impact a bill such as LB14 would provide to our state. I believe LB14 as introduced is good public policy and responsive to the committee's input previously offered. LB14 adopts the Elementary and Secondary Educational Opportunity Act, which establishes and makes available to donors--individuals and businesses--a limited tax credit for contributions to a state-certified nonprofit scholarship granting organization, which would be required to use no less than 95 percent of the revenue for scholarships to help children be able to attend private elementary and secondary schools in Nebraska. Tax credit could be claimed from 60 percent of qualifying contributions made during the tax year. The credit would be nonrefundable, but any amount credit exceeding the taxpayer's liability could be carried forward for up to five years. The bill proposes an aggregate statewide cap of \$10 million in tax credits for 2013, increasing incrementally. In addition to being required to distribute almost all of the revenue as scholarships, scholarship-granting organizations also would be required to award scholarships in conjunction with at least two different schools. A qualifying school is defined as any nonprofit private school K-12 that satisfies the state's requirement for legal operation and does not discriminate on the basis of race, color, or national origin. Scholarship eligibility would be means tested. First-time scholarship eligibility would be limited to children entering either kindergarten

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or ninth grade and to any grade transfers K-12 from public schools to qualifying private schools. Tax incentive support of a private school scholarship assistance would mean a great deal for families who struggle to afford or cannot afford what they deem to be the best educational opportunities for their children. Tax credit-supported scholarships not only would enable more families to choose private schools; they would sustain competition for education improvement and excellence while also helping to increase and perpetuate the tremendous tax relief that affordable education in other than public schools provides. I want to thank the committee for considering it. I know you heard this bill two years ago and it did not make it out of committee. Some of the changes that were suggested were made in this bill, in LB14. So I would only say this: As we continue to show positive revenue in this state, we also are seeing challenges in education; and I think this is good public policy as I said in my opening. And I would entertain any questions. [LB14]

SENATOR HADLEY: Are there questions for Senator Krist? Senator Pirsch. [LB14]

SENATOR PIRSCH: Well, thank you. It says you'd have to use no less than 95 percent of the revenue for scholarships to help children to attend private elementary and secondary schools. Is the 95 percent, was that part of the bill two years ago? [LB14]

SENATOR KRIST: No. [LB14]

SENATOR PIRSCH: And that kind of sets a floor. Does that mean the other 5 percent, up to 5 percent administrative? Is that right? [LB14]

SENATOR KRIST: Yes. [LB14]

SENATOR PIRSCH: Okay. Thank you. [LB14]

SENATOR KRIST: You bet. [LB14]

SENATOR HADLEY: Any other questions for Senator Krist? Thank you, Senator Krist. [LB14]

SENATOR KRIST: Thank you. [LB14]

SENATOR HADLEY: Will you be staying for closing or...? [LB14]

SENATOR KRIST: Yes. [LB14]

SENATOR HADLEY: Okay. Proponents. First proponent. [LB14]

KENT BIEKER: Senator Hadley, members of the Revenue Committee, my name is Kent

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Bieker. That is spelled K-e-n-t B-i-e-k-e-r. I'm a volunteer president of the Nebraska Federation of Catholic School Parents, and that is an affiliate of the Nebraska Catholic Conference. I am a parent and I come here to speak to you as a parent. I have children enrolled in both public schools and private schools, and I want to testify in favor of LB14. First of all, I want to remind you that private schools provide a great service to the state. Private schools educate more than 30,000 students, and if you calculate that based on the average cost of educating a student, that comes to almost \$300 million that just the Catholic school system alone provides benefit to the state of Nebraska. We do that all with private money. We build our own schools. We have no bond issues that we can use to build our schools, so we do all of our maintenance and everything with that...with our own private money. It is the responsibility of the state of Nebraska to educate children. We, as Catholic school parents, believe that we are helping you fulfill that role. You will also find in later testimony from Jeremy Murphy that there is a study that we have done that shows that the state of Nebraska can actually save money, between \$55 million and \$80 million, by implementing this program over ten years. I know I looked at all your bios on line and I noticed that all of you have children, some of you have grandchildren. Much like myself, I'm sure you want what is best for your children. I believe that giving parents the opportunity to choose where their children are educated is very much an important part of being a parent. This bill will allow particularly parents that do not have the financial means to send their kids to a private school to be able to do that. There's also 12 other states, Iowa right next to us, that have this program in place that allow parents to do that and have that opportunity. As parents we hold our schools accountable. Parental involvement, I believe, starts with parental choice, choosing where we get to send our children to school. Most private schools have a very high degree of volunteers. It's almost a requirement for some schools because they are so strapped on the budget. That is a good degree of why I believe children tend to do better in schools where their parents are involved. We, as parents, hold these schools accountable, the private schools. If we do not like what the school is teaching or the way it is being handled, we have the ability to pull those children out of that school. So probably better than any kind of regulation, parents hold private schools accountable for the type of education that their children are getting, not only because they're involved but because we have the ability to move them. Parents in public schools do not easily have that opportunity. Really the only option they have, if they have a financial limitation, is to be able to do something like home school, which is not a cheap alternative. I believe now is the time for this bill. Before this committee there's been two other bills in the last several years. LB67 and LB50 in the previous four years have gone through and have died in this committee. In that time, we've had children that have entered high school and have graduated and have not had the opportunity to select where they wanted to go to school. We've had children enter kindergarten and gone to first grade and are now reading for education for informational purposes and have not had the opportunity to go where their parents felt their best educational need was supported. I thank you for your time and I urge you to pass this bill onto the complete senate floor. [LB14]

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SENATOR HADLEY: Are there questions for Mr. Bieker? Yes, Senator Harr. [LB14]

SENATOR HARR: Thank you. And I apologize for being late. I was introducing a bill in another committee. So you talked about accountability and I think that's a very good idea to talk about that. This is a large financial outlay. It's \$10 million or \$12 million. And so you talked about parent accountability, which is good. Would you be open to requiring these kids who receive these funds to take the NeSA test, the state assessment? [LB14]

KENT BIEKER: Most of our schools already take either national or state assessment tests. I don't... [LB14]

SENATOR HARR: But those are a little different. Would you be open to the NeSA exam? [LB14]

KENT BIEKER: To the what? [LB14]

SENATOR HARR: NeSA, the state assessment. So you're talking about...what tests are you talking about? [LB14]

KENT BIEKER: Particularly my kids take TerraNova tests. [LB14]

SENATOR HARR: Okay. And do you know how that's...that would differ from a state assessment insofar as for every kid that goes up, someone must go down. Whereas, the state assessment test has a straight line that says either you're above the line or you're below the line. So how they test and what they test is a little different. Would you be open to the option of requiring these kids to take the state assessment test? [LB14]

KENT BIEKER: My personal belief is that I as a parent hold the school accountable. I don't know that additional testing of my children actually gives better education purposes. [LB14]

SENATOR HARR: Okay. And that's great when you're paying. But when the state is paying, we, just as you, hold the school accountable, we have to find a way to hold the school accountable to make sure that this large outlay is acceptable. Do you have a way that you would recommend that the state knows it's better; that the money is being well spent if you're against...? It sounds like you're against the state assessment score. So how do we as a state allow...in essence, we're foregoing tax dollars. So how do we know that that money is well spent? [LB14]

KENT BIEKER: I think you can look at the track record of private schools and see how well they perform versus public schools. [LB14]

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SENATOR HARR: Okay. And what track record would I look at? [LB14]

KENT BIEKER: You could look at graduation rates. And, again, I'm not an expert on education... [LB14]

SENATOR HARR: Nor am I, by the way. Yeah. [LB14]

KENT BIEKER: ...but you can look at graduation rates, those types of things to see that--ACT scores, SAT scores--to see how well private schools do. But I guess my biggest point is I believe it is the parents' right to choose that option if they want to do it. [LB14]

SENATOR HARR: And no one is denying them that right. No one is denying them the right. The problem with using graduation rate, ACT, SAT, is we don't find out until they graduate or their junior year what that score is, and this applies to elementary and secondary school. So the question is, how do we measure to make sure that that money is...maybe it's really well spent on the high school level but it's not so well spent on the elementary school level. So how do we know that these dollars are being well spent? [LB14]

KENT BIEKER: I think that I would defer that question to the superintendents in my schools to see if they have a suggestion for that. But as the president of the Federation of Catholic School Parents, my preference would be to let parents do that assessment. And I would ask that the state would trust parents to do that. [LB14]

SENATOR HARR: And that's nice. I wish they would trust me just to spend money without accountability too. But I think we have to have some accountability mechanism built in, and that's just all I'm looking for is some form. And I see Monsignor is here. Hopefully, he'll be able to answer that question too. [LB14]

KENT BIEKER: Okay. [LB14]

SENATOR HARR: Thank you. [LB14]

SENATOR HADLEY: Any other questions for Mr. Bieker? Seeing none, thank you. [LB14]

KENT BIEKER: Thank you for your time. [LB14]

SENATOR HADLEY: Could I see a show of hands of those people who plan on testifying on this bill today? Okay, I'm going to institute the light system and the light system will be that you'll see a green light and you'll be able to talk for four minutes and

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then you will see an amber light and that means it's getting time to wind up your testimony, and then you will see a red light. We will not cut you off in the middle of a sentence but it means that it's getting time to get to your final statements. Okay, with that, could we have the first...second proponent. Could we have a proponent? [LB14]

FATIMA RIVERA: Good morning. My name is Fatima Rivera and I am part of the PTO members for Sacred Heart School. And I was also looking through some information that I do have, and I do see... [LB14]

SENATOR HADLEY: Would you please spell...we need you to spell your name. [LB14]

FATIMA RIVERA: I'm sorry. F-a-t-i-m-a R-i-v-e-r-a. [LB14]

SENATOR HADLEY: Okay. [LB14]

FATIMA RIVERA: And my children are currently in elementary school and they do...they are required to take the CBS test, which I'm not sure if it's similar to the test that you are referring to. So I guess we can look into that a little bit more and see if it's similar to what you're looking for. [LB14]

SENATOR HARR: Thank you. [LB14]

FATIMA RIVERA: And I do see that, for instance, in Iowa, 9,624 students per year are allowed to receive these scholarships, and also we have other states where they do receive the 65 percent state tax credit, states like Arizona, Florida, Georgia, Indiana, Louisiana, Oklahoma, Rhode Island, and Virginia. And my children did attend public schools for awhile, and these past couple years they now attend Sacred Heart, and I really, really enjoy it and I really do love the community. And, first of all, they do have the grading scale that they do have in high schools, so they do push the students to do their best. And I really hope that you guys can pass this bill and help families like myself who sometimes cannot financially afford to send all our children to private schools. [LB14]

SENATOR HADLEY: Okay. Thank you so much. We appreciate you coming. Are there questions? Thank you. Next proponent. [LB14]

PAUL EVANS: Good morning. My name is Paul Evans, P-a-u-l E-v-a-n-s. I am a member of Faith Lutheran Church and School here in Lincoln, and I also have grandchildren that are in Omaha in a private school. And the reason I'm here is to confirm that this is a very good plan for children in the public school system and the private school system; at least they have a choice. People that don't have a lot of money today don't really have a lot of choices. It's public school or nothing else. I've been through it. My kids are all raised. I've sent them through parochial school and I've

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also sent them through public school, and I don't have a preference one over the other. I'm just saying that in the private sector it was a smaller class size. I have one daughter that got along better in those situations than in a large class size, and it offered to them a choice of being able to learn more efficiently. It also offered excellence. Faith Lutheran Church and School today, we have a president of the school that has gotten many awards for excellence in education; and that means not only just with plain ordinary students but also with those that are struggling and have problems learning. So I would support this issue that it costs a lot of money today. As you can look at the report that was handed out to you, it costs about \$10,700 per student per year to educate those children, which is a lot of money; is a lot of tax dollars. And in private school, you don't have a choice. You're paying double. You're paying not only taxes but you're also deciding to pay out of our own pocket for that education. So with that in mind, the incentive to have people donate money to a scholarship fund that promotes education, a high standard of education. And like you asked before, the testing. I'm not against that at all. I would say that that would be very good to have testing for those students to make sure the education is up to specifications and that they are getting their money's worth. So in my opinion I would encourage you to vote on this scholarship program. It would help those who are in need and it would also improve excellence in education. And, right now, the number of kids that are in parochial school or private school--and I don't know if this includes home schooling or not--but you have 37,933 people that are not in the public school systems. It's saving the state about \$406 million. If we'd take those kids out of private school, put them into public school, it would cost a tremendous amount of money for the state to educate those kids. So we're getting a break in both ways. The state is getting a break and also the school is educating those kids for excellence. That's my little speech that I have to say to you and I thank you for your time and your consideration. [LB14]

SENATOR HADLEY: Senator Sullivan. [LB14]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you for your testimony. Can you tell me, through the organizations and the schools that you've been associated with, do they, most of them, have their own scholarships... [LB14]

PAUL EVANS: No. [LB14]

SENATOR SULLIVAN: ...funds? [LB14]

PAUL EVANS: No. [LB14]

SENATOR SULLIVAN: Okay. [LB14]

SENATOR HADLEY: Okay. Senator Hansen. [LB14]

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SENATOR HANSEN: Thank you. Mr. Evans, thank you for testifying. And you also said that you had children both in the public and the private schools. [LB14]

PAUL EVANS: Yes, Senator. [LB14]

SENATOR HANSEN: And then you brought up the subject of testing that Senator Harr brought up a little earlier. How did the...the children you had go that went to public school, you probably saw or they were preparing for those state tests, and the child or children that you had in the private school did not take those tests. Is that correct? [LB14]

PAUL EVANS: No, that's not true. [LB14]

SENATOR HANSEN: But the state tests? They didn't take a state test, did they? [LB14]

PAUL EVANS: Well, my children went to a Lutheran school up to a certain specific age, which they did not have a high school, and at that time they proceeded into high school. And at the time when they entered high school and graduated from high school, all of them met the requirements of the state. As a matter of fact, two of them were the highest honors in the school, so. It's not to say that one of them wasn't and two were, but they all had excellent education. And it's what they did with the education, you know. I mean, one student might be good at athletics, one might be good at cheerleading or, you know, or reading or computer. Today, you know, in my business I hire young people to do the job that I can't do, and a lot of that is technology; and I rely on those people for technology to bring me into the new century. And a lot of us don't know the training that they've had. So, you know, there's a lot of difference today than 20 years ago. [LB14]

SENATOR HANSEN: Certainly. But the public schools do have certain tests. Senator Sullivan is our expert on the Education, and the testing that goes on in the public schools. And my question to you would be that if this bill would pass and we would take children that were going to a public school or not, I mean they can enter as kindergartners, if they were accountable, such as Senator Harr said, for that \$10 million and \$12 million a year that the state would lose, there has to be some type of accountability. What would your feeling be if in the private school all students had to meet the tests of the state? [LB14]

PAUL EVANS: I'm not opposed to that at all. [LB14]

SENATOR HANSEN: Okay. Thank you. [LB14]

SENATOR HADLEY: Mr. Evans, I just have, I guess, one quick question, and I think we've heard it from the testifiers before, and they talk a lot about choice. And I hear this from both sides, that this is a choice because by the constitution we have to have a

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public school system. We have to provide an adequate public school system. I guess I'd like your thoughts on...when you do have choice...quite often, when you do have choices there are costs that go along with making choices. So kind of how...if this is a choice that a person makes between sending a student to a private school or a public school, why should the state be involved in funding if the parent is the one making that choice between the two school systems? [LB14]

PAUL EVANS: Well, I think this proposal is to help monitor the amount of money that's donated for that student to go to a private school. You know, it's to monitor to keep it honest so that I can't donate money to this fund to send my child to school. It's a scholarship fund that allows underprivileged kids to go to school. If you read through it, it's not that I'm going to get a tax deduction for myself for my own child; it's so that I can put this funding into an account that offers a scholarship to an underprivileged person to be able to go and get training. [LB14]

SENATOR HADLEY: I understand that. But there is a choice by the parent, right? Because we provide a public education system. [LB14]

PAUL EVANS: Well, by the same token, if you have a child that's in a private school, and let's say that child does not have the ability to speak properly, that person has the ability to send that child in the afternoon or later in the day to a public school for speech therapy. So he gets both schools. He gets not only his own private school but the private school sometimes can't afford a therapist. And so he can get both educations and go to the public school and get the therapy teaching in that school. [LB14]

SENATOR HADLEY: Okay. Thank you Mr. Evans. Further questions? Seeing none, next proponent. [LB14]

RAMON DECAEN: My name is Reverend Ramon Decaen, R-a-m-o-n, last name is Decaen, D-e-c-a-e-n. [LB14]

SENATOR HADLEY: Okay. [LB14]

RAMON DECAEN: Good morning. [LB14]

SENATOR HADLEY: Good morning. Thank you for coming. [LB14]

RAMON DECAEN: You're welcome. Good to be here today. Today we have an important bill to consider. I'm the pastor of Cristo Rey parish, a Catholic church here in Lincoln. I have over 1,000 registered households, a large community of people that go to church there every Sunday and throughout the week. I'm here today to represent those parents who struggle to be able to afford to choose where they want to send their children. We have quite a group of low-income families there, and the majority of the

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parishioners there are young families. And as you can imagine, many of you who had young families at one point or perhaps at this point you do as well, you can imagine how much of a struggle it can be in an economy that sometimes is not very favorable towards their situation. But what this bill can really do is help those families to get that leg up for those who are struggling to be able to choose where to send their children. This is a very good opportunity to help those families that are struggling that want to provide the education that suits best their particular children. We send children to...help to support children, to seven private schools here in the city of Lincoln, and it sometimes is a challenge for those parents to decide where they want to send their children, given their financial situation. And so I just speak in encouraging to consider this bill and to vote for this bill in the hope to help those families to get that leg up to help them to make that next move towards assisting their children in their education. I'll leave it at that. [LB14]

SENATOR HADLEY: Okay. Senator Sullivan. [LB14]

SENATOR SULLIVAN: Thank you, Senator Hadley. Thank you, Father. I attended the Catholic school in Ord, part of my education. And when my mother passed away, she left a sizeable amount to the endowment of the school. Do you know, does your particular parish and school have an endowment for the school; and if so, do some of those funds go to helping students and families that can't afford the tuition? [LB14]

RAMON DECAEN: My parish is not associated with a school. I mean, we don't have a school of our own. And many Catholic churches have their own school attached to or closely associated. To answer your question with regards to endowments, we do not have our own endowment. We have...we support out of our pocket those who we're able to support. We're a young parish. We've been here for about ten years now. [LB14]

SENATOR SULLIVAN: Okay. [LB14]

SENATOR HADLEY: Senator Pirsch. [LB14]

SENATOR PIRSCH: Oh. And thank you very much for your testimony here today. Are you familiar with the means testing part of the bill? Perhaps I should ask someone else. [LB14]

RAMON DECAEN: There is a part in there. I do remember reading through it but I don't recall exactly what the particular part you're referring to, the details. [LB14]

SENATOR PIRSCH: I think I'm going to ask perhaps somebody who testifies after, but thank you very much. [LB14]

RAMON DECAEN: Certainly. [LB14]

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SENATOR HADLEY: Other questions? Thank you, Father Decaen. We appreciate your coming. [LB14]

RAMON DECAEN: Thank you. [LB14]

SENATOR HADLEY: Next proponent. [LB14]

HEATHER DOXON: Good morning, Senator Hadley, committee members. Thank you for having this, this morning. My name is Heather Doxon, H-e-a-t-h-e-r, last name D-o-x-o-n. And I'm here this morning to represent Faith Lutheran School and Church here in Lincoln, Nebraska, and I am the face of the parent that this bill will benefit. My daughter is in first grade there, and I'm a single parent. I've made the choice to send my daughter to this school while I had more secure employment. And since then, I have had a job change and I now work part time at the preschool at Faith Lutheran. Part of the thing that I want to testify about this bill is that a person in my situation, having already made the choice to send my daughter to this school, this bill would help me in my situation because her education would not have to be disrupted by the circumstances of my life, thereby keeping her education consistent, giving her a place to be where she started. I believe that it is the best setting for my child. That is why I made the choice to send her there. And it's something that, yes, it is a choice; but I really believe that she's getting the best education possible and I would put her up on a test against any public school out there. So I really encourage you to consider this bill and to push it through, and I thank you very much for your time this morning. [LB14]

SENATOR HADLEY: Thank you, Ms. Doxon. Questions? Senator Harr. [LB14]

SENATOR HARR: Thank you, Chairman Hadley. So, and I just want to...well, I'm trying to build up a record here. So since you said you would be willing to test the school against any other school, you wouldn't have a problem with your child taking the NeSA exam? [LB14]

HEATHER DOXON: Not at all. [LB14]

SENATOR HARR: Okay. And this is a little bit off subject... [LB14]

HEATHER DOXON: Okay. [LB14]

SENATOR HARR: ...but, and it's not a criticism of the bill but it's a criticism of the circumstance. I understand why the bill is written the way it was, to keep the fiscal note low. You would qualify because you would be in the first year of the program. But if your child were already in first grade and you lost your job, would they not then qualify, since they're already in school? [LB14]

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HEATHER DOXON: From the way I understand it, it wouldn't be a 100 percent qualification but there would still be some assistance. [LB14]

SENATOR HARR: Okay. Thank you. [LB14]

HEATHER DOXON: And Mr. Murphy is going to speak later. He can clarify that, but I believe that's how it is. [LB14]

SENATOR HARR: Okay. Thank you, Ms. Doxon. [LB14]

SENATOR HADLEY: Thank you. Seeing no other questions, next proponent. [LB14]

JEREMY MURPHY: (Exhibits 9 and 10) Good morning, Chairman Hadley and members of the Revenue Committee. My name is Jeremy Murphy, J-e-r-e-m-y M-u-r-p-h-y, and I serve as associate director for the Nebraska Catholic Conference, which represents the mutual interests and concerns of the three Catholic dioceses in Nebraska, testifying in support of LB14. There are about 120 Catholic schools in Nebraska, all state approved and accredited and using state-certificated teachers, which educate more than 28,000 young Nebraskans in the K-12 grades. The pages are distributing copies of an updated fiscal analysis of LB14 by Brian Gottlob, an independent fiscal analyst. Brian Gottlob performed a fiscal analysis that we distributed to this committee in a previous public hearing in 2011. And as you can see by this updated fiscal analysis by Mr. Gottlob, it can be anticipated that the state of Nebraska would save money by passage of this bill, possibly in the range of \$55 million to \$80 million. From our perspective, LB14 is about enabling more Nebraska children to be educated in privately operated schools in accord with the wishes and desires of their parents, and they cost typically less than that of educating children in public schools. LB14 would be a fresh new tool to incentivize individuals and businesses to donate to new, nonprofit, scholarship-granting organizations, which in turn would award scholarships at least 95 percent of the annual donations to eligible families with children to enable them to enroll in qualifying approved or accredited private schools. One of the testifiers raised the issue of whether this covers people that are exempt-schooled or homeschooled. It does not. It only deals with approved and accredited private schools. Many families who are struggling financially and really need more assistance than our schools can provide to them while continuing to operate effectively and in a fiscally responsible manner. The donors would be eligible to claim a 60 percent state credit for their contributions. Members of the committee that are returning, you may recall LB50, the previous bill had a 65 percent tax credit that was proposed. So that's one of the differences between this bill and LB50. The credit is 5 percent less. Our schools are already stretched thin financially with trying to help an ever-growing cost of educating children, and we try to keep tuition as low as possible for families in need of financial assistance. Parents, parishes, and the three dioceses are all contributing to the cost of educating students enrolled in

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Catholic schools. Low- and limited-income families have very limited options to enroll their children in private schools despite the desire of many parents to do so. The scholarship assistance provided through the specially tailored LB14 program would be awarded to families with children who otherwise could not afford private school tuition. And there are only three limited entry points: entering kindergartners, any grade transfers from public to private schools, and entering ninth graders. Catholic schools, along with their colleagues in other segments of private elementary and secondary education, including Lutheran, Christian, Seventh-day Adventist, and Jewish school, are valuable components of and contributors to the overall provision of education in Nebraska. We think the state of Nebraska would not only be making a worthwhile investment in educational choice for its young citizens with LB14, but doing so in a manner that would result in a savings for taxpayers. I would note that 11 states currently have the tax credit program similar to LB14, what's proposed, those being Arizona, Florida, Georgia, Indiana, Iowa, Louisiana, New Hampshire, Oklahoma, Pennsylvania, Rhode Island, and Virginia. Arizona has three separate tax credit scholarship programs, and just this week Alabama passed a tax credit scholarship bill in both houses, and the governor of Alabama says he will sign it; so Alabama will be the twelfth state to have a program like this. In each of these states there were warnings of dire consequences for public schools, although nothing close to those dire consequences has materialized. I thank you for your time and attention, and I'd be happy to answer any questions. [LB14]

SENATOR HADLEY: Are there questions for Mr. Murphy? Senator Schumacher. [LB14]

SENATOR SCHUMACHER: Thank you, Chairman Hadley. Thank you for your testimony. As you understand the bill, would a person who made a donation be able to claim the credit and also a deduction for the contribution? [LB14]

JEREMY MURPHY: Are you talking about the state and federal deductibility? [LB14]

SENATOR SCHUMACHER: Regular charitable contribution and deduction. [LB14]

JEREMY MURPHY: I'm going off the top of my head here, but I think the...we talked about whether it would be an in lieu of federal deductibility, and I think we decided not to do that but instead reduce the size of the state tax credit from 65 percent in the previous LB50 to 60 percent. [LB14]

SENATOR SCHUMACHER: So conceivably if I'm a corporation and I'm in a 7.81 percent Nebraska corporate tax bracket and a 34 percent federal corporate tax bracket, and I make a \$10,000 contribution, I get \$6,000 credit off my state tax. It'll save me \$3,400 on my federal taxes because I'm going to deduct it from my federal taxes, and I'm going to also save \$600-and-some off of my...no, \$781 off my Nebraska taxes because of the deduction. So I'm actually coming up with over 100 percent savings. [LB14]

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JEREMY MURPHY: Well, and Senator, I'd have to look at the bill again. We'd be happy to suggest in lieu of language to make it entirely a state tax credit and to foreclose the possibility that you're suggesting. [LB14]

SENATOR SCHUMACHER: Well, nothing that we can do in the Legislature can affect one way or the other whether or not the thing, my donation, is deductible as a charitable contribution at the federal level. [LB14]

JEREMY MURPHY: You're correct. You're correct. We would be happy to suggest language to make the state contribution...to make the election in lieu of choosing the federal deductibility as a different option. [LB14]

SENATOR SCHUMACHER: But how can we say if you don't take the federal thing, you get the state credit? I mean, that...why would we do that to ourselves? [LB14]

JEREMY MURPHY: That's how other states have addressed this, so that's why I'm... [LB14]

SENATOR SCHUMACHER: You mean the state income tax... [LB14]

JEREMY MURPHY: Correct. Correct. [LB14]

SENATOR SCHUMACHER: ...deduction rather than federal. [LB14]

JEREMY MURPHY: Right. [LB14]

SENATOR SCHUMACHER: Okay. [LB14]

JEREMY MURPHY: Right. That's how other states have addressed that when the issue has been raised. [LB14]

SENATOR SCHUMACHER: They choose 60 percent or 7 percent. [LB14]

JEREMY MURPHY: Correct. [LB14]

SENATOR SCHUMACHER: Okay. Thank you. [LB14]

SENATOR HADLEY: Further questions for Mr. Murphy? Senator Harr. [LB14]

SENATOR HARR: Thank you, Chairman Hadley. So you've heard me talk earlier about the state assessment. [LB14]

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JEREMY MURPHY: Yes, Senator. [LB14]

SENATOR HARR: And would you object to having these...merely, these students who receive this funding take the state assessment? [LB14]

JEREMY MURPHY: I think we would certainly be open to that possibility. I know that in states where programs like this exist, you know, there always seems to be some kind of accountability mechanism, and we would certainly be open to considering that. And in answering that, I want to make it clear I'm speaking only for the Catholic school systems. The Lutherans, the Seventh-day Adventists, the... [LB14]

SENATOR HARR: Yeah. [LB14]

JEREMY MURPHY: ...(inaudible), and the Jewish school may have a different answer. [LB14]

SENATOR HARR: Okay. And I appreciate that, and you anticipated my next question, which is what do they do for accountability in the other 11, possibly 12, states, if you know? [LB14]

JEREMY MURPHY: I can...I would be happy to provide you with maybe kind of a diagram of that. I've been studying that recently. In some states the accountability measure is national norm reference tests. We're already administrating all the national norm reference tests in the Catholic schools. That's my understanding. In some states the students...and I need to do some additional research and figure out if it's the students, just the scholarship students, or if it's all the private school students; but I think it's primarily at least the scholarship students are taking the state assessment exam if there is one. So the comparable... [LB14]

SENATOR HARR: Yeah. I think every state has a state assessment, so. [LB14]

JEREMY MURPHY: I think so. [LB14]

SENATOR HARR: I think we were the last one to get one. [LB14]

JEREMY MURPHY: Yeah. Just to give you a random example, I think the state of Florida has a pretty solid accountability system that's set up, and I think that one is tied to taking the state assessment. That's part of their accountability mechanism. But there are other, you know, controls and audits of funds and things like that to make sure that everything is on the up and up and that people aren't taking advantage of something like this... [LB14]

SENATOR HARR: I'd be interested in... [LB14]

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JEREMY MURPHY: ...because we don't want that to happen. [LB14]

SENATOR HARR: Yeah. Oh yeah, I think we all agree with that. That sounds great. Thank you. [LB14]

SENATOR HADLEY: Mr. Murphy, I just have a couple quick questions. I think...and I could be completely wrong on these numbers because it's been a while since I looked at it. I think there are like 8,000 501(c)(3) corporations...or 501(c)(3) organizations that you can donate to in Nebraska that you can get a charitable deduction in your federal return and your state return. And I would guess that all 8,000 would come in here and say we would love it if you gave us a 60 percent tax credit too, also, because we could raise more money if we told our donors that they're going to get about 90 percent of their money back through this program. So how do we distinguish...and I would guess most...a lot of these would say we're saving the state money. You know, OneWorld in Omaha, and fund medical care for the poor; or the Cancer Society that says if we can beat cancer we're going to have less Medicaid costs for the state. So how do we decide that this is the program that we want to give a 60 percent tax credit plus the deduction versus the other 8,000 charitable organizations out there that are also getting a charitable deduction? [LB14]

JEREMY MURPHY: Well, Senator Hadley, I would...it's a great question. I guess the way I would answer it is we're offering to take on the responsibility of raising the money, and I know that may sound strange but in the states where these programs have passed...what I'm trying to say is it takes a while to get the word about what the program is, why people should donate to it. You know, some states have had trouble reaching their annual caps for at least a couple years out. But I guess it would be our position that private schools are providing a valuable community service and this at least gives the parents some degree of educational tax justice. You know, in the way that we look at public policy here, you know, the funding for public school students is over \$10,000 per student. The only real financial benefit that parents of private school students receive that we can quantify easily is the textbook loan program which provides about \$12 per student for private school students throughout the state to borrow secular textbooks from public schools. So I guess it's also...the 60 percent...I guess I'd also encourage you to look at it relative to other states that have this program where it's 100 percent credit or a stacked 75 percent credit for the first year and 90 percent for the year after that if you make contributions in consecutive years. So we've opted not to go that direction. We've opted not to go with the 65 percent. We're trying to be reasonable and suggest some degree of recognition for the sacrifices that parents make in paying taxes which help educate children in the public schools as well as tuition to send their children to private schools. [LB14]

SENATOR HADLEY: Okay. Thank you. I have one further question. I was interested in

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the eligibility. And for a household of four it used maximum household income limit would be \$127,929 for the scholarship according to what we use. I did some research. That would take in 90 percent of the families in Nebraska. So this really isn't aimed entirely at low income. Ninety percent of the families in Nebraska would qualify because 90 percent of the families in Nebraska have household incomes of less than \$127,000. So it's a program for basically...you would be offering...you could be offering a scholarship to a family that has \$127,000 of income. [LB14]

JEREMY MURPHY: That is the correct range as the bill is written, but I would also encourage you to look at the three entry points, further control who is eligible, to the point that only parents with entering kindergartners, entering ninth-graders, or any grade transfers. That's going to limit substantially, you know, the families that could receive this scholarship. So I...you know, and the...I guess we would be willing to work with the committee to, you know, try to find a compromise if that is something committee members are interested in, you know. But that's...we tried to suggest a range that would include both lower-income families as well as reaching, you know, at least somewhat into the middle class. I mean, some of the families that are educating their children in middle-class families are also making car payments, student loans, repaying other debts. So I guess I'd encourage you to try to look at the broader picture if that's possible. [LB14]

SENATOR HADLEY: I guess the only comment I'd make is from other bills we've heard here, \$127,000 for a family income in Nebraska is not middle class. The median family income in Nebraska is \$60,000, so it's more than twice the median income of a family in Nebraska, so. But that's neither here nor there. Senator. [LB14]

SENATOR SCHUMACHER: Thank you, Chairman Hadley. Just a couple questions. It looks like over the next six years you're looking at wanting about \$15 million a year. What percentage is that of the total amount spent on nonpublic schools? [LB14]

JEREMY MURPHY: On the total amount that nonpublic schools spend to educate children? [LB14]

SENATOR SCHUMACHER: Right, right. [LB14]

JEREMY MURPHY: Oh, I...Senator, I wouldn't even be able to answer that question without doing some additional research. I can look into that if you'd like. But I...you know, we would maybe have diocesan statistics on that, but I...you know. But then there are private schools other than Catholic schools, too, that you know, I think your question gets to the whole universe of private school education, and I'd want to try to get that data from other school systems also to give you a fair answer. [LB14]

SENATOR SCHUMACHER: But the bill addresses the whole universe of... [LB14]

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JEREMY MURPHY: You're correct. Right. [LB14]

SENATOR SCHUMACHER: We've heard testimony today that the nonpublic school system saves the state somewhere on the order of \$300 million to \$400 million a year. Nonpublic school education has been around since the state was formed. Are any schools in danger of closing, of putting that burden over back onto the taxpayers? Or is it basically more an issue of affordability and they're going to be there anyway? [LB14]

JEREMY MURPHY: Well, Senator, I think there probably are schools that are in danger of closing. We really...we hate to close schools but we've had to close maybe an average of one or two Catholic schools a year, at least recently, you know, since the recession. So I think it's pretty clear that when...and I may not know this...I mean this depends where the closed school would be. But if there isn't another private school close, you know, then you're right, the Nebraska taxpayers would bear the burden of where those children would attend a public school. And then you have, you know, the additional costs that the public school would have to expand, if necessary, to accommodate the extra students. [LB14]

SENATOR SCHUMACHER: Thank you for your...I guess Senator Hadley stepped out for a moment. Any other questions? Seeing none, thank you for your testimony. Next proponent. Seeing no further proponents, it's now the opponents' turn. Opponents, please. Welcome to the Revenue Committee. [LB14]

JASON HAYES: (Exhibit 11) Hello. Well, Senator Schumacher and members of the Revenue Committee, for the record my name is Jason Hayes, spelled J-a-s-o-n H-a-y-e-s, and I represent the 28,000 members of the Nebraska State Education Association. NSEA opposed LB14. NSEA is opposed to spending public tax dollars on private schools, be it through tax credits, vouchers, or other such proposals. Public tax dollars should fund public schools. Private dollars should fund private schools. LB14 would result in \$10 million in lost revenue to the state for fiscal year 2013, \$12 million in lost revenue for 2014, and up to \$20 million in lost revenue annually thereafter. As a state we are struggling to adequately fund essential public services, including our public schools. The gap between funding the school needs formula under TEEOSA and what was actually appropriated last year was \$278 million; and I've included a chart which shows that range. NSEA believes vouchers and tuition tax credits constitute a risk to properly funding public education. Revenues of the state and its political subdivisions collected for education must be expended for accredited public schools only. And I thank you for your time and consideration. [LB14]

SENATOR SCHUMACHER: Any questions? Senator Harr. [LB14]

SENATOR HARR: Thank you. And thank you for coming today. I guess I have a couple

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questions. So if there is a gap it would seem...you've heard the earlier testifiers, didn't you? It would seem to make sense that we would want to then encourage some of these students to go to private schools, because the cost to the state would be less and that would be a way of closing the gap. [LB14]

JASON HAYES: Well, I don't think that's the appropriate way to close the gap: to divert children to other schools. I think that...you know, I would question the numbers that they're using in terms of it actually saving the state by sending children to other schools. [LB14]

SENATOR HARR: Okay. And you would question that why? [LB14]

JASON HAYES: Well, just because I think it's a different level of education in the private school versus the public school. I think there are different opportunities that a child gets in a public school that they don't get in a private school. [LB14]

SENATOR HARR: And vice versa though. Different opportunities are that you might have in a private school that you wouldn't have in a public school. [LB14]

JASON HAYES: Oh, perhaps, but. [LB14]

SENATOR HARR: Okay. And I heard testimony earlier that 38,000 kids...students in private schools. And my question is, taking 38,000 kids off the payroll for \$10 million would sure seem like a pretty good return on investment or for even \$20 million. Wouldn't you agree? [LB14]

JASON HAYES: Um, yes, but I would question whether or not \$20 million would take that number of children out of public schools and if that's the right way to use public tax dollars to divert it to a private institution. [LB14]

SENATOR HARR: Okay. Well, I mean, we spend TEEOSA. I mean, that's state dollars. Your map has, I think, we're going to get close to \$900 million. Is that right? Knock on wood, Senator Sullivan; \$900 million, right? But whatever the number is, we all agree it's over \$850 million. Here we have...this is...I mean, \$10 million, \$20 million compared to \$850 million. We almost seem to be playing in the margins there. [LB14]

JASON HAYES: Well, you know, I could...I guess you're looking at \$20 million and what do you get for \$20 million versus what do you get for \$20 million spent in a public school. I would argue that you get a lot more spent towards public education and the return on investment than you would in a private school. [LB14]

SENATOR HARR: Okay. And you'd argue that and your basis of your argument would be...? [LB14]

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JASON HAYES: Just the quality of education that we have in our public schools. The...you know, I would certainly be happy to get you more figures on that, but, you know. [LB14]

SENATOR HARR: Okay. I just...I mean, \$20 million is a lot of money, don't get me wrong. It's a heck of a lot of money. But then the question is, compared to \$850 million, it's less than 1 percent. [LB14]

JASON HAYES: But I'd look at the...I mean, I...it's...the amount of money that we spend on public education and what we get in the state and the number of students that are actually in public education, I...you know, I think it's comparing apples and oranges by looking at just the amount that we fund in TEEOSA versus the \$20 million. [LB14]

SENATOR HARR: And maybe if the private schools took TEEOSA...or excuse me, NeSA, we might be able to compare apples to apples. Is that correct? [LB14]

JASON HAYES: That would be a good start. [LB14]

SENATOR HARR: That would be a good start. Okay. And I don't know the answer to this, to be honest with you: Do we have a constitutional right to educate...or a responsibility to educate our children or to provide them a public school education? [LB14]

JASON HAYES: To educate children. [LB14]

SENATOR HARR: Educate. Okay. All right, that's all I have. Thank you. [LB14]

JASON HAYES: Yeah. [LB14]

SENATOR SCHUMACHER: Any other questions? I just have one question. If these folks declared a one-year moratorium on operations, would our public school system be in the position to handle an extra 38,000 kids? [LB14]

JASON HAYES: I would say yes. You know, I...it depends on the school district. It depends on the area. But, you know, I guess anything is possible. [LB14]

SENATOR SCHUMACHER: So basically your testimony would be we could absorb the extra 38,000 kids for less than \$20 million. [LB14]

JASON HAYES: Well, I mean, that's...I guess that's kind of a hypothetical question. But, you know, I mean, that's a lot of students that would need to be absorbed into the school districts. So yeah, maybe that would be something you need to do over a couple

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of years, but...so. [LB14]

SENATOR SCHUMACHER: But actually they have it within their authority to do that immediately. [LB14]

JASON HAYES: You mean to close their schools? [LB14]

SENATOR SCHUMACHER: There would be no absorption. [LB14]

JASON HAYES: Oh, maybe. I mean, we would be required to take them, so yes. [LB14]

SENATOR SCHUMACHER: Thank you for your testimony. Anybody else? Seeing none, next opponent. [LB14]

JOHN BONAIUTO: Senator Schumacher, members of the Revenue Committee, John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o, registered lobbyist representing the Nebraska Association of School Boards and the Nebraska Council of School Administrators with opposition testimony to LB14. Appreciate Senator Krist wanting to explore the public policy ramifications of an issue like this. Without question nonpublic schools are important options to parents, and so in no way do I want to diminish the positive comments from the proponents that are excited and think highly about their nonpublic schools. However, and I think Senator Hadley and Senator Harr touched on this, the constitution does talk about education; and the state has, based on the state's public policy, decided to create public schools. The Legislature created public schools to deliver education. And the Legislature, every once in a while, reminds us that you've created us, and when we get a little bit too whiney about different things that are happening at the legislative level and the state board level, and the policy is that every child--every child--has the opportunity for a free public education; and regardless of what the nonpublic schools do, every child that walks through the door of a public school, the responsibility is to the public school to educate that child. So if a private school closes or if a student moves from the private school to a public school, that is the responsibility of the public school. And that's why the public schools need to be maintained strong and, you know, they are for every child. We have our own chapter in law: Section 79. It makes us feel special. You know, I will tell you that public schools need every dollar that the Revenue Committee can generate, and that means no diversion regardless of how small it is, because the public schools, their charge is for every student again that walks through the front door. I was here last night when the Appropriations Committee was reviewing the Department of Education. They started at 5:10 and it was a long hearing, but the Revenue Committee is in no danger of losing your record for the longest hearing this session. But there was a discussion about TEEOSA, special ed, retirement. All of those issues will be dealt with by the Appropriations Committee based on what they're going to have to work with, and then Senator Sullivan's committee, the Education Committee, is going to figure out how to

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distribute those resources. I really believe that it is important to keep the nonpublic schools autonomous and viable to provide the choice that they provide to parents. And I'm listening to this questioning about NeSA, and I appreciate the fact that once entities start to receive public dollars, there are all types of things that might come into play. It's not just state testing. We don't even want to go down that path. I believe that the options that parents have--and it's a choice to go to a nonpublic school--is a good choice for parents, because the nonpublic schools have that autonomy and they want something different from the public schools. But the public schools are always an option for those parents and that's why, as citizens, we're charged with paying for public education. It doesn't say we have to use it. It says that, you know, that is the state policy. So I would, in conclusion, ask that the committee IPP this bill, and we need to focus on public schools. Thank you. [LB14]

SENATOR SCHUMACHER: Any questions? To follow up on the same question I asked earlier: Are we in a position to absorb 38,000 kids for a \$15-million-a-year increase in the education budget? [LB14]

JOHN BONAIUTO: Senator, I'll answer that in two parts. If the public schools had to absorb students if a private school closed, the answer is yes. If we absorb 38,000 students, it's going to cost more. I mean, it just...you know, this is a matter of again we're back to the constitution talking about education, the Legislature saying public education is the vehicle and that's, you know, where we're at. If students came into the public school and the public school had to look at space, had to look at hiring teachers, that's what would happen. I mean, the nonpublic schools are allowed to exist as an option, but public schools are there and they are available to every parent and every child. [LB14]

SENATOR SCHUMACHER: Well, as I do the math, I don't think I'm off by a factor of 10, might be, but even if I was, it wouldn't be bad, come up with \$314 a head to educate the 38,000 kids who have the right to be educated in the public schools. They've got a right. [LB14]

JOHN BONAIUTO: Absolutely. [LB14]

SENATOR SCHUMACHER: And if they were to exercise that right, it would cost us a whole lot more than \$314 a head in order to do it. So this looks like a heck of a way for the state to meet its obligation to educate those kids. [LB14]

JOHN BONAIUTO: Well, I...you know, it's an interesting observation, Senator. But I don't see this about being who can do this for the least amount of money. I mean that to me...you know, we're talking about the public schools are there and they provide the option for every child. Parents take the nonpublic choice, and what you're asking is, you know, if they could do it cheaper is it better for the state to allow more students to go the

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other direction? I don't believe it is. [LB14]

SENATOR SCHUMACHER: In your experience, I mean, is the education that the great bulk of these schools provide at least comparable in quality to that provided in the public school system? [LB14]

JOHN BONAIUTO: You know, I would have every reason to believe it is, but I can tell you that my belief is, for the public schools in the future as we look at, in the Education Committee, at giving the state board more authority and possibly looking at Common Core Standards sometime in the future. And as we're doing more with the NeSA testing, and as we get into the Common Core Standards, I have no reason to believe that there won't be more discussion about federal or national accountability. We'll be ranking schools. We'll be ranking states. And I think that you look at when private schools or nonpublic schools take state or public dollars, you're talking about accountability not for just the students that are involved in the program but it's for all of the schools, site by site. And so I think that it is a...it's just a dangerous policy. [LB14]

SENATOR SCHUMACHER: What's...with the exception of the special education programs, which are notably more expensive per student, for the average student what's the cost to educate that child in the public schools now? [LB14]

JOHN BONAIUTO: Oh, I...and you're taking special ed out, so I... [LB14]

SENATOR SCHUMACHER: Well, I mean, just give me the average figure and we'll forget about pulling special ed out. [LB14]

JOHN BONAIUTO: Yeah, it's \$8,000. And so... [LB14]

SENATOR SCHUMACHER: Eight thousand? [LB14]

JOHN BONAIUTO: Eight thousand. Yes, Senator. [LB14]

SENATOR SCHUMACHER: I don't have anything further. Senator Harr. [LB14]

SENATOR HARR: I just want to follow up quickly. If this isn't about what is cheapest but really what is the best interests of the child, which is what I think you're arguing, there may be some situations where the private school is in the best interests of the child. And shouldn't we be looking...if we are really looking out for the best interests, maybe we want to fund that private school or give them a little money so they could...if...or...I feel as though this has become too much of a private versus public school and the kids get lost in the middle. This is really about the kids. That's why we're here. That's why everyone is here and that's why this bill is here, is because it's about the kids and it's child-focused. And I think if we start fighting over private schools versus public schools,

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we lose the true vision. [LB14]

JOHN BONAIUTO: And I...Senator, I don't want to make this an argument, private versus public. But I am very much committed to the fact that public dollars need to go to public schools and the private schools are a great option to parents, but that is a choice that parents could make if they believe that that's the best option for their child. [LB14]

SENATOR HARR: Okay. Thank you. [LB14]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. Any other opponents then? It starts with an O. Welcome to the Revenue Committee. [LB14]

MIKE LEWIS: (Exhibit 12) Thank you. Nice to be here. Good morning, Senator Schumacher and other members of the Revenue Committee. My name is Mike Lewis. I live in Lincoln and I'm here today as the chairman of a new statewide grass-roots group called the Nebraska Secular Advocates. We represent atheists, agnostics, and other nonreligious Nebraskans, and we also welcome the participation of religious Nebraskans who share our commitment to the separation of church and state. We are opposed to LB14. The vast majority of private schools in Nebraska have as a primary mission the religious indoctrination of children. They certainly have every right to exist; but as taxpayers, we do not want to be forced to support these religious institutions either directly or indirectly. We've talked a little bit today about accountability. These schools are in many ways not publicly accountable; for example, in curriculum. In science courses these school are free if they wish to replace accepted scientific facts with pseudoscientific religious ideas. When they admit students or when they hire teachers, they can discriminate on the basis of religion or sexual orientation or gender or academic ability or other factors. We believe tuition tax credits violate the spirit of the First Amendment of U.S. Constitution, as well as comparable provisions in most state constitutions, including Article VII, Section 11, of the Nebraska Constitution, which begins "Notwithstanding any other provision in the Constitution, appropriation of public funds shall not be made to any school or institution of learning not owned or exclusively controlled by the state or a political subdivision thereof." When citizens decide to privately buy other services or other commodities, such as security protection or country club memberships, they don't get a tax credit for that against the public budget for police protection or public golf courses. The private purchase of those items hardly amounts to double taxation or paying twice. Similarly, parents who enroll their children in private schools are not paying twice for education. Rather they are making a free choice to purchase a private service that is separate from the societal obligation they share to provide a mechanism to educate the public as a whole. This obligation is shared with all of their neighbors, many of whom don't even have children. We ask the committee to indefinitely postpone this bill. Thank you. And I can answer any questions. [LB14]

SENATOR SCHUMACHER: Any questions? Seeing none, thank you for your testimony.

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[LB14]

MIKE LEWIS: Thank you. [LB14]

SENATOR SCHUMACHER: Next opponent. Welcome to the Revenue Committee.
[LB14]

RUTH ANN THOMPSON: Thank you very much. This is my first time to testify before the Legislature. Good morning, Senator Schumacher and members of the committee. My name is Ruth Ann Thompson, R-u-t-h A-n-n T-h-o-m-p-s-o-n. I am a resident and a property owner here in Lancaster County; Legislative District 25, to be precise. I am here to ask you today to not spend any further time or taxpayer dollars in consideration of this 24-page bill, LB14. Of the 226 private K-12 accredited schools in the state of Nebraska, only 13 that I could find are not affiliated with a religious institution. Their funding, as it states in the bill, is also hardly an emergency. This bill, it is stated that this funding is an emergency. Ten million dollars in one year is an entirely inappropriate amount to allocate for those 13 institutions. That's \$3 million more in one year than you've given to the angel investor tax that you've already talked about here today. The other 213 private K-12 educational institutions, that are being affiliated with religious institutions, are expressly forbidden from receiving General Fund dollars in the state constitution to which you have each sworn to defend. Tax credit dollars are General Fund dollars. It is an insult to me as a property owner to tax our property to pay for the lion's share of public schools and then give income tax credits--that is General Fund dollars--for donations to private institutions. Why are those charities any more deserving than my donation to public schools over and above any citizen's property tax dollars? As a lifetime member of the PTA and a longtime proponent of public schools, I am incensed at this insult that my donations are not also worthy of a tax credit. They support education to the state of Nebraska every bit as much as any private person's. The demands on the state Department of Revenue in this bill, as per the fiscal statement, are nearly \$200,000, and there is no provision in this to pay for those additional funds. The nearly \$70 million, which would be the total over the five years presented in the bill, presents a sizeable cut to the Nebraska General Fund revenue, and no provisions to repay these costs or to pay for the (inaudible) costs to the Department of Revenue. The Governor, I believe, is expressly vigilant against such unfunded legislative mandates. As a former Nebraska clerical employee, I can tell you these costs will not go away and they will continue. Every religion adherent in Nebraska should be happy to pay for their choices that they choose to make. To give thanks, they live in a place where they can make those choices and not make them at the expense of other taxpayers. And, in addition, there is a provision in this bill that expressly prohibits the State Department of Education from providing any further requirements to the schools, i.e., taking the state testing. It is written in the bill that would prohibit them from making that provision. If this is truly an education concern and they need money, then why don't they apply to the Education Committee? In short, I would ask that you

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indefinitely postpone this bill. Any questions? [LB14]

SENATOR HADLEY: Thank you. I apologize. Are we on opponents? Next opponent. Neutral? Senator Krist. [LB14]

SENATOR KRIST: (Exhibit 13) Thank you, Senator Hadley. First of all, to Senator Schumacher's comment, the diocese in Omaha has closed an average of 1.2 schools per year for the last six years and anticipates that that rate will continue percentagewise to go up. They've tried consolidations. So in an effort to try to make it as efficient as they can, we are seeing a decline in the private school options. I came forward as a citizen when Mike Friend represented my district and went to the Education Committee when Senator Raikes--Senator Pedersen actually sponsored the bill--introduced the bill. What we were asking for was that money would follow the student, because I am very familiar with special needs of our kids in the state. And at that time, the Omaha Public School system was refusing to allow kids to OT and PT privileges if they didn't make the choice to use a public school. That bill coming forward didn't go anywhere because following the student was called by our education gurus as voucher. It smells like a voucher, looks like a voucher, it must be a voucher. So there's issues, both sides. And I resent the fact that Mr. Hayes came up here and talked about private versus public. This is not private versus public. This is about affording the best education that we can for our kids. It's also about fairness. How many of you have either sponsored or put money away for your kids' college education? Where do they use it? Are they restricted from using it to go to Creighton University? And the answer to that is no. Are they restricted from using it to go to Georgetown or Notre Dame? No. Do we have any fund set up in this state that allows for a K-12 scholarship? Can you put money away at any kind of tax advantage to send your kids where you want to send them? The answer is no. We didn't take this to Education. It was not referenced that way by the Exec Board because this is a Revenue issue. This is, and I think Senator Sullivan shook her head to the \$8,000 figure. The figure that we've been using is somewhere between \$9,000 and \$11,000 for kids across this state to be educated using the TEEOSA formula. So let's use \$8,000 if that's the right number. The average number in the Omaha diocese is \$5,500--\$5,500. Now those will argue that, well, you don't have to have a union and you don't have to do this and you don't have to do that. Testing? Bring it on. Bring on the worst test, the best test that you can identify, and those kids will compete. They compete because I know they will compete because they go to the best schools. They have a...the public system versus the private system should not be on trial here so I'm not going to go forward with that one. Is it fair? That's the question you have to ask yourself. If they continue to close at the rate they will close, we will be over a billion within the next year--within the next year. I argued when I sat on a school board in Omaha that all the Catholic schools should, tomorrow, announce that next year they are closing their doors, and the Omaha Public School system then-Superintendent Mackeil said, let's talk about this, because we can't absorb those kids all at once. If you're going to close down the system or you're going to have to close down the system, there would be an orderly phase-in, and

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I think we heard that today as well. There's no phase-in, because the constitution of the state of Nebraska says, and I quote, "The Legislature shall provide for the free instruction in the common schools of this state of all persons between the ages of five and twenty-one." So tomorrow we might have a decision to make. All I'm asking on a revenue side is that you consider the cost of education across the board that you in fairness allow people who want to send their kids to K-12 the same option you afford for people who want to send their kids to college. I think it's a reasonable request. Finally, 127,000 is the same figure they used last year. It's the same figure two years ago. It's the same figure that both you and Senator Utter questioned, and it's a fair question. There are many parts of this bill that could be made better, but I think we need to give it a chance. I've had private conversations with the Revenue Committee last year and I'll have those conversations this year. At the rate we are going, we are going to be well over a billion if these schools continue to close and we're eliminating choice across the state. I'm willing to work with anyone who wants to make this bill better. And thank you for hearing me today. [LB14]

SENATOR HADLEY: Questions for Senator Krist? Senator Hansen. [LB14]

SENATOR HANSEN: I have one. Thank you, Senator Krist, for bringing this bill again. The question was asked several times, and you just brought it up: What if the parochial schools, you know, across the state of Nebraska closed? Well, I'll tell you what will happen in North Platte, and we'll just take the parochial school, the Catholic school, St. Patrick's school system K-12. If they close, North Platte Public School would get some of the best and the brightest kids in the community, and no questions asked. If whatever test that the school system across the state of Nebraska could bring into St. Patrick's School, they would shine. I have no problem with that. I have no question about that at all. I am a huge supporter of the Catholic school in North Platte. I gave several thousand dollars this year to them for their programs. My children didn't go to that school but I'm still a huge supporter of them. My question for you would be, as a representative of District 10 in the state Legislature, what would be your definition of the separation of church and state? [LB14]

SENATOR KRIST: If we were taking General Fund dollars and contributing to a program directly and not going through the common schools of the state, we would be funding education in the individual schools. And I'll use this example. Courtney Krist went to the Omaha Public School system and then we put her in Madonna because she was regressing on her IEPs. It was the best school choice for her. But when we fought to have the services--the services were provided after we fought for them--OPS provided through their education funds bookmobiles, OT, and PT. That is not a conflict in separation of church and state. If I would fund a program in the school directly, an afterschool program, as I do with the services in the Medicare, Medicaid or TANF, or any of those funds, that's not a conflict because it's going to the student, not to the school or to the school bottom line. It's a wiggly line, there is no question about it. But I

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believe that by taking donation dollars from a private investor and allowing that investor to take a tax credit, we're not blurring that line. We're all policymakers, and I believe that that would be my stance. It's up to us to talk about the policy and how to regulate that. [LB14]

SENATOR HANSEN: I don't agree with that conclusion, but thank you. [LB14]

SENATOR KRIST: Thank you. [LB14]

SENATOR HADLEY: Senator Krist, I guess I have one question. I asked it earlier. When we have over 8,000 501(c)(3) entities in Nebraska that can take contributions and get deductions on their federal and state tax return, I guess most of them would like to come in here and make an argument that we should give 60 percent tax credit to people who donate to their charitable organization. How...what policy...or how do we distinguish one contribution to a charitable organization versus another contribution to another charitable organization? [LB14]

SENATOR KRIST: Fair question. My answer would be twofold. The first one is if this number is too high, let's adjust it. Let's make it equal across the board for all those 501s to compete on the same level, and we can do that by amending the bill. But my second part of my answer would be this: you mentioned OneWorld. OneWorld already reaches into almost every public dollar pot they can to make things work. Private schools can't do that. They have Medicaid, they have TANF, they have right across the board. We hear it every day in HHS. OneWorld exists and those other 501s exist because they can participate in those public dollars that are out there, federal and state. So I think that's a substantial difference. [LB14]

SENATOR HADLEY: Okay. Thank you, Senator Krist. We appreciate it. With that I will close the hearings for this morning. Thank you all for taking your time and patience to be here. Thank you. [LB14]