

TAX MODERNIZATION COMMITTEE  
October 18, 2013

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[LR155]

The Committee on Tax Modernization met at 10:00 a.m. on October 18, 2013, in Room 1113 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR155. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairman; Kate Bolz; Kathy Campbell; Tom Hansen; John Harms; Burke Harr; Charlie Janssen; Beau McCoy; Heath Mello; Jeremy Nordquist; Pete Pirsch; Ken Schilz; and Kate Sullivan. Senators absent. None.

SENATOR HADLEY: We're ready to get started, if we can. I think we're ready to get started. If I could have your attention, please...if I could have your attention, we're ready to get started. I'm going to wait just a couple of minutes before the introductions, until we get a few more here; then we'll do the introductions. But I'd like to go through some of the procedures. If you are standing or get done testifying and want to watch more of it, the hearing is being televised into Room 1525. So it will be televised into that room, with voice and video; so you can go there and sit comfortably. I'd ask you to turn off your cell phones so that they don't ring. If you come up to testify, you have to fill out a green sheet and leave it in the box the clerk has here. And also we have a page, so they will pick up any of the...if you have written testimony. If you don't have enough copies, we will certainly make the copies later. It worked well in Omaha to go under a system, that we start with the...if you want to testify, you need to come to the front row. After you're done testifying, if you would leave the front row...and we're going to go one, one, one, one, and move down toward the middle so we have a fairness in people coming up. We're going to testify, basically, with one hour on property taxes, one hour on sales taxes, and then one hour on income taxes. Now, that doesn't mean if you want to come up and talk about a couple taxes...you can certainly come up anytime and talk about them. But that's basically the order we're going to try to keep so that we make sure that we hear input from all three areas. There is absolutely nothing wrong with coming up and saying, "I agree with the people earlier who think we should throw out the income tax," and say, "Thank you," and go back and sit down. You know, the fifth

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person who comes up and testifies about the same thing, it has a tendency to become repetitive. And we have a big audience, and we want to get as many people...we will get people heard today. Okay? We will be using the lights system. You see a green light there; that will come on; and you will have four minutes. At that point in time, a red light will come on, which means it's time to wrap up your testimony. Is that the way you were going to...that's... [LR155]

MATT RATHJE: Yellow. Four is yellow, and then... [LR155]

SENATOR HADLEY: Four is yellow, like a stoplight. You know... [LR155]

SENATOR SULLIVAN: A "wait" light. [LR155]

SENATOR HADLEY: ...you can run the yellow stoplight, and you can continue to talk here. But then when the red light comes on, finish your topic and...only as a courtesy to the people behind you, so that we can hear as much testimony as we can today. I think I've...have I missed any...? This is our fifth hearing. We appreciate the full house. And we've had great hearings; we've had great testimony. With that, I'm going to start with introductions. And we're going to start on the left. [LR155]

SENATOR BOLZ: Senator Kate Bolz; I represent District 29 in south-central Lincoln. [LR155]

SENATOR NORDQUIST: Jeremy Nordquist, state senator from District 7 in downtown and south Omaha. [LR155]

SENATOR HARR: Burke Harr, Legislative District 8, and I am from Dundee/Benson, the heart of Omaha. [LR155]

SENATOR SULLIVAN: Kate Sullivan of Cedar Rapids, representing District 41, a

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nine-county area in central Nebraska. [LR155]

SENATOR CAMPBELL: I'm Kathy Campbell, and I represent District 25, which is east Lincoln and eastern Lancaster County. [LR155]

SENATOR MELLO: Heath Mello, state senator from District 5, south Omaha and parts of midtown Omaha. [LR155]

SENATOR HADLEY: And I'm Galen Hadley, and I'm a state senator from District 37, which is the city of Kearney and about a third of Buffalo County. [LR155]

SENATOR SCHUMACHER: Paul Schumacher; I'm a state senator from District 22, which is Platte and parts of Colfax and Stanton counties. [LR155]

SENATOR HARMS: I'm John Harms, 48th District, Scotts Bluff County. [LR155]

SENATOR McCOY: Beau McCoy, District 39, western Douglas County. [LR155]

SENATOR JANSSEN: Charlie Janssen, District 15, which is Fremont and all of Dodge County, including the major suburb of Winslow. [LR155]

SENATOR SCHILZ: Ken Schilz, District 47, from Ogallala; represent basically ten and a half counties in the Panhandle. [LR155]

SENATOR PIRSCH: And I'm Pete Pirsch, representing Legislative District 4, Douglas County, parts of Omaha. [LR155]

SENATOR HARR: Introduce yourself, young man. [LR155]

SENATOR HADLEY: Senator Hansen represents...a lot. [LR155]

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SENATOR HANSEN: District 42, Lincoln County. [LR155]

SENATOR HADLEY: Lincoln County. Thank you. Do we have any senators or former senators in the group? I always get mixed up on doing this. Do you want to introduce yourself real quick? [LR155]

GEORGE BURROWS: George "Bill" Burrows, District 30, former...in my good friend Norm Wallman's district, 1975 through '82. [LR155]

SENATOR HADLEY: Great. Anybody else? [LR155]

SENATOR WATERMEIER: Senator Watermeier, District 1. [LR155]

SENATOR HADLEY: Anybody else? [LR155]

SENATOR WALLMAN: Senator Wallman, District 30. [LR155]

SENATOR HADLEY: Anybody who wants to be a senator? (Laughter) \$12,000 and all you can eat and drink. (Laughter) [LR155]

\_\_\_\_\_ : Loran Schmit is in there somewhere. [LR155]

SENATOR HADLEY: Senator Schmit? There a Senator Schmit there? I miss anybody? They've all either are giving a great service or have given great service in this body. Okay, we're going to start. And we're going to start with you, and then over and back and forth. And again, if you're done testifying, I would appreciate it if you found a seat someplace else, let people move forward and then move down. Okay? The page will take your...if you would also state your name and spell your name; we want to have as complete a record as we can for the transcript. Thank you. [LR155]

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ALVIN GUENTHER: (Exhibit 1) I used to want to be a senator, but Senator Watermeier beat me. (Laughter) I would like to thank the Chairman, Senator Galen Hadley, and the Tax Modernization Committee members for giving me the opportunity to offer testimony in the pursuit of tax equality in the state of Nebraska. My name is Alvin Guenther. I am a retired educator and currently living in retirement on the family centurion farm/ranch near Dunbar, Nebraska, raising cattle and hay. I would like to call your attention to the enclosed documentation from the Otoe County Assessor's office. Please find two real property record cards provided by Therese E. Gruber, county assessor, printed 9/25/13. You will observe that my sister Carol A. and I hold in undivided ownership a parcel of land which in the year of 2008 had an assessed taxable value of \$91,210, property tax liability of \$1,459.12. Five years later that same parcel of land, in 2012, had an assessed taxable value of \$207,100, with a property tax value (sic) of \$3,412.14. In five years my property tax liability rose from \$1,459.12 to \$3,412.14, representing a 234 percent increase in property tax. Similarly, a second parcel of land owned by myself and my wife, Peggy, in the year 2008 had an assessed taxable value of \$69,650, with a property tax liability of \$1,075.08. Five years later that same parcel of land, in 2012, had an assessed taxable value of \$106,580, with a property tax liability of \$1,623.24, representing a 151 percent increase in property tax. Please also note, from the attached 2008-2012 real tax statements, that the total levy dropped from 1.73 in 2008 to 1.71 in 2012. This unconscionable increase in local property taxes, while we continue to offer with no clear, quantifiable, measurable goals, \$43,000 to \$235,000 to state, national, and multinational corporations for their promise of job creation. Other business incentives as repealing the state corporate income tax, repealing the capital gains, attempts to, attempts to repeal the inheritance tax, and now the attempted desire to shift the tax burden to the tremendously regressive sales tax without quantifiable, measurable goals does not represent tax equality for all. Additionally, Nebraskans saw their collective income fall more than residents of any other state in the second quarter of 2013. According to the U.S. Bureau of Economic Analysis, personal income in Nebraska fell 0.7 percent in the second quarter as compared to the first quarter.

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Nebraska was one of only three states--Iowa and South Dakota, the state often mentioned that we wish to mimic, were the others--where personal income fell. Personal income fell 0.9 percent in the first quarter of 2013. Also enclosed in my testimony please find a letter I wrote to Senator Lathrop earlier this spring. In it I voiced my opinion to the demand pull of 20 to 29.9 percent inflation of farmland in our state resulting from the action of a few well-capitalized mega-farms and absentee investors. This greed of a few is greatly impacting the current and future lifestyles of many. This greed is enabled by both state and federal policy; for example, capital gains repeals, increase in the exemptions for inheritance taxes, sales tax exemptions, marginal and income tax reductions, the unlimited subsidies to federal farm policy, federal energy mandates, and reduced currency value. These policies have significantly contributed, if not the leading contributor, to our property tax burden. It represents a devastating barrier to entry for young farm families and young farmers wishing to pursue agriculture as a career. A young, aspiring family has no chance to compete in this market. Rural populations will drop, rural populations will age, and rural populations will be concentrated within single-family units. I propose that agricultural land be appraised for property...therefore I propose that agricultural land be appraised for property tax purposes at the average of a ten-, seven-, or a five-year block of time. For example, at today's value of, let's say, \$10,000 per acre and ten years ago a value of \$1,000 per acre, that would give us an average of \$5,500 valuation. This process would eliminate the valleys and peaks of the current valuation process, giving local budget planners a more solid tax base from which to work with. In addition, I would incorporate a concept of the Nebraska greenbelt law. In the greenbelt law, if the current land owner decides to sell to a developer, then the seller or buyer must either share or pay in whole the lost property tax revenue accrued since the initiation of the law to the property owner. This concept would be utilized in my proposal by stating that the land would be appraised for agriculture purposes at the determined average value; but if the seller sells to a buyer at a price exceeding the assessed value that will impact the area property owners, then the seller or buyer must recoup the lost property tax. Committee members, the purchasing and selling of... [LR155]

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SENATOR HADLEY: I'm sorry, sir, your... [LR155]

ALVIN GUENTHER: Yes. [LR155]

SENATOR HADLEY: The red light has been on... [LR155]

ALVIN GUENTHER: Oop, I'm sorry. [LR155]

SENATOR HADLEY: ...so, yeah, you might want to finish that thought, and we'll move on. [LR155]

ALVIN GUENTHER: Oh, okay. Committee members, the purchasing and selling of farmland at those grossly inflated, unsustainable prices must not continue unchallenged. Then you can read the rest of that paragraph, I guess. Is that okay, then? [LR155]

SENATOR HADLEY: Well, you're cutting into the time for future people, sir. [LR155]

ALVIN GUENTHER: Yeah, okay, that's fine. Okay. [LR155]

SENATOR HADLEY: Okay, I think...we appreciate that. Are there questions? [LR155]

ALVIN GUENTHER: Yes. [LR155]

SENATOR HADLEY: Senator Hansen. [LR155]

SENATOR HANSEN: I have a question. Thank you, Alvin, for coming today. You gave two examples of your actual real estate tax statement. And on there is a line...the second line down, there, is the "Tax Credit." And that tax credit was started in 2007 by

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an action of the Legislature. So those are...that's our small attempt at property tax relief. And it came from the Property Tax Relief Fund that was founded in 2007. There are some that say maybe we should take...this came out of the General Fund, continues to come out of the General Fund; some say that we should increase that. Have you been noticing that little, tiny tax credit on your statement lately, since 2007? [LR155]

ALVIN GUENTHER: Not really, I guess. [LR155]

SENATOR HANSEN: I understand where your taxes are going. [LR155]

ALVIN GUENTHER: Um-hum. [LR155]

SENATOR HANSEN: I mean, I'm in that business, too, so...but there is this small tax credit there. [LR155]

ALVIN GUENTHER: Um-hum. [LR155]

SENATOR HANSEN: And some people think we ought to increase that, so, as direct property tax: you don't get a check... [LR155]

ALVIN GUENTHER: Um-hum. [LR155]

SENATOR HANSEN: ...but it comes off your tax statement. [LR155]

ALVIN GUENTHER: Okay. I might just add something here, just...I...because of increased property tax, increased cost of living, my wife has gone out of retirement, gone back into education, to help cover these costs. As a result, we no longer qualify for the homestead exemption. If we would have qualified, we would have had an \$804.70 reduction in that tax bill, but even so we still would have had a 179 percent increase in property tax. [LR155]



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SENATOR HADLEY: Thank you. [LR155]

SENATOR HANSEN: Thank you. [LR155]

SENATOR HADLEY: Any other questions? Seeing none, thank you. Appreciate it. Oh, Senator Pirsch. [LR155]

SENATOR PIRSCH: Just one. I'll be brief. You suggested that you wanted either a ten-, seven-, or five-year block of time for appraising property tax. Is there a state that you can point to where this is up and running, where you can say this is... [LR155]

ALVIN GUENTHER: This is...I guess I would have to say this would be my own brainchild. [LR155]

SENATOR PIRSCH: Okay. Thank you. Just wanted...thank you. [LR155]

ALVIN GUENTHER: (Laugh) So... [LR155]

SENATOR HADLEY: Thank you... [LR155]

ALVIN GUENTHER: All right. [LR155]

SENATOR HADLEY: ...Mr. Guenther. Next. [LR155]

REX WAMSLEY: (Exhibit 2) Morning, Senator Hadley. My name is Rex Wamsley. I'm with American Legion Post 3, represented with our other veterans organizations: Commander Jackson, American Legion; Craig Holliday (phonetic) from the Disabled American Veterans. The reason for us being here...and again thank you, Senator Hadley and others, for listening to our proposal. As representatives... [LR155]

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SENATOR HADLEY: Excuse me, before you get started, could we...I would ask you to move down so that the next person is always the one in line. Thank you. I realize it's moving, but that way we can make sure we keep track. Okay. I'm sorry, I won't take that off your time. [LR155]

REX WAMSLEY: And this is a statement that, really, comes from all of our state's veterans organizations. So it's, just, not from me. So I'll go through it. It's brief. As representatives of our state veteran organizations, we are here today representing the 2,767 100 percent disabled service-connected veterans that are struggling to pay the high taxes in our state. As severely disabled veterans, these individuals live on small fixed incomes and some have lost their homes and businesses because they cannot pay these taxes. Some have left our state for others that offer far superior benefits to their severely disabled veterans. As an agricultural state, many of these veterans' businesses are small family farms that have been hit particularly hard by the escalating property taxes. We've provided, I think to Senator Hadley earlier and he said he would share those, two examples of severely disabled veterans, heroes, that have lost or are losing their homes and farms because of these taxes. And we have copies, and we'll make those available to all members of the committee. In the white paper provided to you, the state veteran organizations recommended three things the Tax Modernization Committee should do to relieve the tax burden on these severely disabled veterans, as Nebraska's veteran tax benefits for our most severely disabled veterans are some of the lowest and most restrictive in the nation. First, Nebraska should join the states of Arkansas, Florida, Maryland, Montana, New Jersey, New Mexico, North Dakota, Oklahoma, South Carolina, Texas, Virginia, and Wisconsin, among others, in eliminating property taxes on these severely disabled veterans' homes. For many of these veterans, the homestead exemption is not working, and other recourse is necessary to allow these veterans to live in their homes without fear of losing them to taxes. In all the states mentioned and others, there is no income test or test of property valuation when considering this tax exemption. Because of these veterans' limited ability

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to work and the need for them to live as quality lives as possible for the sacrifices they made and make every day of their lives for all of us, they are exempt. Nebraska needs to do the same. In Oklahoma, for example, by the state's constitution, these severely disabled veterans pay no property taxes, personal property taxes, excise taxes, sales taxes, and the cost of licensing their car is no more than \$5. In Nebraska, our most severely disabled veterans pay all of these taxes. Eliminating taxes on these severely disabled veterans' homes is unquestionably the most important tax consideration. And if nothing else is done, please consider this one when modernizing our state's taxes. The second consideration is to limit taxes on these severely disabled veterans' businesses and farms. As severely disabled individuals on small fixed incomes, these veterans rely on the incomes of their businesses and farms to assist them and their families to live in our state. If Nebraska can exempt over 16,000 nonprofit organizations from certain taxes, and others with tax-increment financing, including organizations supporting dogs, cats, horses, trees, wind farms, and builders of lofts and business properties, they should first reduce the burden on these severely disabled veterans whose continuing service is more nonprofit for what they've done for all of us than any of the nonprofit organizations and others, many of which pay their employees hundreds of thousands of dollars. And finally, we ask that Nebraska join the 32 other states in approving a tax-free vehicle for these severely disabled veterans so they can make their medical appointments. Nebraska's disabled vehicle waiver is so restrictive it precludes nearly all, if not all, of these veterans from qualifying for this important benefit. Like these other states, a statement from the VA certifying 100 percent service-connected disability should suffice to justify this important benefit. All of us are blessed to live in the greatest democracy the world has ever known. But this right was made possible only through the sacrifice of people like our 100 percent disabled veterans, who gave and continue to give everything so we can have this right, so we can have these hearings like this one today. When considering what and who is important for tax relief in our state, please consider them and their families' contribution for all of us. We live among silent heroes every day. It is my and others' here from our veteran organizations sincerest privilege to represent them to you. Thank you again for allowing us to speak to you today. [LR155]

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SENATOR HADLEY: Are there questions for Mr. Wamsley? Seeing none, thank you, sir. Next. [LR155]

DE TONACK: (Exhibit 3) Senator Hadley and members of the committee, my name is De Tonack, semi-retired teacher, and I live in Lincoln. I commend this committee's efforts to thoroughly research Nebraska's tax structure, to work toward tax fairness, to compare our taxation with other states', and to examine changes that affect the most people, all while recognizing the need to generate revenue for the state. With those same thoughts, I urge you to remove the Nebraska state income tax from Social Security benefits. Nebraska is not competitive with other states, in this arena. Only five states--and I know you know this--including Nebraska, fully tax Social Security benefits. Now, surrounding states do vary in what they do with taxes on Social Security as well as pension, but none do what Nebraska does. Even within our own state, there seems to be unfairness and inequality. For example, retirement benefits is completely exempt from Nebraska income tax. And there's a reciprocity that goes on as well. You can get benefits from both systems: Social Security and retirement. Or if you don't have enough work credits from Social Security, you can move those over to the retirement fund. If you don't have enough from the retirement fund, you can move those over to the Social Security fund. And when a railroad retiree calculates his or her Nebraska income tax liability, he takes the Tier I or Tier II railroad retirement benefit and subtracts that income. And I believe that Social Security income should also have that "above the line" subtraction from the adjusted gross income before calculating the Nebraska state income tax liability. There should be no state income tax on either retirement benefit. Now, why be concerned about fairness, equality, and competitiveness with other states? You know, in Nebraska we're always proud and we...we're Nebraskans, we do our own thing. Well, in the past year, there has been a lot of publicity, both nationally and statewide, describing Nebraska as a retiree-unfriendly state. And I have some colleagues who said, "You know, I didn't realize that we were being taxed on all of these things, as retirees, and they're not in other states." Now, we are already losing retirees

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to other states, but I can tell you there are a lot of new retirees that are now considering it. We can't afford that to be the case. We need retirees to stay in Nebraska. We need their money; they spend it. They receive about \$44 million a month in pension dollars, and about 90 percent of that stays in Nebraska. We also need their volunteer hours. One retired school personnel group, to which I belong, it's called LARSP, in just the Lincoln area in one year time volunteered over 27,000 hours last year, and that was valued at \$600,000. We need those people. Now, from where must the revenue come? I'm not a tax expert. But, Senator Hadley, I've heard you many times on these testimonies say, "Well, where do we get our money?" I was intrigued by the advice from one of the three recent winners of the Nobel Prize in economics. Robert Shiller warned that inequality has been worsening for decades. He supports a contingency plan in place to raise taxes on the richer individuals. Sounds a bit like Warren Buffett's advice. You know, paying 10 percent of my income if I earn \$15,000 is not the same as paying 10 percent of my income if I earn \$50,000 a year. Retirees are not our richer individuals but they provide revenue for Nebraska in many ways. Inequality and unfairness are things to be addressed. Thank you for your time. [LR155]

SENATOR HADLEY: Are there questions? [LR155]

DE TONACK: Senator Pirsch. [LR155]

SENATOR PIRSCH: Could you spell your name for the record? I just ask that (inaudible)... [LR155]

DE TONACK: Yes, I go by "De," D-e. [LR155]

SENATOR PIRSCH: Okay. [LR155]

DE TONACK: And the last name is T-o-n-a-c-k. [LR155]

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SENATOR PIRSCH: Oh, okay. Thank you so much. [LR155]

DE TONACK: Thank you. [LR155]

SENATOR PIRSCH: Yeah. [LR155]

SENATOR HADLEY: I have a quick question. The largest single expenditure for the state of Nebraska is, right now, K-12 education. And we've heard from retired teachers at every one of our stops. Would the retired teachers be willing to cut state aid to education to fund the retirement...to take Social Security off the tax rolls? [LR155]

DE TONACK: I am only one teacher, but I would say, no, that's a cost too high. But I'm not speaking for all the teachers. [LR155]

SENATOR HADLEY: Well, where would you suggest we get it, then, from? [LR155]

DE TONACK: Well, you...I'm not a senator, so I can't give you all the details, but I know you have looked at some of the items that are currently given tax incentives; you're looking at that, I know; you're looking at some businesses that, to keep them here, the thought being, I believe, they don't pay so much tax. I certainly hope, just speaking for myself, that's one place you look. [LR155]

SENATOR HADLEY: Okay. Second question. Would you just take a second, isn't...aren't the teachers, really, in a pretty good position because they're one of the three groups of government employees in the state that have a defined benefit pension plan? [LR155]

DE TONACK: It is a good benefit plan, but it's a defined benefit plan that we fund and fund well. I think a lot of times our plan is compared to some other plans, and, of course, you need to look at what's put into it as well as what comes out of it. So when you...

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[LR155]

SENATOR HADLEY: Okay, I just wondered, because we have the Chair of the...

[LR155]

DE TONACK: ...when you talk... [LR155]

SENATOR HADLEY: Senator Nordquist, what...in the last two years, how much have we had to put into the defined benefit plans to shore them up? [LR155]

SENATOR NORDQUIST: Oh, the state's contribution has been...this year would be our first year of making an actuarial contribution of \$20 million. I will say that the average benefit coming out, it's not like a lot of other defined benefit plans that get a lot of publicity. The average benefit is \$1,100 a month. [LR155]

SENATOR HADLEY: Okay. [LR155]

SENATOR NORDQUIST: So it is...it is... [LR155]

SENATOR HADLEY: Okay. [LR155]

SENATOR NORDQUIST: ...it isn't... [LR155]

SENATOR HADLEY: Thank you. [LR155]

SENATOR NORDQUIST: ...not getting rich off it. [LR155]

SENATOR HADLEY: I just...just wanted...yes, Senator Schumacher. [LR155]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony.

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Currently, the state of Nebraska, for a couple age 65 or older, does not tax the first thirty-two thousand-some-odd dollars of income. Do you know many people who get more than \$32,000 in Social Security benefits? [LR155]

DE TONACK: You know, I don't have the numbers on that. So I'm not...I told you I'm semi-retired; I still teach part time at Wesleyan. And I was delighted to be able to get here early, because I have to leave to go do one of my volunteer jobs, at the Sheldon Museum, in a bit. I don't have the numbers on that. And I'm sure that would...you'd want to get some of those numbers. [LR155]

SENATOR SCHUMACHER: Thank you. [LR155]

SENATOR HADLEY: Okay. Thank you; appreciate it. [LR155]

DE TONACK: Thank you. [LR155]

SENATOR HADLEY: Next. You have to do it to the microphone, sir, so we can get it on the record. [LR155]

ANDREW SCHULTZ: (Exhibit 4) I am Andrew Schultz, A-n-d-r-e-w S-c-h-u-l-t-z. And I haven't run a four-minute mile in my entire life, so I'm going to try to speed this up and make that record if I can. I'm an old shop teacher. Shop teachers like to make things run well, run smoothly. And I can hear from my colleagues, from my fellow citizens, that the tax system is a little out of tune; it needs to be tuned up. So I'm submitting a proposal to you all. And I thank you for allowing me to submit this proposal. And the proposal is what I'm calling a round-up tax. Right now we have a sales tax, and that sales tax is a tax on the magnitude of the sale. This round-up tax would be a tax on the frequency of sales. And it would simply round up to the nearest coin, from...from rounding up to a nickel, to a dime, to a quarter, to 50 cents, or to a round dollar. Using the data I got from Senator Bolz's office, she...her staff revealed that there are about...there's about \$2.4



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billion in retail sales every year. I did the math: divided that by 365, and I estimated each sale at \$100 each, and that came out to about 64,000 transactions per day. Thinking about it, I know there are a lot more transactions under \$100 than there are over, so I estimated that there are probably 100,000 retail transactions in the state every day. And, running through the different round-up levels, this proposal would raise between \$780,000 to \$18 million. I know that doesn't solve the problem; I know the property tax problems are larger than that. But it would be a contribution to that. One of the things that I worry sincerely about is that property tax changes, changes in taxes, have left schools in trouble in other states. California, for example, at one time the greatest public education system in the world, is in...still in desperate straits from the property tax changes that occurred in the '70s and '80s. So I'm thinking, a customer could come into a grocery store, say, get \$4.80 worth of groceries and get the sales tax applied to it, which might be 28 cents, so they'd come up with \$4.98 (sic), and the round-up tax would take that extra two pennies. So the customer would come, the sales clerk would ring up the tally, with the sales tax included, and say, "It's \$4.98, do you want to pay the sales tax?" And the person would have the option of, instead, choosing from merchandise that's available, perhaps from charities, that's worth one cent. They could grab, say, two washers, you know, washers for bolts and stuff, that would make that two cents. They would take those washers with them, and it would complete the transaction at \$5. So there wouldn't be any round-up tax on that. This would make it a voluntary tax. You have the choice of paying the round-up tax or having merchandise that goes to a charity, instead. I've thought about this considerably, and I've phoned a number of businesspeople to find out what they think of that idea, particularly retail businesspeople. Boy, I can't believe that thing is yellow already. [LR155]

SENATOR HADLEY: Goes quick when you're having fun. (Laughter) [LR155]

ANDREW SCHULTZ: The retail people say, well, you know, they give up to \$50 a month per retailer for administering the sales tax; so I'm thinking, perhaps you could increase that to \$75. We could also...there would be a...you'd need to change the

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software that drives those cash registers. And a number of them have their own software that they've developed, and perhaps we could give a tax, you know, deferral for that particular expense that they bore. Okay. So my proposal is for a round-up tax. Are there any questions from you? And thanks again. [LR155]

SENATOR HADLEY: Mr. Schultz, I want to commend you, because this is our fifth hearing and we've probably heard, what, 200-220 testifiers, somewhere in that, and a lot of people have told us about the problems, but very few people have brought us solutions. So I commend you for bringing a solution; I do that very much. Are there questions for Mr. Schultz? Thank you; appreciate it very much. [LR155]

ANDREW SCHULTZ: You're quite welcome. [LR155]

LYNN FISHER: Good morning. My name is Lynn Fisher; that's L-y-n-n F-i-s-h-e-r. And I'm here representing the Real Estate Owners and Managers Association of Lincoln as well as our property management company. And I wanted to talk about, this morning, shed some light on a particular, specific subject that's unique to Lincoln. I've spoken to some of the senators here today about this particular issue, about the Lincoln Housing Authority. And this is about tax fairness. And above anything else, I think whatever you come up with as a solution, I know that you're going to want to have the taxes in our state and in our local community be fair, that they're equitable across the board for everyone. And if you're not aware of it, the Lincoln Housing Authority, uniquely, in all the housing authorities in the state of Nebraska, is tax exempt, not that they're uniquely tax exempt, as all Lincoln (sic) housing authorities are: they're tax exempt for property tax and sales tax. But the Lincoln Housing Authority, specifically, is allowed, under state law that was created back in the mid-'60s as a specific...solution for a specific problem at that time and place, that the Lincoln Housing Authority owns several hundred properties that they rent to the public, open-market nonsubsidized tenants. And so these tenants are not in any way related to Section 8 or low-income housing or income-restricted housing or any type of restriction whatsoever. They're completely open-market

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properties, with open-market tenants. And these tenants produce for them and their properties a huge, huge amount of cash flow that they are utilizing to grow the Lincoln Housing Authority ever larger and removing more and more properties from the property tax rolls every year, which is unfair because they're in direct competition with open-market and free-enterprise companies and businesses like we represent in our association. So here's another opportunity to make the taxes more fair and equitable and eliminate property tax exemption on those specific properties that they own, that they don't support a specific charitable or low-income effort with. And they just are making a ton of money. They do pay, and they will argue that they do pay, a in-lieu-of-taxes payment, which they do, but it's very small in comparison to what the property tax revenue would be from those properties. And because they're not paying those taxes, then there's a larger burden that's having to be borne by us that pay taxes for the schools and for fire and safety and for the other services that those properties are utilizing. So it's very unfair. This all came about in the mid-'60s, if you're not aware, because the air base in Lincoln was closed down and there was a large number of properties that were housing for the air base personnel. And because the people in Lincoln and the real estate market at that time did not want those properties to be literally dumped all at one time on the market, they looked for a solution. And they went to the Lincoln Housing Authority and asked them if they'd be willing to buy those. In order for them to be able to buy those and rent them out to open market, the state Legislature at that time had to pass a specific change in the law saying that, uniquely, the Lincoln Housing Authority, unlike all the other housing authorities, had the ability, then, to rent to open-market tenants. And I think that that should be changed at this point in time because that problem has gone away. They actually were able to take out a bond and buy those properties. And they bought them so cheaply that they actually sold a handful, a number of those properties. Enough revenue, then, was obtained to pay off the bond, and so they were owned free and clear by the housing authority. So I'd like you to consider changing that law so that the housing authority, as good a job as they do, and we really appreciate what they do in the community of Lincoln, I work with them myself on a lot of different levels, including Section 8 housing, that we'd like that

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law to be changed. Any questions? [LR155]

SENATOR HADLEY: Questions? Seeing none, thank you, sir; we appreciate your coming. Next. [LR155]

BOB RAUNER: (Exhibit 5) I'm Bob Rauner: Bob, B-o-b, Rauner, R-a-u-n-e-r; from here in Lincoln. And I'm proposing the closure of a specific sales tax exemption, to route the money to schools and reduce their dependence on property taxes. As they pass the handout around, what this is is a map of states across the Nebraska (sic) that exempt soda and energy drinks from sales taxes. And you'll see that all the states in blue do not provide that sales tax exemption. And many have closed that sales tax exemption because they thought it wasn't valid. My understanding is that...well, I'll first say that it's because they all have varying definitions of what is considered "food." I think that food should not be subject to sales tax, because it's an essential commodity, and so poor people, I would hope, would not pay for that. But what states have done is, basically, looked at that and said that, really, soda and energy drinks don't meet the definition of food, so therefore they shouldn't need that sales tax exemption. So I would propose that we close that. Several states have done so. And the second page...or the rest of the pages is actually the Colorado bill in 2009 that turned them into one of those blue states that did not allow soda or energy drinks to be exempted from sales tax. Colorado went a little step farther and also removed candy from the definition of food as well; so they added both. And what I would propose is, the resulting funds...I've been told previously, from estimates, that just the soda exemption alone would raise \$11 million, that we route that to state education funding, which would then allow the schools to be less dependent on property taxes. So that's my proposal. Thank you for letting me testify today. [LR155]

SENATOR HADLEY: Dr. Rauner, thank you. Are there questions for Dr. Rauner? Seeing none, thank you very much. [LR155]

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BOB RAUNER: Thanks. [LR155]

SENATOR HADLEY: Next. [LR155]

LARRY HUDKINS: (Exhibit 6) Good morning, Senator Hadley and members of the Tax Modernization Committee. My name is Larry Hudkins, spelled L-a-r-r-y H-u-d-k-i-n-s. I currently serve as chairman of the Lancaster County Board of Commissioners. It is my privilege to present the following testimony on behalf of Lancaster County. Lancaster County Board of Commissioners is concerned about the growing pressures being placed on the property tax. In Nebraska, the property tax is the most important source of revenue for county government and is used to pay for local public goods and services which provide a direct benefit to our local residents. During the recent economic downturn, Lancaster County experienced an extended period of stagnant property valuation increases. At the same time, the cost and demand for basic services, especially in the area of public safety, steadily increased. Pressure on the property tax has been further exacerbated by the elimination of state aid programs, the threat of elimination of the inheritance tax. Additionally, the Legislature continues to impose unfunded mandates on the counties. Please consider the following points. Between 2008 and 2011, the average property valuation increase in Lancaster County was only 2.1 percent; and, listen to this, in 2010 the valuation actually decreased by 0.77 percent, for our entire county. State programs such as aid to counties and prisoner reimbursement have been eliminated, resulting in an annual \$3 million loss to revenue to Lancaster County. Elimination of the inheritance tax, which has been vigorously pursued by the Governor, would have a devastating impact on Lancaster County property taxpayers. For the last three fiscal years, Lancaster County has averaged more than \$7.6 million worth of inheritance tax collections. Last year...fiscal year, the county collected \$8.6 million of inheritance tax, which is equivalent to a property tax levy of 4.3 cents, 17 percent of the entire county levy. New unfunded mandates are being imposed on counties, and the most recent example is the passage of the juvenile justice reform under LB561. While we in Lancaster County believe many positive changes to the

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juvenile justice system are being made, the county is already feeling the effects of additional financial burdens created by this new law. As a result of LB561, 43 new juvenile probation officers have been hired in Lancaster County alone. By statute, the county is responsible for providing office space and supplies for these new employees, which more than doubles our previous rental cost for the State Juvenile Probation Office. The county is also facing potential additional financial responsibility for youth held in our youth detention facility, who are under the supervision of Juvenile Probation, including medical and transportation expenses previously covered by the Office of Juvenile Services. Another concern is that if the state fails to adequately fund the new programs and services under LB561, then counties are statutorily obligated to annually appropriate a fund which will pay for these programs and services until suitable funding can be found. Here are some of our recommendations. The tremendous pressures on the property tax have caused the county tax and revenue system to become out of balance. To address this problem, Lancaster County Board of Commissioners respectfully submits the following recommendations for consideration by the Tax Modernization Committee. Expand revenue sources available to counties. One to consider is a county sales tax. Based on existing sales tax collections in Lancaster County, a county sales tax of just 25 percent of 1 cent would raise more than \$10.64 million per year for the county. And a sales tax of one-half of 1 cent would raise more than \$21 million per year. Since sales tax is not presently being charged in several villages and the rural portion of Lancaster County, a fully countywide sales tax would raise several more million dollars, to be honest about it. Raise county fees, where appropriate. State statutes provide for a number of different fees which counties can charge for different services, such as issuance of a marriage license, locksmith, and amusement license. Most of these fees have not been raised since they were created and only cover a small portion of the cost of issuance. All county fees should be reviewed and raised where appropriate. Therefore, fees, we recommend, should be regularly reviewed. I want to give you one example. We...an example is that the counties are entitled to retain a sales tax collection fee of 2.5 percent but only on the first \$3,000 of sales tax remitted each month to the state. So last year, Lancaster

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County collected \$30.6 million for the state in sales tax, fees--mostly motor vehicles--and we only received a fee of \$1,800 for doing it. Doesn't even begin to cover the cost of the labor to issue those fees and collect those. Maximize the use of federal funding through Medicaid expansion. Lancaster County expends over \$2 million per year for General Assistance medical expenses. Expanding Medicaid under the Affordable Care Act will cover virtually 100 percent of these costs. Appropriate state funding for state-mandated service. Property tax growth cannot be controlled without a well-designed and reliable state plan for funding programs and services which counties are mandated by the state to provide. State funding should be directed where it is needed most, especially where it can increase the effectiveness of state and local cooperation. Again, juvenile justice... [LR155]

SENATOR HADLEY: You might want to go to your conclusion. [LR155]

LARRY HUDKINS: Okay. In conclusion, Lancaster County appreciates the opportunity to provide this testimony to the Tax Modernization Committee. Thank you for this opportunity. [LR155]

SENATOR HADLEY: Are there questions? Yes. [LR155]

SENATOR HANSEN: I have one question. Mr. Hudkins, thanks for coming in today. I want to talk to you just a little bit about the inheritance tax. And it has been brought up; the Governor keeps saying that, you know, we need to get rid of it. You're a landowner. You pay your taxes every year, twice a year, and over and over and over. Not as a county commissioner but as a landowner, do you think that the counties should get one more, last job at a person who dies? [LR155]

LARRY HUDKINS: Personally I've got to answer, no. But as a county commissioner... [LR155]

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SENATOR HANSEN: No, I don't want you to answer as a...(laughter) [LR155]

LARRY HUDKINS: Actually, I'll have to modify that: no, because it would increase my personal property tax 4.3 percent last year; I'm better off with paying the inheritance tax, or planning for it, to be perfectly honest with you. I don't like it. And as a farmer and a rancher, I think it's repulsive. But unless it's replaced by another source of revenue, it just adds... [LR155]

SENATOR HANSEN: Okay. [LR155]

LARRY HUDKINS: ...to the property tax burden. [LR155]

SENATOR HANSEN: All right. Thank you. [LR155]

SENATOR HADLEY: Mister...yes, go. [LR155]

SENATOR CAMPBELL: Thank you, Senator Hadley. Commissioner Hudkins, under the...you're talking about a county sales tax that would operate inside all the cities too, correct? [LR155]

LARRY HUDKINS: It would have to be countywide, because with the three-mile limit and the villages that already have sales tax in the county, what's left for the county to tax isn't worth the time and trouble to administer the tax. [LR155]

SENATOR CAMPBELL: Thank you. [LR155]

SENATOR HADLEY: Mr. Hudkins, I have a quick question on that, because we hear this every now and then, of either an income tax, city/county, sales tax, city/county. And I understand how it works in Douglas, Lancaster, Hall, Buffalo, but how does it work in Arthur County, where they get \$325 a year in sales tax, to try and offset their property



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taxes? [LR155]

LARRY HUDKINS: As past president of the Nebraska Cattlemen and a member of the Farm Bureau board, I've thought about that personally for many times. And I still think we need to go to a statewide sales tax. You've got Interstate 80, and you've got Highway 77, 81; you've got a lot of traffic going through this state. They're going to buy something; let them help pay for it with a sales tax. Now, we need to collect that sales tax even on a countywide basis, but my proposal would be to take a percentage of all the sales tax collected and put it into a fund and then distribute it back to those counties, like Arthur County and Hayes County, that don't have a large sales tax base, distribute it back to them on a per capita basis. [LR155]

SENATOR HADLEY: Okay. Any other questions? Seeing none, thank you, Mr. Hudkins. [LR155]

LARRY HUDKINS: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

DEB ANDREWS: (Exhibit 7) Chairman Hadley, members of the committee, thank you for your work on behalf of Nebraskans, particularly your work on this committee for true tax reform. My name is Deb Andrews, D-e-b A-n-d-r-e-w-s. As a former Nebraska state employee and admiral currently in the Nebraska Navy, I witness firsthand the hardworking, dedicated employees who attend to the business of our great state. I also witness countless ways systems could be improved and management's reluctance to change. I recommend a 15 percent reduction in state spending, realized without affecting services. Implement a cost/benefit analysis of systems, programs, and positions. Baby boomers are retiring in large numbers; it's a good time to reevaluate the impact on outcomes. This process would enlist a fresh look at all levels of government. Yesterday's Lincoln Journal Star article provides an excellent example of big impact at

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low cost: \$50 worth of paint, re-striping, and a yield sign in place of a stop sign made dramatic improvements to a problem which had elicited proposals exceeding \$15 million. I suggest even greater savings in education expenditures if all students were taught to read well by Thanksgiving in kindergarten, as was accomplished in Gering, Nebraska. Across the United States, current practices are not aligned with the reading research. Just 42 percent of Nebraska's white children, 15 percent of black children, and 21 percent of poor children in Nebraska score at the proficient level in reading in fourth grade. Math classes vary in rigor; science classes consist of activities which lack content. According to the latest international report on adult skills in the United States, I quote: Larger proportions of adults in the United States than in other countries have poor literacy and numeracy skills, end quote. All children are entering school smarter than ever before; we owe them and our country an education system which will allow them to achieve and compete. Currently, failure pays. Absent immediate and drastic corrective action, pull accreditation and funding from this school-to-prison pipeline. [LR155]

SENATOR HADLEY: Are there questions for Ms. Andrews? [LR155]

DEB ANDREWS: My remarks are supported by your handouts. [LR155]

SENATOR HADLEY: Thank you; we appreciate your coming in very much. Next. If you'd bring the green sheet and your handout here, we'll... [LR155]

BILL BURROWS: (Exhibit 8) I'm Bill Burrows, George "Bill" Burrows, B-u-r-r-o-w-s. And I really appreciate this opportunity to appear, Mr. Chairman and members of the committee, to appear before you today. When first elected to the Legislature, in 1974, my primary interest was in property tax. And the first thing I did, I knew Dr. Bert Evans, economist Dr. Bert Evans, in the economics department, and he and a fellow economist had held seminars around the state that were talking about taxes, and chiefly property taxes. At these seminars, they made a general discussion of the precepts of taxation

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and went through the various methods of taxation. And when it was down to the line, they took an inventory of what the various people had, the inputs from the people attending the seminars. And there was near unanimous support for changing the support of K-12 education from property, which is the primary problem of property taxes today, to change it from a property to a local adjusted income tax. It would be a rather startling thing. I think, no state in the nation, probably, has it today. But Nebraska had the first unicameral also. And I don't think we have to be a tail-ender of what the rest of the country is doing. This is a problem all over the country. And education on the property tax has generally been the primary problem. The roads and these other things are related to property. The...so many of the other uses I could not argue for. But education is related to income, not to property ownership. The highest incomes in the state come from intangibles, professional incomes, and not from property ownership. A local tax was desired to give more freedom to the district to manage the schools. Minimum exemptions were also recommended, along with closing the loopholes, or advantaged income. This is where you run into a lot of problems, because everybody thinks their advantaged income is not a loophole and whatever term you use for it. Farmers would have to give up things like this previous year where they could write off directly in one year in the investment in new equipment. And businesses have that same advantage. And many of these things...capital gains, short-term, would have to be carried out, because this would develop a tremendous source of revenue. In the '70s, less information was available than today to have a move from local property tax. I believe this Legislature now has a printout on the income levels of the various states. I will not spend any time on the problems of property tax today. I think this committee has heard, probably, plenty on what the problems of taxes are. And there's an old saying that the only tax that's a good tax is the one somebody else pays. So every effort would have to be made to make it fair, with other people taking up their share where otherwise. The income tax, to be implemented, in the first year, would probably have to be a fixed, flat-rate income tax. The progressive side of it could be an exemption on it. A large exemption cuts the base and increases the rate. Generally the figures we got at that time, the K-12 education could be covered somewhere around 4 percent of the

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adjusted gross income, with some of the add-backs. The entire cost of it: 4 to 5 percent. And I would appreciate, if anyone is, in this...on the Revenue Committee, or anyone in the Legislature, is interested in it, I would certainly like to spend time with them, answer all their questions, the problems we had...we hit during those eight years. On this handout, I have started...a handout that I gave...one of the tax bills that I presented to the Revenue Committee at that time. I think the time is right to do something like this now. The final bill I introduced, then, was, in the Legislature, was LB135; I think it was the final bill. And then LB192 was one of the first bills I introduced. I've sent copies of those...you can get these, I'm sure, from the clerk. And maybe you can get amendments that were involved. I'd really like to spend time with anybody on answering questions, all the problems we ran into over eight years of work, if anyone is interested in the concept. I thank you. [LR155]

SENATOR HADLEY: Thank you, Senator Burrows. Are there questions? Seeing none, thank you. [LR155]

BILL BURROWS: Thanks. [LR155]

SENATOR HADLEY: By the way, we're switching now; it's both property taxes and sales taxes. So you can...or if you want to talk about income tax, come right ahead, we're not going to kick you out. [LR155]

DAVE WELSCH: (Exhibit 9) Good morning. My name is Dave Welsch, D-a-v-e W-e-l-s-c-h. I have farmed south of Milford for 35 years. I have served for 15 years on the Milford School Board as well as 7 years on the board of a Class I school in Saline County prior to that. I am before you speaking on my own behalf, not as a representative of Milford Public Schools. Thank you for holding these public hearings across the state and also for the many hours that you have put into the Tax Modernization Committee. These discussions on tax reform are timely, mainly due to the escalating land values over the past few years. I would like to address what is good

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tax policy for Nebraska. The current three-legged approach to creating revenue for the state through property, sales, and income taxes is a sound policy which should be continued. To completely eliminate one of these legs, such as was the recent approach of eliminating income taxes, would not be good tax policy. Having three streams of revenue rather than two should help to create a more stable flow of income. Why should income taxes be an important part of the state's revenue? One of the largest expenditures for the state is state aid to education. Why do we put so much emphasis on education? In part, it is so that our children and young adults can become productive citizens. As well-educated, productive citizens, they will be able to go out and get a good job. How many times did our parents tell us, "Go to school and get a good education so you can get a good job"? Every study that I've looked at shows a direct correlation between the amount of education a person receives and an increase in annual income over their lifetime. So a sound policy for the state of Nebraska should be that income taxes be an important part of generating the revenue to provide state aid to education. Now, some of you might say that our current rate of income taxes, or potentially even a higher rate, would stop companies from expanding or coming to Nebraska to improve our economy. The leaders of our state continually say that they want to bring in companies that have good-paying jobs. It takes a good education to be qualified for these good-paying jobs. So when a person is employed at one of these good-paying jobs, they pay income taxes back to the state. These income taxes are used to provide state aid for education, which creates good students, which leads to good future employees for good-paying jobs. To me, this sounds like a sustainable and sound tax policy for the state of Nebraska. All taxes are paid from income the individuals or corporations make. If you have income, you potentially have the ability to pay taxes. Property does not always equate to income. And some properties create more income per unit of value than others. Ag land values have risen drastically over the past few years in part because of \$7 or more corn prices. Today corn prices are nearing \$4 per bushel, but the land is still valued as though it was still producing \$7 corn. Because ag land has increased in value much faster than commercial and residential property, the tax burden to support schools and counties has shifted more

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heavily to ag land owners. Now I'd like to refer to some of the options that you...the committee is presented. Property tax issue number 1. If you choose one of these two options presented to lower the taxable value of ag land, I would strongly encourage you to do this over several years. A one-year dramatic change in ag land taxable values could create havoc with many budgets and also with our state aid formula. Property tax issue number 2. As stated earlier, I think that funding schools through income tax is a sustainable policy. If more revenue is generated through changes in sales taxes, then that could be used to reduce the burden on property taxes, as well. In regard to option 2E, I do not think it is a good idea to allow more government entities to levy sales or income taxes. That would be in addition to what we currently do. This would create more complexity in our tax system, and I feel that would be moving in the wrong direction. In regard to the sales tax options presented, I think that now would be an excellent time to review all of the sales tax exemptions, including consumer services. I've read the 17-page document on sales tax exemptions, and it is about as hard to fully understand as the TEEOSA formula for state aid to education. But it has to be reviewed, understood, and needed changes made. A good place to start might be an overarching policy which describes the intent of what should or should not have sales tax applied to it. Your intent may be slightly different for the 11 categories that are currently listed. Nebraska's income tax rates seem to be on par with other states who have an income tax. I do not believe there is a need for a reduction in income tax rates. As stated earlier, I believe that it's an important part of funding state aid. I appreciate your time in reviewing the tax reform in Nebraska and especially for trying to do this in a revenue-neutral manner. Thank you again for your time you have spent on addressing tax reform for all Nebraska. [LR155]

SENATOR HADLEY: Are there questions for Mr. Welsch? Thank you. We appreciate your service on the school board; I know that's...at times can be a difficult position. Thank you. [LR155]

DAVE WELSCH: Pays slightly less than what you guys make. [LR155]

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SENATOR HADLEY: (Laughter) Next. [LR155]

JIM CHRISTO: Good morning, Senator Hadley, members of the committee. My name is Jim Christo, J-i-m C-h-r-i-s-t-o. I'm from here in Lincoln, Nebraska. I'm representing myself and the Home Builders Association of Lincoln. And appreciate the opportunity to talk to you for a few minutes about some property taxes and tax valuations, especially, maybe only in Lancaster County, how vacant lots are taxed. Since my involvement in the home building and development business, lot values had always been valued at 50 percent of what the full value was. So, for instance, a project that I'm involved in, my property taxes on an individual lot are running, depending upon value, \$530 to \$550 per year. Due to the change in Lancaster County, that doubled overnight; so now I'll be paying \$1,050 to \$1,100. On my project, that's a increase of \$18,000 to \$20,000 per year. Over the life of the project, it will be in excess of \$100,000. And, hopefully, you're all aware that the housing industry is slowly recovering. We've all been in a survival mode probably for the last five to seven years. And to have this hit us...and I would ask you, in your own individual businesses and in your own personal budget line items in your household expenses, if you had a doubling, what that would affect your bottom line as. So I ask that there be a fairness be spread throughout the whole state on the value of undeveloped lots. Keep in mind that an undeveloped lot...there's a street in front of it, but it has no house, there's no sewer running, there's no water running, there's no kids going to school. And I think that was the reason for the original valuation at 50 percent, thinking that it would five to seven years, sometimes ten, to build out a project. I would also point out that, say, a \$250,000 total cost on a new home: about 40 percent of that is subject to sales tax, so that would be about \$100,000. So each home that is built brings in in the vicinity of \$5,500 to the state. And statistics will show you that it supports three jobs. So it's an employment generator for the city and the state as well. And I just ask that, as you go about your process, if you can find a fairness for the whole state on the valuation of vacant lots. [LR155]

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SENATOR HADLEY: Mr. Christo, thank you. [LR155]

JIM CRISTO: Any questions? [LR155]

SENATOR HADLEY: Are there questions? Seeing none, thank you. We appreciate your coming in. [LR155]

JIM CRISTO: All right. Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

MARLENE JOHNSON: Good morning. Senator Hadley and committee members, thank you for the opportunity to testify before you this morning. My name is Marlene Johnson, M-a-r-l-e-n-e J-o-h-n-s-o-n. I am the mayor of West Point, Nebraska, and I was just elected president of the League of Nebraska Municipalities last week at our annual conference. And on behalf of the league, I want to thank Senator Hadley and Senator Mello for making the excellent presentations that you gave to our conference attendees from across the state. It was very pertinent and good for us to hear, so thank you both very much. I testified briefly when this committee held a hearing in Norfolk recently; however, I do want to emphasize a few other important points. First, as past League President Mayor Beutler requested in Norfolk, we ask this committee to propose that state aid to municipalities be restored and fully funded. Although \$17.9 million was the initial amount of state aid to municipalities, it was fully funded for only a few years. With passage of LB383 in 2011, state aid to municipalities was eliminated totally. The \$17.9 million is woefully inadequate to reimburse municipalities for the tax base lost when previous legislators granted property tax exemptions. More of these funds are desperately needed to help municipalities across the state. And in Norfolk I did itemize the things that the city of West Point did when the state aid was taken away from us, as far as cutting...cutbacks and so forth. As you know, there are 530 cities and villages in the state of Nebraska. For many years, over 250 of them have been at their maximum



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levy limit of 45 cents per \$100 valuation plus an additional 5 cents allowed for interlocal agreements. Many of these 250 municipalities cannot even raise their restricted funds to 2.5 percent over the prior year, as allowed by state law, due to restrictions on the levy limit. In 1996, second-class cities and villages were required by the Legislature to reduce their maximum levy limit by 1998 from \$1.05 per \$100 of valuation to 45 cents per \$100 of valuation. As you could imagine, this created an incredible hardship on second-class cities and villages, many of which still struggle to provide even the basic services that we have to provide. Between 1996 and 1998, many services in these municipalities were eliminated, especially in local law enforcement. Many smaller municipalities cannot even afford to contract with the county for law enforcement services. By restoring the \$17.9 million in state aid to municipalities, municipal officials would be able to do either one or both of the following: reduce property taxes and/or help fund needed services at the local level; help finance unfunded state and federal mandates; and help pay for increasing costs for healthcare insurance, utilities, liability insurance, and other uncontrolled costs. While serving as mayor of the city of West Point for many years, I have also been on the league executive board and the league's small cities legislative committee representing second-class cities and villages. The league executive board and the league's legislative committees consistently have requested that the state Legislature increase funding to municipalities and provide for additional funding options for cities and villages. We especially appreciate the passage of LB357 in 2012 to allow local voters to decide whether to let their city or village increase their local option sales tax from the maximum of 1.5 percent to 2 percent. This is definitely a vote of the people, government by the people; they make the decision. Another issue that the league would like this committee to address in its recommendations is the need to include municipal officials in negotiations and companies applying for the Nebraska Advantage Act benefits. It is extremely important for municipal officials to be involved up-front, so that local option sales tax funds can be set aside for budgeting purposes by those companies that may qualify for benefits. I cannot imagine that the Legislature that passed LB775 years ago intended for municipal officials to be caught off guard and have budgets, projects, and programs disrupted

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when companies decide to file for refunds within their 22-year window to do so. Local voters and taxpayers that approve a local option sales tax for a specific project or program simply do not understand when funds are not available due to LB775 and the Nebraska Advantage Act. The league is in discussions with the State Chamber and others, but we hope that this committee will work with us in trying to resolve this issue. Thank you for your time and for listening to me. I appreciate being here. Thank you so much. [LR155]

SENATOR HADLEY: Are there questions for the mayor? Seeing none... [LR155]

MARLENE JOHNSON: Thank you. [LR155]

SENATOR HADLEY: Thank you, Mayor Johnson. Next. [LR155]

MARK WHITEHEAD: Chairman Hadley, members of the committee, for the record my name is Mark Whitehead; it's M-a-r-k W-h-i-t-e-h-e-a-d. Senator Hadley, I don't know that you know that I'm capable of this, but I intend to keep my comments incredibly brief. [LR155]

SENATOR HADLEY: Turn on the green light. [LR155]

MARK WHITEHEAD: Our position...I'm representing Nebraska Petroleum Marketers and Convenience Store Association as a former board member and here to talk principally...as you discuss different issues on tax relief and keeping things within a revenue-neutral proposition, we would strongly urge you to resist the temptation to balance that back on occupation taxes within the local municipalities. This is an issue that our industry seems to continue to fight on a fairly regular basis. Unfortunately here in the city of Lincoln, we've fought the battle a couple of times on occupation taxes on gasoline. As much effort as what we put into fight those issues, they were defeated both times, not by the efforts of our industry but rather by the citizenry that approached the

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local council there and strongly urged them and persuaded them that this was not in their best interest. The president of our board currently, right now, is...operates out of the Omaha market, and they fought a battle last year with the occupation tax on cigarettes. That was not a successful issue. As a result, the figures that he produced were that just over the course of the last year he paid as much in occupation taxes as they did in property taxes. So that's my message, pure, plain, and simple, as you're looking for revenue-neutral opportunities within this tax structure, I strongly urge you to resist the temptation to do that on the backs of occupation taxes. That's my testimony; I'd be glad to answer any kind of questions. [LR155]

SENATOR HADLEY: Any questions for Mr. Whitehead? Seeing none, thank you, sir. [LR155]

MARK WHITEHEAD: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

LYNN REX: Senator Hadley and members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. First, thanks for all your time and effort as you traveled across the state getting testimony from folks on various issues that are of import to this committee. My role today is to underscore the need to restore state aid to municipalities, but I'm not going to repeat what Mayor Johnson, Mayor Beutler, and others have said. But I did want to underscore a little bit of historical information for you. Back in 1972, the Legislature passed LB1241. At that time they then started exempting...for five-eighths of the exemption for livestock, farm equipment, and business inventory. In 1977, the Legislature passed LB518. That exempted the remaining three-eighths, for a total exemption of livestock, farm equipment, and business inventory from the tax rolls. What I want to underscore for you is that at that time local governments were assured, and those representatives of the league, my predecessor and others, were assured that there will be a dollar-for-dollar

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reimbursement of the property tax base lost. That resulted in a huge, unprecedented shift from some taxpayers to, fundamentally, residential homeowners. And, therefore, as you've traveled the state and heard about property taxes, as you've campaigned for public office--you just had your "Eggs and Issues" breakfasts back in your districts--I can't imagine that you've not all at some point or another heard repeatedly the need to address the property tax issue. State aid was never intended as a gift to local governments. It was intended as a partial reimbursement for the property tax base lost. And, in fact, although in 1977 there was an assurance to local governments by then leaders of the Legislature--Frank Lewis, John DeCamp, and Loran Schmit--that there would be a dollar-for-dollar reimbursement. And that included Revenue Committee members, Appropriations Committee members, and others. Then Governor Exon said, you know, we can't afford it, so we're going to put a \$70 million cap on this and call it good. And over a period of years the Nebraska Supreme Court said because the Legislature did not keep any tax on livestock, farm equipment, or business inventory, there was no way to track what amount of money should go back to the various counties, cities, and schools, and so forth. So the Nebraska Legislature appropriately, but sadly, said it was a frozen class, so you need to do something different. And at that time the Legislature then took what was called the Personal Property Tax Relief Fund, which was put together to partially, though inadequately, reimburse local governments for the property tax base lost. They took the...that \$70 million, merged it with the \$12.6 million that was in the Governmental Subdivision Fund; again, those funds were there to partially reimburse local governments for the property tax base lost when household goods and intangibles were exempted from the property tax base. That \$82.6 million became known as "state aid," because after the Nebraska Supreme Court said you can't call it a reimbursement for Personal Property Tax Relief Fund because you never tied it, as a Legislature, so you can't track what money should go back. So state aid was never a gift; it was never just what, quote, extra money the Legislature might have laying around to send back to local governments; it was intended to offset the huge, unprecedented property tax shift to residential homeowners across the state of Nebraska. So, again, just want to encourage you to consider restoration of state aid to

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municipalities. Our full allocation, as indicated, was \$17.9 million and, again, woefully inadequate to reimburse us for the amount of tax base lost. The League of Nebraska Municipalities in 1977 retained the services of the Bureau of Business Research at UNL to determine what really is the value of what was being lost and, let me rephrase that, "shifted to other taxpayers," predominantly residential homeowners. And at that time--and then you have to put, obviously, the escalators on this--it was over \$250 million, not of valuation, of actual money lost. So the Legislature at that time put in \$70 million for what was a \$250 million project on Day 1, with no escalator whatsoever. And then, in fact, as you've had your various fiscal issues over the years, those funds were cut; and in 2011 LB383 passed totally eliminating state aid to municipalities, again, a reimbursement for a local tax base lost. I'd be happy to respond to any questions that you might have. [LR155]

SENATOR HADLEY: Any questions for Ms. Rex? Seeing none, thank you, Ms. Rex. [LR155]

LYNN REX: Thank you so much for your time and effort; really appreciate all the work that you do. [LR155]

JOHN BONAIUTO: (Exhibit 10) Senator Hadley and members of the Tax Modernization Committee, my name is John Bonaiuto, J-o-h-n B-o-n-a-i-u-t-o. I'm a registered lobbyist; I represent the Nebraska Association of School Boards and the Nebraska Council of School Administrators. And both the executive directors, Mike Dulaney and John Spatz, wanted me to voice their support for the work that you're doing. And this is heavy lifting, and what you're trying to accomplish. Our organizations, the organizations I represent, are very much aware of what a "third rail" property tax has become, and yet public schools are the largest recipient of property tax support. And the patrons, as painful sometimes as it is, are extremely supportive of their public schools. We are also the largest or one of the largest recipients of state resources, and we greatly appreciate the support we get from the Legislature in funding public education. We see a relationship,

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though, between state resources and what happens with property taxes at the local level. And during difficult economic times when you try to accomplish what you're trying to accomplish and the state has limited resources, then the support for public schools falls back to the local taxpayers. So the two organizations are recommending something that you might consider down the road, and that is a public education trust fund, a rainy day fund for public schools, or a property tax stabilization fund, so that you would have dollars that during a downturn in the economy, that whatever gains you make with the work you're trying to accomplish now would not be undone by having it fall back to the local property tax payers. And so it's...and that...there is some downside to creating that kind of fund, but, again, it would not be something that would be used on a regular basis but would help to maintain school funding during a difficult economy. With that, I will conclude my testimony. And thank you for the time. [LR155]

SENATOR HADLEY: Are there questions for Dr. Bonaiuto? Senator Bolz. [LR155]

SENATOR BOLZ: Thank you for your testimony. I'm very cognizant that we're in the era of term limits; and so thinking ahead to a Legislature that's going to look very different, I wonder about maintaining the integrity of the intention of an education trust fund. I think there is the possibility that it could become a shell game or robbing Peter to save Paul, which is not a question of people's morals in the future, just a recognition that things change. So do you have suggestions about how we could craft an education trust fund to avoid supplanting or offsetting or misuse of that fund in the future? [LR155]

JOHN BONAIUTO: Senator Bolz, I frankly hadn't thought down the road that far, but that is an excellent question. And I think that whether it be the folks, school board members and school administrators in K-12 working with this body, we would have to do the same thing that the folks that have been the guardians of the roads trust fund are doing. Because I remember having these discussions with the Revenue Committee in the mid-'90s when the levy limits and budget caps were put into place, and we were talking about what happens when. And there was a time when the state...the balance

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was different, where the state was actually putting in more than 50 percent of the revenue for schools, and we had a larger number of schools that were in equalization and receiving state aid. And that made a difference. And as time has passed, as the economy has gone up and down, it's gone the other way; that local property taxpayers are paying the larger portion of the bill and the state is paying a smaller portion. So, yeah, we'd have to have some mechanism to safeguard that, because a pool of money sitting around is very dangerous. (Laugh) [LR155]

SENATOR HADLEY: Dr. Bonaiuto, in setting up a pool of money like this, would we lower the state's contribution to the state aid formula to set this up, so later we can add to the state aid when we need it? [LR155]

JOHN BONAIUTO: I would hope we could find other ways to do that, Senator Hadley. (Laugh) [LR155]

SENATOR HADLEY: Well, it just seems to me that if you want it for later when we need it, that maybe you take a little less now to have something--a cushion, later. I just throw that out. [LR155]

JOHN BONAIUTO: And I appreciate that question. And the downside to creating the fund is, where does the money come from? And so it's a very fair question. [LR155]

SENATOR HADLEY: Okay. Any other questions for Mr. Bonaiuto? Thank you, Dr. Bonaiuto. Appreciate it. [LR155]

JOHN BONAIUTO: Thank you. [LR155]

SENATOR HADLEY: Next. You know, I have this feeling of power. You know, I've never sat in the chair seat here, but Senator Fischer and Senator Ashford have sat in this seat; so I can just feel the power emanating. [LR155]

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\_\_\_\_\_ : The aura. [LR155]

SENATOR HADLEY: The aura. (Laugh) Yes, go ahead. [LR155]

CARL SITZMANN: (Exhibit 11) Chairman Hadley and members of the Tax Modernization Committee, my name is Carl Sitzmann; that's spelled C-a-r-l S-i-t-z-m-a-n-n. I'm the CEO of E Energy Adams, an ethanol producer located approximately 30 miles south of Lincoln. I am testifying today on behalf of E Energy Adams and also on behalf of the ethanol industry in the state of Nebraska. E Energy Adams began operations in October 2007 as a 50-million-gallon-per-year nameplate facility. Today, we produce approximately 65 million gallons per year of ethanol, and approximately 180,000 tons of distillers grains for livestock feed. Our company percent growth over the last six years has continued to support the state's economy in the form of capital investments, increased buying and selling of products to the local community, and increased tax revenues both from us and from others whose bottom lines have been enhanced by our presence. As an industry, our positive impacts to the state are numerous. Nebraska has 24 ethanol plants that produce in excess of 2 billion gallons of ethanol per year and 6 million tons of distillers grains. This in turn creates a total economic output of approximately \$5 billion per year. Nebraska ethanol is creating jobs and fueling economic growth. Over 1,300 jobs have been created as a direct result of the ethanol industry in Nebraska. Tax revenues created by ethanol production and related industries in the state tops \$30 million per year. Because of the ethanol industry's presence, only 18 percent of the state's corn is shipped out of state. By using more Nebraska corn in Nebraska, we're keeping more of the corn's value right here in the state. That's good for our farmers, our rural communities, and the state's economy. At E Energy Adams, we pay real property taxes, personal property taxes, and various sales taxes, all of which, when combined, amount to approximately \$1.4 million per year. In addition, our shareholders pay income taxes on the earnings that we make since we are a pass-through entity. And even though our current tax bill is quite high,



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we are not here asking for tax relief. Instead, we are here to ask that our tax burden not be increased. My understanding is that there is to be no spending cuts associated with any tax shifting that occurs. One entity's benefits from a tax shift will mean an equal and opposite detriment to another. Therefore, in the absence of real tax relief from reduced spending, we're requesting the status quo. Financial challenges in the ethanol industry have been a common theme over the last five years, and a number of plants have declared bankruptcy along the way. Staying in the upper half of the industry from a benchmarking standpoint is critical to one's survival. Our industry in Nebraska competes with ethanol plants in other states on every cost you can think of, including taxes. Most everyone agrees that taxes in Nebraska are too high. The disagreement begins with how to distribute the share of taxes. From the numbers I have given you, I hope that you would agree that we are already paying our fair share. But now, like last year, we are hearing talk of a possible sales tax on energy. This would have an approximate \$300,000 negative impact on E Energy Adams, and would increase our overall tax burden by 24 percent. The dollar impact would be even larger on the bigger ethanol plants in the state. It makes no sense to bite the hand that feeds you. The ethanol industry in Nebraska has driven the agricultural industry's success over the last five years which in turn has driven the economic success of the state. I would ask the committee to not recommend a sales tax on energy, nor significantly shift the tax burden to agriculture or agricultural manufacturing which continues to drive Nebraska's economic engine. Thank you for the opportunity to testify. I'll be glad to answer any questions. [LR155]

SENATOR HADLEY: Any questions for Mr. Sitzmann? Yes, Senator Hansen. [LR155]

SENATOR HANSEN: Thank you. Thank you, Mr. Chairman. Carl, is there any other taxes on energy in this state, like when I get my electrical bill? [LR155]

CARL SITZMANN: We already pay tax on the electrical bill, but not the natural gas, and that's what I'd be talking about--the natural gas part. [LR155]

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SENATOR HANSEN: Okay. Are there any ethanol plants in the state that dry their distillers? [LR155]

CARL SITZMANN: Yes. [LR155]

SENATOR HANSEN: And what do they do with those dry distillers grains? [LR155]

CARL SITZMANN: They're sold into the livestock feed market. [LR155]

SENATOR HANSEN: Is any of it exported? [LR155]

CARL SITZMANN: Yes, some of it is exported. [LR155]

SENATOR HANSEN: To even the foreign countries? [LR155]

CARL SITZMANN: Yes. To China, for instance. [LR155]

SENATOR HANSEN: And are any taxes collected on any of that? [LR155]

CARL SITZMANN: I don't know the answer to that. [LR155]

SENATOR HANSEN: Should there be? (Laugh) You don't have to answer that (inaudible). [LR155]

CARL SITZMANN: I don't know the answer to that. (Laugh) [LR155]

SENATOR HANSEN: Okay. Thank you. [LR155]

SENATOR HADLEY: Thank you, Mr. Sitzmann. Next. [LR155]

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DAVID GRIMES: (Exhibit 12) Good morning. I'm David Grimes, and my name is spelled D-a-v-i-d G-r-i-m-e-s. I operate a family farm in Lancaster County and soon to move to Kearney County. I also am a member of the Raymond Central School Board, just finished being secretary-treasurer for the local fire district, and I belong to several different organizations; but I'm here just to represent myself. We raise corn, soybeans, hay, and wheat. My son has a small cow herd. Thank you for giving me an opportunity to contribute my views about taxes in Nebraska. In our farm, we own some of our land that we farm, and we rent some farmland. For our family, the real estate and property taxes we pay for our farm far exceed the state income and state sales taxes that we pay. In 2012, which is the last year that I have complete records at home--and I kind of hesitate in sharing my numbers, but I thought maybe it would help you understand maybe how taxes affect our family. In 2012, we paid \$50,000 in property taxes on the farmland and farm equipment that we own and use on our farm. We paid \$19,000 in state income taxes. And I estimate that we paid about \$1,250 in state and local sales taxes on the parts and supplies that we used on our farm. And property taxes are about 10 percent of our cash farm expenses on our farm. From 2008 to 2012, the real estate taxes paid for our farm increased 80 percent. In 2013, the farm real estate values and taxes will increase about 30 percent again. For our farm family, property taxes are the greatest burden of any of the state and local taxes we pay. Real estate and property taxes on farm equipment need to be paid even in years when income is reduced or prevented by low markets, drought, hail, or other weather events. Property taxes are an efficient, predictable way to finance local government. Property taxes on luxury automobiles, campers, boats, expensive homes, are a fair way to tax us for things that we own that we want but maybe are in excess of what we need. Property taxes on productive assets, such as farmland and farm equipment, are regressive and penalize productivity. High property taxes on modest homes are burdens for retirees on fixed incomes and make it difficult for young families to own homes. Property tax relief would have the most impact on Nebraska taxpayers and our state economy. Both property taxes and state income taxes could effectively be reduced by providing state income tax

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deductions and/or exemptions for local real estate taxes and property taxes paid. A state income tax exemption could be given for real estate taxes paid on, say, the first \$100,000 of value for homes. For farm real estate taxes paid, a state income tax exemption or refund could be given for farm real estate taxes paid that exceed net income. Another option could be an additional deduction from state income taxes for property taxes paid on farm and business real estate and equipment that are used to produce income. These actions would in effect reduce both property taxes and income taxes. Revenue lost by property tax relief could be replaced by increases in sales taxes through removing some exemptions. Sales taxes paid on things we want but don't necessarily need are probably the fairest taxes we pay. One other property tax issue that needs to be addressed are exemptions from paying real estate taxes that are given to the state government and nonprofit, nonreligious organizations, for land owned for parks, wildlife areas, and other recreation and conservation uses that benefit the general public. The local taxes lost on these lands reduce the resources available locally to fund schools, roads, etcetera. The taxes lost on these lands cause local property taxpayers to pay more. I think it is a good idea to examine the system of taxation in Nebraska. We all need to know and understand how the state and local taxes affect our economy and citizens. I don't think that we should spend our time trying to create a tax shift but rather to prioritize which taxes need to be reduced the most. When the state of Nebraska's resources are adequate and our state economy is strong enough, we then should reduce taxes, and I would hope that property taxes would have priority. Thank you for allowing me to speak. I'd be happy to answer any questions. I really wasn't here to complain about my taxes. We live in a great state; I wouldn't want to live anyplace else. We have good roads, good schools, good parks. And thank you again for letting me speak. [LR155]

SENATOR HADLEY: Are there questions for Mr. Grimes? Thank you. We appreciate your coming in and sharing the information. [LR155]

DAVID GRIMES: Thank you. [LR155]

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SENATOR HADLEY: Okay. [LR155]

SENATOR CRAWFORD: (Exhibit 13) Good morning, Chairman Hadley and members of the Tax Modernization Committee. Thank you for letting me slide in to testify quickly. I came to the hearing yesterday in Omaha and then decided to let everyone who was there testify, so I appreciate the chance to slide in quickly today. My name is Sue Crawford, C-r-a-w-f-o-r-d, and I represent the 45th Legislative District in Bellevue, Offutt, and eastern Sarpy County. I know you have many competing interests to contend with as you examine Nebraska's tax system. As the committee deliberates on possible changes, I urge you to include a retiree tax credit as a small but important part of a comprehensive tax package that expands the sales tax base and offers property tax relief and/or income tax changes. A tightly targeted retiree tax credit structured similarly to LB238, which I proposed last year, for all retirees could be done for only about 5 percent of the projected revenues from expanding the sales tax base, while a broader but capped military retiree exemption, like LB75, proposed by Senator Janssen, last year, could be done for around 12-14 percent of the expanded revenue based on the smallest broadening proposal by the Platte Institute and the OpenSky estimate. Either leaves ample room for other tax reforms and strong support for education and other services. If, as expected, the tax policy retains and attracts these retirees, it provides a broader tax base which helps us to improve all of these areas. Today I'm going to focus most of my testimony on military retirees; however, many of the arguments apply to our retired teachers, civilian workers, and first responders as well. You've already heard much testimony about the personal experiences of people who have seen their retired neighbors or family members move or testimony about the importance of retaining highly skilled retirees. I hear these stories all the time in my district, but I'm not going to take your time repeating those today, because I know you've heard many of those already. However, rather than repeat those stories, I will spend my time helping you sort through evidence from the National Tax Journal study that was referenced in testimony yesterday. Other testimony on retiree migration that you heard yesterday, based on

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census data, and a few other studies to show you the evidence for a targeted retiree tax benefit to retain and attract retirees who would be part of our work force and who would contribute to the state through paying other income tax, property tax, and sales tax. The National Tax Journal article and some of the other studies on taxes and migration that have been discussed as part of this tax modernization debate are studies of the impact of a millionaire tax or adding a higher tax to the very top earners of the state. They asked whether adding this tax on top earners will cause people to leave, and tend to find little impact. These studies asked whether a change in tax policy would be enough to push people to go to the trouble to move. Notice, that's very different than asking about the impact of a tax policy on a segment of the population that is likely to move already. In fact, that same National Tax Journal article that argues that people, in general, do not move because of the new tax in New Jersey, specifically states that "persons of retirement age are substantially more sensitive to the tax." The National Tax Journal study and some of the other studies cited in the testimony by Dr. Wallace before this group in August use a before/after and paired state comparison method to test for the impact of tax policy on migration. This is the same logic that David Drozd used in his compelling testimony yesterday when he showed that Missouri and Iowa gained retirees after a change in their tax policy while Nebraska lost retirees during that same window, and warned of not only the economic impact but the political impact of possibly losing a congressional delegate. When you examine the case of military retirees, there are additional reasons to expect the tax treatment of retiree benefits to matter. People who have previously moved are more willing to move again. This is supported not only by common sense but also by a sociological study of migration in one of the top sociology journals. Several other studies show specifically that veterans are more likely than other retirees to move from state to state. Other academic journals on gerontology and economic development report billions of dollars of income transferred to state to state and the economic impact of retirees, even in a small rural state. Some of these studies also note the value to states of attracting younger retirees and the fact that attracting these younger retirees does not necessarily come with a cost of caring for them when they're older, which was a concern that you had talked about yesterday. But instead,

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these retirees that may move for economic reasons may move back home when they are on Medicaid; and we see that happening in our state already. So in the handout that I gave you, I indicate reasons why I feel that the retiree tax credit or tax exemption clearly meets the six criteria that we have for our tax commission; and so I won't take time to repeat that here today. I'll give you one last piece of evidence, if I have time, and that is David Drozd also shared another interesting statistic with us that was not part of his testimony. When you compare the rankings of veteran population as a percent of the state's total population, Nebraska ranks 40th while our neighboring Wyoming, Kansas, Iowa, and Missouri all rank in the top 20. And those states do that...those states don't have a warm climate and they still do have an income tax but they have a very visible, clear tax exemption for retirees. Thank you. [LR155]

SENATOR HADLEY: Questions for Senator Crawford? I guess I have one, Senator Crawford. From quickly looking at this, this is predicated on a sales tax expansion. What do you hear from your constituents on the fact that we would (inaudible) doing a tax shift. In essence we would be increasing the taxes for all Nebraskans by expanding the sales tax base, which normally comes with a sales tax rate reduction. But we're not going...that's not being proposed. So what do you hear from your constituents about shifting that they're going to start paying for these benefits that you're outlining? [LR155]

SENATOR CRAWFORD: The discussions that I hear from people contacting me and when I'm talking to people in the district, they are much more aware of the issue of the retiree tax treatment and that's very visible to them, and so I have not heard very much discussion about the sales tax. [LR155]

SENATOR HADLEY: Do you think it would be visible when they go in to get their hair cut, if we pass it and they suddenly are paying 7.5 percent? Or they go to the funeral home when they have a...they suddenly find out that they're having to pay sales taxes on funerals or \$150 million that was listed in the exemptions? [LR155]

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SENATOR CRAWFORD: Well, I think that they pay that in some other states as well, so I think that's an interesting question and I didn't really dig into for this testimony here today. Again I think one of the issues with the retiree tax credit is that we're trying to create something that's small enough and targeted enough that the real impact for a family is substantial, even accounting for the fact they would pay more sales tax. So it's tailored enough that they make...that it would make \$1,000 or \$2,000 difference for them, which would be enough to make up for a possible sales tax shift. Whereas some other tax reforms that are suggested, I worry, spread it out so thin that it might be \$100 or \$40 for someone, a family, and not enough to perhaps really substantially impact their economics. [LR155]

SENATOR HADLEY: Okay. Thank you. Any other questions? Senator Harr. [LR155]

SENATOR HARR: Thank you. You know, we had that UNO professor yesterday, and he said it's very difficult to determine causation. [LR155]

SENATOR CRAWFORD: Correct. [LR155]

SENATOR HARR: So I still...I think that was my takeaway from his testimony. Our military, and they've done a great service to our country and I appreciate all they do, but if you have been fortunate enough to listen to a lot of the testimony, you'll find that they are not the only individuals who retire at, let's say, sub 65. [LR155]

SENATOR CRAWFORD: Sure. [LR155]

SENATOR HARR: So if we say: Military, we want you to stick around--which, of course, we do. We want everyone to stick around. But understand, we all have to pay taxes. Number one, why should we treat them differently? What is their...why is their pension more or less extraordinary than anyone else's? And then why would we provide it to...if they're 55 and we want them to stick around, why wouldn't we say that to our police



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officers, our firefighters, our educators, our FBI agents? And I can keep going on and on and on and on. Why are they special? [LR155]

SENATOR CRAWFORD: Sure. I'll answer...first, I'll answer the causal question. I think he was being careful as a social scientist in giving that caveat, which you find most people giving the caveat. [LR155]

SENATOR HARR: Well, but that's what I took away from it. [LR155]

SENATOR CRAWFORD: One of the reasons that he gives... [LR155]

SENATOR HARR: That's what I took away from his comment though. [LR155]

SENATOR CRAWFORD: One of the reasons that...yeah. One of the reasons that the tax journal article that you had presented to you and his evidence uses the method of comparing before and after a tax change, and matching up very similar states, is to try to allow for all of those things that are very hard to know, like family and other things. So the fact that you have a before/after and matched state comparison helps us be much more confident to say that the tax really had something to do with that migration. The second question, why military? Actually, that's a very good question. One of the main arguments for targeting military retirees is the fact that they retire at the younger age and have many of these skills. However, as you know, the bill that I proposed last year indicates that you could expand that to other retirees who share many of those same characteristics, like first responders and civilian workers and teachers who may also retire at a young age. And still, it's a reasonable sized package if you carefully tailor it. And I think that's the other lesson that I learned from the research I was doing last night: It doesn't have to be unlimited (inaudible) you pay no taxes. You can do a very targeted restriction with an income cap and a cap on the benefits. And still that sends a message to those retirees, whether you just have it military retirees or broaden it. With appropriate caps and limits, it can be affordable and still send that message to that

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highly mobile population: We want you here in Nebraska and we're willing to put our money where our mouth is on that. [LR155]

SENATOR HARR: And I appreciate that. And that kind of...your logic flies in the face of what I've heard from a lot of other retirees, and even the UNO professor yesterday, insofar as his argument yesterday was the younger you are, the more likely you are to move where you have potential. So you're not worried about what the income rate is as much as how much I can make. So, for instance, that's why even though taxes are ridiculously high in New York City, people still move there because they want to work on Wall Street because of the potential to make more money. So that flies in the face of some of the other comments that he made. And I understand we all...none of us want to pay taxes. I get it. And it's a balancing act for all of us. And for every good reason there is to lower one, we've got a counter reason not to lower it, or someone else who says, well, that applies to me. If we do teachers, educators, you know, we start doing them, why do we eliminate any...tax any pension plans? And then the question becomes, what about the people like Senator Hansen whose income may or may not--I don't know, I'm making an assumption I guess--but a lot of ag people who get it from...they take their land and they rent it out. Well, they're still going to have property taxes. They're still going to have to pay. And so I'm not sure where we draw the line. I mean, I understand what you're saying, but it's a very tough...and I think it's a policy call and that's why I'm excited about all this testimony we've had, but. [LR155]

SENATOR CRAWFORD: Yeah. It is a tough policy call. And just to let you know, the proposal that...the fiscal note for the proposal in LB238, which included people who have pensions as well as people who just have retirement, their own personal retirement plans, that amount was less than...it was about 5 percent of what the smallest sales tax broadening proposal was from the Platte Institute plan. So again, it's affordable, targeted. And again, one of the issues is what difference does the policy make in terms of attracting the stronger work force and economy development. And I echo the concerns other people have raised about the importance to make sure this

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whole project makes the whole tax system competitive. But I think there's still an important part of that, which we see in evidence from our neighbors in Missouri and Iowa, that small very visible tax policy, which is on the table when military retirees are sitting down with counselors to decide where to move, this piece of information is on the table; it's very visible. And that's I think a key part is how visible it is. [LR155]

SENATOR HARR: Yeah. Well, thank you very much. I appreciate your testimony. [LR155]

SENATOR HADLEY: Senator Campbell. [LR155]

SENATOR CAMPBELL: To use your words, Senator Hadley, a quick question. Senator Crawford, for the people that you talked to, the trigger would be the retirement at any age and no income caps. Would that be right? [LR155]

SENATOR CRAWFORD: No. I mean, that isn't the proposal I put forward and that isn't the proposal...that isn't what works in Missouri and Iowa. In those states, they have income caps and they have caps on, so you can protect the progressivity of the tax system by having income caps and caps on benefits. And it still is attractive enough to make a difference. [LR155]

SENATOR CAMPBELL: Because some people have talked with me about the fact that it would start rather than at any age you would get some benefit at the age of 65 and older. [LR155]

SENATOR CRAWFORD: I would argue against that because I believe the point is to attract the new retirees as they're beginning a new business or coming to work. And so you actually want to capture them in that 43-65 or 70 window. That's when you most want...well, not that we don't want them in our state at any time (laugh). But from an economic perspective, you most want them in your state there in that range between 43

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and 70, when they're starting the business and are active members of your work force. So I would argue for. If you need to limit it, I would limit it with income caps and limits on benefits, not age. [LR155]

SENATOR HADLEY: Okay. Thank you, Senator Crawford. [LR155]

SENATOR CRAWFORD: Thank you. Thank you so much. I appreciate it. [LR155]

SENATOR HADLEY: Next. [LR155]

JOHN CEDERBERG: (Exhibit 14) Good morning. I'm John Cederberg, J-o-h-n C-e-d-e-r-b-e-r-g. And I'm happy today to come representing the Nebraska Chamber of Commerce and Industry, of which I am the elected treasurer. I have discovered that, opposite your situations, getting reelected as treasurer isn't very tough in this business. There isn't anybody else willing to put their hand up. But, of course, I also make less doing that than you do (laugh), if that's possible. The Nebraska Chamber is very supportive of the committee's work. We believe that this is an opportunity perhaps to end what I have observed over the last 30 years that I've been interested in Nebraska tax legislation is the lack of consensus within our state regarding the fairness of our taxes. And that has created instability, it's created repeated debates in the Legislature, and uncertainty. And when it comes to economic development, uncertainty is probably one of the greatest problems that one encounters from the perspective of the tax effect on economic development. During the session, Senator Schumacher, one of his favorite questions was, what are the characteristics of a modern tax structure? And I never got a chance to answer that question, so on behalf of the Chamber I think we're going to offer four characteristics, perhaps not necessarily the modern but certainly from the perspective of effective. One, they have to raise enough revenue for the things that our residents want in terms of programs and services. Secondly, they have to facilitate...an effective state system facilitates achieving the goals that our residents set for the state, such as property tax relief. Third, an effective system needs to be perceived by the

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general public as fair, because if there isn't a perception of fairness, then you have this continuous debate and instability as one group or another argues that they are discriminated against. And then, fourth, an effective tax system should be as simple as possible, should be cost-effective to administer, and should be predictable. With that...and in my written testimony I comment more on each of those. But I just want to orally repeat something I have said to previous Revenue Committees and in previous hearings for any number of years: It is not an accident of bad politics that property taxes are high in Nebraska. It is an economic issue that...from two perspectives. One is, unlike our neighbors to the north and the west, Nebraska residents pay most of our own taxes. We don't export them to other people. That makes a difference. Some years ago I did a calculation based on federal statistics, and it appeared to me that the residents of Colorado probably paid less than half of the sales tax collections for the state of Colorado. And I don't think that has changed. Similarly, South Dakota. The residents of South Dakota appeared to pay substantially less. So our recommendations, we support the three systems. We believe that it is inappropriate for us to have become the highest individual income tax rate in our five contiguous states that have income taxes. There's a discussion of that. We are even higher than Iowa, because Iowa, known to be progressive, actually is reverse progressive. We believe that it's important that the corporate and individual income tax rates be the same. We believe that we should end this continuous debate over brackets and so forth by adapting existing federal rules for indexing brackets and credits and such, so that they stay current. And finally, we have a number of members...and this kind of follows up on Senator Crawford's comments. We have a number of members who are competing very vigorously for the skills of retiring military people, particularly from Offutt. And they find the lack of an exemption for military retirement pay to be a difficulty in recruiting those people, and they would be enthusiastic about that. I know the red light is on but I do want to make one comment about sales taxes. The Marketplace Fairness Act will pass Congress, in my view, more probably sooner than later. I believe because we are a market state rather than a source state, that the effect on that on Nebraska revenue is widely underestimated. Therefore, we really encourage this committee to take a careful look at our nexus

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standards, a careful look at our sales tax statutes, so that we can fully implement the Marketplace Fairness Act immediately upon its enactment, and take it...and that should become an important source of other tax relief in the near future. I'd be willing to take any questions. [LR155]

SENATOR HADLEY: Any questions for Mr. Cederberg? Senator McCoy. [LR155]

SENATOR McCOY: Thank you, Chairman Hadley. And thank you, Mr. Cederberg, for being here this morning. Unless I've missed it, and I wanted to give you the opportunity if you ran out of time in your testimony, in your recommendations I see some recommendations but I don't see any on the property tax side of things. Am I mistaken? Did I miss them in your testimony, or would you care to address it? You talk about property taxes and the inherent...and what you just mentioned, the fact that we are a obviously a large amount of private property in our state, which contributes to the property tax dilemma that we find ourselves in. But is that intentional or accidental or could you speak to were there recommendations on the property tax side of things? [LR155]

JOHN CEDERBERG: Can I speak both for my organization and as a personal tax person? [LR155]

SENATOR McCOY: Please do. [LR155]

JOHN CEDERBERG: The State Chamber, who I'm here representing, you know, is an organization that does include farmers and ranchers, yes, but is primarily business oriented. And we...so we are interested in as a chamber in how tax policy impacts our efforts to grow the nonfarm business community and the consumer population so that we can grow our sales and income tax bases and take some pressure off property tax relief. You know, as I've told previous committees, and maybe not since you've joined the committee, though, Senator, property taxes are designed to raise money in

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agricultural and rural environments where there is lots of property and not many people. Sales and income taxes are absolutely designed to raise money in urban environments where there is a rapid turnover of cash and where the earning cycle is 30 days or less. The way we get property tax relief, and my board will back me up on this one, the way we get property tax relief is to grow our urban nonproduction agricultural economy as rapidly as possible to enhance our sales and income tax base. And because economic research basically indicates that income tax, state income taxes, have a greater impact on economic development than do consumer sales taxes over property taxes. You know, that's been our focus. Now from a personal perspective, yeah, I think that I'm kind of at a loss because my study is sales and income taxes, and particularly income taxes. And I really don't have personal suggestions in the property tax area. You know, you'll see in my written testimony comments about us having these political debates that we give property tax relief immediately by credit or by taking over a program at the state level or something like that. That really treats the symptom. The fundamental property tax issue in this state is that we have lots of property and we have fewer people. We're not going to have less property but if we have more people, that will give us permanent property tax relief. And so it's that focus on getting more people and more nonproduction agricultural business paying sales and income taxes that was really the focus of both my written and oral testimony. [LR155]

SENATOR HADLEY: Any other questions? Thank you, Mr. Cederberg. Appreciate it. [LR155]

JOHN CEDERBERG: Yes. [LR155]

SENATOR HADLEY: Next. [LR155]

NANCY FULTON: (Exhibit 15) Senator Hadley and the members of the committee, I'm Nancy Fulton, N-a-n-c-y F-u-l-t-o-n, a 34-year teacher and now serve as president of the Nebraska State Education Association. The NSEA represents 28,000 public schools

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teachers, principals, education support professionals, and higher education faculty in Nebraska. My remarks this morning will be brief, and they got briefer as the morning progressed, and it's more just a couple comments of myself and on behalf of the association and then in way of an introduction to another testifier. Thank you for your work studying the tax system in Nebraska as well as making this time to listen to the citizens about what changes they believe would be beneficial to our state. I appreciate this time to testify. My husband and I live in Wilber, Nebraska, which is about 35 miles away from the Kansas border. Recently, Kansas made wholesale changes to its tax system, and now the citizens of Kansas are facing a \$700 million budget shortfall that is threatening their quality of life. Severe cuts in funding to education and other essential public services are causing upheaval and are hurting the people in Kansas. On behalf of the 350,000 public school children and university students in Nebraska, as well as for the NSEA members and other Nebraskans, I ask that you do not take this avenue and take our state down the same path. Nebraska's tax policy needs to protect the good things we have going for us in our state. Maintaining and improving our public schools is critical to our future, and it is where we need to invest a significant portion of our tax dollars. I know that investing in education, roads, safety, and other infrastructures takes resources. To modernize the state's tax system, NSEA would support expanding the sales tax to include some other services. We also support a progressive income tax. Our state is 49th in the nation in state support for K-12 education. I know a number of senators on this committee have worked to boost that level of support and I do thank you for that. I also believe that property taxpayers would benefit from additional state funding for K-12 education. I am pleased to have with me today Dr. Richard Sims. He is an economist with expertise in education and state tax policy. He is here to testify shortly. His experience includes work with the Institute on Taxation and Economic Policy in Washington, D.C., as well as working for the Kentucky and Arkansas legislatures on economic policy. Thank you for your time and for your work. [LR155]

SENATOR HADLEY: Are there questions for Ms. Fulton? Thank you so much. Appreciate your coming up and testifying. Thank you. [LR155]



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RICHARD SIMS: (Exhibit 16) Thank you very much, Mr. Chairman and members of the committee. I want to start by really thanking you from my heart for the work you're doing, because I've been studying state tax systems and the fiscal structures for all of my professional career, and I've come to firmly believe that a state's tax system and its fiscal structure determine the state's future as much as anything that will possibly happen to the state. Nebraska, in the year 2020, will be influenced as much by the work coming out of this committee as by anything else that's going to take place. [LR155]

SENATOR HADLEY: Dr. Sims, could you spell your last name for us? [LR155]

RICHARD SIMS: Richard Sims, S-i-m-s. [LR155]

SENATOR HADLEY: Thank you. [LR155]

RICHARD SIMS: Thank you, sir. I've reviewed some of the material that you've looked at and have been interested in the testimony this morning. I want to just focus on a few things that haven't been covered in great detail yet. My concern is very particular, as I indicated going in on long-term implications of the tax system, how it determines the future of what it means for the future of this state, for your competitiveness, for the ability of our children to find gainful employment, to succeed, to be entrepreneurs and to be a success in their life however they care to define it. As a tax commission, the first principle that you want to look at, that your tax system should look like you did it on purpose. Often, tax systems are a hodgepodge of ideas that were good ideas on a given day but were never thought through as a whole. That's what I think the goal of this commission should be is to think through all of the issues involving state taxes, and I understand that you're doing a good job on that. The principle of a tax reform commission, as we are, is to first do no harm. Make sure that any changes you recommend are good for the state over the long term. You're restricted to just a handful of major taxes that really have an influence on Nebraska's future. The income taxes that

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we talk about quite a bit, the property taxes that I've heard a lot about this, and the sales and excise taxes, those are basically what you have to deal with. And I've heard mention of the three-legged stool. That's a principle in many states so that you don't overdepend on any one tax. All of the taxes you have to consider have good points and strengths. They also have weaknesses and some bad aspects to them. The sales tax that's a large part of your revenue base has the good point in that it's fairly stable year to year. It has the weakness that it's very regressive. It falls mostly on low-income people, and it doesn't grow as fast as the economy. I'll use a wonky term here, since my parents busted their butt for years to send me to college, I'll throw out the wonky term of "elasticities," just to show that it wasn't a waste of their time and money. The sales tax has an elasticity of less than 1, meaning when the economy grows 2 percent, the sales tax grows something less than 2 percent--maybe 1 percent. The income tax, on the other hand, grows faster than growth in the economy. The individual income tax, and you'll see this on a blue looking chart in your form I sent around. The individual income tax is the only tax that you have in your tax structure that has even the potential to grow as fast as or faster than growth in the economy year after year after year. The average state that has an income tax, has an elasticity of 1.8, meaning it grows quite a bit faster than growth in the economy. Yours, because you have a relatively low threshold, relatively low rates, doesn't grow as fast as other states' income taxes. The importance of that is, since you've got these other taxes in your mix, you're always going to have the sales and excise taxes, you're always going to have the property taxes in the mix. They all grow slower than growth in the economy. You have to rely to the extent possible on the only tax that has the potential to grow year after year, faster than growth in the economy, so that your overall tax system more or less stays up with growth in the economy. If you don't do that, if you depend only on excise taxes and sales taxes and taxes such as that, then you find yourself in the situation where every year or two or four you're having to raise the rate or to cut public services. If you put in a good system today that is designed to be a balanced system that doesn't have a structural deficit, your current system has a structural deficit, if you look at the things that caused the growth in public services in Nebraska and you look at the revenue structure that you

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have to pay for it, and you run that out over time, you're condemned to year after year, having to either cut services or raise rates. If you put a little more emphasis on your individual income tax and if you make it more progressive than it is now, again yours is one of the lesser progressive income taxes, you can make it more progressive and still not be in any danger of taxing yourself out of business. You could have a tax system that could essentially be on autopilot for years to come so that it grew with growth in the economy, no more and no less, provided adequate public services, left the next generation of legislators and the next generation of your children at least as well off as they are today. If you did something such as cutting the individual income tax or going all the way to doing away with it, the other taxes that you have would all have to be increased not just one time but year after year after year, just to maintain anything like a constant level of public services, or the alternative being that you cut services drastically year after year after year. So that's the big picture that you're confronted with is just the nature of the growth in taxes is that you need more reliance on the individual income tax and you need a more progressive individual income tax system. With regard to whether or not that would be harmful to the economy, I worked on a recent survey that looked at the academic studies on states that either had no individual income tax or that had cut their individual income tax. The states that have no income tax grow slower than the average. If you take out the states that are driven by energy and look at only the ones that are driven by normal economic activity, they all grow slower than the average state. And if you look at the states that have cut their individual income tax over the last decade or so, they've all grown...not all, but they have on average grown at a lower rate of growth than have the states that did not cut the individual income tax. And (inaudible) New Jersey, the economist at Rutgers University of New Jersey looked at their state's tax system to see if there was a negative fallout of...an exodus of millionaires moving (inaudible) to South Dakota after they had passed their millionaires tax. And they weren't able to find any evidence of an outflow of high-income people leaving. I see my light is on. I'd make one recommendation that could come out of this commission. If you...I was struck by the number of exemptions that you have in this state. I have a list that's indicated here of roughly over 1,000 firms that receive exemptions that amount to

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\$400 million. Four hundred million is 15 percent of what you spend for public education this year. That's a lot of money going out that really has very little accountability. What do you get for it? If the commission came out with a recommendation that said going forward we sunset the exemptions and credits and special tax provisions that are designed to somehow grow the economy, if we put a sunset provision that takes effect in two years or four years down the road and require the state to evaluate each of those to see if they are effective, are they well defined though to know what they're there for in the first place, are they capable of delivering on their public service, do they do their job of creating jobs and income in the state, and then for any exemption or credit that needs to be...that wants to be reimplemented, that you make that decision after you've had a chance to review them over some period of time. I'd be glad to take any questions.

[LR155]

SENATOR HADLEY: Any questions for Dr. Sims? Senator Nordquist. [LR155]

SENATOR NORDQUIST: Thank you, Mr. Chairman. Thank you, Mr. Sims. On the chart you present, which shows breakdown by income categories here, it shows the bottom 60 percent of Nebraskans spend about 10 percent of their income on state and local taxes, and the top 1 percent about 5.8 percent of their state and local taxes. And looking at this maybe we're better off eliminating all state and local taxes and replacing it with a flat income payer tax. Now that wouldn't...or a flat tax. But that wouldn't be very diverse. But the question would be how does this chart for Nebraska stack up against...have you looked at our neighboring states or just across the country at how that data stacks up for...? [LR155]

RICHARD SIMS: Yes, I...when I was policy director for the Institute of Taxation and Economic Policy, we put that chart together to look at all 50 states. Most states have a pattern somewhat like...typically, the highest income taxpayers in the state pay the least amount of their income in state and local taxes, because for a truly high-income person--and by high income, we're looking at people in Nebraska of incomes of around

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\$325,000 and above, puts you in our top category. They pay very little sales tax. You've heard Warren Buffett talk about what he spends on sales tax, which is roughly what you and I would spend on sales tax. So the percentage of his income going to sales tax is very small. The percentage going to income is roughly the same as yours would be and mine would be here. It just happens to be a lot of dollars involved. All of the other taxes people in upper income categories, not just the Buffetts but typical accountants and attorneys and physicians, pay a minuscule percentage in sales and excise taxes, not a large percentage in property taxes. The only one that they pay a fairly high percentage on is the income tax. That's...and they happen to be the group of taxpayers that in Nebraska and nationwide most of the growth by income category has been to taxpayers whose incomes is at the upper end, the top 5 percent or 1 percent of the income categories. So people at the bottom end tend to have very static incomes, to put it mildly. [LR155]

SENATOR NORDQUIST: Is the only way to make sure everyone pays their fair share of their income towards state and local taxes, is it the only way to make our income tax more progressive? [LR155]

RICHARD SIMS: There's...you can get at...some of the other taxes have the capability of being improved. You can improve your sales taxes by doing away with exemptions, including more services, things like that. And you're familiar with some of the blowback you would get. But that would work towards improving it. I completely agree with the gentleman from the chamber that the internet tax would help broaden your base and make some improvement. Whether or not that adds much to the progressivity of the tax is debatable. It will some but very slight. Taxing some services will, but not greatly. There's simply no other tax that has even the potential to improve both the growth effect, the elasticity I was talking about, and the taxpayer equity that the individual income tax has. [LR155]

SENATOR NORDQUIST: And then the last question. With your work nationally,

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any...can you talk about the correlation between job creation and what the states invest in K-12 education; and if later if you have research related to that, I'd be happy to get anything that you do have. [LR155]

RICHARD SIMS: You'll see in...the back part of the information I passed out lists several references, some from McKinsey Global Insight that's the largest global consulting firm, looked at what causes manufacturing firms to move and to relocate. They made a presentation in D.C., about four months ago, and they said that 20 years ago the answer was labor costs. They said that today it's still labor costs if you're making T-shirts. If you're not making T-shirts, if you're making anything else, then the answer is the quality of the work force, that's why they locate. On the panel at the same time was Jeff Immelt, who is the CEO of General Electric, the largest manufacturing firm in America, who was asked very specifically, what role do state and local taxes play in your location decision? He said: None. The most important factor is training and education is always more important. It's the people, your work force, that dictates how well your manufacturing firm is going to do. And he went on to elaborate that if we get a tax break to move someplace but it means they have less money to fund their education system, that means our future work force is going to be deficient, so we have essentially cut off our leg for (inaudible) term benefit. [LR155]

SENATOR NORDQUIST: Thank you. [LR155]

SENATOR HADLEY: Dr. Sims, I have a question. You mentioned about sunseting and looking at the tax exemptions. And one of the things we hear from businesses is that they want stability. They don't want to have to guess every year or two. How would you think of the same process for the school aid formula, that every two years we go in and look at every factor in there and decide whether we're going to keep it or not? Because I hear from principals and superintendents that they want stability. They don't want us in there every year changing it. So why do we...why would we force business to make decisions on us looking at their exemptions every year or two? [LR155]

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RICHARD SIMS: I would say that the review that I have in mind of reviewing the exemptions and things would be to the advantage of, if I were a chief financial officer after this process was done I would know what works and what doesn't. Right now, it's many of the exemptions, the 1,041 firms that I indicated that have received special treatment through TIFs and things in your state... [LR155]

SENATOR HADLEY: But we don't control TIF. I mean, that's a local... [LR155]

RICHARD SIMS: Yeah. [LR155]

SENATOR HADLEY: That's a local option here, right? [LR155]

RICHARD SIMS: Right. [LR155]

SENATOR HADLEY: I believe that...we're not involved in that. [LR155]

RICHARD SIMS: Right. It is local option. It's one of the things that the firms themselves don't know going in how to plan for that. It's something they argue for and get, but it's not something that they can build into their planning very well. If you rationalize...and that's what I'm describing when I say sit down and make sure that all of your assistance to business and to any economic development efforts are done on a very rational basis that is carefully identified. I'll refer you to Kansas has done a very good job through its legislative audit staff of looking at exemptions and credits, defining why they exist, seeing how efficient and effective they are. Kansas looked at...they did a sample of 115 firms that receive state tax assistance. And they came back five years later and traced this particular sample of 115 firms and found only 38 of them were still in business. They were very shocked to find that these firms that had received quite a bit of assistance, in total Kansas spent over that period \$1.3 billion. And they didn't know where the money was going, they didn't know if the firms stayed in place. They didn't

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know if they created the jobs and income that was promised. So they've tried to tighten up on that. That's something that I would suggest for your state... [LR155]

SENATOR HADLEY: Well, I'm happy to say in Nebraska we have a performance based economic development program that the benefits that companies get are only--and I emphasize only--after they've met the standards that they sign on to, and we have a number of companies that have not met the standards and do not receive the aid. So I think we're a shining light when it comes to making sure that companies, if they say they're going to do something, they have to do it before they're given the tax incentives. [LR155]

RICHARD SIMS: From what I had seen in looking over the literature on your state, you're better than most states. Some of the experts I talked to indicated that there's still the possibility of some double counting and never knowing what for sure when a job created under the incentive and loss or cutback in other parts of the firm. But that's a discussion we could have. [LR155]

SENATOR HADLEY: Okay. Any other questions for Dr. Sims? Thank you. Appreciate it. [LR155]

RICHARD SIMS: You're quite welcome. [LR155]

SENATOR HADLEY: Appreciate your coming out. [LR155]

RICHARD SIMS: Thank you very much. [LR155]

SENATOR HADLEY: Next. Could I see a show of hands of how many people we've got left? There are a lot. Okay. Just remember that when you're testifying, those are the people who are waiting. Okay. [LR155]



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DEREK HECKMAN: (Exhibits 17 and 18) All right. Thanks, Senator Hadley. I'm honored to be here again in front of the committee. My name is Derek Heckman; it's D-e-r-e-k... [LR155]

SENATOR HADLEY: Mr. Heckman, are you going to give the same testimony you gave yesterday? [LR155]

DEREK HECKMAN: Just to underscore my support of your work here. Regardless of whether or not you... [LR155]

SENATOR HADLEY: Because it's all...you know, you can say that my testimony yesterday stands. Okay? [LR155]

DEREK HECKMAN: It would just be brief, Senator. [LR155]

SENATOR HADLEY: Okay. [LR155]

DEREK HECKMAN: I just wanted to submit that the report that's going around is my...as a representative of FairTax Nebraska is our complete proposal. Our solution to the modernization of our tax system, of course, would be to use a broad-based consumption tax in place of all income taxes. And that's included in the report that's going around. The second thing that's being passed around is a booklet about...regarding ten principles of federal taxation, which I believe also applies to your work here on the committee. I won't go over each one, of course, because they're in the booklet. But I just wanted to provide that extra information regarding our proposal, so. [LR155]

SENATOR HADLEY: Okay. Are there questions for Mr. Heckman? Seeing none, thank you. We appreciate it. [LR155]

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DEREK HECKMAN: All right. Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

JOHN WOODRICH: Good afternoon. My name is John, J-o-h-n, Woodrich, W-o-o-d-r-i-c-h. I am president and chief operating officer for Bryan Medical Center. Bryan Medical Center is part of Bryan Health, which is a nonprofit, locally owned and governed organization. I appreciate this opportunity to talk about the tax modernization proposal, and also thank you for your service and dedication to this state. Let me first start out with my concerns about the changes in the tax structure. As an example, this will increase the cost for Bryan Medical Center by \$23 million annually. If we lose our current sales tax exemptions and if medical services, among other things, become subject to taxation, the loss of the sales tax exemptions would be critical to our patients, the community, and the industry. As an example, losing our tax exemption on energy would increase our energy costs by 7 percent. We do pay property taxes on our medical office building, on homes that we own, and nonhospital properties, which add up to about \$900,000 in taxes a year. This actually makes us one of the top ten largest property taxpayers in Lancaster County. This increased cost providing healthcare to our community cannot be passed on to our consumers of the services. We already are providing services to Medicaid and Medicare recipients that are not reimbursed at the level of cost it is to provide that service. As an example, Bryan Health provides \$72 million in uncompensated care annually to our community and this region. This additional \$23 million burden would not be sustainable in this healthcare system's ability to provide high-quality cost-effective healthcare. I realize the value of implementing efficient business practices, employing incentives to recruit and retain, and supporting the state and local bases through competitive salary and benefit packages. But I want you to know we are not just providing high quality healthcare services at Bryan Health. We are an economic engine to this community. We employ 3,800 people in our community. Those 3,800 jobs create a tremendous amount of spin-off economic activity for this community and the state. We keep our community strong and financially viable.

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Significant changes to the current tax structure, increasing costs to the healthcare delivery, would be detrimental to the healthcare delivery and economy of the state of Nebraska. I know you've been hearing numbers thrown out during all these hearings, but let's get past the numbers and get to the people of our community that will be negatively impacted by this tax modernization issue. Our healthcare facility services the people of our community that come through our doors at their most vulnerable times. My commitment to them is to assure that they are given the most cost efficient, high quality service-oriented care. It is my job to advocate for our patients. Sales tax and bed tax proposals will put more undue pressures on healthcare providers. I know you do not want to create a healthcare system in this state that is not providing our people with what they deserve, and that's high-quality cost-efficient care. The individuals trust their lives to you and to us. These individuals are my friends, neighbors, family members, your friends, family members, neighbors, and the same individuals that count on your wisdom to make the right decision for their well-being. I urge you to consider the implications and effects that the tax modernization proposal will create. I would be willing to help serve in any capacity to assist in creating a workable solution to any possible necessary changes to the tax code. Again, let me stress that our current sales tax exemptions are an integral part of controlling costs at Bryan Health and for all the Nebraska hospitals. Thank you for your consideration; and, once again, thank you for your service that you provide. [LR155]

SENATOR HADLEY: Questions for Mr. Woodrich? Seeing none, thank you very much for coming in. [LR155]

JOHN WOODRICH: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

JENNIFER CARTER: (Exhibit 19) Good afternoon, Chairman Hadley and members of the Tax Modernization Committee. My name is Jennifer Carter, J-e-n-n-i-f-e-r

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C-a-r-t-e-r, and I'm the director of public policy for Nebraska Appleseed. Thank you for the opportunity to offer our thoughts today. We see the tax system as critical and foundational impact that makes...that has an impact on all of Nebraska and the good life we've created. And so we're grateful for this very thoughtful and deliberative process. We want to offer the perspective of advocates for low-income families and working families, an access to healthcare, children in foster care, and immigrants. So our specific focus on the initial proposals is obviously on the effect it might have on those communities. But in a larger sense, our focus is the strength of the state as a whole, because that has a significant impact on the opportunities any Nebraskan has, and we believe that together we've built a great state, a good quality of life, a culture of pride in our communities, and a commitment to helping our neighbors. And we would hope that that sense of community and shared responsibility would continue to underlie and inform the foundation for tax policy in Nebraska. To that end, we would hope that our tax system would ensure that we can continue to invest in the things that boost our economy and on which our families rely, like safe neighborhoods, good schools, a strong healthcare system, a functioning safety net, and infrastructure. And during the economic downturn, we saw cuts to social service programs, healthcare services, and education. We are a member of the Rebuild Nebraska Coalition and we share the view of that coalition that we should maintain our revenue, and we've heard I think today about revenue neutrality from several people to avoid further cuts in these important areas. In addition, we'd like our tax system to share the responsibility equitably, which I think we've also heard today. And so we would hope that any changes that we do make would not rely on lower and middle income families to shoulder more of the tax responsibility than others in order to decrease taxes for specific constituencies. With those principles in mind, we just have a few comments on the specific proposals that the committee has put out. We support the idea of a circuit breaker program as the best means for reducing property taxes. However, we would request that renters be included in any circuit breaker program, as I believe they are in other states, so that low-wage earners who pay property taxes indirectly through rent would also benefit. We also agree that Nebraska's sale tax exemptions must be reexamined and that including

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services within the sales tax system more accurately reflects our current economy. Our concern would be not making that too regressive and making sure that the services that are included would not disproportionately affect low-income families, such as a tax on food or basic healthcare services. So we would encourage this committee and the Legislature to consider that, when...if and when they look at the tax exemptions. Finally, we have serious concerns about reducing the personal income tax rate or corporate income tax and the effect it will have on the state's revenues and its ability to maintain the building blocks of a strong economy. For families being paid a low wage, a decrease in their income tax may not amount to much in terms of real dollars, if anything. But the aggregate decrease in state revenue could amount to significant losses in real and intangible ways for those families if we can no longer support the shared public assets that make our community strong. So a few dollars for a family really wouldn't make up for the loss of a good neighborhood school or paying for assistance with childcare so that they continue to work. Those things would have a much greater impact. So for these reasons, we would ask the committee to avoid any major shifts that would...and hold any changes you do consider to the standards of revenue neutrality, stability, and progressivity. And we thank you for your time and effort in this. [LR155]

SENATOR HADLEY: Jennifer, thank you. Are there any questions for Jennifer? Thank you for taking the time. Next. [LR155]

JIM OTTO: (Exhibit 20) Senator Hadley, members of the committee, my name is Jim Otto, J-i-m O-t-t-o. I'm here to testify on behalf of the Nebraska Retail Federation and the Nebraska Restaurant Association, as I am a registered lobbyist for both. First, I want to just mention that I was here at about 9:20 and got one of the front seats, but I thought it would be inappropriate for me to talk about sales tax right away, so I gave up my seat; and now I realize how stupid that was. (Laughter) [LR155]

SENATOR HADLEY: Thank you, Jim. I think there's a couple people that appreciate that. [LR155]

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JIM OTTO: And I wanted to especially thank Mike Lucas here, because he let me sneak in ahead of him after I did that. So on the handout there, I just really want to call your attention to the article on the front page. The rest of it is all just supporting documentation for what I'm about to say, and call your attention to what's in red, in the red letters. I think it was actually the first meeting of this group, an Indiana University professor, a national sales tax consultant stated that the object of tax policy is to behave like a pickpocket and not like a mugger. And so I would just like to suggest that maybe a lot of...most people don't even realize that the state of Nebraska is mugging the merchants. So my appeal today is to stop mugging the merchants, and Nebraska merchants actually find themselves in a no-win situation, because it a little known fact the Nebraska retailers and restaurants, the primary collectors of sales tax, are forced to remit to this state over \$8 million more in sales taxes annually than they collect on a net basis. How can this be? It is the result of the fees charged by credit card companies. When tax is added to a credit card sale, the credit card fee is charged on the total amount, including tax, not just the sale itself. If I buy something in Omaha or Lincoln for \$100, there will \$7 in tax. Approximately, if you average it out, that will be a 14-cent fee, somewhere around there, to the merchant to process that \$7 in tax. So the merchant will collect actually \$6.86 on a net basis and tax, and still remit \$7. That 14 cents on that individual sale multiplied by the thousands and thousands of sales statewide comes to \$8.4 million, at least statewide, and that is not a figure made by the retail or restaurant industry but a figure that was arrived at by the Legislative Fiscal Office on LB186 in the year 2009, and that fiscal note is included in the information. This has not always been the case. Prior to 2002, the state of Nebraska allowed those collecting sales taxes to retain an extremely small percentage of all the tax collected to compensate for the cost of collection. Blaming tight budget times, most of that was taken away in 2002, with the idea that it could be restored when times were better. Senator Paul Schumacher--thank you, Senator--introduced LB333 in the 2013 session, which is still alive in the Revenue Committee. LB333 would substantially rectify this, not completely, but substantially by reinstating the sales tax collection allowance at the level it was prior to 2002. As I said

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earlier, the national tax experts said to all of you that the object of tax policy is to behave like a pickpocket and not like a mugger. It is a fact that Nebraska sales tax collecting merchants are getting mugged to the tune of \$8.4 million, at least, each year. Nebraska merchants just want the mugging to stop. With that. [LR155]

SENATOR HADLEY: Okay. Questions for...yes, Senator Hansen. [LR155]

SENATOR HANSEN: Mr. Otto, I had a...we have a condo in Lincoln and we have to pay property tax on that. And I didn't realize that Lincoln and Omaha paid a month ahead of what we do in Lincoln County, so I was up to the day that the taxes were due and I had already been fined \$10 for filing late...or for paying late. So my staff suggested that I pay it on-line. So I paid it on-line, and there was a 2.7 percent fee for filing it on-line. So it cost me \$27 instead of \$10 to pay it the next day. Is this common? I mean, is that what you're talking about? [LR155]

JIM OTTO: That is the fee. The difference is that most tax-collecting entities, for example, Mr. Hudkins mentioned that the county, Lancaster County, collects and doesn't get paid much for collecting sales tax. But if you want to put your car...your taxes for your car on your credit card, they add it on... [LR155]

SENATOR HANSEN: Two point seven percent. [LR155]

JIM OTTO: ...2.7 or 3 percent, as was done to you. The merchant eats it. That's the difference. [LR155]

SENATOR HANSEN: The county didn't eat it. [LR155]

JIM OTTO: No. [LR155]

SENATOR HANSEN: I paid it. [LR155]

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JIM OTTO: The county doesn't eat it. [LR155]

SENATOR HANSEN: I paid \$1,027, so. [LR155]

SENATOR HADLEY: Mr. Otto, isn't this, though, a fee to allow the retailers and such as that to take credit cards rather than forcing people to pay, you know, cash? Isn't that the reason for the fee is that your local retailer can take a credit card and not have to require people to bring cash in? [LR155]

JIM OTTO: Well, it is true that there are more...if we didn't have credit cards, we would have much way fewer sales, way fewer total dollars in sales. And it is true that retailers take credit cards because they want to make the sale. I would also submit to you, if they didn't take credit cards, you'd have way less sales taxes. [LR155]

SENATOR HADLEY: Well, I understand. But isn't this really a cost of business that, you know, to just the same as property taxes, cost of merchandise, cost of lights, heat? [LR155]

JIM OTTO: I disagree because...for example, if you're an employer and you collect withholding, that withholding doesn't go on a credit card. You collect withholding and you submit it to the state; you retain it out of the...but you don't actually get less than you collected. I think this is one of the few instances, if not the only, that you actually get less than you actually collect. [LR155]

SENATOR HADLEY: Okay. Senator. [LR155]

SENATOR NORDQUIST: Just to clarify. So the issue is when the sales tax is applied, we want to apply it to the purchase minus the tax, the fee on the purchase minus the tax. Right? Not the total...not the total cost. [LR155]



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JIM OTTO: There would be two ways to address it. You could say to the credit card companies, you cannot charge the fee on the sales tax amount. I think you'd have a big fight with the banking industry, but...or you could reimburse at least, even we do the bill that Senator Schumacher has introduced, it will not reimburse the total amount of the credit card fee. [LR155]

SENATOR NORDQUIST: Okay. Thank you. [LR155]

SENATOR HADLEY: Thank you, Mr. Otto. Next. [LR155]

MARILYN HLADKY: (Exhibit 21) Good afternoon, Senator Hadley and members of the Revenue Committee. My name is Marilyn Hladky and I am the Seward County Assessor and thank you for the opportunity today. I know you have heard a lot about property taxes. [LR155]

SENATOR HADLEY: Marilyn, would you spell your last name? [LR155]

MARILYN HLADKY: Pardon? [LR155]

SENATOR HADLEY: Spell your last name for us. [LR155]

MARILYN HLADKY: I'm sorry. H-l-a-d-k-y. And I know you're probably tired of hear about property taxes about as much as I am in my office, so. But the things I'm giving you today and the reason I've come is mostly to talk about fairness of what I have to do in my office and doing the job that I'm required to do by state statute. In the handouts that I've handed out...I'll just kind of briefly go over them and then if you have questions. The first one is a cumulative percent change from 2002 to 2012. Now everything I'm giving you is pertaining...is just Seward County, so. I would like to more draw your attention to the bottom three years of '10, '11, and '12. And you can see how the value

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has changed between the residential in the first set of columns, the commercial and industrial in the second set, and total ag land in the third set. So that's that first sheet. The next sheet is on page 2 is actually a spreadsheet that I did for 2012 and 2013 valuation comparisons. And that 2012 line is taking those figures from this sheet 1; and then sheet 13 is information from my 2013 county abstract of assessment for property that we have to submit after setting all of our values to the Property Tax Administrator. And between the '12 and '13 for residential, I've had to do a 16 percent increase. Although we did some reappraisal of some bigger towns, which attributed to that increase. Commercial and ag had a little bit of a 3.67, but without the growth actually had a minus 1 percent. And then when you get to the ag land, the value went from \$831 million to \$1,076,000,000, so that this last year was a 29.5 percent increase, so. My assessment plans for 2014 in residential are to do Seward and review and adjust suburban and rural acreages. For commercial, we're just going to do apartments. And in ag land, we're going to have to increase values again. So if you look at the bottom section on page 2, my current preliminary draft medians and I haven't reviewed all of my cells yet, but this is what they are as of today. My residential is sitting at 93 percent overall countywide. I have to be between 92 and 100 percent. My commercial and industrial, I'm sitting at 94. I also have to be between 92 and 100 percent. And my ag land has dropped to 55 percent and I have to be between 69 and 75 percent. So I would need to have at least a 27 percent increase to raise that median up to what I call the bare-bones minimum of that 69 percent. And if I did the same as this year, for '13, the 29.5 percent, that would bring me up to 71.23. Document 3 just shows you...I have highlighted at the middle of the page the figure that I got \$1,076,000,000. Exhibit 4 is again draft statistics that I print off the state property tax sales file. The first one shows you my agricultural base with that 55 median that I have highlighted. And I want to draw your attention to the part closer to the bottom of the study years. And because we do do three years of ag sales to set our values with. And I still have 13 sales remaining off of that oldest year, and that median with the 13 value is applied to them. My median is at 74.78 percent. The middle year of sales I had 19 of them, and these are just the arm's-length, qualified sales--willing buyer, willing seller--in the marketplace. We don't

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include the ones that have a lot of value on improvements because that really distorts the value of what ag land sold for. And we don't use ones that are not arm's length, like foreclosures or families and so forth. And then my most current year I've dropped to 41.83 percent. The second page then also shows my market areas. I have three market areas in my county. My market area one is close to York County. Seward County is the county right next here to Lancaster. And I do do two and three together, which is my eastern half of Seward County. And then I have the same reports from my residential and commercial and improved. I don't see a whole lot of changes in those properties for the coming year. So what I'm really saying is, every year, and I've been assessor since 1995, I keep seeing the shift. I have to increase ag land more and more all the time, but the rest of the properties pretty much...you know, they might get some increases. And the ones that have bigger increases are because we've done reappraisal. Now in 2005 I did Seward and that year we had a 13 percent countywide increase on reappraisal. Seward is now due, be due again for 2014, and that's the first time since then. So those values have stayed the same unless they've had some changes to those properties. So I just want to see some fairness in how we do values because it all comes back down to my office and we have to deal with setting the values and dealing with those property taxpayers. The only recommendation, and I've been thinking a lot about it and trying to come up with some ideas and solutions, and with the increases that we're seeing, is, is it possible to do a...for this coming year a cap on how much it can be increased for ag land. If you set it at 20 percent, I'm still increasing my values 20 percent. I mean no matter...anything under probably 29 percent, I'm going to have to increase it up to that, to that cap, whatever you possibly could set. Quickly, the last one is just homestead exemption. Well, thank you for your time. [LR155]

SENATOR HADLEY: Thank you. Senator Schumacher. [LR155]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony. These increases you speak about naturally are a direct result of fairly dramatic increases in value of agricultural land. In your area, what is driving that? Is it out-of-state

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investors? White-collar, in-state investors? Big farmers getting bigger? Little farmers shifting land? What's driving the... [LR155]

MARILYN HLADKY: I don't see too much on investors and I try to go to the auctions if they're, you know, held in Seward or close by. The investors have dropped out and down because of the price of the ag land that has happened and where it's been going on. A lot of farmers to farmers. I had one dryland with no irrigation potential sell for \$9,400 an acre, but it was neighbor against neighbor. You know, finally, one finally gave up, so...but and I've talked to property tax about, you know, some of these circumstances and, well, it was an open auction and everybody could go there and bid and willing buyer/willing seller. And so I use those...I have to use those sales in my analysis for where I set my values. [LR155]

SENATOR SCHUMACHER: Thank you. [LR155]

SENATOR HADLEY: Senator Hansen. [LR155]

SENATOR HANSEN: Thank you. Marilyn, do you happen to know the price of corn today, bushel of corn? [LR155]

MARILYN HLADKY: What the price of corn is today? [LR155]

SENATOR HANSEN: Yeah. [LR155]

MARILYN HLADKY: Isn't it \$4.20-some? [LR155]

SENATOR HANSEN: And a year ago it was \$8 and the year before that it was \$7.50. [LR155]

MARILYN HLADKY: Yeah, exactly. [LR155]

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SENATOR HANSEN: And that's what I think drives up the price of land. And then you have to put those comparable sales together. I don't know how we can do this without hooking together productivity and comparable sales together. I mean those sales that you're using are way outdated for today's agriculture. [LR155]

MARILYN HLADKY: But if I...if you use just the last one or two years, then look what those ratios were on those sheets. That would even be a larger increase. In fact, some of the other assessors west of me... [LR155]

SENATOR HANSEN: But if you don't increase it, you're going to hear from the state assessor and say you've got to get those up to 65 percent at least. [LR155]

MARILYN HLADKY: Well, my reports and opinions are calculated by the Property Tax Administrator. [LR155]

SENATOR HANSEN: Yeah. [LR155]

MARILYN HLADKY: They go to TERC. If I'm not between my 92 percent and 100 percent on those other classes and 69 percent to 75 percent, I get called in and, by statute, TERC has to raise my value, whatever it's deficient, to midpoint of that ratio. [LR155]

SENATOR HANSEN: I think... [LR155]

MARILYN HLADKY: So if I was just at 68 percent, they'd raise me to 72 percent. [LR155]

SENATOR HANSEN: Yeah. I appreciate you coming in today and I know you're...all the assessors are getting the same questions, so... [LR155]

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MARILYN HLADKY: Yeah. Thank you. [LR155]

SENATOR HANSEN: Thank you. [LR155]

SENATOR HADLEY: A question I have, Marilyn, and how long have you said you've been assessor? [LR155]

MARILYN HLADKY: Pardon? [LR155]

SENATOR HANSEN: How long have you been assessor? [LR155]

MARILYN HLADKY: I've been in the office since 1979. I've been assessor since 1995,... [LR155]

SENATOR HADLEY: Okay. [LR155]

MARILYN HLADKY: ...forever. [LR155]

SENATOR HADLEY: A question I get, you've been around a long time, I had a person who has a manufacturing business in Kearney come up to me and said, why is my manufacturing building valued at the 92 percent to 100 percent, is that correct,... [LR155]

MARILYN HLADKY: Yes. [LR155]

SENATOR HADLEY: ...and ag land valued at 70 percent? Why is ag land different than a home, a commercial building, a lot? You've been around long. Is there... [LR155]

MARILYN HLADKY: I mean I know why it happened and why it's different. I mean

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physically you're talking about why is that different on what we have to pay taxes. Is that correct or...? [LR155]

SENATOR HADLEY: Yeah. Why? [LR155]

MARILYN HLADKY: Why is it different? [LR155]

SENATOR HADLEY: Yeah. [LR155]

MARILYN HLADKY: Okay. It was back in actually Kearney. There was the Holiday Inn court case that went clear to the Supreme Court, and after that they talked about equalization. And after that, it was on the 1988 ballot; it was called Amendment 4. That amendment said that we the people, if this passes, we give the Legislature the authority to change how to value ag land. Prior to that, ag land was based on kind of a formula. The state set their values, they sent us our values, we sat in the office and waited for them. It included interest rates, productivity, the market, all kinds of things. We were never really told what was included in that, but I know those things were. And when that law passed, that Amendment 4, and I don't think people knew what they were voting for, the Legislature came back at that time and...because it was a constitutional amendment and changed it to 80 percent of market. [LR155]

SENATOR HADLEY: So it was a constitutional amendment. [LR155]

MARILYN HLADKY: Yes, it was. [LR155]

SENATOR HADLEY: I guess that was the point I was going to drive at. Okay. [LR155]

MARILYN HLADKY: Yeah. [LR155]

SENATOR HADLEY: Thank you, Marilyn. [LR155]

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MARILYN HLADKY: Yeah. Thank you. [LR155]

SENATOR HADLEY: Oh, Kate. [LR155]

SENATOR BOLZ: I just wanted to give you an opportunity to make your point about the homestead exemption. It sounded like... [LR155]

MARILYN HLADKY: Oh, okay. [LR155]

SENATOR BOLZ: ...you had a comment to make. [LR155]

MARILYN HLADKY: Okay. Well, when we always go to workshops and so forth, and homestead exemption program is a wonderful program and it really helps people stay in their properties and so forth. But the document I gave you is the physician's certification of disability and the issue that we have is that people come in and they come in with their cane and their crutches and they sign up for homestead exemption. And when you look out the window, they're carrying them and off they go and so...but the doctor signs it that they can't walk or be mobile without these items. We have had people come in that have that and sign up, and we've actually been to the properties. And actually, it's a couple and they're there being hired to...and they're up on the roof putting in new gutters on the people's house, but they get homestead exemption based off of this physician's certification of disability. And part of the problem of that issue is, well, we have artificial knees. Well, they're viewing that as a prostheses. So I just think the assessors would like some more clarification on who should get this based off of the disability certification, because there's probably people that aren't getting homestead that should, and there's probably these people that are abusing the system that are getting it that shouldn't. [LR155]

SENATOR BOLZ: Thank you. [LR155]



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MARILYN HLADKY: Thank you. [LR155]

SENATOR HADLEY: Thank you. Thank you, Marilyn. [LR155]

MARILYN HLADKY: Thank you for asking. [LR155]

SENATOR HADLEY: Next. [LR155]

MIKE LUCAS: (Exhibit 22) Hi, my name is Mike Lucas, M-i-k-e L-u-c-a-s. I am here representing York Public Schools as their superintendent, as well as our newly formed group called STANCE, stands for Schools Taking Action for Nebraska Children's Education. Behind me I have Barb Skaden, who is our board president and retired teacher, as well as Vern Fisher, who is superintendent in South Sioux City and a fellow member of STANCE. We have other schools in attendance as well in the overflow room: Seward, Waverly, and Norris. And I believe Crete is here as well. I've got a two-sided handout for you and would, first of all, just like to thank you for all that you do. Appreciate days like today are tough on me as an audience member. I can't imagine doing this repeatedly. So I'm not going to complain about being a superintendent or a former 3rd grade teacher anymore. Our group is committed (laughter) to...our group is committed to helping grow our state. We feel like, especially in the last year or two, the educational community has not done a good enough job of working together. We feel like we send a lot of mixed messages to you all, and that's something that the STANCE group is trying to work on. We don't have any lobbyists in our group, nor will we have lobbyists in our group. We're superintendents that care about our students and that's why we do what we do. A couple of recommendations or beliefs that we have, if you look at the second bullet on our handout. We obviously understand the revenue issue that Nebraska has. We're trying to help identify potential additional funding sources for public education. We are interested in learning more about how lottery funds and an educational trust fund might help increase revenue. We continue to recommend that

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state sales and income taxes be used to fund K-12 education. Like you've heard over and over again, we do...we would like to see a reduction on the reliance of local property taxes. That's something we hear an awful lot from our patrons. And we're going to continue to meet as a group and continue to work with our school boards and business owners and landowners to try and come up with additional sustainable and equitable funding sources in the future. On the back of our handout you'll see the ten member schools of STANCE, and one thing I'd like to point out about our group, we're all low spenders when you look at our cost-per-pupil data. Many of us have reduced our spending 10 percent or even more over the last few years. I know in York, we spent less in 2012-13 than the school district did in 2008-09. I feel like sometimes people have the perception that, you know, education is this leaky faucet that always wants more and more and more, and I would like for everybody in this room to know that there are many districts out there that are making cuts and we're doing more for kids with less funding and spending less money to do so. When you're in education, we feel like you're in the opportunity business, and it's our responsibility to provide opportunities for all students, and that's something that does take quite a bit of funding. The last three bullets on the front page, I guess we're adamant about the fact that we feel Nebraska is overly reliant on the property taxes at the local level. We feel like the state...Nebraska is one of...I'm a native Floridian and so I married an Omaha gal and absolutely love being a Nebraskan. And the fact that our low unemployment rate and favorable business climate, that's a credit to our state. And we're proud, as public school representatives, to have educated many of Nebraskans that have gone on to be successful. We obviously appreciate Senator Sullivan's leadership and all the work that she does on the Education Committee, and we look forward to all the senators helping to work together to look at fully funding the TEEOSA formula. You've done a great job with the allocation that you're giving, and we look forward to being able to fully fund that on the calculation side as well. On the back of our document, again, we have the member schools and our Web site. Just like you all have modeled and done a great job of having these hearings, we believe in transparency as well and you can keep track of what we're up to at our Web site. [LR155]

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SENATOR HADLEY: Any questions of Mr. Lucas? Seeing none, thank you. [LR155]

MIKE LUCAS: Thank you all. [LR155]

SENATOR HADLEY: Next. While he's coming up, I have a note here that the Planning Committee this morning heard testimony that Barron's had ranked Nebraska number 1 out of 50 states in business climate. [LR155]

SENATOR HARR: Who did that? [LR155]

SENATOR HADLEY: Barron's. [LR155]

SENATOR HARR: Barron's. [LR155]

SENATOR SCHUMACHER: Barron's. [LR155]

DOUGLAS KINDIG: (Exhibit 23) Good afternoon. That might be because we've had a tax structure that works, Senator Hadley. Good afternoon. I'm Mayor Douglas Kindig, K-i-n-d-i-g, of the city of La Vista. I'm here today on behalf of the United Cities of Sarpy County, which includes Gretna, Papillion, Springfield, and La Vista. I believe that yesterday you heard Mayor Black from Papillion speak about stability and predictability that property tax revenues provide to cities. Today I would like to provide with you our perspective on the importance of the sales and use tax and occupation taxes as vital revenue sources for our jurisdictions. Even though our cities are located in the fastest growing county in the state, no two are alike, especially when it comes to financing essential municipal services. We all face our own challenges and circumstances and rely differently on similar revenue resources. We are, however, the same in terms of our governing bodies working diligently to provide the services our residents expect and to ensure that limited resources are utilized as efficiently as possible. In addition to the

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more reliable property tax, our municipalities also depend significantly on the revenue generated by sales and use taxes and the imposition of occupation taxes. While the revenue from these sources is substantial, it is less predictable and susceptible to varying economic conditions and consumer confidence. The current national economic crisis, coupled with operational cost increases beyond our control, have certainly made us keenly aware of the need to have a diverse revenue source in order to continue to provide essential services to our growing communities. In La Vista, sales and use tax revenues typically generate about 17 percent of the general fund budget. Occupation taxes, which includes hotel tax, and franchise fees are about 13 percent. While the largest portion of our general fund budget comes from the property tax, approximately 51 percent, you can see that these other revenue sources collectively make up about 30 percent of our budget. La Vista levies .49 cents in the general fund and .06 cents in the debt service, putting us very near the levy limit. We do not have municipally owned utilities. La Vista's population has grown 53 percent since 2000. We platted over 900 residential acres, 280 acres of commercial, and 800 acres of industrial ground during this same period, and our assessed valuation grew by 214 percent. Managing growth at this pace is challenging, and during this same time we were also constructing and improving infrastructure, building public facilities, providing library services in a new and much larger facility in an innovative partnership with Metropolitan Community College, facilitating development of the La Vista Conference Center and surrounding area, and planning the redevelopment of 84th Street. Disciplined, sustainable growth requires that policy leaders keep their focus on the long term and avoid hasty reactions to immediate crises. Long-range financial planning is a necessary, and stable, predictable revenue sources are essential to that planning. Now not only are some of our key revenue sources unpredictable. Municipalities are at a tremendous disadvantage because of the general lack of transparency in the Department of Revenue's collection and remittance of sales and use taxes and the state's privately negotiated economic development incentive agreements. I am sure most of you are aware of La Vista's recent \$2.46 million sales and use tax rebate situation related to incentives. This is a story that needs to be told but likely on a different day. Suffice it to say that in order for cities to be in a

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stronger position to adequately anticipate available resources and plan for their efficient deployment, it is imperative that we work together to find a solution that will ensure accuracy and improve transparency and predictability in terms of sales and use tax collections. We understand and appreciate your efforts to examine the tax situation in Nebraska. While clearly there are many different ideas on the appropriate direction, we know for certain that municipalities across the state rely on the stability and predictability of property tax revenue and work hard to diversify the revenue stream with sales and use taxes and occupation tax collections. Mayor Black spoke to you yesterday about the uniqueness of the partnership of the United Cities and, more specifically, the recent interlocal agreement between Papillion, La Vista, and the Papillion Rural Fire District with regard to a merger of the services. Local government officials are finding ways everyday to cooperate and be good stewards of their respective resources. Our citizens deserve that and demand it. I appreciate you listening to me today. I'd welcome any questions you have. [LR155]

SENATOR HADLEY: Any questions for Mayor Kindig? Thank you, Mayor Kindig. We appreciate your coming down. Oh, I'm sorry. Senator Mello. [LR155]

SENATOR MELLO: Thank you, Chairman Hadley. And thank you, Mayor Kindig. Just so I'm clear because...in comparison to what Mayor Black yesterday told us in south Omaha, is that your testimony mainly focuses on kind of municipal fiscal policy in relationship to the Department of Revenue, in the Department of Revenue, thus, the state, providing better fiscal information in regard to sales and use tax collection data for your budgeting purposes. [LR155]

DOUGLAS KINDIG: Correct. [LR155]

SENATOR MELLO: Am I correct kind of in what I just gathered? [LR155]

DOUGLAS KINDIG: Yeah, and I skipped the testimony because the light came on, so I

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appreciate the question. But as of right now, we don't get good numbers from the Department of Revenue on the Nebraska Advantage and LB775. That put La Vista in a tremendous predicament with having to come up with \$2.4 million; only \$1.2 million of it did we know about. We received a check from the state for our sales tax. It had an additional \$1.2 million one month. The Department of Revenue didn't call us. We had to call them and ask them why. They said you better put it away; you're probably going to have to give it back. We recognized that. What we didn't recognize was that over the last three to four years the extra \$30,000 that was given back to us. And because of a lack of reporting by the Department of Revenue and transparency, after three years that added up to another \$1.2 million. Thankfully, La Vista, being very fiscally sound, was able to cover that. I'm worried about this year. I had cash reserve for last year. We need to make changes as we move forward. We talk about predictability and stability. The cities have to be a partner of the state in the economic development incentives. I'm an advocate of the incentives. But incentives are not giveaways; they are investments. As you consider a new tax modernization policy, it's imperative that you look at the Nebraska Advantage and the incentive programs of the state of Nebraska to make sure that the real future of the cities, which is where the growth takes part, is going to be secure so that we can do our job. [LR155]

SENATOR HADLEY: Thank you. Any other questions? Senator Pirsch. [LR155]

SENATOR PIRSCH: Thanks. I'll just ask a quick question with regards to the LB775 redemptions that you were talking about. Is the problem one of planning, in other words, proper heads up so that we can build it into future budgets? Or is it one of the whole goal of the incentives to begin with you disagree with? [LR155]

DOUGLAS KINDIG: Yeah, I don't agree. We've, you know...thank you, Senator. La Vista and the United Cities, along with the league, have pushed for incentive programs--LB1018 just a few years ago, which I feel like I had a lot to do with that. And the city of Gretna is using it for the outlet mall. But it's still a good plan. The problem is

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not the incentives. I think they need to be tweaked. I think the Nebraska Advantage Act, as Commissioner Ewald reported a few weeks ago, the price that the state is investing per job is quite high. A 22- to 25-year return on that business is pretty high. That's more of a giveaway, in my mind. But at the city level, our problem with it is a number of things. The state does not give us proper reporting back so we don't even know for a year which businesses have qualified for the Nebraska Advantage or at what level. That's a problem. We don't receive monthly reports like the Department of Revenue or like the Appropriations Committee does, giving them a projection. All we get is a letter from the state saying, you owe this much back. The answer the state gave me was, Mayor, you need to call the businesses and ask them how much are they going to get back. We're not at the table when the deal is done. We don't have a say-so. But the answer of the Department of Revenue was for us to go to the business. That's not a partnership. We need to have better reporting. I think there's three good options and maybe a fourth: tell us monthly how much the incentives are so that we can save them; don't give them to us at all. The third one, sorry, I lost the third one but I thought of the fourth one. The fourth one would be allow us to collect our own sales taxes and we'll remit to the state. That's not going to happen. So just the transparency of the whole thing, this is a simple fix: Allow us to know what incentives are going to be taken away from us so that we can plan for it. The third one was, since it's a state program, go ahead and give away your state dollars; leave my local dollars alone. I will do what I need to, to run my city, and if that includes lowering property taxes, I can do that. But give me the revenue sources I need to run my community and we'll be just fine. [LR155]

SENATOR HADLEY: Okay. Thank you again. Senator Schumacher. [LR155]

SENATOR SCHUMACHER: Just briefly, thank you, Senator Hadley. Thank you for your testimony. The...a couples weeks ago we heard the State Tax Commissioner talking to us about the value of incentives. He kind of told us it was our job to figure out what was working, what wasn't. Obviously, you had quite a bit of incentives in your area because you had a big bill for them. And your area is getting the benefit, to the extent one exists,

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of the incentives. Are they working? [LR155]

DOUGLAS KINDIG: Partially. I think that many new jobs and businesses have been brought into La Vista. It's not up to me to say that the dollar figure that the state is giving these businesses to create that job is too high or too low. What I can tell you is that when an incentive program is there for 22 years, 24, 25 years before the state starts to get some of that investment back, that scares me, because in 22 to 24 years there's going to be a different, newer, shinier place for that business to move to. So what happens then after you've invested in them for 22, 23 years, and then at the end of that time period another state offers them a different package? This is a regional problem, not just a state of Nebraska problem. We have to start making sure that private investment is what drives the economy, not public. [LR155]

SENATOR HADLEY: Okay. Thank you. [LR155]

SENATOR SCHUMACHER: Thank you. [LR155]

SENATOR HADLEY: Thank you, Mayor Kindig. Next. [LR155]

DOUGLAS KINDIG: Thank you. [LR155]

JAMES GRAY: Good afternoon. My name is James Gray, J-a-m-e-s G-r-a-y. I'm the vice president for government relations from the High Plains Division for the American Cancer Society, Cancer Action Network. And just quickly want to thank all of you for your patience and your willingness to stay late. We value your time and I'm glad that you're willing to let everybody testify. The American Cancer Society believes that...the American Cancer Society, Cancer Action Network believes that one piece of the tax modernization puzzle should include an increase in taxes on cigarettes and other tobacco products. A significant increase in tobacco taxes would generate millions of dollars and aid you in finding ways to reduce the property taxes. Raising the tax on



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cigarettes along with a proportional increase for other tobacco products is a win-win for Nebraska. It will raise significant funds for the state, while dramatically reducing the toll tobacco takes on taxpayers through lower healthcare costs and lives saved. The current cigarette tax in Nebraska is 64 cents per pack, with other tobacco products taxed at 20 percent of the wholesale price, which ranks 38th among the other states. So clearly, the national average for states is \$1.53 per pack. There's plenty of room for growth with the Nebraska tax. This is a public health issue for the American Cancer Society, Cancer Action Network. Tobacco is the number one cause of premature death in Nebraska, killing 2,200 people every year. Tobacco kills more people than AIDS, cocaine, heroin, alcohol, car accidents, homicide, and suicide combined. In fact, tobacco is responsible for one-third of all cancers. Another important impact of, for example, a \$1 increase per pack would be to prevent Nebraskan youth from ever smoking. Due to limited disposable income, kids are sensitive to dramatic cigarette price increases. If current smoking rates continue at the level they are today, 36,000 youth in Nebraska will take up the habit and eventually die prematurely from a tobacco-related illness. So exactly what would happen in this state if we did increase the cigarette tax by \$1? Well, based on the experience of 47 other states that have increased their tax in the last 11 years, you can expect youth smoking to decrease by 15.2 percent; a 5-year health savings of \$8.4 million from fewer smoking-affected pregnancies, heart attacks, and strokes; \$339 million in long-term healthcare savings to the state, much of that in Medicaid savings; plus over \$72 million annually in new revenue to address some of the issues that you're talking about today. Recent polling demonstrates that Nebraskans are very supportive of the tobacco tax increase. From Sunday, October 6th, through Tuesday, October 8th, the American Cancer Society, Cancer Action Network engaged the services of public opinion strategies to conduct a poll of 500 Nebraska voters. The results of the polling demonstrate that Nebraska voters overwhelmingly support a significant increase in tobacco taxes. The poll found that there is a strong bipartisan support for increasing Nebraska's tobacco tax, using additional revenue to help reduce property taxes. For example, 68 percent of voters polled strongly favored tobacco tax increase to help offset property taxes; 41 percent of those who smoke also favor the proposal. Support for a

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tax increase of \$1 per pack of cigarettes, along with a proportional increase for other tobacco products, had 68 percent support. Seventy-eight percent of those polled said it's important to fund tobacco prevention and cessation programs. Another interesting tidbit that came out of the poll: More than 50 percent of those polled indicated they'd be more likely to support a candidate that supports a cigarette tax increase. Members of the committee, the health and financial benefits of a tobacco tax increase could not be clearer. As your committee deliberates, the American Cancer Society, Cancer Action Network asks you to recommend a significant increase, \$1 or more, along with a proportional increase for other tobacco products. Thank you for your consideration. [LR155]

SENATOR HADLEY: Any questions? Yes, Senator Hansen. [LR155]

SENATOR HANSEN: I've got one quick question for you. Surrounding states are...and some others, surrounding states anyway, are contemplating legalizing medical marijuana. In Colorado they have a huge group of young adults with health problems, evidently, smoking marijuana. (Laughter) I don't think cigarettes are going to be the problem. I think it's going to be...it's going to be marijuana that's grown, transported through Nebraska, and sold to...well, it could be sold in bigger areas and further east. But I don't think tobacco is the problem, not for our youth anyway. I think there's a bigger problem out there--alcohol and marijuana. And it's going to get worse as we have surrounding states legalize it. [LR155]

JAMES GRAY: You know, it's...I'm not...we're not...I'm not going to comment on that specific part. (Laughter) But I think, in reality, big tobacco is going to continue to make sure that tobacco is used at a very high rate, and so I think there are probably competing interests among our youth. Tobacco will still be something that they'll gravitate to. [LR155]

SENATOR HANSEN: If we would make tobacco cigarettes especially illegal to buy in

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the state of Nebraska, lose our revenue, would that be the ultimate goal? [LR155]

JAMES GRAY: So that is not our... [LR155]

SENATOR HANSEN: Or are you relying on smokers to pay a whole bunch more taxes?  
[LR155]

JAMES GRAY: Yeah, you know, we wouldn't want to do anything that would manifest a black market, which is probably what would happen if you outlawed them completely. What we do know is if you are serious about driving down tobacco consumption, there are very effective ways of doing that. And a cigarette tax increase is one of the three elements that needs to be in place to have that significant impact in driving those numbers down. [LR155]

SENATOR HANSEN: Why don't we just make it illegal to have cigarettes in the state?  
[LR155]

JAMES GRAY: You know, I...you run the risk of a host of other issues, such as black market issues and... [LR155]

SENATOR HANSEN: So you do depend on smokers to finance other things, like property tax relief. [LR155]

JAMES GRAY: I think it's important to realize that we're not...and I'm not saying that you're actually depending on smokers. Clearly, when you look at what is driving, for example, the Medicaid costs, tobacco and tobacco-related illnesses is a significant portion of the Medicaid dollar this state spends every day. Things like tobacco taxes help make up for that lost revenue that the state faces in having to treat those illnesses. [LR155]

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SENATOR HANSEN: But you also said in your statement that in your survey that whatever percent it was thought that they ought to use tobacco taxes for property tax relief. [LR155]

JAMES GRAY: Uh-huh. [LR155]

SENATOR HANSEN: Is that correct? [LR155]

JAMES GRAY: Exactly. [LR155]

SENATOR HANSEN: I don't think that's a good use of cigarette taxes. (Laugh) [LR155]

JAMES GRAY: Well, and... [LR155]

SENATOR HANSEN: I'd just eliminate them, just eliminate them. That's all. Thank you. [LR155]

JAMES GRAY: And our job is to provide information and ask you to consider it as you deliberate. [LR155]

SENATOR HANSEN: Thank you. [LR155]

SENATOR HADLEY: Thank you. [LR155]

JAMES GRAY: Thank you. [LR155]

SENATOR HADLEY: Next. Good afternoon, Mayor. [LR155]

JAY VAVRICEK: Good afternoon, Senator Hadley and many other friends here, good to see you and, once again, very much appreciate your leadership. And after sitting here

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for these hours, boy, more people need to be here as well. And I appreciate your attention and I'll try to be brief, within the time allotted. My name is Jay Vavricek, spelled J-a-y, last name V-a-v-r-i-c-e-k, and I'm contributing my time here on behalf of the people of Grand Island. I serve as mayor. I'm also a citizen. I'm a taxpayer. I'm a small business owner. And I'm a proud taxpayer of Nebraska. So by the time I've listened to testimony of many different people, my testimony has evolved, but let me just touch on a couple things. First, when I became mayor, I really felt that the cities needed to do a better job of explaining the plight and the circumstances and how policies here affect us on the local level. So today, in terms of property tax and sales taxes, I'll ultimately present you some information that will detail the city of Grand Island's reliance on that. Because when I looked at your evaluation here in terms of options, and I can say, number one, on property tax issue number one, based on what I understand here, I doubt if I would be supportive of that personally. Number two, on the statement of Nebraska state and local revenue system more reliant on property taxes, I would like to have some understanding that I don't know if that can really occur. Because at the local level, I think it's very important that you have an understanding that at the local level of property taxes, at least in Grand Island's case, are...is not reliant upon at the city basis. The city is using, in its general fund budget, about 19.3 percent. So literally 20 percent of our general fund, which is about \$43 million, uses property taxes. But when you look at sales taxes, it's a little over 40 percent. So if we didn't have the opportunity for revenue of sales taxes, right now we wouldn't have any tax authority remaining in the balance of property taxes that we would have to levy. We would have about, under today's valuation, about \$4 million of valuation, when right now we're receiving \$15 million in sales taxes. So at the local level, we're trying to predict and make long-term decisions that really, if you could resist enacting any quick changes, because ideally we need two-, three-, four-year heads up once you go ahead and adjust anything in occupation taxes or sales taxes. In terms of sales tax revenue, obviously, in my opinion, those cities of growth have the opportunity to go ahead and recruit more revenue if sales tax bases was expanded. Now in Grand Island's case, we're dependent upon the success of agriculture. Ag drives our local economy, ag manufacturing, retail sales, or

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retail hub for all those different services. So in relation to looking at ag land valuation and how it affects ag, we have a stake in that discussion because they do go hand in hand. It's a local level, too, I think in support, and ask you what your goal is, because as a city right now we are driven. The largest percentage of our costs is increasing faster than the revenues will keep up with it. Valuation and property taxes, which is only 20 percent, it only increased about 2 percent last year. Our costs, our public employees, our public employees, which is obviously based on collective bargaining as well as a portion that's outside of that, those costs are going faster than what revenue can keep up. And obviously, that's bound by laws that are passed here. And when you look back to LB397 that mandates how we contribute compensation at the local level, Grand Island right now, we're now metro, so that means we are now comparing salaries to five other states, six other communities. And our police force, we're going to compensate them, over the next three years, an increase of 22 percent. So regardless of how you look at revenue, at the local level we've got costs that are increasing faster than what they can keep up, and the only revenue that we can really determine without a vote of the people is property taxes. And right now, there isn't enough authority even for us to keep up with cost of living for public employees. So where I'm going with this is we're going to go ahead and try to balance our budget just like we have the last two years. We didn't raise a tax rate. We went ahead and took on an extra \$3 million of costs. I've got the City Administrator Brown here, and once again, we had \$1.7 million we didn't spend last year, so we're curbing our costs like they do in business. We're taking those dollars, then moving them over in this year's budget, and use whatever increase we had in revenue to make it up. So long range, we need to go ahead and be mindful that we need to grow. Your policies do impact us. We have a stake in ag. But also the tax authority that we have rests with either voters, in terms of new occupation taxes, but obviously the only resulting poll comes down to property tax valuation, which is markedly going up. So in terms of cities, when you look at sales tax bases expanding, and I'm a small business owner that doesn't get one break. I haven't applied for a CRA, TIF, any Nebraska Advantage Acts, although I would go ahead and second my colleague, the mayor from La Vista, that the Nebraska Advantage Act...no, it was

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created against a credit for sales taxes that were voted upon at the local level for a different purpose. And I think it's disingenuous to go ahead and violate that trust of voters to have those taxes be credited outside of their will, and that is occurring. [LR155]

SENATOR HADLEY: Okay. Any questions for Mayor Vavricek? Mayor, I bring you greetings from one of your relatives in Opava, Czech Republic. His last name was Vavricek, too, and he thought he might have been an old relative of yours. So I thought I'd bring that. (Laugh) [LR155]

JAY VAVRICEK: Absolutely. So, no, appreciate everyone's leadership and time in so many ways. [LR155]

SENATOR HADLEY: Thank you. Thank you. [LR155]

JAY VAVRICEK: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

LARRY STAUFFER: My name is Larry Stauffer from Humboldt, Nebraska. I'm a Case IH dealer. And I spell my last name S-t-a-u-f-f-e-r. And I would have one suggestion on how you can move these meetings along a little quicker and that would be to offer coffee at the front door. That's why I'm going to make this quick. I'm here in support of LB96, which is the sales tax, to repeal the sales tax on ag farm equipment repairs. I live in a border county, along the line, and it's an issue that is really dear to our heart down there. We've lost several businesses in the last 20 years since this bill has been implemented. It's just...it's one of those things that we have a lot of our farmers, our customers, are running down south because it's easy to pick up these repair parts and save quite a bit of money doing this. Having said this, I know that it's a common question of how is a state going to, you know, take care of this loss of revenue. Well,

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there's been a study done by Mr. Ernie Goss, and that study says that, yeah, the first year we're going to lose some money but after that it's going to start to come back. And I look upon it as an investment in our state and I hope that this committee would take this all into consideration when the new year starts. [LR155]

SENATOR HADLEY: Thank you. Short and to the point. [LR155]

LARRY STAUFFER: Any questions? [LR155]

SENATOR HADLEY: Any questions? We appreciate that. Oh, I'm sorry. Senator Hansen. [LR155]

SENATOR HARR: The guy who's prioritized it. [LR155]

SENATOR HANSEN: Thanks for being here again. What are the chances of getting new...the dealers that went out of business, getting some of them back, whether it be the same brand or not? Are we going to be able to get some of those dealers back? [LR155]

LARRY STAUFFER: I think it's going to be really tough to get some of those dealers back. My hopes is that with the, you know, the farm economy is going to turn downward here pretty quick and... [LR155]

SENATOR HANSEN: No, no, don't say that. (Laughter) [LR155]

LARRY STAUFFER: Well, I know, but reality is such (laugh), and that these people are going to start repairing their equipment a lot more than what they have in the past. And it's just really dear to our heart if we could get this sales tax exemption, you know, on repair parts so that we can get these people coming back to the state, because they're not only going down there to buy repair parts. They're going down there and buying gas,



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food, a whole gamut of things that it sure would be nice to have that money here in our state. [LR155]

SENATOR HANSEN: Thank you. [LR155]

SENATOR HADLEY: Thank you. [LR155]

LARRY STAUFFER: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

PAUL OLSON: (Exhibit 24) My name is Paul Olson, and I'm the emeritus president of Nebraskans for Peace. I was a professor at the university for 50 years and during much of that time I worked on the improvement of the curriculum in the public schools of Nebraska, particularly in English, and in the last 10 years, before I retired, in rural schools to make them more productive to the rebuilding of rural communities. Much of my testimony is a kind of repetition of the Appleseed Center testimony, but I want to call attention to the issue of progressivity and regressivity, and its relationship to the issue of education in this state. A lot of this testimony has had to do with how we pay for education and how we pay for it without unduly burdening the property tax system. I think it's very important that we recognize that in much of Nebraska, about 50 percent of the kids are on free and reduced lunch. [LR155]

SENATOR HADLEY: You have to go home? [LR155]

SENATOR HANSEN: Yeah. I have to be home by 6:00. [LR155]

SENATOR HADLEY: Yeah, go. Go. [LR155]

PAUL OLSON: And could I...? [LR155]

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\_\_\_\_\_: (Inaudible) 11? [LR155]

SENATOR HADLEY: Sure. I'm sorry, I was...I'm sorry. You had a question? [LR155]

PAUL OLSON: Do I get a little extra time for that then? [LR155]

SENATOR HADLEY: Sure. [LR155]

PAUL OLSON: Okay. Thank you. The...I just heard from the Lincoln superintendent of schools a few weeks ago that 44 percent of Lincoln kids are going to be on free and reduced lunch this year, over 50 percent next year; 22 percent of our families live in poverty; 11 percent of them live in...of families of four have incomes of less than \$10,000 a year. So that if you're looking for a good education, the first thing you do is look for good health for children and youth, good nutrition for them. And if you're interested in good nutrition for them and good health for them, you're interested in creating a tax structure that does not penalize the poor. Most the people from whom you've heard have spoken of the Nebraska tax system as it presently exists as unduly punitive to low-income people and the working poor. And so that's the basis on which my...from which my testimony is launched. And I'll just summarize what our testimony has been. We believe that violence against families, violence against youth is perpetrated by economic injustice, and that we have to have a fair tax system that will provide good schools, quality healthcare, and safe communities. And that kind of tax system, we believe, has two principles. One, we believe that the income tax must be preserved and its progressivity preserved. It's the only part of our tax system which is progressive presently, seriously progressive, and if you reduce or eliminate the income tax there will be no more progressivity. It will be a regressive tax that will affect kids. And even cuts to the income tax we think will never come back. Given the present climate, what the federal government has done and, to some extent, what the state government has done is to make the income tax increasingly less progressive. The

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second thing that we're interested in is the replacing of property taxes by expansion of sales taxes on services. We believe that services, particularly services to the...that involve luxury, could be appropriately taxed and would raise a lot of revenue. I probably need a face lift. I don't have enough money to get a face lift, but if I did get a face lift it wouldn't be taxed. But it would be appropriate, I think, for most of us to be taxed if we got face lifts. Anyway, we believe that basing what you do on these two principles, preserving the income tax and broadening the sales tax to particularly luxury services, would solve a lot of the problems you're talking about and would protect kids and families that are not wealthy. [LR155]

SENATOR HADLEY: Dr. Olson, thank you. Is there any questions? Thank you. [LR155]

PAUL OLSON: Okay. Thank you. [LR155]

SENATOR HADLEY: We appreciate you coming in and giving us your thoughts.  
[LR155]

PAUL OLSON: Thank you. [LR155]

SENATOR HADLEY: Thank you. Next. How many we got left? Okay. See you, Tom.  
[LR155]

BILL HAYES: (Exhibit 25) Senator Hadley and members of the committee, for the record, I'm Bill Hayes, H-a-y-e-s. I live in Lincoln. I taught for 36 years at Westside in Omaha and 2 years in Nebraska City. Dr. Olson was an instructor of mine at the university in 1978, for whatever that's worth. At any rate, I'm here today to deliver testimony in favor of having no state income tax on Social Security income. This is not only fair to Social Security recipients, it is also in line with what all but five states do regarding Social Security income. Nebraska is just one of five states in the nation that tax Social Security benefits to the full extent allowed by federal law. We need to

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remember that Nebraska did not start taxing Social Security benefits because the state thought that would be a good source of revenue. There has never been a bill passed in the Legislature that specifically implemented a tax on Social Security benefits. Nebraska's taxation of Social Security came about because the federal government decided to tax Social Security benefits to help increase the solvency of both Social Security and Medicare. The federal tax on Social Security benefits goes either into the Social Security Trust Fund or the Medicare Trust Fund. It does not go into the general revenue fund. Nebraska's income tax used to be calculated as a percentage of the federal income tax liability, so Nebraska got a windfall benefit in tax revenue when the federal government started taxing Social Security benefits. When the federal government started taxing Social Security benefits, many states acted to remove Social Security benefits from their state income tax. Nebraska did not. Social Security income helps keep our elderly and disabled citizens out of poverty. The state social services would have to be much greater than is currently the case if there were no Social Security Program. Most states recognize that fact. Iowa and Missouri are in the process of eliminating their state income tax on Social Security benefits for that very reason. The Governor of Missouri has stated that Social Security benefits are intended to keep the elderly and disabled citizens out of poverty. They are not intended to be revenue sources for the state. Compared to the surrounding states of South Dakota, Wyoming, Colorado, Kansas, Missouri, and Iowa, Nebraska stands alone in taxing Social Security benefits to the full extent allowed by federal law. I encourage the committee to propose a tax package that does not include a tax on Social Security benefits. The agenda that the Tax Modernization Committee released on September 6 has three different policy suggestions to change the way the state taxes Social Security benefits. The only option that I recommend is the one listed as Social Security income tax...income policy option 2.A.--exempt all Social Security benefits from income tax. People who receive Social Security benefits spend their incomes where they live, with local merchants and local vendors. Almost all of that spending results in general sales tax revenue. The more money the Social Security recipient has to spend, the more revenue the state can raise from state sales tax. Removing the income tax on Social Security benefits will provide

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two wins: retirees who receive Social Security will have more money to spend on their needs, and the state will generate more money in the form of sales tax revenues. Any situation that is win-win is good for everyone. Workers who contribute to Social Security are subject to income tax on the mandatory contributions of Social Security. Thus, taxing the Social Security benefit amounts to double taxation of contributions. The only way to stop that double taxation is to stop taxing Social Security benefits, completely stop the Nebraska state tax on Social Security. Thank you for the opportunity to testify. And I am amazed at your endurance. [LR155]

SENATOR HADLEY: Any questions? Seeing none... [LR155]

BILL HAYES: Thank you. [LR155]

SENATOR HADLEY: I would say to anybody out there, remember you can come up and say, I agree with the previous testimony. I only say that because we must have had 10 to 15 retired teachers that are giving almost verbatim testimony. So you can say, I agree with the previous testimony. Yes, sir. [LR155]

MARK POHLMANN: Well, good afternoon. It's been a long session so far, but thank you, Chairman Hadley and members of the committee. My name is Mark Pohlmann, spelled P-o-h-l-m-a-n-n. I'm a professional engineer with HNTB Corporation and a board member and the legislative committee chair for the Association of Council of Engineering Companies of Nebraska. ACEC is the business association of Nebraska engineering firms, representing over 46 companies with over 2,800 employees in offices that are all over the state. We certainly appreciate the opportunity to be part of this discussion in regards to modifying our state's tax structure. ACEC Nebraska is opposed to the concept of levying sales tax on businesses that provide professional services to their clients. Such taxation is regressive, inhibits competition, and is inherently difficult and burdensome to administer. Sales taxes work when tangible goods or even some services are directly transferred in exchange for a fair, fairly immediate payment. In our

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industry, immediate payment is rare and the industry average for performance of work to collection of fees is 96 days. If sales taxes are to be reported at the time of sale, this would effectively be an accrual-based tax. This has the effect of requiring design and engineering firms to report and pay sales taxes at the time of invoicing rather than at the time of collection, which would force firms to pay taxes up to three months before collecting the fee from their clients. Approximately 15 percent of all design fees are performed on a contingent fee basis where actual fees are not determined until a future time, typically a percentage of construction costs. The actual amount of taxes due often cannot be determined until cash is actually received. On major projects, there are often disputes over payments and bills for services may be reduced or modified at the end of the project. It would have a major financial impact on our firms if they were forced to pay sales tax on billed services without consideration for when or if those taxes were collected. Perhaps most significantly and more difficult to resolve administratively is the portability of professional services. If a firm has several offices around the country, as many of ours do, it could perform services or bill services out of a non-Nebraska office to attempt to evade the sales tax. For engineering services, you can make the nexus of a sales tax the project site so that everyone who works on a project in Nebraska owes the Nebraska sales tax, but not all engineering services are project- or location-specific. And this certainly would not apply to other professional services, such as law or accounting. If the nexus of the tax is the business location rather than the project site, it would seriously affect a firm's ability to compete for work out of state. Why would a client in Iowa or Kansas hire a Nebraska company to work on a project in those states if it would potentially cost them more in a use tax? Finally, taxes on professional services tend to hit small businesses hard. While larger businesses are more likely to provide the administrative and accounting services in-house, small businesses tend to contract for them on an as-needed basis. In summary, assessing a tax on professional A-E services is extremely difficult for government to achieve. Tax reporting procedures could lead to firms having to pay taxes on revenue they have not yet or may not ever receive. Furthermore, taxes on professional A-E services have historically fallen short of expected tax revenue and this adds to the regulatory burden and further offsets any net

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gain to the state. We urge this committee to refrain from implementing a tax on professional services. With that, I thank you and will answer any questions. [LR155]

SENATOR HADLEY: Are there questions for Mr. Pohlmann? Thank you, Mark. [LR155]

MARK POHLMANN: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

ADAM THIMMESCH: Senator Hadley, members of the committee, thank you very much for holding these hearings. My name is Adam Thimmesch, and that's T-h-i-m-m-e-s-c-h. I'm an assistant professor of law at the University of Nebraska Law School, where I focus my research on state and local tax matters. One of the items on which the committee has asked for public input, as we just heard, is the potential expansion of the sales tax to include more services. Now I'm not aware that the committee has particularly mentioned whether it would consider imposing the sales tax on legal services, but given the vast importance of that issue, the Nebraska State Bar Association has asked me to comment today on some of the issues that would be raised were the committee inclined to consider that. I should mention at the outset that these are my own personal opinions, do not necessarily reflect the views of the College of Law, the University of Nebraska at large, or the Nebraska State Bar Association. Notwithstanding those disclaimers, I can tell you that the Bar Association is clearly opposed to the imposition of sales tax on legal services for a variety of reasons and would like to go on record with that position. The reason for my testimony today, though, is to give you my opinions, as a state and local tax scholar and as a former state and local tax practitioner of the variety of issues that would be raised by potential expansion of sales tax to include those legal services. We know that only three states currently impose such a tax, and the question that the NSBA has asked me to address is why is that the case. I understand that we're sort of in overtime here, so I will truncate my responses. [LR155]

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SENATOR HADLEY: Thank you. [LR155]

ADAM THIMMESCH: But you can rest assured that as a tax professor and a state and local tax scholar, I have plenty. But we will cut to the chase. First and foremost is, and at the forefront of the bar, is that we have a deep-seated national interest in ensuring that affordable legal counsel is readily available to all of our citizens. We have a constitutional right to legal representation. We have evidentiary rules that favor the attorney-client relationship. We have a vast preference for pro bono legal services in the bar. And we open legal clinics at our educational institutions, intended to help the least fortunate Nebraskans. We all know that a sales tax on legal services would not be a tax on lawyers, which some people may prefer. A sales tax on legal services, like other sales taxes, would be included on the bills and would be passed along to our consumers, putting potentially another financial hurdle in front of people and access to lawyers, access to the courts. Many of our citizens already can't afford those services, and by putting another hurdle in front of them it puts legal services further out of reach and something that should be very carefully considered. Now beyond that broad social policy consideration, you can imagine that there are a number of tax policy considerations that are near and dear to my heart and, the sake of time, I will make those brief. One of the comments that you have undoubtedly heard or you will read is a preference for consumption taxes, and one of the reasons that people prefer consumption taxes as a tax policy matter is that it's a tax on choice. It's not a tax on productivity or people earning income. It's a tax when people choose to consume. And we can question whether that construct is appropriate in the context of something like legal services. The person who's injured on the job, the person who's served with divorce papers, the person who has to probate the estate of a dead relative, these people are not choosing to consume legal services but are required to hire lawyers to help guide them through what is an increasing difficult and complex legal system. For many people out there, these differences justify a differential treatment for legal services as compared to others. It's what some see as the most unseemly aspect of this type of



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tax, that it would hit people when they're at very difficult times in their lives. And you will see many who refer to this type of tax as a misery tax. Leave it to your own judgment on how you view it, but I'm here to offer these perspectives. I want to finish up by noting very quickly a couple of the other issues that we would face, some of which are purely administrative. How do we determine where legal services are received? Would our wealthiest of Nebraskans be able to simply drive across the border and meet with a lawyer out of state, leaving the incidences of this tax on our less wealthy Nebraskans? Again, there are administrative, there are constitutional issues. The point of my testimony today is that naturally the Legislature should carefully consider all exemptions from the tax. I think that we can all agree upon that. But there are both tax and nontax policy reasons that support a great deal of restraint and reflection when discussing expanding the sales tax to include legal services. So thank you again for your time.

[LR155]

SENATOR HADLEY: I have one quick question. Could not your argument be used for a lot of the potential expansions of sales tax? [LR155]

ADAM THIMMESCH: Some of the arguments, absolutely would be expanded... [LR155]

SENATOR HADLEY: Funeral homes. [LR155]

ADAM THIMMESCH: ...could be expanded. [LR155]

SENATOR HADLEY: Haircuts, poor people have to get haircuts, you know,... [LR155]

ADAM THIMMESCH: Sure. There are always regressivity issues when you talk about expanding the sales tax base, and I'm sure you've heard plenty of that testimony and I didn't want to repeat that today. But, yes, if you look at expanding the sales tax, you're looking at expanding a regressive tax. The issue from my perspective is looking at the particular expansions, looking at where the economic incidents of those taxes would be,

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and whether there are other considerations, namely access to justice or others, that justify a particular exemption in a particular situation. [LR155]

SENATOR HADLEY: Okay. Thank you, Adam. [LR155]

ADAM THIMMESCH: Yes. Thank you. [LR155]

SENATOR HADLEY: Thank you. Appreciate it. Next. [LR155]

DEBRA EVANS-OLSON: (Exhibit 26) Chairman Hadley and members of the committee, my name is Debra Evans-Olson, D-e-b-r-a E-v-a-n-s-hyphen-O-l-s-o-n. My husband, Scott Olson, and I own Lincoln Coin and Bullion in Lincoln. I'm here to speak in favor of a sales and use tax exemption on the sale of coins, currency, and bullion. Unlike some of the people you've heard today, I am not opposed to paying income, corporate taxes, property taxes, and even the property taxes we pay on every piece of equipment we buy and pay tax on every year. We would just like the opportunity to pay more income taxes. Currently, 30 states recognize these items as qualified investments and exempt them from the investing penalty of sales and use tax, including almost all of the large population states. On page 3 of the handout I gave you, you can see the states that are shaded that have these exemptions. California had a sunset clause which was renewed with no expiration, and this year Texas and Louisiana expanded their exemption by eliminating a \$1,000 threshold for the exemption to apply. Pennsylvania and Washington recently renewed their exemptions after review. And of states with no income tax, only one does not have an exemption on these items. Five states that border Nebraska have sales and use tax exemptions, which makes it especially difficult for Nebraska businesses to compete with their advantage of 5.5 percent or more. This is a one-ounce bar of gold, if...but imagine that it could be silver, platinum or palladium. It's not a consumer good. I can't eat it. I can't wear it. I can't drive it. I can't fly in it. The only reason people would buy this is for investment and ultimate resale. It's IRA eligible, as are many other coins and forms of this. But in Nebraska, this investment is subject to

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sales and use tax. I know of no other IRA-eligible investment that anyone would pay sales tax on. This is also subject to capital gains tax when it's sold, so the customer pays on the front end and the back end of their transaction. If I were to sell this gold bar in our store today, we would hope to make \$65. But I would collect \$93 in sales tax. The state will make more than we will, at 5.5 percent, and the customer will walk out the door already having lost 7 percent off the top of their investment. Gold will have to go up \$93 an ounce for the customer to recover the tax penalty that they just paid on their investment. If I sell ten of these to one customer, my profit goes down to 1.5 percent. The state will still collect 5.5 percent and the city 1.5 percent, and the customer will pay \$930 in sales tax. I know people who will drive to Council Bluffs to save \$50 or Omaha, rather, to save \$50 on an airline ticket. It's not hard to imagine they're driving to Council Bluffs to buy gold, silver, platinum, and palladium. It may sound like a home run for the state to make this much money in sales tax, but the reality is that people are so opposed to paying sales tax on this that we have to ship out 70 percent of this to out-of-state dealers who, in turn, will sell it probably to Nebraskans on-line. When I sell it to another dealer, my profit drops to \$45 instead of \$65. That's a reduction of 30 percent. We have a lot of people who are ready to buy this until we tell them we need to collect sales tax. In fact, this has been a bad week. I've documented over \$100,000 in sales we didn't get once the conversation got to sales tax. There's a lot of interest in buying precious metals. People are seeking some type of return on their investment. There are different ways that people can buy this and legally not pay sales tax. They can call a broker and buy a commodities contract, or they can call an out-of-state dealer. They can have it delivered directly to another state in a depository. There are ways people can avoid it. They can order it on-line or drive out of state, but they still owe the sales tax. It's just simply called use tax and it's expected to be put on their individual tax return. I highly doubt we're collecting much use tax on this. And what we submit for sales tax is not what you might think it is at all. At any rate, like I said, we would like to make more money and pay more income and corporate taxes. We ask that you consider this and I thank you kindly for listening. [LR155]

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SENATOR HADLEY: Thank you. Are there questions for Ms. Olson? Thank you. We appreciate your coming. [LR155]

DEBRA EVANS-OLSON: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

SANDRA ROSENBOOM: (Exhibit 27) My name is Sandy Rosenboom. I'm the business manager for the Crete Public Schools. Senator Hadley, members of the Tax Modernization Committee, I thank you for your patience and I will try to be brief. Speaking... [LR155]

SENATOR HADLEY: If you would spell your last name for us. [LR155]

SANDRA ROSENBOOM: R-o-s-e-n-b-o-o-m. I'm speaking to property tax issue number two related to local governments and property tax. I'll emphasize the first point and let you probably read the second point. This was the option of giving local governments the authority to use other tax sources, like a local option income and sales tax. On the surface, this sounds like a possibility, but it will add complexity to both the school finance and tax collection systems. One factor in good tax policy is that the tax should be efficient to collect. Local income and sales tax would probably be collected at the state level and then disbursed back to districts. This adds expense and a step in the process. The amount that's generated by districts across the state would also vary widely and make a district's revenue even more unpredictable. Local option income and sales tax will not be a tax savings but just merely a tax shift. Collecting income tax by district also recreates another fairness issue. Property tax is easy to associate with a school district, a town, a city, or a county. However, when we move to a local income and sales tax it's not so easy. Some of the land and businesses in a subdivision are owned or farmed by people who reside in another subdivision. Thus, the income generated would be credited to that subdivision, not the one where the land or business

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is located. People would also pay sales tax in neighboring subdivisions. All these details indicate to me that collecting sales and income tax is best left as a state function with the state using that money to fund state aid to local schools and to other local governments. You've heard lots about the property tax issue. Your idea of reducing property tax by increasing state aid from sales and income tax matches my philosophy that our income for school funding needs to be more balanced between the three sources of income. Right now we're 50 percent property tax, which, in my opinion, is out of balance with the other two. I'll let you read the rest. There's some charts that show District 32, Legislative District, and the wide variation and changes that have happened in the tax, the valuations and the tax levies in those districts and the effect that being in one of the lower property tax increases has had on our local farmers. [LR155]

SENATOR HADLEY: Thank you. Any questions? Thank you. We appreciate it. Next. [LR155]

RICHARD GIANNOBLE: Good afternoon. My name is Rick Giannoble. The last name is spelled G-i-a-n-n-o-b-l-e. I'm here to support Deb Olson with Lincoln Coin and Bullion regarding the taxation on bullion. It's kind of a silly law of taxation because people are going to get around it. And I'm here to tell you how we're going to get around it. My son and I both buy gold, been buying it for a long time. I used to live in Texas for 35 years where there's no taxation. And we're going to basically, instead of giving the gold and silver to our son and his family, which we've done for many years and they keep it in an off-site depository, we're just going to write a check. We're just going to write a check to him at the end of the year, where my wife and I can give them the legal amount from taxation of \$14,000 per person per recipient, and they can buy the gold in Texas and they can buy it tax free. And they will get the gold. They'll get more gold and silver. Who is going to basically suffer? The sufferer is going to be the people in Nebraska, the businesses of Nebraska, the small businesses like Lincoln Coin and Bullion. We have been a customer for them for a couple years. We have spent thousands of sales tax dollars at Lincoln Coin and Bullion. But with the generation in the coin, with the

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generation in silver and gold prices, which has been up and down for the last six months, the 7 percent is just an insult to injury basically. And so we've decided to go this other route of just...of gifting. So it's part of our gifting and estate planning purposes and how we're going to get around it. There are a lot of ways around it, as Deb was talking about: buying it from another state, having it deposited in another state and not claiming...not taking ownership of it and just leaving it in a depository in another state. You're hurting small businesses like Deb in doing this, and you're going to lose the money that is going to transfer out of the state. And so we ran our business for 25 years in Texas. We know that small things, small changes can make big differences in small businesses, and changing the law regarding the taxation on bullion will make a big difference to small businesses, because people who invest in gold are just going to find a way around it. And you're only hurting your companies in the state. [LR155]

SENATOR HADLEY: All right. Thank you. Any questions? [LR155]

RICHARD GIANNOBLE: Thank you. [LR155]

SENATOR HADLEY: Yes. [LR155]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Why would anybody want to buy bullion in Nebraska and lose 7 percent right off the top? [LR155]

RICHARD GIANNOBLE: Well, when we were buying it, it was pretty stable. And we look at gold and silver as a 20-...as a 10- and 20-, 30-year investment. I'm never going to use this gold and silver. My family will use it. My grandchildren will use it. So it doesn't matter to me that much, okay? But when the prices started gyrating, when my son and I just sat down and said, what are we doing here, and he said, why don't you just gift us the money and we'll buy it, because he buys regularly anyway and he has a depository. So he said, I can buy it and not pay sales tax. And so...but you have to look at gold as a 10-, 20-, 30-year investment, and that's how we do. [LR155]

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SENATOR SCHUMACHER: Thank you. [LR155]

SENATOR HADLEY: Just...and I brought this point up yesterday in Omaha, all you would have to do is have your bullion dealer ship it to your son in Texas and it's not taxable in Nebraska. [LR155]

RICHARD GIANNOBLE: That's right. The difference, though, let me tell you the difference. There is something to be said to give gold and silver to your children, your grandchildren, etcetera. To give them a paper check for that amount of money is not nearly as rewarding, okay? [LR155]

SENATOR HADLEY: No, I'm saying that the gold and bullion dealers yesterday in Omaha... [LR155]

RICHARD GIANNOBLE: Right. [LR155]

SENATOR HADLEY: ...did not understand... [LR155]

RICHARD GIANNOBLE: Right. [LR155]

SENATOR HADLEY: ...that they could ship... [LR155]

RICHARD GIANNOBLE: That's right. [LR155]

SENATOR HADLEY: ...to an out-of-state person,... [LR155]

RICHARD GIANNOBLE: That's correct. [LR155]

SENATOR HADLEY: ...and if that state does not collect sales tax, they don't...there's no

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sales tax. [LR155]

RICHARD GIANNOBLE: Right. Yeah. [LR155]

SENATOR HADLEY: Or there's no sales tax in Nebraska if you ship out. The same as if you go to Nebraska Furniture Mart, you live in Council Bluffs, you buy a washer and dryer, have them deliver it to Council Bluffs,... [LR155]

RICHARD GIANNOBLE: Yeah. [LR155]

SENATOR HADLEY: ...there's no sales tax. [LR155]

RICHARD GIANNOBLE: But the key is the money is not going to be spent in Nebraska and... [LR155]

SENATOR HADLEY: Yeah. You're buying it in Nebraska, shipping it to Texas. [LR155]

RICHARD GIANNOBLE: Okay. [LR155]

SENATOR HADLEY: The money is paid in Nebraska. You have to pay no sales tax on it because it's delivered outside the state of Nebraska. [LR155]

RICHARD GIANNOBLE: Yeah. That's certainly one way to do it. We will probably just allow my son to buy through who he normally buys through... [LR155]

SENATOR HADLEY: Sure. Okay. Thank you. Thank you. [LR155]

RICHARD GIANNOBLE: ...in that case. Okay. [LR155]

SENATOR HADLEY: Thank you. [LR155]



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RICHARD GIANNOBLE: Thank you. [LR155]

SENATOR HADLEY: Okay. Next. [LR155]

AMBER HANSEN: (Exhibit 28) Thank you for your time today. I'm going to take Senator Hadley's recommendation and, in order to be brief, I would like to say that we support the testimony that Nebraska Appleseed provided earlier. And I want to emphasize just a couple of points from their testimony. [LR155]

SENATOR HADLEY: Could we have your name spelled? [LR155]

AMBER HANSEN: Yes, of course. I'm sorry. I'm Amber Hansen, A-m-b-e-r, Hansen, H-a-n-s-e-n, and I represent Community Action of Nebraska. The two primary points that I want to emphasize here is that when we're considering changes to the tax system, one of the most important things that we need to do is to ensure that we have enough revenue to continue investing in the good life, the important quality infrastructure that we have in Nebraska via our quality education, reliable roads and transportation, and safe communities. In all of this conversation I hear a lot about tax cuts. Nobody wants to pay taxes, is the bottom line, but we all want the services that taxes provide us, including those things that I just mentioned and some of the infrastructure. So when you're making your final decisions, I would simply urge you to remember that if you're going to rely on any tax cuts, we need to make sure that there's still enough revenue coming in from some source to pay for these important things. And the second thing that Community Action would like to stress is that our tax system ought to be progressive. Nebraskans are largely hardworking middle-income people, and it's kind of a cruel irony, if you will, when you think about our property and sales tax, that the people who make the least are expected to pay the most as a percentage of their income. So any...so I ask you to consider, when you are making your decisions, to not place more emphasis on those regressive taxes. And going back to some of the income tax cut proposals,

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that would simply shift our reliance to sales and property taxes, which are both regressive taxes that place a greater portion of the burden on the state's middle- and low-income earners. When I think of Nebraska, the very first thing that comes to my mind is our motto: The Good Life. And when I think about what it is that makes it the good life, and I think if you asked Nebraskans, they'd all point to those important investments in our safe communities, quality schools, and really an unmatched work ethic that we have here in the state. So it's important for the Tax Committee to protect this tradition and ensure that the tax system continues to provide enough revenue to carry on this good life while ensuring all Nebraskans benefit. [LR155]

SENATOR HADLEY: Thank you. [LR155]

AMBER HANSEN: Questions? [LR155]

SENATOR HADLEY: Any questions? Thank you. Thank you for waiting. Thank you all for waiting. Next. Do you have lunch in that bag or... [LR155]

ANN POST: (Exhibit 29) I wish. (Laughter) [LR155]

SENATOR HADLEY: Welcome. [LR155]

ANN POST: Thank you. Senator Hadley, members of the Tax Modernization Committee, once again, thank you all for still being here. My name is Ann Post, that is A-n-n P-o-s-t. I'm here before you today on behalf of the Lincoln Independent Business Association, or LIBA. Now LIBA heard this committee's call for input and felt compelled to share four suggestions which our organization feel would create a more equitable and balanced tax system in Nebraska. These four steps include: reducing the corporate income tax; reducing the personal income tax; ensuring full appropriations to state...to fund state-created programs, or no state unfunded mandates; and a thorough examination of state spending. Our first item, reduction in the corporate income tax,

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Nebraska's corporate income tax is high relative to that of neighboring states, collects relatively little revenue, and disproportionately burdens small and established Nebraska businesses. Now legislators have recognized the impediment posed by a high corporate income tax rate and created an extensive system of business tax incentives in order to compensate. Though this intent was commendable, it didn't solve the problem of a high corporate income tax rate. Instead, Nebraska should lower its corporate income tax rate and correspondingly reduce business tax incentives. This measure would increase Nebraska's attractiveness as a place to do business and level the playing field between employers large and small. Our second suggestion would be to reduce the personal income tax. A reduction in the individual income tax would relieve the tax burden on individuals and sole proprietors, freeing them to use their money to create value in Nebraska's economy and jobs for Nebraska citizens. A reduction in the income tax rate would be partially offset by an increase in income tax and sales tax revenues realized through the increased economic activity of Nebraska citizens, as well as the individuals and businesses that both remain or relocate to Nebraska due to our favorable tax climate. Further offset could be achieved through a sunset of sales tax exemptions, restricting Nebraska's budgeted growth and spending, and/or the use of...infusion of funds from Nebraska's Cash Reserve. Our third item would be the elimination of unfunded mandates. I'm sure you've heard plenty about that from Commissioner Larry Hudkins this morning, from other commissioners, so I will not belabor that point right now. I would like to clarify, however, that LIBA is not advocating for state aid to cities and counties to reduce property tax. We understand that the state has very little control over other governmental entities' levy of property tax. We are encouraging the state to espouse a policy of requiring state programs to be funded by state revenues. This policy would both increase transparency and help relieve the burden of property taxes. And finally, our fourth suggestion would be a thorough examination of state spending. As an organization, LIBA appreciates this committee's time and dedication, especially today, to review Nebraska's tax system, and feels that the state would benefit from a similar review of state spending. LIBA believes that periodic review of expenditures is necessary to align spending with priorities. This objective would be best accomplished

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both by increasing resources available to the State Auditor's Office and establishing a committee similar to this committee to undertake a comprehensive study of state spending. Together, these measures would ensure that Nebraska taxes serve Nebraskans instead of burdening Nebraskans. LIBA believes that these four changes--a reduction in corporate income tax, a reduction in personal income tax, elimination of unfunded mandates, and a thorough examination of state spending--will improve tax equity, help balance Nebraska's tax system, and drive economic growth in Nebraska. Thank you for your time and consideration. [LR155]

SENATOR HADLEY: You certainly don't have to answer but we certainly have a laboratory just south of us, in Kansas, because they've done all these. So they had a \$700 million hole in their budget because the increases that were supposed to come didn't come. They held their legislature 20 days at the end of the session to try and balance their budget and they did it by actually raising their sales taxes down there and cutting aid to education and such as that. So we have a laboratory just a few miles south just to find out whether this works and they, if you go back and read the...I tell you, you should go back and read the articles of what their legislature went through to try and balance their budget, because it turned out the money did not come in. [LR155]

ANN POST: And I'm definitely aware of that, that they have undergone major revisions to their tax policy and that there has been a hole in their budget. I'm not an expert in what Kansas has done. From what I've been told they had a comprehensive package that would equate for both revenues and reduction in taxes and that not all of it was passed. And it's because bits and pieces were passed without other bits and pieces that they came to that problem. So I feel and we feel that a package can be proposed that would both make Nebraska's tax system more equitable, make it more business friendly, and produce the revenues needed to run Nebraska. [LR155]

SENATOR HADLEY: One...and I don't mean to ask all the questions, but one quick question: I don't know if you were here earlier. Barron's just rated Nebraska number one

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in business climate. It's just kind of interesting that if we have such a bad climate, how do all these rating agencies rate us so high in business climate? [LR155]

ANN POST: I understand that. I thought about getting up and walking out as soon as you said that. (Laughter) I was watching to see if anybody else was. [LR155]

SENATOR HADLEY: But you work there, right? [LR155]

ANN POST: But I know that... [LR155]

SENATOR HADLEY: I'm not aiming any of this at you. And you tell Coby, if he was here, I'd aim it at him, okay? [LR155]

ANN POST: Yeah, and I just wanted to clarify that I know that I would be very interested to see what metrics they use to measure that. I know we have all kinds of ranking systems and everyone I've talked to points out that rankings don't really mean anything, that they are a tool to use to compare how Nebraska compares to other states but in the end they are not an end-all for what our tax system should be. [LR155]

SENATOR HADLEY: You might have said one too many things because Senator Schumacher would like to ask you a question now. [LR155]

ANN POST: Okay. [LR155]

SENATOR SCHUMACHER: Well, part of the reason we're here is because the metrics of one particular organization has us as number 30-something and that's supposed to be really bad. But we're four in one thing, two in another thing, maybe, one in another thing, and not so bad for this situation. I do have one question regarding your testimony. With regard to the corporate income tax,... [LR155]

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ANN POST: Yes. [LR155]

SENATOR SCHUMACHER: ...right now we have a break at \$100,000 and it jumps from one bracket to another. Would it help if we moved that to \$250,000? Would that help the smaller businesses? [LR155]

ANN POST: It could possibly help. That would definitely be a step that would help some of our members. I think overall, as a policy we would like to see as a first priority and as a policy move we'd like to see a reduction overall. [LR155]

SENATOR SCHUMACHER: Thank you. [LR155]

SENATOR HADLEY: Thank you. [LR155]

SENATOR CAMPBELL: Senator Hadley. [LR155]

SENATOR HADLEY: Oh, question. [LR155]

SENATOR CAMPBELL: I just want to make a quick comment about your last comment. I'm sitting next to the Appropriations Chair so I feel like I need to say this: We do on an annualized basis review all state expenditures through the Appropriations Committee. So the fact is that we look at them annually. [LR155]

ANN POST: I...we are very... [LR155]

SENATOR CAMPBELL: And we all have to get up and justify in front of the Appropriations Committee why we think things should be there. So I do want you to appreciate the fact that there's a long process annually. [LR155]

ANN POST: We understand that and are aware of that. I think, just as the Revenue

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Committee looks at taxes every year and different tax policy but still we have a Tax Modernization Committee today to look at changing Nebraska's tax structure overall, our committee and our members felt that the state of Nebraska would benefit from having a comprehensive study that has a much more long, drawn-out, more time to study individual department spending and Nebraska spending in general. [LR155]

SENATOR HADLEY: We did that three years ago,... [LR155]

SENATOR CAMPBELL: Yeah. [LR155]

SENATOR HADLEY: ...LB... [LR155]

SENATOR CAMPBELL: 542. [LR155]

SENATOR HADLEY: ...542, where we went through every state agency and required them to justify their budget. [LR155]

ANN POST: And I say the people are never satisfied. (Laughter) [LR155]

SENATOR HADLEY: Okay. Thank you. We didn't mean to...we didn't...we're taking off because Coby ran out. So thank you. [LR155]

ANN POST: Thank you. [LR155]

SENATOR HADLEY: Next. If you can't laugh you cry after sitting here for five or six hours. [LR155]

CRAIG STRONG: (Exhibit 30) Well, it's a good thing I didn't print "good morning" in my notes, but...good afternoon, Chairman Hadley and members of the Tax Modernization Committee. I'm Lieutenant Colonel Craig Strong, S-t-r-o-n-g. I'm the legislative chairman

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of the National Guard Association of Nebraska and I'm representing its membership. It includes all the officers of the Nebraska Army and Air National Guard, as well as our enlisted association, as well as a large number of retirees. The National Guard today represents over 4,500 members who reside across the entire state of Nebraska. We in the military like to pride ourselves on our stamina and I have to commend this committee's stamina for its ability to take on this marathon session. I did arrange for some MREs to be brought in for later, but...(laughter). [LR155]

SENATOR HADLEY: Yeah. (Laugh) Appreciate that. [LR155]

CRAIG STRONG: Well, I'm here today to voice our support for the exclusion of military retirement income from taxation, which is the National Guard Association's number one legislative priority. Yesterday you heard from another one of our members, Major Nicole Nuss, who spoke on one of this committee's guiding principles which is taxation fairness. Today I'll speak on one of the other guiding principles of this committee which is competitiveness. Exempting military retirement income from state taxes strengthens the state's competitiveness and this exemption provides a strong incentive for military retirees to stay in Nebraska and sustain our...a highly skilled labor pool within our state. Military retirees on average have many productive years to contribute to the Nebraska labor market. These retirees are, on average, better educated than the average Nebraskan and with a wealth of technical management and leadership skills. On average they have to maintain height, weight, physical fitness standards. A majority, a large number, have security clearances as well as they are all drug free. These skills are key ingredients to both maintaining the existing jobs within the state and are critical to future jobs growth in the manufacturing, distribution, and technological sectors of our state. In fact, our association has partnered with the State Chamber of Commerce in putting initiatives together that will attract veterans to our state in order to fill what's been recognized as a perceived skills gap that face many of those sectors across the state. What I'll add to Major Nuss's testimony from yesterday is just the comparative data of the region, of the six states, which may be cumulative to what this committee has heard



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in the past. But you may already be aware that all of our border states have some form of exemption or deduction for military retirement. South Dakota and Wyoming, obviously, it's a moot point since they have no income tax. Kansas exempts all military retirement. Missouri, by 2016, will be 100 percent exemption for that state. And Colorado and Iowa have deductions up to \$12,000 in Iowa and ranging up to \$24,000 in Colorado. So we are...in the military, as we say, we were surrounded and we are the only state that does not offer that type of incentive to our military retirees to stay in Nebraska. In summary, a tax exclusion for military retirement better aligns with our neighbor states and allows Nebraskans to remain...Nebraska to remain competitive to retain a skilled and disciplined work force. Thank you for this opportunity to testify today and I stand ready to address any questions you may have. [LR155]

SENATOR HADLEY: Any questions for the colonel? Yes, Senator Harr. [LR155]

SENATOR HARR: Thank you, Chairman Hadley. I think you were in here earlier when I asked Senator Crawford the same question is, you know, defined benefits, it's a dying breed and those who get it are very lucky. And I guess my question is, a lot of us aren't going to have defined benefits, and whatever income we get we have to pay income tax on. Why should we treat you differently than anyone else? [LR155]

CRAIG STRONG: That may go back to what Major Nuss discussed yesterday and, I guess, is it...you're speaking to a fairness--is it a fairness issue? Our position would be that it's been statutorily, by Congress, to allow military members who have put in the requisite number of years to their country have earned an entitlement. [LR155]

SENATOR HARR: You've earned the right to receive it. [LR155]

CRAIG STRONG: Right. [LR155]

SENATOR HARR: You haven't earned the right not to have it taxed. [LR155]

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CRAIG STRONG: I would...that's true. Do we not... [LR155]

SENATOR HARR: So why should we treat you...your defined benefit package different than other defined benefit packages is the question. [LR155]

CRAIG STRONG: Right, because it's a win-win. It's a win for the state of Nebraska as well because of that skilled labor set that will attract those positions to Nebraska. [LR155]

SENATOR HARR: So why should I tax doctors then? We should maybe make their taxes...they're well-educated. They spend a lot of money in the state. What reason should we have...we want to have medical. We want good medical care. So maybe we should exempt all doctors' pay. [LR155]

CRAIG STRONG: Well, I can't represent the AMA today on why they would feel that they should be treated differently. I will tell you that that might be a good question for the State Chamber as well. I will tell you, in our conversations there hasn't...it wasn't identified as that was where the shortage was that we were trying to attract. And I can't give you the data on the competitive nature of the other states with the medical profession. [LR155]

SENATOR HARR: Because what I've heard from...and I don't know if you've noticed this: There have been, I think, three retired teachers came in, maybe four, and what they said was that, hey, when you retire we don't have any potential to make more money so we've got to make the most of what we have so you can't tax Social Security. Okay? Well, and what I heard from other people is younger people look at amenities. They want arts, culture. They don't necessarily...and they look at opportunity. They don't necessarily care about taxes because they want to go where they can make the most money; again, I said it earlier, people go to Wall Street all the time. My gosh, somebody

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just went to New York because you can make there. So how do I balance this? I hear on one point, you know, we need to give it to elderly people because they have a fixed income and the youth, you know, they'll go where the amenities are. And now I hear, well, the youth or the military, we can't be taxed either, because we look at it. I mean I don't know. I hear a lot of conflicting over the last couple days and I don't know who is telling the truth or who is what, where, where, when, why, and what the causations are. And I guess, my question, I guess it's more of a statement than a question. But I'm not quite sure who to believe anymore. [LR155]

CRAIG STRONG: That's a very valid point and it gets to one of your principles, and it is the fairness issue which this committee will need to weigh. On behalf of military retirees, we are a unique retiree group since the majority will have productive years to then contribute into the work force. So it's not just simply a tax issue for our association; it's also a, I guess, a labor question. [LR155]

SENATOR HARR: So how do we differentiate you from first responders? We have police officers in Omaha retire at 45 and, I guarantee you, there are a lot of people who are unhappy that they retire at 45 and then we turn around and said, oh, and by the way we're not going to tax your benefits. The city might burn down. [LR155]

CRAIG STRONG: Right. I understand and I think what the military has differentiated from the local responders is that they are probably a demographic that's more prone to remain local versus the higher mobility of the military retiree who could transfer or move to another location. They're a much more mobile demographic. [LR155]

SENATOR HADLEY: Colonel, I just have one quick question. If this is such a great idea, why does the federal government tax military pensions? [LR155]

CRAIG STRONG: Well, that is being pursued at our...with our national association as well, and to be considered. [LR155]

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SENATOR HADLEY: I mean, if it's such a great idea, why don't...why doesn't the federal government exclude everybody's pension from, you know...? [LR155]

CRAIG STRONG: Well, I think that's because, well, at a national level, from the competitive standpoint, when you're working in the state level it's competition among the states. At the national level we aren't competing against another country. [LR155]

SENATOR HADLEY: They're trying to get...they need to raise income, don't they? That's why the federal government taxes it, right? I mean, I...you get down to something, you know, simple, they can't afford...I can't imagine what the billions of dollars... [LR155]

CRAIG STRONG: What that could contribute, correct. [LR155]

SENATOR HADLEY: Yeah. Senator Schumacher. [LR155]

SENATOR SCHUMACHER: Thank you, Senator Hadley. One question: I'm, unfortunately, old enough to remember Vietnam and the age of conscription and I almost think in the back of my mind there's a difference between somebody who served or enlisted under conscription or threat of conscription and people that then signed up after we moved to the compensation packages and the incentives of the all-volunteer Army and military. Do you have any way that...of coming up with a financial number on how much retirement pay goes to folks of the conscription era? [LR155]

CRAIG STRONG: I would have to get back with you on that. I know that, personally, two years ago the last Vietnam veteran in my unit retired. The number is lower now that...is that the nature of your question? Does... [LR155]

SENATOR SCHUMACHER: Well, the nature is, you know, if we were to do something

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with military retirement, you know, what would the numbers look like if we said, look, if you did this under conscription or the threat of conscription we're going to classify that differently than under the volunteer Army. [LR155]

CRAIG STRONG: Oh, I see. I would have to...I can get back to your office on that... [LR155]

SENATOR SCHUMACHER: It would be an interesting number. [LR155]

CRAIG STRONG: ...to see if we could run that data to clarify or actually to isolate which of those did enter service based upon a draft versus those that...part of the all volunteer. [LR155]

SENATOR SCHUMACHER: Predraft and postdraft, what are we talking about for numbers there? [LR155]

CRAIG STRONG: Predraft, postdraft, yes, sir. [LR155]

SENATOR HADLEY: I certainly don't remember that draft era. That was...that must have been a long time ago. (Laughter) [LR155]

SENATOR CAMPBELL: Oh, I do. [LR155]

SENATOR HADLEY: Colonel, thank you. [LR155]

CRAIG STRONG: All right. Thank you, Senator. [LR155]

SENATOR HADLEY: As a corporal in the Marine Corps, I respect you. Thank you. Retired...Mark, thank you for waiting. [LR155]

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MARK INTERMILL: Sure. (Inaudible) Good afternoon, Senators. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today on behalf of AARP. But before I start my statement, on behalf of AARP I want to say that I am a native of the state of Kansas and, I beseech you, don't do what Kansas did--just editorial comment to lead off there. AARP is interested in the issues of adequacy and fairness. I think we did distribute a statement earlier this week with some background information. Fairness is always open to interpretation and so when we look at a definition of fairness what we have used is looking at what percentage of income do people at different levels of income pay for taxes. And what we see in Nebraska is that people at lower levels of income pay a bit more than people at higher levels of income. So the things that we are looking at in terms of trying to promote fairness is an attempt to try to level that distribution of taxation. And in the interest of time I just want to mention three things. One is sales taxes are the tax that lands most heavily on lower-income individuals in Nebraska. So I think we would like to take a look at those items that are...we would consider to be necessities and assure that those items aren't subject to sales taxation or at least we've mitigated the effect of that sales taxation. Utilities were mentioned earlier. Electricity bills are things that are subject to sales tax. We would just throw out on the table the idea of a utility tax rebate for those individuals who meet income standards who are paying those utility taxes and for whom it might pose a fairly steep burden. The circuit breaker in terms of the home property taxes has been mentioned by others. We do support consideration of that as well, looking at the percentage of an individual's income that is...goes to property taxes and trying to limit it to a certain level. We would ask that this isn't to replace the existing homestead exemption program that is available to people over 65 and some people who are disabled that people be given the option of selecting which of those property tax reduction programs they would pursue. We are also at this...in terms of other taxation issues that affect retirees, you have heard about Social Security taxation. Our position at AARP on taxation of Social Security benefits is that the...any change that takes place should look at the indexation of the threshold that's used to tax Social Security benefits. It was set at \$25,000 for a single person, \$32,000 for a couple in 1984, and has not changed. So every year we get a few more people at

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lower incomes who are subject to the tax. One option would be to try to index those thresholds. But we've also...AARP looked at...I had an intern who loved taxation policy last summer and so we looked at a number of hypothetical situations for older households. And what we found was that really property taxes are the thing, the tax that falls most heavily on the individuals that we believe need the tax breaks, those individuals at the lower end of the income spectrum. So we may also...just to throw out an idea of taking a look at the homestead exemption and how it works and how we might be able to mitigate those, the effects of the property taxes on people who have limited incomes, so that we might be able to provide them with some relief. Our focus is assuring that we have...provide tax relief to those people who are having the hardest time affording the taxes. So we look forward to working with you on options that we might be able to pursue to achieve that end. [LR155]

SENATOR HADLEY: Questions for Mark? Mark, thank you. Your testimony is always direct and on the point and we appreciate it very much. [LR155]

MARK INTERMILL: Thank you. Thanks. [LR155]

SENATOR HADLEY: Thank you. Next. [LR155]

KIM ROBAK: (Exhibit 31) Senator Hadley and members of the committee, my name is Kim Robak, K-i-m R-o-b-a-k. I'm here today on behalf of the Nebraska Veterinary Medical Association. Dr. Phil Hardenburger was here earlier. He had to leave and go back to Crete to his practice because he has appointments this afternoon and so he asked that I would please go on the record on behalf of the NVMA in opposition to the idea of taxing nonfarm or small animal veterinary services. One of the preliminary recommendations that's been mentioned is taxing veterinary services, extending a sales tax on veterinary services on nonfarm animals or small animals. And the NVMA would like to state that taxing or bifurcating services in such a way would be difficult to enforce, arbitrary, and unfair. Let me give you some examples. There's a horse kept on a farm. A

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farm animal, if you keep it in town, is it not a farm animal? If it's raised for purposes of horse racing is it a farm animal? Are services provided to a dog on a farm a farm animal? If they're in town is it not? If...are chickens farm animals? Are they farm animals if they're raised solely for the purposes of personal purposes and not for resale? Does the location of an animal make it a farm animal or is it the fact that it's being raised for food? If so, what would you do with breeding animals? The point is that there are a lot of problems and potential dangers when you bifurcate the services of veterinarians in such a way. In a sales tax audit it's the vet that's held accountable and it's the vets that would be responsible for paying the tax. If the Department of Revenue comes in and says sales tax should have been paid on these services and they weren't collected then it's the veterinarian who is responsible. So one of the basic tenets of tax policy is that taxes should be clear; they should be simple; and they should be easily enforced. Doing...setting up a sales tax on specifically nonfarm animals does not meet that tax policy and we would respectfully request that you not extend those sales taxes. [LR155]

SENATOR HADLEY: The answers to your questions, Kim, were "yes," okay, so, you know... [LR155]

KIM ROBAK: (Laughter) Thank you. I will relay that. [LR155]

SENATOR HADLEY: Will you relay that? [LR155]

KIM ROBAK: Thank you, Senator. I will do that. Thank you. [LR155]

SENATOR HADLEY: Thank you. [LR155]

KIM ROBAK: Um-hum. [LR155]

SENATOR HADLEY: Appreciate it. Next. This must be the slower row because if you moved quickly over to the other side you could move ahead of the (laughter)... [LR155]



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ELAINE FORTIK: Senator Hadley and members of the Tax Modernization Committee, my name is Elaine Fortik, E-l-a-i-n-e F-o-r-t-i-k. I don't have any fancy title or any fancy position. I'm just here representing myself and just have...it won't take me long to tell you my concerns and I just want to comment on simple life down in the trenches. Thank you for allowing me to speak to you and thank you for the work you're doing in recognizing that problems have developed with our tax system and that the tax system needs to be improved. I'm a homeowner and I own a small amount of farm real estate in Butler County. I've been paying property taxes for most of my adult life. I don't mind paying a reasonable amount of taxes. I know that there is no fairy godmother and that government requires...acquires the money to operate its services from the people it governs. This committee was organized to achieve tax equity and I want to talk about an area in which a severe inequity has developed. You've heard of this before. That inequity is the amount of taxes that owners of farmland are now required to pay to the school districts. I am a landlord and not an operator. I rent out my land and am limited to that income from it. I'm going to use numbers from just the last couple of years. Out of the total amount of my tax bill 65 to 70 percent goes to the school district. This is the local school district. There is additional tax amounts that goes to the ESU units and the community colleges. Sixty-five to 70 percent of my total property tax bill goes to the local school district. I'm told that my neighbors in Saunders County are paying 75 percent of their property tax bill to the school district. My property taxes cost me 25 to 35 percent of my rental income and there's still income taxes to be paid from that. That doesn't leave me much money for my own needs or to put back into the general economy. Senators, we need relief from these school district taxes; we need it now. Surely there has to be a more equitable way to fund the school districts. Absolutely everyone that I visit with back home is frustrated and disgusted with the amount of their property taxes. I've asked them to accompany me to talk with you but most of them don't want to come and speak publicly and one of them said, it won't do any good to go and talk, they'll do what they want to anyway. I want you to understand that there are many citizens out there in addition to me that share my concerns and I hope that you

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will put working on the property tax problems very, very high on your list of priorities.  
Thank you. [LR155]

SENATOR HADLEY: Thank you, Elaine. We appreciate your coming down and waiting.  
Are there any questions? Thank you. We appreciate it. [LR155]

ELAINE FORTIK: Thank you. [LR155]

SENATOR HADLEY: Next. That knocking on the door earlier, that wasn't the janitor  
wanting us to get out, was it? (Laughter) I just wanted to be sure that, you know, that we  
hadn't overrun our time in here yet. Yes, sir. [LR155]

NICHOLAS NIEMANN: Senator Hadley and members of the Tax Modernization  
Committee, my name is Nick Niemann, that's N-i-e-m-a-n-n. I want to thank you for the  
opportunity to be here today to testify and applaud your efforts in terms of looking at the  
best tax system for the state of Nebraska. I'm here today on behalf of the Nebraska  
State Chamber and the Lincoln Chamber, as well as the Greater Omaha Chamber of  
Commerce, to speak to one of the items that is on your list of policy questions that  
you're looking at, and that has to do with the Nebraska capital gain exclusion. I'm here  
specifically to provide some of the historical perspective as to how that provision came  
about and to address its relevance today. I've had the opportunity here for the past 30  
years to work as a business planning and tax attorney with the Nebraska law firm of  
McGrath North. And in that capacity an issue came up back in 1987 that had to do with  
Nebraska's business climate, something that you've referred to here today a number of  
times, Senator Hadley, with the latest in terms of its business climate based on how  
Barron's sees it. It wasn't so good back in 1987. There were a lot of issues facing the  
state at that time. Nebraska's business climate was not doing so well. There had been a  
study that had come out by the University of Nebraska Bureau of Business Research  
that ranked Nebraska about 18th in terms of preference for location. And so the state  
was considering what do we do about that. I was approached to look at the question

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and to come up with some recommendations for how to improve our business climate. And I developed a number of ideas that became, first of all, LB775, which a lot of you I know are familiar with. It's known today by its successor, which is the Nebraska Advantage Act, which we updated in 19...in 2005. But I was the principal designer and drafter of LB775 as well as its successor. Part of the package of ideas that we came up with back in 1987 was also to include a revision to the corporate formula for determining how business income is taxed in the state and a third item was this capital gain exclusion. The purpose of this really was twofold. And what this exclusion does is that it says that when you sell the stock that you own in your employer, then that stock, that gain on that sale of stock, is not taxable in the state of Nebraska. There were two main reasons for that. One is that what we've found is we looked at really the business model of our state and how we can continue to do well not just short term but also long term is to have a program in place that allows for continuity and succession of businesses because after all that's the source of our jobs and our prosperity in our state. So one of the things that we noticed back then and it continues today is that a lot of businesses encourage ownership by employees of that business. And so it became important to be attractive to employers long term and short term for the state to have employers that are able to pass that ownership on to their employees and for those employees to be attracted to come to the state of Nebraska on account of that. The second main reason that we saw for this provision was that as attorneys we were often asked when companies' owners would come in and say, look, I'm ready to sell my company, what should I do? And we would often say to them, the first thing is leave Nebraska before you make the sale. Now we didn't like that advice. We're Nebraskans as well. But as business planning and tax attorneys it's advice that we had to give because there's a lot of options out there for someone to move to that won't charge you an income tax or a capital gain tax on the sale of the company. And so we helped a number of these owners to plan for their move before they sold their company. So we came to the state as part of this package of recommendations and said, we don't like giving this advice, we're not collecting the tax anyway; what if we create a provision that would allow for the sale of the company and let these owners stay in the state of Nebraska rather than

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move to other states? When they stay they become mentors; their investments typically stay; they tend to give to charities; it tends to be good for the continuity of the overall business model for the state of Nebraska. So those were the two reasons behind the capital gain exclusion. It was enacted as part of that package of LB775. This capital gain exclusion was part of that program along with the overall formula for corporate taxation of business income. We believe it continues to be a very important part of the business climate today. I'd like to think that the kind of ratings that we're seeing today in these rating agencies is because of the kind of things that we've put in place through the cooperation of the State Legislature and the governors over the years as well as the business community. These kind of programs have stayed in place and really developed some critical framework for the state to do as well as it's doing. So we would encourage the continuity of this provision. As with so many things in the tax law there are areas for technical amendments based on changes to how companies do business, and I do think there's some room for that in the bill and I'd be happy to share those ideas with you following this as well. [LR155]

SENATOR HADLEY: Senator Mello. [LR155]

SENATOR MELLO: Thank you, Chairman Hadley. And thank you, Mr. Niemann, for your testimony. I guess looking at the data from the Department of Revenue last year there were roughly 200 individuals who took advantage of this exemption to roughly the tune of \$50 million. Now if I was to go back in previous Department of Revenue reports, let's say the last five or six years, I imagine that number is probably going to be relatively consistent of give or take 100 to 200 people per year taking advantage of this exclusion. And I know this year the Revenue Committee...Senator Harr introduced a bill that expanded that exclusion to different corporate models, ESOPs, and...primarily ESOPs,... [LR155]

SENATOR HARR: LLCs. [LR155]

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SENATOR MELLO: ...LLCs too. The question I keep wrestling with is this is a tax benefit to a very, very, very small segment of our population when the dollar amount with it is fairly high for...I mean, just the example last year of \$50 million to 200 recipients. Is there a way that you would recommend us looking at maybe capital gain...looking at our capital gains income in a different manner that would spread that out in a different way so that benefits wouldn't go to such a small percentage of individuals in comparison to maybe broadening that...lowering that benefit but broadening out to more individuals possibly? [LR155]

NICHOLAS NIEMANN: It's a great question. Thank you for that. I look at these types of questions as an overall business model for the state from a state government perspective in terms of what does it do to attract both companies and individuals to stay here, to live and to grow and to do business in our state. And so this is one aspect of that in terms of what is the price, so to speak, that we charge for companies to be here and to do business and to be a place that's attractive to bring in employees as well as to maintain employment here in the state. So as you look at this, as I had described, this was something to encourage the overall continuity and succession of companies in our state. One of the things that I also work on is working with owners as far as that succession planning. I've actually written a book on the topic in terms of what do we all look at, what needs to be in place for you to continue this company, because that's...that creates the jobs which provide for families. And this, time and again, becomes a key issue--how do we transition this company to the next owners in a way that makes sense--because as you look at that one owner, that one owner owning that company may be supporting 10, 20, 40, 50, a couple hundred jobs in the state. So it's important as we look at our business model to say, how do we make sure that we have dealt with that. So I think when you look at those numbers and those reports you have to look at it from the standpoint that this is owners that help a broad sector of the economy and also the fact that those numbers, if those...if you didn't have this provision in the state, it doesn't mean that you'd necessarily collect all of that revenue because with the normal planning that goes on a lot of those sales would...a lot of those people making those

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sales would simply move before they sell the company. [LR155]

SENATOR MELLO: Just a quick point of clarification for my understanding: It's not just business owners who qualify for this. If I was a corporate executive and I acquired a massive amount of stock through my compensation package for my corporation, I also, too, would be eligible for this one-time capital gains exclusion, correct? [LR155]

NICHOLAS NIEMANN: Yes, and that is why I said there's really two reasons. One is that it attracts owners, executives, employees at all levels that can become owners. So when you identify someone as an executive that owns stock in a company that's actually a business owner. May not own the whole company but they own a part of that and so it's important in terms of that transition for that company as well to be attractive as a place of employment. [LR155]

SENATOR MELLO: Okay. Thank you. [LR155]

SENATOR HADLEY: Senator Harr. [LR155]

SENATOR HARR: Thank you, Senator Hadley, Chairman Hadley. We're in hour six so I'm going to be rather direct in my question. As a principal drafter of LB775, the Nebraska Advantage Act, what were you thinking? The local option sales tax, there's a large degree of unpredictability, and if Senator Schilz were here he would probably be asking that question. His...there is a corporation in his town, one in his district, that's caused one of his towns a big problem. Fortunately for them it's only one large company. But Mayor Stothert yesterday talked about the problems she had with it. Mayor Kindig spoke about it. Mayor Black spoke about it. The mayor of Grand Island who was here earlier spoke about it. So what was your thought pattern and do you have a way to correct that? [LR155]

NICHOLAS NIEMANN: Sure. Thank you for the question. I'll tell you my thought at the

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time. The way that we actually initially drafted that provision was as an exemption. That would have solved, would have avoided, much of the problem that you now see with the cities that receive the money up front through a normal sales tax collection process but then don't know when and how much they're going to need to refund down the road. So by exempting that purchase of, let's say, equipment, or let's say the materials will go into a building, by exempting it up front as we had actually initially drafted that, it would have avoided much of that. Now there's two ways that sales tax can be paid back under the bill. One is through purchase of capital items. That exemption would have taken care of that approach. The other is through the use of credits to get back the refund of other sales taxes. That exemption would not apply in that case. That would involve continuing the refund approach. And I think in order to solve that today it really involves some enhancement of the communication between the state and the cities in terms of predicting what that's going to be. [LR155]

SENATOR HARR: And you come at this from a business point of view, right? [LR155]

NICHOLAS NIEMANN: I come at it as I had said. When I looked at this it was from the perspective of both the business community and the state... [LR155]

SENATOR HARR: Okay. [LR155]

NICHOLAS NIEMANN: ...because I looked at it from the standpoint of the business model of the state and to say what is it that will work for both the business community as well as for the state. [LR155]

SENATOR HARR: So you probably...but you understand why an exemption up front probably wouldn't work from a government point of view? [LR155]

NICHOLAS NIEMANN: The Department of Revenue proposed that it be a tax that's paid and then refunded. Now part of that is with regard to the accountability of it,... [LR155]

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SENATOR HARR: Yeah. [LR155]

NICHOLAS NIEMANN: ...but yet there are other exemptions that can be reviewed. So there's accountability both on the exemption side as well as the tax payment and refund side. The other part of this with the incentive program is we made it performance based so you have to produce the jobs and the investment. And so with an exemption you would receive that before you actually have finished providing the jobs and the investment. But if you didn't end up doing that you would still be...you would be liable then to have to pay that back in. So I understand that there's two ways to look at that and that if you made it an exemption you might say here are some other issues that pop up by doing it that way. I'm just suggesting that is a way that we initially thought of it but it...the Department of Revenue wanted to move it to this pay-and-then-refund approach and the issue that popped up out of that of course is the local refunds that need to be made. [LR155]

SENATOR HARR: Okay. And let me ask...give you a chance to respond. Yesterday there was a statement made that LB775 and Nebraska Advantage Act merely masked high income and that it did not incentivize and we need to improve our incentivization of business. What is your reaction to that comment? [LR155]

NICHOLAS NIEMANN: I didn't hear that comment so I don't want to speak out of context. [LR155]

SENATOR HARR: Well, I just...I just... [LR155]

NICHOLAS NIEMANN: But I appreciate that...your question on it. I do think that from the standpoint of the overall state taxation there needs to be a rate of tax that keeps us competitive overall, whether or not you're in the incentive program or not. In terms of could there be improvements to the incentive, is that really what you're asking? [LR155]



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SENATOR HARR: I guess my question is, do you think LB775 and Nebraska Advantage Act merely masked high income? Do you think it is an effective program for incentivizing business and business development or is it just masking high taxes?  
[LR155]

NICHOLAS NIEMANN: I think it's been very effective. I think that as I've worked with many companies over the years in terms of their question as to where should we locate, should we stay, should we go, should we come, we've worked with a number of companies that are already here as well as those that have come in from outside the state. [LR155]

SENATOR HARR: And I would agree with you. [LR155]

NICHOLAS NIEMANN: And so I've been able to work individually with those companies and I can see what they look at. And these incentive programs were designed to be difference makers in terms of those decisions to where we've seen a company may say, let's look at all these factors, it's not the only factor but let's look at all these factors. And what the incentive programs do is they provide predictability. The companies know what their taxes are going to be or not be. We've built in a contract into the program which helps to provide the predictability and we made it performance based. So we've seen where companies that may be located in multiple parts around the country...well, we built in a recapture provision. So you've got companies that have started the program here and then because of economics around the country are looking at their overall platform around the country and saying, where should we reduce, because of what the national economy has done. And time and again we have seen where the companies have said, we can't reduce in Nebraska because if we cut the jobs in Nebraska we have to pay a recapture to the state because we made it performance based. And so that's prompted company to say, therefore, let's look at reducing this in other states or, perhaps, if they had to close something in another state, let's move it into Nebraska

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because that will help us to maintain that presence in Nebraska. So in terms of the incentive, as we look at it and say in one sense it's an incentive but in another sense we really baked into it these kind of provisions looking at it not just from the company but from the state. We're citizens here as well. We wanted something that was going to work. And so we said we're going to make it performance based. That works for both. You perform, here is what the state is saying it will do; if you don't perform, you have to pay back. [LR155]

SENATOR HARR: Thank you. [LR155]

NICHOLAS NIEMANN: All right. Thank you. [LR155]

SENATOR HADLEY: Senator Schumacher. [LR155]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony. I've got a number of, I hope, fairly quick questions. First of all, there's two cases that this capital gains exclusion applies for. One, when the entrepreneurs start the business, in other words, Steve Jobs gets together with his two buddies, they go down to Gale's office, they file Apple Computer Company, and then it...they grow the company, they work for it and grow it, and then they sell it for a "bazillion." In that case it would apply that we would get no tax. Is that accurate? [LR155]

NICHOLAS NIEMANN: Yes, if... [LR155]

SENATOR SCHUMACHER: Okay. [LR155]

NICHOLAS NIEMANN: ...whether...if you're the founder or if you're not the founder, if you receive the stock either on account of employment or while employed and that is read to include someone who starts the company from the beginning, that's right. [LR155]

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SENATOR SCHUMACHER: And so then also if you were as an employee, if you were given the stock as part of your compensation, that stock would also be eligible. [LR155]

NICHOLAS NIEMANN: Yes, if you were given the stock or if you bought the stock either while employed or on account of employment. [LR155]

SENATOR SCHUMACHER: When they're giving that stock do they pay Social Security tax on it? [LR155]

NICHOLAS NIEMANN: When an employee is given stock? [LR155]

SENATOR SCHUMACHER: As part of this compensation. [LR155]

NICHOLAS NIEMANN: Right. That stock is considered as compensation to the employee if the employee is given the stock. So whatever the value is, let's say it's \$100, that's considered as normal compensation at that time. So I believe that Social Security and the other employment taxes would be imposed on it at that time. Not to get too technical, but there is an election someone can make if there are restrictions on the stock to defer that. But typically, yes, the receipt of stock just as a gift or compensation is taxable. [LR155]

SENATOR SCHUMACHER: And this stock, do they have...when they finally sell it do they have to sell it back to the company or do they...can they sell it to other parties? [LR155]

NICHOLAS NIEMANN: That depends on the arrangement that the company has made with them. [LR155]

SENATOR SCHUMACHER: Okay. [LR155]

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NICHOLAS NIEMANN: Typically, companies, especially closely held companies, want to maintain some control over who is going to own the company. And so where they have an employee that has become an owner, if that...let's say that employee leaves or retires. The companies will then often have an arrangement--it's usually called a buy-sell agreement--that would say, here are the terms in which we'll look at the value and then we'll pay you for that value at that time. [LR155]

SENATOR SCHUMACHER: When they're given that stock as part of their compensation do they pay income tax on the fair market value of the stock at the time they're given it? [LR155]

NICHOLAS NIEMANN: Yes, they do. That's when they're given it because you're going to look at the value of that stock. It's code Section 83, not to get...cite too many code sections, but it's code Section 83 of the Internal Revenue Code which Nebraska follows. There is an election. If there are restrictions there is an election to defer that. But once...when that election is not...I should say it this way: If the stock is given to you but you might have to give it back if you don't stay as an employee, then that income taxation occurs when you own it free and clear of those restrictions. Okay? But since... [LR155]

SENATOR SCHUMACHER: And so we do get a tax... [LR155]

NICHOLAS NIEMANN: The way you asked the question I wanted to point out there's at least two answers. [LR155]

SENATOR SCHUMACHER: So do we get a tax bite then? In spite of the capital gains increase, which we don't get a tax bite, do we then...does Nebraska get a tax bit on that deferred income? [LR155]

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NICHOLAS NIEMANN: You get a...you collect tax when that stock is given to that employee. Nebraska is going to collect income tax based on the value of that stock just as it would... [LR155]

SENATOR SCHUMACHER: Unless it's deferred. [LR155]

NICHOLAS NIEMANN: If there's restrictions on it that say to the employee, you don't really own it free and clear yet so it might not be yours, then it might be taxed at a later date when the employee meets those restrictions. [LR155]

SENATOR SCHUMACHER: And do we get that tax? [LR155]

NICHOLAS NIEMANN: Yes, yes. [LR155]

SENATOR SCHUMACHER: We do get that? [LR155]

NICHOLAS NIEMANN: Yes. [LR155]

SENATOR SCHUMACHER: And... [LR155]

NICHOLAS NIEMANN: One way or the other Nebraska collects an income tax when stock is given to the employee. [LR155]

SENATOR SCHUMACHER: And finally, one last question, since you might be in a position to know this: You've got a company qualifying for the Advantage Act or LB775 and they have for some reason very little income tax liability. They don't make much money or they manage to funnel it off some other way and they don't make a lot of sales taxable purchases. Okay, basically, they've got a bunch of employees. Can they claim that credit? Say they earn the credit. Can they claim that credit against the state income tax withholding that they take from their employees? [LR155]

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NICHOLAS NIEMANN: That is a provision that was added in the Nebraska Advantage Act when that was revised and enacted in 2005 that that is a source that the credits can be used against. The credits, the investment credit and the job credit, can be used against your income taxes, the company's income taxes. It can be used against sales taxes on noncapital purchases. And this wage credit can be used against those employee withholdings. The employee still receives credit for that but that was an enhancement that was made. [LR155]

SENATOR SCHUMACHER: So that employee's money that is grabbed out of his paycheck never really makes the trip to Lincoln? It just... [LR155]

NICHOLAS NIEMANN: It makes it to Lincoln, but it is something that the company can apply the credits that it's earned. [LR155]

SENATOR SCHUMACHER: Does Lincoln write them a check, write a check back, or it just never gets sent in? [LR155]

NICHOLAS NIEMANN: Writes a check back, right. [LR155]

SENATOR SCHUMACHER: So there is an actual round trip to Lincoln. [LR155]

NICHOLAS NIEMANN: Yes, and the employee still gets full credit for that withholding. [LR155]

SENATOR SCHUMACHER: So it's actually a credit not against the employer's tax under that case but a credit against the third party's tax. [LR155]

NICHOLAS NIEMANN: It's a credit. The employer has an obligation to pay that withholding tax. [LR155]

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SENATOR SCHUMACHER: Now when they get that credit back from Lincoln do they have to pay federal and state income tax on that? It's income from any source derived. [LR155]

NICHOLAS NIEMANN: Well, it's a reduction of their overall tax liability but... [LR155]

SENATOR SCHUMACHER: But it wasn't their liability; it was the employee's liability. [LR155]

NICHOLAS NIEMANN: So in terms of whether that comes into federal and Nebraska income taxation, I don't know the answer specifically when that is paid back, if that's considered as taxable income or not. [LR155]

SENATOR SCHUMACHER: They deducted it when they paid it. [LR155]

NICHOLAS NIEMANN: Well, they won't deduct it when they pay over the withholding. That's not a tax deduction at that time. [LR155]

SENATOR SCHUMACHER: But they deduct the employee's wage. [LR155]

SENATOR HADLEY: We're running on. [LR155]

SENATOR SCHUMACHER: Oh, sorry. [LR155]

NICHOLAS NIEMANN: Oh, as part of the wages it's deduction. That's right. [LR155]

SENATOR HADLEY: I have just a quick general question. I would assume some thought was given on whether these credits could be transferable to other companies and such as that and we made a conscious decision not to make them transferable. Is

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that correct? [LR155]

NICHOLAS NIEMANN: That's right. [LR155]

SENATOR HADLEY: And do you still, basically, as a general tax policy, think that we should not make these kinds of tax credits transferable? [LR155]

NICHOLAS NIEMANN: This was a conscious decision because the idea was that this would be based on that company's performance and not wanting to create some type of market to buy and sell credits in. So the credits really stay with the company and that company's shareholders. When you have a "sub-S" company, of course, or an LLC, those flow through because the taxes flow through. So in that sense the credits go to the shareholders. But in terms of being able to sell them to an outside party and receive cash, that was a conscious decision not to do that. [LR155]

SENATOR HADLEY: Okay. [LR155]

NICHOLAS NIEMANN: All right. [LR155]

SENATOR HADLEY: Nick, thank you so much. [LR155]

NICHOLAS NIEMANN: All right. [LR155]

SENATOR HADLEY: You're always a fount of knowledge and we're glad that we can ask you questions about what went on. [LR155]

NICHOLAS NIEMANN: Thank you, my pleasure. [LR155]

SENATOR HADLEY: We've lost that...term limits has robbed us of the ability to have some of the old gray beards around to tell us how it went. Thank you. [LR155]



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NICHOLAS NIEMANN: My pleasure to be here and if I can help further, let me know.  
[LR155]

SENATOR HADLEY: Thank you. [LR155]

NICHOLAS NIEMANN: Thank you. [LR155]

SENATOR HADLEY: Next. [LR155]

MATT SCHAEFER: (Exhibit 32) Chairman Hadley and members of the committee, my name is Matt Schaefer, M-a-t-t S-c-h-a-e-f-e-r, appearing today representing the Association of Independent Colleges and Universities of Nebraska. Our president couldn't be here today so his testimony is being handed out to you, the highlight of which is we're urging you to retain the existing sales tax exemptions for purchases by nonprofits, which our colleges and universities are, and the exemption for college dorm rooms for students. Taxing both of those items would significantly increase the cost of higher education and slow the state's progress towards its P-16 initiatives. Thank you.  
[LR155]

SENATOR HADLEY: Thank you. Wonderful. That was probably the most outstanding testimony that we've heard so far. (Laughter) [LR155]

CHUCK WHITNEY: I was going to pride myself on being a fast talker and then I fouled that up, so. Senator Hadley, members of the committee, my name is Chuck Whitney, C-h-u-c-k W-h-i-t-n-e-y. I'm here representing Yahoo! Incorporated. I'm the senior manager for data center operations for the central United States and our South American data center operations as well. I'm based in La Vista, Nebraska, where we have our second largest owned and operated data center in the United States. I want to thank the Chair and members of the committee for their time today to discuss

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Nebraska's tax policy and allow us to share our views--Yahoo!'s views, that is--on the subject. We are a global company with more than 12,000 employees. We're headquartered in Sunnyvale, California, located...have offices throughout the Americas, Asian Pacific, Europe, Africa, Middle East. We have more than 800 million unique users and you use our products and services in over 45 different languages. I'm here with you to share how our tax incentive policies matter directly to Yahoo! and other tech companies like ours. These policies influence behavior as well as the short- and long-term decisions that companies make regarding where to locate their data centers and business operations. In 2008 we opened a data center in La Vista and a corporate office in Omaha, large part due to Nebraska's probusiness reputation, stable business climate, and our tax incentive policies. We initially committed to an investment of \$100 million in Nebraska and the creation of 175 jobs. To date our investments have surpassed over \$300 million. We're currently employing over 350 Nebraskans in our corporate office in positions such as sales, finance, customer support, and in the data center through IT and data center facilities. We've said all along that if the right tax policies are in place we would not only meet our job and investment responsibilities to the state but we would continue to exceed them thanks in large part to the legislators' quick response in making some of these tax policies happen. We continue to do so. Most recently, due to a change in Nebraska's tax policy, we made a long-term, strategic, and business decision to locate an additional component of our business here in Nebraska. We termed it the "Yahoo! factory" and it serves as our distribution center and delivery hub for the IT needs of all of our facilities in the United States. It resulted in several additional investments, new jobs, and opportunities for the state and people of Nebraska. Our initial investment in 2008 and the recent location of the Yahoo! factory demonstrate that Nebraska tax incentive policies not only bring business to the state but oftentimes lead to growth that exceeds the expectations of all parties. It is, therefore, important to recognize that Nebraska is competing with other states for jobs and economic growth and, as you know, other states who are in need of new jobs and investments are courting companies like ours. Further, I'd like to speak to the need for long-term certainty regarding tax exemptions which significantly affects our process and

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our long- and short-term decisions for location and expansion projects. Companies like ours, we make these decisions with a long-term horizon, normally 15 to 20 years. The life of a data center is easily a 15- to 20-year operation when we choose a location. We want to locate in a state where the tax policy or program which incentivizes them to locate there will still be in place for a long time. Having to go back to the Legislature every one, three, or five years to fight for the exemption after the company has already located in the state significantly decreases the likelihood of the company locating in that state in the first place and significantly hampers our decision-making process as far as long-term expansion opportunities that we would be looking for. Finally, Nebraska's tax incentive policy remains competitive with its surrounding states. Companies will continue to locate here. Yahoo!'s decision to open the largest data center in Nebraska has sent a strong message to other companies across sectors that Nebraska is open for business and we are not considered a flyover state any longer for data center site selectors. That's evident with some of the recent growth that's been announced and some of the companies that are currently building in the state. As more companies do follow Yahoo!'s lead and recognize the benefits of locating in the state, the state will continue to create new high-skilled, high-wage jobs to retain its best and brightest. We are very pleased with the outstanding work force in Nebraska. We're proud of the jobs we've created and the investments that we continue to make in this state and in our local communities. As a native Nebraskan, I appreciate the opportunity that Yahoo! has provided myself to make an impact globally while allowing my wife and I to raise our three boys locally. I, like hundreds of other Yahoo!'s, call Nebraska my home and we are committed to our communities, raising our families, and establishing our roots. Thank you for your time. [LR155]

SENATOR HADLEY: Thank you. Very much appreciate your waiting and we appreciate Yahoo!'s investment in the state of Nebraska. [LR155]

CHUCK WHITNEY: Well, appreciate your time. [LR155]

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SENATOR HADLEY: Thank you. Questions? Don't see any. Thank you. [LR155]

CHUCK WHITNEY: All right. [LR155]

SENATOR HADLEY: We have one here and then Senator Davis. So I think...is that right? Is there anybody else that...come right in, sir. [LR155]

JOHN BAYLOR: Good afternoon, Senators. My name is John Baylor and I run my own business called John Baylor Test Prep and I belong to a few associations but I am not speaking for them. I'm just speaking on my own behalf today. Let me start by saying I support and echo everything that Mr. Schaefer said. I'm a huge advocate for making postsecondary education as accessible as possible for the sake of our young people and for the sake of our state's economic future. But what I want to talk to you today I think would be helped with some visual aids, so I brought them. This is self-explanatory. And this is a tube of toothpaste and this is a candy bar. And I ask you to consider which of these items is most deserving for sales tax exemption in this state, which of these items are most essential. Well, I thought you might think that, but I'll tell you what actually receives tax exemption in the state of Nebraska. It's the candy bar. The candy bar is exempt from sales tax in this state. So I think when you see this disconnect between what actually are essentials and what is optional and what are...how we treat them with our sales taxes, that we have a couple choices to make. And one is that we reverse it--we make the essentials exempt and we make the wants taxed or, at the very least, we waive the exemption on the candy and the soda. Now I'm not an expert on this and I haven't formed some committees who have done a lot of research on this. But my gut tells me that these are the essentials and this is the one right here. So my guess is, and I know this, actually, that there are a fair number of associations who are well funded and very well organized who would say you can't do that, you can't waive the exemption on the candy and the soda and reverse what we do with toilet paper and toothpaste. And I think they have three primary arguments and the first is slippery slope. Yeah, what are you going to do next if you waive the exemption on candy and soda?

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Well, there are about 30 states who have definitively defined what candy and soda is and you can just look to the state of Colorado which has their own definition. We can choose among them. We're not the first state to try this. And we can borrow from what the best definitions are out there because, I agree, there should be a boundary and it should not be a slippery slope. And the second objection typically is that you are unfairly punishing the poor and the low income because they, of course, are patrons of these items. And I suggest, all right, if you want to keep the tax exemption on candy and soda for low-income people, you may, and you can say those who are SNAP recipients would continue to have tax-exempt candy and soda. You know, some might say you're opening up a bit of a logistical challenge at the cash register. That to me is a red herring. That's something that software can solve very, very simply. And the third objection typically is, well, now you've got social engineering, you're trying to dictate what people throw into their bodies and what they eat and what they drink. And I say social engineering is sin taxes; when we put a sin tax on alcohol and we put a sin tax on cigarettes we are sending a message that we're discouraging the consumption of this. This is just merely waiving the exemption on soda and candy. And for those who do object to either reversing it or actually us waiving the exemption on soda and candy, I suggest: Which among these for one week could you do without for one week? And whatever they choose, that is what is truly deserving of their sales tax exemption. Thanks. [LR155]

SENATOR HADLEY: Questions? Thank you. We appreciate it very much. Senator Davis, that's hard to follow, but... [LR155]

SENATOR DAVIS: Very hard to follow. [LR155]

SENATOR CAMPBELL: We do have to say that after almost close to six hours some of us really looked at the candy bar. (Laughter) [LR155]

SENATOR HADLEY: We've waived lunch is what we did. And remember, in life, if you

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miss a meal you can't make it up by having two later. (Laughter) Senator Davis. [LR155]

SENATOR DAVIS: Well, I have to give you a lot of credit for the patience and your ability to sit. And it's hard to do. I think you should have advised everybody that came here early today: You have to stay for the whole thing if you really want to testify. Maybe that would have helped. My name is Al Davis, representing District 43, which is 21 percent of the land in Nebraska. I know that property taxes are the number one concern of most Nebraskans, especially farmers and ranchers. You know that property valuations have been ratcheting up agricultural land for the past ten years. In 2002, agricultural land paid 24.1 percent of all property taxes in Nebraska; today it's 29.1 percent despite reducing the appraised valuation to 75 percent. The farm and ranch business is a commodity business in which the producer has little or no control over the price he receives for the product. Our competitors are international. That is why the ability to control the cost is so important in agriculture and why we must find a better solution to property tax problems. I asked constituents for details of their property tax bills and I have several in my office. One constituent with pasture income of \$26,142 pays out \$10,322, or 40 percent, of her gross income in property taxes, leaving only \$15,000 to live on and for other expenses. So what does she have to reinvest in her business? After reading the report in the World-Herald about the Farm Bureau's recommendation to lower valuations to another...to 65 percent, I believe, I wanted to make a few comments about that. This is fairly technical but just kind of bear with me. I took Douglas County and McPherson Counties and just to compare apples to apples I said that each one of them has a valuation of \$100 million. In 2012, 0.38 percent of Douglas County is ag land. McPherson County has an 89.3 percent valuation in ag land. So after reducing the ag land valuation to 75 percent of its actual value Douglas County ends up, out of that \$100 million, with \$99,872,000 left to apply taxes to while in McPherson County there's only \$77,740,000 to assess taxes against. So if both counties had similar needs, the levy in McPherson County would be 25 percent higher than in Douglas County. In other words, the benefit of lowering the appraised valuation on ag land doesn't translate into the same thing across the state; and in the poor, most

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agricultural counties where the need is greatest, you're just essentially raising the tax on that ag land because of the levy needs. But if you're...if you have other kinds of property you're going to see that rate go up tremendously. So if you've got a residence in McPherson County it's going to go up about 10 percent. So I think that's something that we ought to think about before we just automatically assume that's the solution. I know that one of the objectives you have today is to take testimony on several new ideas about how to generate revenue for state and local governments and I wanted to run a few of these ideas by you. First I would suggest that the committee study the introduction of an intangibles tax as an augmentation of the property tax. Real estate is no longer the definition of wealth. Today intangibles such as stocks, bonds, certificates of deposit, retirement accounts, and the like make up a substantial portion of the wealth of the nation. Warren Buffett has a net worth of \$62 billion. Consider this: One-tenth of \$62 billion is \$620 million, which is the assessed valuation of approximately half of Cherry County, Nebraska, where farmers, ranchers, and homeowners pay out over \$9 million in property taxes. A few days ago I asked OpenSky to prepare a study on intangible taxation and I would like to share some of their preliminary information with you. By adding intangible wealth into the assessment mix levies could be reduced by 80 percent to 39 cents per \$100 of valuation from the state average of \$1.94. This would be significant property tax relief to all owners of real property and might generate significant new investment in Nebraska. Last session I introduced a bill which would result in property tax relief and remove one of the top issues I hear from constituents: the local property tax for community colleges. In Grant County 8 percent of the property tax goes to fund Western Nebraska Community College, a sum exceeding \$182,000, yet, only two full-time and one part-time student attend WNCC, a staggering cost to taxpayers in Grant County for little benefit. Shifting community college funding to the state provides immediate property tax relief to rural Nebraska for one of its most hated taxes. Last winter I introduced a bill to add a small additional tax to each gallon of beer sold in Nebraska in an attempt to provide additional funding for local police and the State Patrol. In putting together research to support this increase I learned that about 25 percent of all police calls have some relation to alcohol, whether it be disturbing the

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peace, DUIs, or more serious offenses. If alcohol is a significant factor in most arrests, then raising taxes on it can be construed as a user fee. I believe the committee might consider local sales and income tax to fund education. Extending the three-legged stool to local school districts would even out distortions in the state aid formula and could give significant benefit to districts with the most students and with the most needs. I believe the sales tax base should be enlarged by adding taxes on many services and in tightening up sales tax regulations on the sales of vehicles, some of which escape untaxed when purchasers demand the title but do not pay sales tax at the time they receive the title. A broader sales tax should include food, with a rebate available to those who meet certain income limitations. And while we have heard many retirees ask for a pension and Social Security exemptions I hope you will consider the needs of young families in Nebraska and in Nebraska businesses when considering these exemptions. Young families are often making house payments, car payments, student loans, credit card bills, etcetera, and have significant child-rearing responsibilities. If we exempt certain classes of people we will shift taxes to others. If you decide to consider exempting retirees I hope you'll implement a means test to phase out for higher income tax individuals. Thank you very much, and I'll bet you're glad to see me finish. [LR155]

SENATOR HADLEY: No, we aren't. (Laughter) Senator Davis, you're always welcome before the Tax Modernization Committee or whatever committee you want to come in and testify before. [LR155]

SENATOR DAVIS: All right. [LR155]

SENATOR HADLEY: Any questions for Senator Davis? Thank you for bringing your suggestions. We will consider them very much. [LR155]

SENATOR DAVIS: Thank you. [LR155]

SENATOR HADLEY: Anybody else? Anybody else want to start over again? Do they



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want to change? Senator (sic) Bonaiuto...Dr. Bonaiuto, do you want to change what you said earlier? [LR155]

JOHN BONAIUTO: I thought you might have an Exec Session. [LR155]

SENATOR HADLEY: (Laughter) No. Well, I don't have a quorum. With that, we will close the hearing. Thank you so much. [LR155]