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Revenue Committee
March 17, 2017

[LB361 LB438]

The Committee on Revenue met at 1:30 p.m. on Friday, March 17, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB361 and LB438. Senators present: Jim Smith, Chairperson; Curt Friesen, Vice Chairperson; Lydia Brasch; Mike Groene; Burke Harr; Tyson Larson; Brett Lindstrom; and Paul Schumacher. Senators absent: None.

SENATOR SMITH: (Recorder malfunction)...committee public hearing. Happy St. Patrick's Day to you. My name is Jim Smith and I am Chair of the Revenue Committee. I represent the 14th Legislative District in Sarpy County. The committee will take up the bills in the order posted on the outside of the room. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation that's before us today. To best facilitate today's proceedings, I ask you to follow the following procedures: Please turn off all your cell phones or put those on vibrate and other electronic devices so as not to interfere with the people that are testifying before us today. If you are testifying, once you're in queue to come up and testify, you can move up to the front seats. There's plenty of seats up front. The order of testimony will be introducer of the bill, proponents of the bill, opponents of the bill, then those in a neutral capacity, and then we will hear closing remarks from the person introducing the bill. If you will be testifying, please complete the green form and hand that to the committee clerk when you come up to testify. If you have written testimony or exhibits for the committee and you would like those distributed, please just hand those to the page whenever you come up to the table to testify and they will get those distributed to the committee members. We will need 11 copies of anything that you do want to distribute; and if you need help, assistance in making those copies, please let us know and we can help you with that as well. When you come to the table to testify, we will need you to both state and spell your name so that we can get it accurately into the record. We will use the light system today. There are a number of people here today with us that are wanting to testify; and if you're not familiar with the lights, we're going to use three minutes for testimony. The green light will be on for two minutes, and then it will change to an amber color for the remaining minute, at which time we ask you to wrap up your testimony. If you would like your position to be known, but do not wish to testify, please sign the white form that's in the back of the room and that will be included in the official record. If you heard something in the testimony before you that you agree with and you just want to basically say, I agree with the previous testimony and keep it short, that's perfectly fine. For those of you that are not...have not testified before us today, there's really no procedures to testifying. You can reference a previous testifier and say, I agree with them, if you'd like. Let me introduce you to the committee staff that's with us today. To my immediate right is legal counsel, Mary Jane Egr Edson; to my immediate left is research analyst, Kay Bergquist; and to my left at the end of the table is committee clerk, Krissa Delka. We do have committee members that are in other committees and so they will be coming and going today. So if you see us moving back and forth

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in and out of the room, that's the reason. We do have commitments in other committees. So I'm going to let those that are here introduce themselves, but Senator Larson and Senator Groene, I believe will be joining us a bit later.

SENATOR LINDSTROM: Senator Brett Lindstrom, District 18, northwest Omaha.

SENATOR FRIESEN: Curt Friesen, District 34, Hamilton, Merrick, Nance, and part of Hall County.

SENATOR BRASCH: Lydia Brasch, District 16. That's Burt County, Cuming County, and Washington County.

SENATOR SCHUMACHER: Paul Schumacher, District 22. That's Platte and parts of Colfax and Stanton Counties.

SENATOR HARR: Burke Harr, Legislative District 8, representing midtown Omaha and Andy Hale.

SENATOR SMITH: And I see Andy Hale is with us today. (Laughter) We do have pages to assist us today and to assist you. Let me introduce them to you. We have Elsa Knight from Clay Center, Nebraska, and Sarah Wearne from Topeka, Kansas. And again, we appreciate them helping us today and they will take any papers that you have when you sit down at the table and make sure they get distributed. With that, we're going to get started on our first bill, which is LB361, to be introduced by Senator Kolowski. It relates to exempting sales of clothing and footwear from sales and use taxes as prescribed. Welcome, Senator Kolowski.

SENATOR KOLOWSKI: Thank you, Mr. Chairman. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Senator Rick Kolowski, R-i-c-k K-o-l-o-w-s-k-i, representing District 31 in southwest Omaha. I'm here today to introduce LB361 to create a back to school sales tax holiday that would be nearly identical to Iowa's. LB361 exempts clothing with the sales price of \$100 or less per item and footwear with the sales price of \$150 or less per item from sales and use taxes. This holiday starts on the first Friday of August and ends the following Saturday. Iowa has a sales tax holiday for back to school clothes, has had it for years. It has been successful in giving a tax break to families buying back to school clothes and has been successful for retailers who get more families in the store. On a personal note, I have experienced that possibility of what Iowa does, personally with my family when our boys were a younger age getting ready for the school year. One of the things I noticed as we were over there, across the river a couple different times, was that...in a couple different years, not just going back

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and forth multiple times in one year, what I noticed was that when people shopped they filled their basket. The cart, whatever they're pushing around, it's not just, I'll take one pair of Levi's and one or two pairs of tennis shoes, something of that nature. It's, we only want to do this once, so let's go get this. And we have the savings from the items that were marked as such and it's a possibility that this would be equally as good for Nebraska. And when you see the fiscal note, there is an impact on that, but there's also other things that they buy...families buy when they're out doing this shopping at this particular time. Thank you for your consideration. I'd be happy to answer any questions that you may have. [LB361]

SENATOR SMITH: Thank you, Senator Kolowski, for your opening on LB361. Do we have questions from the committee? I see none. Thank you. Are you going to remain for closing? [LB361]

SENATOR KOLOWSKI: Yes, sir, I'll be here. [LB361]

SENATOR SMITH: All right. Thank you. We now move to proponents of LB361, those wishing to testify in support of LB361. Welcome. [LB361]

JIM OTTO: (Exhibit 1) Thank you. Senator Smith, members of the committee, my name is Jim Otto, that's J-i-m O-t-t-o. I'm president of and registered lobbyist for the Nebraska Retail Federation. I'm also a registered lobbyist for the Nebraska Restaurant Association, and I'm here today to testify in favor of LB361 on behalf of both associations and thank Senator Kolowski for introducing it. The last thing I want to do is keep this committee late on a St. Patrick's Day, Friday afternoon, especially this beautiful Friday afternoon. It is a sunny 68 degrees outside. (Laughter) Our Daylight Savings Time sunset this evening is at 7:35. That means the tee time of 5:30 could still result in a very enjoyable 9 holes of golf in Nebraska in March. As a result, I will be serious, but brief. As the Senator mentioned, the back to school sales tax holiday has become second only to Black Friday in many states, including right across the river in Iowa and Missouri. LB361 mirrors Iowa and Missouri sales tax holidays in items and the specific weekend in August. I want to point out that the fiscal note, which is somewhat...isn't unreasonable, it only reflects the sales tax lost. It does not reflect the sales tax that is gained. By that, I mean the many sales of items that the Senator mentioned, people fill their cart, that are not exempt but purchased on that same weekend. And to address that specifically, I have passed out a study that was done for the state of Florida; and if we apply the same conclusions, if you go to the second page of that study, there's a highlighted portion. If you...if we apply that same ratio to this sales tax holiday, LB361 would result in an actual increase of \$1.7 million in sales tax revenue to the state of Nebraska rather than the decrease of \$1.3 million identified in the fiscal note. LB361 is the correct balance. It identifies a low level of exempted items. The result will be a net benefit to Nebraska's retailers and to the coffers of the state of Nebraska. Also it is a mistake to assume that

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this only benefits our communities that border Iowa and Missouri. The existing back to school sales tax holidays in other states document significant increase retail activity statewide. LB361 proposes a very limited two-day sales tax holiday on reasonably priced clothing and shoes. As you all know, Nebraska presently allows a complete sales tax holiday to out of state on-line sellers 365 days a year on everything they sell. I thank the committee for advancing LB44 which addresses that ridiculous situation, but we all know the passage of LB44 is by no means a slam dunk. I urge you to advance LB361. Thank you. [LB361]

SENATOR SMITH: Thank you, Mr. Otto, for your testimony today. Do we have questions?
Senator Schumacher. [LB361]

SENATOR SCHUMACHER: Thank you, Chairman Smith. One brief question. The folks from Nebraska that go over to Iowa to get the sales tax holiday, they certainly, when they come back across, file a use tax report on what they... [LB361]

JIM OTTO: I'm sure they do, Senator. (Laughter) [LB361]

SENATOR SCHUMACHER: I thought so. Thank you. [LB361]

SENATOR SMITH: (Exhibits 2, 3, and 4) I see no further questions. Thank you. Next proponent of LB361. We do have letters for the record in support of LB361: Dr. Mark Adler representing Ralston Public Schools, and Chad Becwar representing Gateway Mall. Both letters were sent in support of LB361. We move to opponents. Anyone wishing to testify in opposition? Seeing none, anyone wishing to testify in a neutral capacity on LB361? We do have a letter sent in for the record in a neutral capacity from Chad Lunders. We now invite Senator Kolowski back. Senator Kolowski waives his closing and that concludes the hearing on LB361. Thank you, Senator Kolowski. [LB361]

SENATOR KOLOWSKI: Thank you, sir. [LB361]

SENATOR SMITH: We now take up our next bill of the day, LB438, to be presented by Senator Howard. It relates to increasing cigarette and tobacco taxes as prescribed and to provide for the distribution of funds. Welcome, Senator Howard. [LB438]

SENATOR HOWARD: (Exhibits 1-3) Thank you, Senator Smith and members of the Revenue Committee. This is my first time here. My name is Senator Sara Howard, H-o-w-a-r-d, and I represent District 9 in midtown Omaha, also known as the true midtown Omaha for Senator Harr's edification. Today, I'm here to present LB438, a bill to increase the tobacco tax on

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cigarettes and other tobacco products. LB438 would increase the state cigarette tax by \$1.50 raising the current tax from 64 cents to \$2.14 per pack. Revenue from this proposal would be allocated in part to the General Fund and in part to the Health Care Cash Fund. Each day around 2,500 kids in the United States try their first cigarette and another 400 youth under the age of 18 will become regular daily smokers. This is more than 150,000 new underage daily smokers in this country each year. Ninety percent of adult smokers begin smoking while in their teens or earlier. Smoking can seriously harm kids while they're still young. Aside from the immediate bad breath, irritated eyes and throat, an increased heartbeat and blood pressure, short-term harms from youth smoking include respiratory problems, a reduced immune function, increased illness, tooth decay, gum disease, and precancerous gene mutations. If this current tobacco use pattern continues, an estimated 38,000 children under the age of 18 who continue to smoke into adulthood will ultimately die prematurely from a smoking-related illness. Each year tobacco use costs Nebraskans \$795 million in healthcare bills and \$162.3 million in Medicaid costs. Smoking-caused healthcare costs for smokers and nonsmokers are \$9.64 per pack of cigarettes. Recent estimates indicate that youth are up to three times more sensitive to price than adults, and just a 10 percent price increase is estimated to reduce youth smoking prevalence by 5 percent or more. Raising the tax on tobacco products may not only deter use by youths, but provide much needed revenue for our state during a time of severe economic shortfall. Using the fiscal note from LB1013 from 2016 and statistics from the Department of Revenue Web site, the estimated annual income from LB438 is around \$120 million annually. Using these numbers, \$60 million a year would be appropriated to the General Fund. The other \$60 million would be appropriated to the Health Care Cash Fund for the various groups who receive those monies. Another interim study that I conducted over the summer, LR517, referenced the sustainability of the Health Care Cash Fund. The Nebraska Investment Council reported concerns that transfers from the Health Care Cash Fund and the amount of money in the fund is not sustainable into perpetuity. This is due in part to the possible decline of tobacco settlement monies and not reinvesting the earnings of the fund. LB438 would provide funding to help stop the decline of such resources. Many of the entities that receive appropriations from the Health Care Cash Fund serve a valuable public service to Nebraska. Those organizations include our public health departments which are across the state; the UNMC College of Public Health which focuses on health prevention policy and educational programs; our federally qualified health centers which provide healthcare to low-income and uninsured Nebraskans; our smoking cessation and prevention programs; our area education health centers; biomedical research; the behavioral health provider rate stabilization. And this is something that over the interim I was on the Behavioral Health Task Force as Vice Chair, and we really looked at how behavioral health provider rates are impacting our ability to improve the mental health statistics in our state. And that puts a great burden not just on individuals who need mental health services but also on our child welfare system which is where we're seeing a lot of burden around substance abuse--children are being removed predominately for meth in this state--as well as our Corrections system; the Workforce Development at the Behavioral Health Education Center of Nebraska, that's BHECN; EMS funding which supports

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ongoing efforts for on-site training of rural and frontier EMS providers and personnel at critical access hospitals; the Nebraska Colorectal Screening Program; Every Woman Matters which is for breast and cervical cancer for women; the Nebraska Medical Center's Munroe-Meyer Institute which is neurobehavioral science for children; and the Public Health Early Childhood Home Visitation Program which is a program that my mother started several years ago that allows a nurse to come visit when there's an at-risk young mother who maybe needs some support in parenting skills. It helps us so that we don't eventually have to remove the child at a greater cost to the state of Nebraska. I've provided a handout to each of you that describes each of these programs and the funding that each program would likely receive. Increased tobacco taxation and stronger tobacco control policy can be very effective in reducing cigarette smoking and other tobacco use, particularly in the youth and young adults. Recent estimates indicate that youth are up to three times more sensitive to price, which I mentioned before. I've also brought with me today an amendment that corrects technical issues that were brought to me by the Legislative Fiscal Office and I'd very much like to thank Doug for his kind handling of the feedback on our bill. I've never brought a bill to Revenue and so there were some fascinating technical issues, and we've brought you a copy of the amendment. LB438 is a possible solution to some problems that the state is facing, the challenge of sustaining the Health Care Cash Fund, tobacco use, and a budget shortfall. I appreciate your time and consideration of LB438, and I would welcome any questions you may have. And I'm going to waive closing because we're talking about the Medicaid long-term care redesign in Health and Human Services. Today, was just not very much fun for you but it's really important for individuals who are using long-term care services and so I might try to get back for that. But however many questions you'd like, I'm happy to try. [LB438]

SENATOR SMITH: Thank you, Senator Howard. Do we have questions for Senator Howard? I see none. [LB438]

SENATOR HOWARD: Incredible. (Laughter) Thank you for your consideration. I do appreciate it. [LB438]

SENATOR SMITH: It must be because you were very thorough in your opening, so thank you. [LB438]

SENATOR HOWARD: Thank you. [LB438]

SENATOR SMITH: We move to proponents of LB438, those wishing to testify in support of LB438. Welcome. [LB438]

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ROGER WIESE: (Exhibit 4) Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Roger Wiese, that's R-o-g-e-r W-i-e-s-e, and I'm the health director for the North Central District Health Department and I am testifying today on behalf of our local health directors in support of LB438. Almost everyone's lives have been touched by the effects of smoking on a daily basis. We see the consequences of smoking in our districts, evidenced by lung cancer rates, pulmonary, and cardiovascular disease. These tobacco-related illnesses are estimated to cost \$795 million in Nebraska alone. In addition, it is estimated that the tobacco industry spends an estimated \$66 million in Nebraska alone to hook our kids on tobacco. To improve the health in the communities, we use strategies based on evidence-based practices from the Community Guide of Prevention Services. Raising cigarette taxes is a proven practice that reduces the number of youth who smoke. For every 10 percent of tax, the number of youth using tobacco decreases by 4 to 5 percent as mentioned by Senator Howard. In a 2016 National Governors Association document, the health investments that pay off: Taking comprehensive approach to tobacco control raising the price of tobacco products was identified as an evidence-based strategy. The report noted, raising the state tax on tobacco products has consistently demonstrated a reduction in tobacco consumption. Further, it was noted that this prevents tobacco initiation among youth and young adults, thus avoiding future tobacco-related healthcare costs for states. Preventing tobacco use in teens is critical to ending tobacco use in Nebraska. The best way to reduce the impact of smoking is simply not to start. The funding directed towards the local public health departments to assist with the fight against tobacco use is needed now to enable us to carry out our statutory responsibilities. Currently there are inadequate financial resources committed to our efforts of protecting the health and the well-being of Nebraska. From a fiscal perspective, every dollar spent of prevention programs saves \$5.60 in health spending. Nebraska's public health system has piloted an array of projects to show that these projections are real. Numbers like this and real-life examples lead us to the conclusion that this funding is vital. The statewide public health system has proven to be successful and needs continued support to assure that progress made in the health of Nebraska communities continues. We have and we continue to demonstrate our accountability to the communities and to the state Legislature. And also like to add that the state Legislature helped form us in 2001 with LB692, and we have continued to demonstrate our responsiveness, not only our Nebraska communities, but state Legislature. I'd like to echo what Senator Howard commented on with the cost and that \$66 million is spent by the tobacco industries simply so the state of Nebraska can spend \$795 million against the ill-causes of tobacco use. That's what the tobacco industry spends and that's what Nebraska gets to pay. Is there any questions for me? [LB438]

SENATOR SMITH: Thank you, Mr. Wiese, for your testimony. I see no questions from the committee. Thank you. [LB438]

ROGER WIESE: Thank you very much. I would like to add, it is St. Patrick's Day in O'Neill, Nebraska. You're welcome to come up. Free passes to the parade. You can even stay at our

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house, but you'd have to clean up some toys just to clean out some bedrooms and stuff like that, so. (Laughter) Senator Schumacher, you know our family is large, so. Have a good day. [LB438]

SENATOR SMITH: Thank you for the offer. Thank you for the offer. Next proponent of LB438. Welcome. [LB438]

BROOKLYN LARIMORE: Hello, Chairman Smith and members of the Revenue Committee. My name is Brooklyn Larimore, and that's B-r-o-o-k-l-y-n L-a-r-i-m-o-r-e. I'm a high school student and youth tobacco prevention advocate for the Campaign for Tobacco-Free Kids in support of LB438. Through my involvement with No Limits Nebraska, the American Cancer Society, Cancer Action Network, and Tobacco-Free Kids, I've had the pleasure to work with youth from all of the districts represented here today. And what resonates me...with me the most from my experiences with these youth is the stories that I hear from them. These stories range from dealing with family members who have died from tobacco use or having friends start smoking and seeing those immediate health and behavior changes that come along with it. But these are ultimately the powers that do...or the stories that do power our motivation and passion and to create this positive change in our communities. And I know that this is true for me and fellow advocate, Tayte Jussel, of O'Neill. Tobacco has taken too many lives from my own family, all of which started their habits as teens. And the same is true for Tayte's grandmother who passed away due to lung cancer from her lifelong habit that started as a young teenager. On Wednesday, you may have noticed that over 100 youth from all corners of the state, and each district here today, came to Lincoln to educate their senators on the importance of protecting our youth in Nebraska. And all of those teens have the same determination to reduce tobacco use. All of...the stories, all drive their actions. But, however, every year that the Nebraska State Legislature does not take similar action, more and more kids are at risk of becoming addicted to tobacco. Nebraska is a...has one of the highest youth smoking rates in the nation at 13.3 percent. And one proven way to reduce youth smoking rates is an increase in the price of products. Nebraska hasn't seen an increase for 15 years, and we have a cigarette tax of only 64 cents which ranks us at 41st in the nation overall as one of the lowest. And it is proven that every 10 percent increase in the price of tobacco products has a potential to reduce youth smoking rates by that 4 to 6 percent, and as people are stating previously that youth are three times more sensitive to the price than adults are. I know that an increase in the tax will be effective because if youth can't afford tobacco, they will not be getting any at all. Considering that nine out of ten daily adult smokers became addicted in their teens, it is important that we do all that we can to keep these products out of the hands of our youth, and by increasing the price on tobacco, this is a very important step in our efforts. LB438 will keep 11,300 Nebraskan youths from becoming smokers, ultimately preventing healthcare spending and lives lost in the future. So as a state senator, you have the power to bring about meaningful change that will save lives, which will be done with the advancement of LB438 by the members of this committee. Thank you. [LB438]

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SENATOR SMITH: Thank you, Ms. Larimore. Questions from the committee? Senator Harr.
[LB438]

SENATOR HARR: Thank you. Thank you for coming today. You said you were in high school?
[LB438]

BROOKLYN LARIMORE: Yes. [LB438]

SENATOR HARR: Where do you go to high school? [LB438]

BROOKLYN LARIMORE: I'm a Bellevue...or I'm a Bellevue...(laugh). I'm a junior at Bellevue
West High School. [LB438]

SENATOR HARR: Wow. Well, you did a very nice job. Thank you very much. Thanks for
coming down. [LB438]

BROOKLYN LARIMORE: Thank you. Thanks for having me. [LB438]

SENATOR SMITH: Thank you. Thanks for being here today. Next proponent of LB438.
Welcome. [LB438]

LEAH SVINGEN: Hi. Chairman Smith and members of the Revenue Committee, my name is Leah Svingen, that's L-e-a-h S-v-i-n-g-e-n, and I am a third-year medical student at UNMC with plans to pursue a career in psychiatry. I'm here testifying today in support of this bill on behalf of the Nebraska Medical Association and the UNMC Medical Student Chapter of the American Medical Association. As a medical student, I am here today to advocate for increasing the tax on tobacco products for the purpose of tobacco use prevention among teenagers and young adults. At 25, I am only a few years out of the window when the majority of individuals pick up smoking. Reports estimate that 90 percent of regular, daily, adult smokers begin smoking in their teenage years. I have personally seen numerous friends pick up cigarette smoking in high school, often with the intent of achieving a specific social image. Despite public health campaigns to dissuade young adults from picking up smoking, the images of cigarettes as a fashionable act of rebellion remains strong in popular culture. When cigarettes are cheap and easily accessible, teenagers are more likely to pick up the habit under the false assumption that they will be able to quit at any time. Unfortunately, the addictive nature of cigarettes make individuals' ability to quit incredibly difficult, as studies show that only 6 percent of people who try to quit smoking succeed. Attempts to dissuade young adults from becoming addicted to tobacco products should be robust and based in strategies that are proven to work. Research shows that increased tobacco

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taxation and tobacco control policies can be very effective in reducing cigarette smoking as youth are more sensitive to price increases than results. As has been mentioned before, estimates show that a 10 percent increase in tobacco products reduces youth smoking by 5 percent or more. In Nebraska, that would prevent 12,000 youth from becoming smokers, thereby substantially decreasing health-related cost of cigarettes and premature deaths of cigarette smokers. Additionally, the increased revenue from the tobacco taxation can be used to reinvest in public health campaigns that aim to reduce tobacco use through education, thereby further reducing tobacco use among teens. As a young medical student, I have been shocked at the cost of human life to tobacco products. After seeing many adults suffer at the end of their life from severe health complications from smoking, including COPD, heart disease and numerous types of cancer, I am dedicated to reduce the prevalence of tobacco use among my future patients. I urge you to recognize the long-term impact this taxation will have on reducing rates of tobacco use among teenagers and young adults and advance this bill out of the committee. Thank you for your time. I would be happy to answer any questions. [LB438]

SENATOR SMITH: Thank you, Ms. Svingen. Questions from the committee? I see none, thank you. We continue with proponents of LB438. Welcome. [LB438]

ANN BIRD: (Exhibit 5) Thank you. Good afternoon, Chairman Smith and members of the committee. My name is Ann Bird, that's A-n-n B-i-r-d, and I live in Omaha, Nebraska, and I am speaking to you today in support of LB438 as the immediate past president of the Munroe-Meyer Institute Board of Directors at the University of Nebraska Medical Center. I'm specifically supporting the funds directed to the UNMC Munroe-Meyer Institute Neurobehavioral Clinic, the program that studies and improves methods for intervening early in the lives of children with behavioral and mental health problems. So, in essence, what I want to talk to you about is some of the benefits of what the funds that we would be able to achieve from this bill, what it could mean to our families throughout Nebraska. A collaboration that has been established between Munroe-Meyer Institute and Boys Town National Research Hospital, Children's Hospital and Medical Center and Nebraska Medicine represents the major institutions that provide the majority of what is called subspecialty medical care for individuals with very complex neurological-developmental-behavioral disorders. Those are a lot of words, but they're very, very significant. And in our state, we have very limited resources and professionals who can address these issues. This collaboration that has been formed has identified four high-priority, very high-impact areas that would markedly enhance the delivery of healthcare to the patients and the clients who are in greatest need throughout Nebraska. Currently, the wait time for families who need assistance in these areas ranges from one month to over one year, depending on what the subspecialties are that are needed. We find this completely unacceptable. The combination of the efforts that I'm going to outline are intended to reduce that wait time and to improve the quality of the services to our Nebraska families. These four areas in a very, very brief summary include: the establishment of a Developmental and Behavioral Pediatrics Fellowship that would increase

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the number of highly qualified professionals to meet the needs of our families and individuals in Nebraska. Two fellows would be trained each year through these funds. The recruitment of leading neurobehavioral physician-scientists, and those are important terms, physician-scientists. They're not just doctors, they're scientists doing research as well, will ensure innovative clinical care combined with the translation of the discoveries into a clinical practice. This has proven to be critically important for patients with those complex neurobehavioral disorders. Third, the establishment of advanced telehealth services for neurobehavioral patients will assure access to those behavioral services across the state. Currently, MMI, Munroe-Meyer Institute, has embedded behavioral service providers in 35 different locations across Nebraska. And that is great, that's a wonderful thing. However, the need for subspecialized physicians remains extremely limited. These advanced telehealth services would assure direct face-to-face screen time with the patients and would provide consultation and collaboration as well as guide patient care with the local providers. And last, the exploration of clinical data for research purposes will maximize the benefit of the electronic databases that currently exist. We have premier computing and data storage capabilities. They're in place right now. However, additional programming efforts and expertise are needed to develop a platform that allows a crosstalk. On behalf of the MMI Board of Directors, I ask you to advance LB438 and to support the final passage of LB438. We thank you and the families of Nebraska thank you. And I've got to say, one personal note. On this bill, I had an only brother who died from lung cancer. He was a smoker. I have one sister, who I love dearly, who had a heart attack this January. She is a smoker. She's trying desperately to quit, and all I can hope is that for her and thousands of people across our state, the increase in this tax on tobacco will mean when they go to that counter, they have to think twice and decide, is this the breaking point that I finally quit. Thank you. [LB438]

SENATOR SMITH: Thank you, Ms. Bird, for your testimony. Questions from the committee? Ms. Bird, I had the good fortune to serve on the Munroe-Meyer Institute Board for a number of years and it's a fantastic institution. [LB438]

ANN BIRD: I know you did, and I hoped that would strike a chord for you. [LB438]

SENATOR SMITH: Yeah, I appreciate what you folks do across our state. It's an amazing institution. [LB438]

ANN BIRD: Thank you. Thank you very much. [LB438]

SENATOR SMITH: Next proponent. Welcome. [LB438]

REBECCA RAYMAN: (Exhibit 6) Thank you. Chairman Smith, members of the Revenue Committee, my name is Rebecca Rayman, R-e-b-e-c-c-a R-a-y-m-a-n, and I'm the executive

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director of the Good Neighbor Community Health Center and East Central District Health Department located in Columbus, Nebraska, and Good Neighbor Fremont in Fremont, Nebraska. I am testifying today in support of LB438 on behalf of the Health Center Association of Nebraska. We would like to thank Senator Howard for introducing the bill, which will both increase cigarette taxes, which has been shown to reduce new and existing smokers, and also bring needed support to the healthcare safety net in Nebraska. Nebraska's seven federally qualified health centers are located in Omaha, Lincoln, Gering, Norfolk, Columbus, and Grand Island. We serve people from 54 counties at 46 separate service locations. Our mission is to provide cost-effective, high-quality healthcare to the medically underserved. We provide comprehensive, community-based, culturally appropriate, primary and preventative care, including medical, dental, and behavioral health services to over 76,000 unduplicated individuals in Nebraska, and that's a 10 percent increase over the year before. And the health centers in Nebraska continue to see need. Ninety percent of our patients fall below 200 percent of poverty and 70 percent are from racial or ethnic minority populations. Fifty percent of all the patients served at Nebraska's community health centers are uninsured. That is the second highest number of uninsured patients in the nation for health centers. Our uninsured patients contribute to the cost of their care by paying a nominal fee. We use a sliding fee scale, based on their income and the number of people in their household. These patients are the working poor in our Nebraska communities. The health center that I'm at currently serves over 8,700 patients in our clinic in Columbus and Fremont. In fact, our Fremont clinic has been in operation for just a little bit over a year and it's already outgrown its capacity. We recently secured a larger location in order to better meet the need for access to care. In addition, our pediatricians in Columbus are currently the only pediatric providers in the area who will accept new Medicaid patients. In many instances, community health centers are the only source of care available to our patients. Through both of our locations, we see a great demand for expanded access to care, especially in the areas of dental and behavioral healthcare. Research has demonstrated that for every patient that receives care in a community health center, the healthcare system is saved 24 percent in costs. In Nebraska alone, those savings total \$96 million. FQHCs are funded on a private/public partnership with patient personal responsibility in paying their bill. And so we strike a delicate balance to be financially sustainable. All of the FQHCs are at capacity and need to increase services. We've already heard a lot of talk about cigarette smoking so I'll just add a personal note as well. My sister died of lung cancer at 52 years of age. Her and I both started smoking when we were teenagers. I quit because I lived in Texas and there was a 30 percent tax increase in the prices of cigarettes in 1980. So, you're going to laugh, but cigarettes were going to go from 35 cents to 50 cents. And at that time, that was a lot of money for a young adult, and so that's why I quit. So I would say this is a very effective bill, and I wish my sister had lived in a state that had had a tax increase and maybe I wouldn't have lost her to lung cancer at such a young age. She was a really dynamic woman. Thank you so much. [LB438]

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SENATOR SMITH: Thank you, Ms. Rayman. I see no questions from the committee. Thank you for your testimony. [LB438]

REBECCA RAYMAN: Thank you. [LB438]

SENATOR SMITH: Next supporter of LB438. Welcome. [LB438]

KATHY NORDBY: (Exhibit 7) Thank you. Good afternoon, Senator Smith, and thank you to the committee for having me today. My name is Kathy Nordby, K-a-t-h-y N-o-r-d-b-y, and I am the current treasurer for the Northern Nebraska Area Health Education Center board of directors. I've been involved with this AHEC since 2003 when it began. I come to the committee today in support of LB438. AHEC is one of the opportunities to not only invest in tobacco dollars through saving lives, but to reinvest in more health benefits for the community. AHECs provide educational programs and services that bridge the academic institutions and communities to improve health systems for Nebraska with a focus on rural and underserved populations. Health profession shortages in Nebraska and across the country are a significant problem and concern. Furthermore, efforts abound at the local, state, and national levels to promote the status of our healthcare system. In our state, shortages of physicians, dentists, nurses, and other health professionals leave citizens few options to access to care. AHECs play a role at the community level to ease the short-term and long-term shortages for the healthcare system. For example, in northern Nebraska, this AHEC was instrumental in locating a nurse practitioner seeking employment when Norfolk's former free clinic closed and was trying to reopen. Furthermore, it helped that that nurse practitioner and the AHECs themselves were instrumental in transitioning this free clinic to what is today Midtown Health Center and is a federally qualified health center. The ability...today this clinic last year, we saw 6,000 patients for 22,000 different types of encounters that Becky spoke about previously. So it filled the need and the AHEC helped us find that first physician...or first nurse practitioner that got us to the position we are today. Today, AHEC works closely with the FQHCs in the area and other clinics and they bring health professional students to our clinic and it gives them an opportunity to be exposed to the services that we provide as an FQHC, but also showcases training and gives them learning opportunities in facilities. Nebraska AHEC centers across the state work to improve the health system for all of Nebraska and to develop and sustain a robust and diverse healthcare work force. They provide training and get them into the educational opportunities; and after graduation, they create opportunities for continued education and professional growth as close to home as possible. AHEC, in collaboration with education and community partners, is a unique system that works. And we can do more things with additional dollars and reinvest in healthcare systems. Thank you for your time and I would be happy to answer any questions. [LB438]

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SENATOR SMITH: Thank you, Ms. Nordby, for your testimony. Questions from the committee? I see none, thank you. We continue with proponents of LB438. Welcome. [LB438]

JILL DUIS: (Exhibits 8 and 9) Good afternoon. Chairman Smith and members of the Revenue Committee, my name is Jill Duis, that is J-i-l-l D-u-i-s, and I am a volunteer for the American Heart Association. In addition to being a mom and a grandma, I'm also a heart and a stroke survivor, and I am a registered nurse with more than 30 years of experience. And I am very proudly providing testimony today on the support of LB438. This is a bill that will save lives and will save healthcare dollar costs. You've heard the statistics from other members, and I won't reiterate those. I will tell you that it will save the state a tremendous amount of money. The annual healthcare costs in Nebraska directly related to smoking, \$795 million. In addition to the lives saved, the savings in healthcare costs on this bill would be a positive result. Lastly, poll results released yesterday by the American Heart Association indicate that a strong majority of Nebraska voters support increasing the tobacco tax. The poll results indicate that 71 percent of Nebraska voters support a \$1.50 increase in the cigarette tax. All you really need to know from all of these numbers is one, and that is the one life that you can save by advancing the bill. Thank you for the opportunity to testify on this important matter. Please pass this bill. It will save lives and it will save healthcare costs. I appreciate your time and I look forward to answering any questions that you have. [LB438]

SENATOR SMITH: Thank you for your testimony. I see no questions from the committee. Thank you. [LB438]

JILL DUIS: Thank you. [LB438]

SENATOR SMITH: Next proponent of LB438. Welcome. [LB438]

JOHN CAVANAUGH: (Exhibit 10) Senator Smith, good afternoon, members of the committee. My name is John Cavanaugh, J-o-h-n C-a-v-a-n-a-u-g-h. I am here today representing the Holland Children's Movement and the Nebraska Child Health and Education Alliance, a group of healthcare providers and educators advocating for children and families in poverty. Mr. Chairman, it's my understanding that the timing of this hearing on the afternoon of St. Patrick's Day, and in conjunction with Creighton appearance at the NCAA, should all go to Senator Harr and he's the one who requested this time. (Laughter) So this is one of the most important votes that you will make and it's one of the votes that you will take with you when you leave your service in the Legislature because the testimony that you've heard, and your own life experiences, this is one of the few times in which a piece of legislation that you have an opportunity to participate in will directly save human lives and your fellow Nebraskans. And I think that everyone recognizes the importance of that and it's multiple lives as we've heard just

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from the testimony, all of us have a personal experience with a loss of life in our family, among our friends, due directly to their consumption of alcohol. Now you're going to hear a number of arguments that we've all heard through the years that this is a regressive tax and it falls undue burden on low-income individuals. But the good news, the flip side of that is that it is a primary reducer of consumption among low-income individuals, including children. So every person who quits because this tax has been increased is actually going to thank you and is going to have their life extended. So that's an important consideration. Cross-border bleed is another red herring that we hear each time this bill comes up. It simply does not occur. And as we look at our fellow states: Kansas, South Dakota, Iowa are all ahead of us and have kept pace with the changes in the country. I strongly urge you to vote to advance LB438 and to support it on the floor. This is one of the most important votes that you will make as a member of the Legislature. Thank you very much. [LB438]

SENATOR SMITH: Thank you, Mr. Cavanaugh. Just a moment to see if we have any questions. I'm certain Senator Harr would like a rebuttal. (Laughter) It's always...it's very good to see you. [LB438]

JOHN CAVANAUGH: Sounds like it's true. [LB438]

SENATOR SMITH: You got off easy. Good to see you today. [LB438]

JOHN CAVANAUGH: Thank you. [LB438]

SENATOR SMITH: Thank you for your testimony. Next proponent of LB438. Welcome. [LB438]

MELISSA O'DELL: (Exhibit 10) Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Melissa O'Dell, M-e-l-i-s-s-a O-'-D-e-l-l. I'm a psychiatry resident at the Creighton-UNMC psychiatry program and I'm testifying in support of LB438 today. As a psychiatrist-in-training, a born and bred Nebraskan, and a sister and daughter of people who have struggled with mental illness, I ask for a few minutes of your time to discuss an issue near and dear to my heart. Senator Howard and many other testifiers today have made a compelling case for why the cigarette tax should be increased, and I'd like to talk to you about the importance of investing some of this revenue in the behavioral health work force, for the health and well-being of Nebraskans across the state. My father died several years ago of complications from bipolar disorder, incidentally, a few years after losing his younger brother to lung cancer caused by smoking. It's still not something I trust myself to talk about without losing my composure, but suffice it to say that poor access to psychiatric care was a significant factor in his death. My dad's death left me feeling suddenly responsible for helping my brother, Ryan,

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navigate his struggles with bipolar disorder and addiction. Ryan has had a very difficult journey, and there have been times where I've cried bitter tears over how the mental health system failed him and us, his family. Even as a resourceful young woman with plenty of experience in the healthcare system, I felt alone and overwhelmed by trying, and often failing, to help him access the services he needed. Ryan now has an ACT team. It stands for assertive community treatment, an interdisciplinary group of trained behavioral health professionals who work together to directly provide the psychiatric care he needs as well as to coordinate other services, from housing, to job training, to navigating the complex web of social safety net programs. Since becoming a client of the ACT team, he's had bumps in the road, but for the first time in a very long time, the road is winding toward recovery. However, for every success story like Ryan's, there are many more Nebraskans who haven't yet found their lifeline, and nowhere is the need greater than in rural communities. Certainly that's true for the small subset of people who need intensive mental health services such as an ACT team, which is currently available only in Omaha, but the same could be said of people seeking behavioral health services of almost any kind in any setting across the state. It's a complex problem whose solutions will be just as complex, but one thing is clear. We need more people, more psychiatrists, more psychologists, more therapists, more drug and alcohol counselors, more psychiatric nurses, more social workers. We need to help more young people discover their talents and passion for the work, train them, and retain them in rural and other underserved Nebraska communities. The Behavioral Health Education Center of Nebraska, or BHECN, is tasked with this challenge, and needs the funding that LB438 allocates to continue this vital work. In the course of my career, I hope to see great strides made in treatments for mental illness and addictions, but we owe it to Nebraskans suffering now to do all we can today to provide access to treatment that we know not only improves but also saves lives. Thank you for your time. Happy to take any questions. [LB438]

SENATOR SMITH: Thank you, Ms. O'Dell. I see no questions from the committee. Thank you. Next supporter of LB438. Welcome. [LB438]

LINDA FORD: (Exhibits 12 and 13) Thank you. I'm Dr. Linda Ford, L-i-n-d-a F-o-r-d. I'm representing the Nebraska Medical Association. Chairman and members, health consequences of using tobacco products are well documented. We will not go into that here. As these consequences have become better understood, government's role has increased by affording protections in implementing increased tobacco pricing in the form of user taxes. Tobacco use among Americans has gone down since 1994 Surgeon General's report, but the number of young tobacco users in this country remain far too high. The 2013 Surgeon General's report described the epidemic of tobacco use among youth 12 to 17 and young adults 18 to 25. Nearly 4,000 kids under 18 years of age try their first cigarette every day, a product they cannot purchase legally in most states. Twenty-five hundred youth and young adults who are occasional smokers will become regular smokers. Among those who persist in smoking, one-third will die about 13 years

earlier than their nonsmoking peers. Those most sensitive will die younger. For every person who dies due to smoking, at least two youth or young adults become regular smokers. Almost 90 percent of those young replacement smokers smoke their first cigarette by 18 years old, and 99 percent start by 26 years old. Almost no one starts after the age of 25. Youth tobacco use have slowed for cigarette smoking and stalled for use of smokeless tobacco. Concurrent use of multiple tobacco products is common among young people, and that suggests that smokeless tobacco use is increasing. Tobacco contains nicotine, a highly addictive drug that causes many kids to progress from smoking occasionally to smoking every day. Young people are sensitive to nicotine. The younger they are when they start using tobacco, the more likely they are to become addicted to nicotine and the more heavily addicted they will become. Of every three young smokers, only one will quit, and one of those two remaining smokers will die prematurely of a smoking-related disease. There are more than 7,000 chemicals and chemical compounds in cigarette smoke, many of which are toxic. These chemicals cause immediate and long-term damage to the young body. Even young adults under 30 years old who start smoking in their teens and early twenties can develop immediate smoking-related health problems, such as early cardiovascular disease, smaller lungs that do not function normally and therefore cause shortness of breath leading to trouble in physical activities. Wheezing can lead to asthma, DNA damage that can cause cancer almost anywhere in the body. DNA damage and early abdominal aortic atherosclerosis which affects the flow of blood to vital organs such as the lungs. This decrease in blood flow reduces lung growth and can increase the risk of chronic obstructive pulmonary disease later in life and reduced lung function. Most youth do not consider the long-term consequences associated with tobacco when they start smoking. About three out of four who smoke into adulthood, even if they intended to quit after a few years of smoking, they will continue. The youngest person that I've seen with COPD has been 28 years old. The youngest person that I have seen died of lung cancer has been 42. Both started smoking in their early teens. Tobacco companies have multiple methods and spend lots of money to convince young people that using tobacco is okay and they can quit anytime. Tobacco companies lower their prices through coupons and other promotions so that youth can afford to buy their products. Teens are very sensitive to pricing, as you've heard. Extensive use of price-reducing promotions has led to higher rates of tobacco use among young people than would have occurred in the absence of these promotions. Many tobacco products are marketed to appeal to kids. Some cigarette-sized cigars contain candy and fruit flavorings, such as strawberry and grape. The newest smokeless tobacco products do not even require you to spit. They dissolve like mints. These product types are packaged in small teabag-like sachets and dissolvable strips and lozenges. Young people find them appealing because they can be...they will not be detected in school or other places where smoking is banned. However, these products cause and sustain nicotine addiction, and most youth who use them also smoke cigarettes. In Nebraska we have a comprehensive sustained multicomponent programs that can cut youth tobacco use. However, we must take steps to make it harder for youth to obtain and use tobacco, such as raising cigarette prices, such as user fees, and enforcing our laws that prohibit the sale of tobacco to children.

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Successful multicomponent programs are known to prevent young people from starting to use tobacco. Prevention is critical. You have the knowledge to prevent the needless premature disease and death caused by tobacco use. By strengthening and continuing to build upon effective programs and policies such as the tobacco user fees, LB438, you can help make our next generation tobacco free and we can be, as our Governor wishes, the healthiest state in the Union by 2020. Thank you, and thank you for allowing me to continue. [LB438]

SENATOR SMITH: Okay. Thank you, Dr. Ford, for your testimony. I see no questions from the committee. Thank you. Hello, Mr. Hale. [LB438]

ANDY HALE: Hello, Chairman Smith. [LB438]

SENATOR SMITH: Where's your green? [LB438]

ANDY HALE: It's in the car. (Laughter) I think that's probably the safest answer I'll give you right now. Good afternoon, Chairman Smith and members of the Revenue Committee. My name is Andy Hale, spelled A-n-d-y H-a-l-e, and I'm vice president for advocacy for the Nebraska Hospital Association. The NHA is the influential and unified voice for Nebraska's hospitals and health systems providing leadership and resources to enhance the delivery of quality patient care and services to Nebraska communities. Our hospitals provide care to more than 11,000 patients each day in our state and on behalf of those members of NHA, I ask that you support LB438. Increasing the tax on cigarettes and tobacco products in Nebraska would reduce smoking and improve the overall health of Nebraskans. The ideas of increasing Nebraska's tax is not only supported by the NHA, but in alliance with the coalition of numerous healthcare organizations, many that are here today. Of every \$10 spent on healthcare in the United States, almost 90 cents of that is due to smoking. One hundred and seventy billion dollars a year is spent on this illness with \$39 billion of that coming from public programs like Medicare and Medicaid. Smoking-related illnesses cost Nebraska over \$700 million a year, including more than \$134 million in Medicaid expenditures. This includes workplace productivity losses, premature death, and direct medical expenditures. Tobacco use is the leading cause of preventable death in the United States. Health effects from cigarette smoking account for nearly one in every five deaths each year in the United States. More deaths are caused by tobacco use than by deaths from HIV, illegal drug use, alcohol use, motor vehicle injuries, suicides, and murders combined. A healthier more productive work force helps strengthen the business and industries that we rely on every day in the state. I would like to thank Senator Howard and her staff for bringing this bill, and I ask the committee to advance LB438. [LB438]

SENATOR SMITH: Questions from the committee? Senator Harr. [LB438]

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SENATOR HARR: Thank you, Chairman Smith. Thank you, Mr. Hale, for...it's Hale, right? [LB438]

ANDY HALE: Yes. H-a-l-e, yes. [LB438]

SENATOR HARR: When was the last time we raised the cigarette tax? [LB438]

ANDY HALE: That I don't know...15 years ago, I believe is the answer from the crowd. [LB438]

SENATOR HARR: So, why are...if you know, are you advocating a dollar change instead of percentage of the total cost, to keep it up with inflation? [LB438]

ANDY HALE: We're not advocating any change other than just an increase. The number...how they derived that number, I'm sure someone behind me, or I know Senator Howard is not going to close, but I don't know how they came up with that figure. But as far as the Hospital Association, we support any smoking cessation. We feel that any increase in that tax would decrease smoking use. [LB438]

SENATOR HARR: Thank you. I appreciate your time. [LB438]

ANDY HALE: Thank you. [LB438]

SENATOR SMITH: I see no additional questions. Thank you for your testimony. [LB438]

ANDY HALE: Thank you, Chairman. I'll go put on my green right now. Thank you. [LB438]

SENATOR SMITH: All right. Happy St. Patrick's Day. [LB438]

ANDY HALE: You as well, Senator. [LB438]

SENATOR SMITH: We move on to...continue with proponents of LB438. Welcome. [LB438]

JERRY STILMOCK: Thank you, sir. Mr. Chairman, members of the committee, my name is Jerry Stilmock, J-e-r-r-y, Stilmock, S-t-i-l-m-o-c-k, testifying on behalf of my clients, the Nebraska State Volunteer Firefighters Association and the Nebraska Fire Chiefs Association. As you make your way back home this evening, hopefully...or later afternoon, hopefully, I'd ask you

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to consider this. As you go east, any direction out of Lincoln taking you back home, if some unforeseen event would happen, you're going to be cared for by volunteers. Eighty-two percent of Nebraska is cared for by volunteer EMS. Section 3 of the legislation proposed before you has three funding mechanisms that would directly benefit volunteers in Nebraska. The one I want to just take two minutes upon is the SIM-NE, SIM of Nebraska, Simulation in Motion. Through a charitable trust that was created by Mr. and Mrs. Helmsley outside of Nebraska, \$5.5 million has been dedicated as of the summer of 2016 to create four semi-trailers that will be placed in different communities throughout Nebraska to assist volunteer in rural EMTs as well as rural hospitals to train. Each one of those trailers will have two simulator units, one an emergency room, the other an ambulance. The four simulation trailers will be placed in Lincoln, Kearney, Scottsbluff, and Norfolk. With those four simulation trailers, they're also going to be up...two mannequins that are computerized and simulated so that hands-on training not only is brought to the rural area, but it's a safe way to educate and help train volunteers throughout the state. Just a tremendous opportunity to assist with what we believe is a critical area in Nebraska and that's training volunteer EMTs so that patient care remains...of highest importance in patient care in Nebraska remains to be delivered by the volunteers throughout the state. We'd ask you to consider advancing this legislation. Thank you. [LB438]

SENATOR SMITH: Thank you, Mr. Stilmock. I know a number of your volunteers were in the Capitol earlier this week and really appreciate the work that they do across Nebraska. [LB438]

JERRY STILMOCK: Yes. I appreciate that comment, sir. We were able to pull in 30 throughout the state. They took days of vacation or paid...time without pay to be down here with you and share their stories. Thank you, sir. [LB438]

SENATOR SMITH: Further questions from the committee? I see none, thank you. [LB438]

JERRY STILMOCK: Thank you all. [LB438]

SENATOR SMITH: Next proponent of LB438. Welcome. [LB438]

FERNANDO WILSON: (Exhibits 14 and 15) Thank you. I am Fernando Wilson. The spelling is F-e-r-n-a-n-d-o W-i-l-s-o-n, a faculty member in the UNMC College of Public Health and acting director of the UNMC Center for Health Policy. I am testifying in support of LB438. I'm here speaking for myself and not as a representative of the University of Nebraska. The Centers for Disease Control and Prevention reports that 18.4 percent of all adults in Nebraska currently smoke, resulting in over 2,300 deaths annually from smoking-related illness. Thus policies that reduce the likelihood of smoking can have substantial benefits for population health in Nebraska. At 64 cents per pack, Nebraska ranks 41st among all states and D.C. in the amount of tax that is

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levied on a pack of cigarettes. This compares to the average of \$1.69 for the United States. In order to explore the possible impacts of raising the cigarette tax, the Center for Health Policy analyzed data on smoking among youth aged 14 to 18 in the state of Nebraska. In this analysis, we found that nearly one-third of all youth have tried cigarettes at least once. Among Nebraska youth who report smoking at least one day in a month, i.e., current smokers, this percentage rises substantially with age, increasing from 3.6 percent for 14-year-olds to 21 percent for 18-year-olds. Approximately 11,300 youth are current smokers in Nebraska. Our center estimated the decrease in youth smoking that may occur with a \$1.50 increase in the cigarette tax. Using data on youth smoking for Nebraska, our analysis suggests that the new tax may result in nearly 20 percent, or about 2,190 fewer youth who are now currently smoking in Nebraska. Many of these youth would have continued to smoke into adulthood, and thus the overall impact on disease and healthcare costs from increasing the cigarette tax is likely to be significant. Thank you for providing me this opportunity to testify. [LB438]

SENATOR SMITH: (Exhibits 16-35) Thank you, Dr. Wilson, for your testimony. Questions from the committee? I see none. Next proponent of LB438. Anyone else wishing to testify in support? We do have letters for the record: Larry Dix representing NACO; Christie Abdul, National Association of Social Workers; Public Health Solutions Board of Health; Public Health Association of Nebraska; Carol Hamilton, representing the Southeast District Health Department; Annette Dubas, representing Nebraska Association of Behavioral Health Organizations; Dennis Kment, Elkhorn Logan Valley Public Health Department; Mitchell Chlopek, from Norfolk, Nebraska; Sam Woodruff, UNMC student delegate; Charles Vette, Southwest Nebraska Public Health Department; John Harris, Sarpy/Cass Department of Health and Wellness; William Spaulding, the Nebraska Psychological Association; David O'Doherty, Nebraska Dental Association; Phyllis Salyards, League of Women Voters of Nebraska; John Cavanaugh, Nebraska Child Health and Education Alliance; Colonel Craig Strong, Lincoln-Lancaster County Health Department; Kaitlin Reece, Voices for Children in Nebraska; Lorelle Mueting, Gretna, Nebraska; Dr. Richard Azizkhan, Children's Hospital and Medical Center; and Mark Welsch, Group to Alleviate Smoking Pollution. And those letters were sent in support for the record of LB438. We now move to opponents, those wishing to testify in opposition to LB438. Welcome, Mr. Keigher. [LB438]

TIM KEIGHER: (Exhibit 36) Good afternoon, Chairman Smith and members of the committee. For the record, my name is Tim Keigher, that is T-i-m K-e-i-g-h-e-r. I appear before you today in opposition to LB438 on behalf of the Nebraska Petroleum Marketers and Convenience Store Association as their lobbyist, and I've also been asked to voice the opposition of the Nebraska Chamber of Commerce to LB438 as well. Even though my name is Tim Keigher, I was referred to, I guess, as the red herring earlier because I would like to talk to you about the border bleeding issue. As retailers of tobacco products, legal products, we see the border bleed all the time. If you look at the handout that I gave you, it shows a case study that was done when Iowa raised

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their tax. You know, we're looking at increasing our tax from 64 cents to \$2.14, which is a 230...or 335 percent increase, will make our tax difference of 72 cents a pack higher than what it is differential with Iowa. A few years back when we raised our tax, I believe it was 19...if I go back to 2002, Iowa's tax at that time was...I'm sorry, go back to 1997. Prior to 2002, Iowa's tax was 36 cents a pack; ours was 34 cents a pack. They...Iowa then...we raised our tax to 64 cents so we were at 64 cents, Iowa was at 36 cents. Talking to one wholesaler in the Omaha market, he saw his cigarette sales of one popular brand go down 25 percent in the Omaha market and go up 26 percent in the Council Bluffs market. Then in 2007 when Iowa raised their tax to the \$1.36 which they are currently at, and we remained at 64 percent (sic--cents), those figures flip-flopped. The people from Iowa came back to the Omaha area to buy their cigarettes. I guess we're not here to advocate whether it's a good product for you or a bad product for you. It is a product that consumers want and we'd like to be able to sell that, and just because you raise the tax does not mean you're going to generate more revenue. Some of those people are going to either go...quit coming to Nebraska, or they're going to go down to Missouri where the tax is 17 cents a pack. So I guess for those reasons we are here to oppose LB438 and I would be happy to answer any questions. [LB438]

SENATOR SMITH: Thank you, Mr. Keigher. I see no questions from the committee. [LB438]

TIM KEIGHER: Thank you. [LB438]

SENATOR SMITH: Welcome. [LB438]

KATHY SIEFKEN: (Exhibit 37) Good afternoon, Chairman Smith and members of the committee. My name is Kathy Siefken, K-a-t-h-y S-i-e-f-k-e-n. I am here representing the Nebraska Grocery Industry Association as both their executive director and their registered lobbyist, and the Nebraska Retail Federation asked that I also voice their opposition to LB438. And the fact is that border bleed is a reality. It happens. What will happen if this bill passes is the Nebraska customers that we sell to will find another place to purchase their tobacco products and they're going to go to a place that is cheaper than where we are here in Nebraska. Not only will we lose the Nebraska sales, we will lose those sales that come from other states, people that actually drive into Nebraska to purchase these products. I provided you with a handout and it is an article that recently appeared in the Hastings Tribune, and according to a news study by the Wichita State University's Kansas Public Finance Center, Kansas added a sales tax to food and as a result of that, they lost \$345 million in sales. And I guess the point is, that it doesn't make any difference if it's food, if it's fuel, if it's food, or if it's tobacco. People will go where they can buy it cheaper and that's what this bill would do is it would move sales outside the state. In recent years, about 17 states have actually increased their tobacco excise tax. And in 91 percent of those states, they did not reach their projections, they fell short. And I think we should pay attention to

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those miscalculations. Over the last decade, Nebraska has had a decline in taxable sales and that's without a tax change. With the exception of 2015 when Kansas actually increased their taxes by 63 cents a pack, and Nebraska sales went up during 2015 and the latest figures that I saw from Kansas is they dropped at least 20 percent, and that was within the first six months of that tax increase. So people are actually smoking less. Over the years...over the last decade, it has been a 2.3 percent reduction year after year. And so it is really a declining income source and we don't think that that would be a good thing to do to people here in Nebraska. Our...according to the 2015 CDC statistics, the largest decrease in tobacco usage has come in amongst our youth. They're down to 9.4 percent and the general age is...the overall decline is down to 17 percent. So with those factors in mind, we would ask that you hold this bill in committee, and I thank you for your time. If you have any questions, I'd be happy to answer them. [LB438]

SENATOR SMITH: I see no questions. Thank you, Ms. Siefken. [LB438]

KATHY SIEFKEN: Thank you. [LB438]

SENATOR SMITH: Welcome. [LB438]

JEFF DOLL: Thank you very much. My name is Jeff Doll, J-e-f-f D-o-l-l. I'm the owner of Safari Cigars and Lounge in Omaha and also head of Nebraska Premium Cigar Association. What I'm here today to ask for is exemption on the cigar...or on the cigarette tax. Eighty percent of the cigars that are sold in Nebraska are done on-line. We can't compete with those on-line companies because of the tax level of 20 percent plus another 10 percent if you look at city and state. We feel by raising the tax up that you will drive our customers further on-line and we...and I think it will pretty much put us out of business. Your average cigar smoker smokes nine cigars a month. The FDA did a study on cigar smoking last year and it came out this year. They had felt that cigar smokers that smoke no more than two cigars a day, they saw very little health effects to them or none at all. So when you look at the bigger picture, we're not...if you...we're not causing...cigar smokers aren't kind of the leading edge of this whole medical problem that we're having out there. So that's all I have today, so if you have any questions, I'd be interested. [LB438]

SENATOR SMITH: Thank you for your testimony. I see no questions. [LB438]

JEFF DOLL: Thank you. Appreciate it. [LB438]

SENATOR SMITH: Next opponent of LB438. Welcome. [LB438]

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CHAZ KLINE: Well, thank you. Chairman Smith and Revenue Committee, thank you. My name is Chaz Kline, C-h-a-z K-l-i-n-e. I represent Nebraska Premium Tobacco Association as well as Mr. Doll. I own three tobacco...premium tobacco locations in Omaha, two retail and a cigar lounge. And I'm an opponent to this bill and as we represent that small little section of OTP, other tobacco products, primarily cigars and pipe tobacco. And as the bill sits taking it from 20 percent as it is today to 65 percent, that represents a 69 percent increase in our costs. So when we would look at a \$10 cigar where we would pay \$2 for a tax, now we're looking at that \$10 cigar and paying \$6.50. So financially that is devastating to us as an industry and as a very small industry. In addition to that, following up on Mr. Doll's comments, the Internet industry has driven us into a state of declining sales which we would prefer to see the state of Nebraska going after the Internet companies, not only for sales tax, but tobacco tax. We represent as state taxpayers, employers, and family members of the state, so as a competitive disadvantage, we see ourselves, you know, being forced out of business or declining sales dramatically. That's all I have today. Thank you. [LB438]

SENATOR SMITH: Thank you, Mr. Kline. Senator Harr. [LB438]

SENATOR HARR: Thank you, Mr. Chairman. Thank you for coming today, sir. Is it your contention that the noncollection of sales tax from outside Nebraska is hurting jobs in this state? [LB438]

CHAZ KLINE: Absolutely. Absolutely. If I may, our small little world, and it is small, of OTP for premium tobacco retailers, not the C stores and whatnot, we are devastated dramatically by it, the Internet sales. And I would dare say, there's certainly research out there and our associations have done research. You would be amazed at the amount of money that we're not collecting here in the state. We in-state retailers for the OTP are small association or a very small infinitesimal fraction of what we don't collect. [LB438]

SENATOR HARR: Thank you. I appreciate your testimony. [LB438]

SENATOR SMITH: Thank you. [LB438]

CHAZ KLINE: Yes, sir. [LB438]

SENATOR SMITH: Continuing with opposition, opponents of LB438. Welcome, Mr. Lautenbaugh. [LB438]

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SCOTT LAUTENBAUGH: Thank you, Mr. Chairman, members of the committee. My name is Scott Lautenbaugh, that's spelled L-a-u-t-e-n-b-a-u-g-h. I'm here on behalf of the Nebraska Premium Tobacco Association. We got a little out of order in that the two gentlemen with me went first and I was going to introduce you and encourage you to ask...direct all your questions to them because they're actually knowledgeable and participants in the industry. Again, out of order here. (Laughter) That said, most of the rationale you've heard for passing this bill has nothing to do with cigars and premium tobacco products. Children aren't going out and buying \$5, \$10 cigars. Cigars are not an entryway or gateway to cigarettes. There's no reason for us to be in this bill. It is correct that I think there was a bill earlier this year from Senator McCollister about collecting taxes for Internet sales. We would urge you to do that if the committee would want to be proactive and actually help this Nebraska industry. Aside from exempting us from the bill, I realize it's not realistic to hope for an amendment this year. There was a bill that did cap the tax per cigar stick, if you will, at 50 cents. We would have been in favor of that, but it is not going to have a hearing this year, but we would like to see you go to that direction rather than trying to penalize this industry, because again, the rationale you heard for this bill really has nothing to do with us. So we are in opposition and I would be happy to answer any questions you might have. [LB438]

SENATOR SMITH: I see no questions. [LB438]

SENATOR LAUTENBAUGH: Thank you. [LB438]

SENATOR SMITH: Thank you, Mr. Lautenbaugh. Next opponent of LB438. Welcome. [LB438]

STACY GRIFFIN: Hi. Thank you. Good day. My name is Stacy Griffin, S-t-a-c-y G-r-i-f-f-i-n. I own and operate a flower shop here in Lincoln and I'm also part owner of the Nebraska Cigar Festival. I'm sure you would agree that nothing goes together better than flowers and cigars. Every year the Nebraska Cigar Festival hosts a large event to bring together more than 300 men and women--women--who also enjoy fine cigars. This event is similar to wine tasting only it's designated and designed for cigar enthusiasts. Fine cigars are just like fine wine and they can improve with age. We have manufacturers who fly into Nebraska from across the country. These manufacturers spend time in Nebraska hotels and eat in our restaurants. They also travel across the state to other retailers and take orders and meet with other Nebraska cigar enthusiasts. The point I'm trying to make here is that the cigar industry is already generating a lot of tax revenue for this state. Increasing taxes on people who enjoy an occasional cigar is not the way to solve our tax problems in Nebraska. Most people in Nebraska are asking for tax relief. I'm certain that every senator has been in some discussion in the last 30 days that talked about lowering taxes. Unfortunately, today, we're discussing a bill that increases taxes on Nebraska businesses that are in a battle so large it should be called a war. It's a war with Internet retailers that don't collect or

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remit any tax whatsoever. The Nebraska tobacco tax is 20 percent of the wholesale price. That 20 percent is already higher than our neighbor, Kansas, which is only at 10 percent. Our other neighbor, Iowa, places a 50 cent cap on each cigar. In Nebraska a \$5 wholesale cigar is taxed at \$1 today. Under this bill, the same \$5 wholesale cigar would be taxed at \$3.25. Then it's also taxed again via sales tax at the point of purchase. Our other neighbor, Missouri, has a 10 percent tax. We also see...we already see Nebraskans driving to Missouri for their fireworks. We know this because the state of Nebraska...the Nebraska State Patrol sets up a border enforcement around the 4th of July. We don't want to lose our cigar sales to Missouri too. Under this bill, we lose more sales to the Internet and we lose more sales...I'm sorry. We lose more sales to the Internet and we lose more sales and sales tax revenue to our neighboring states. Again, a \$5 cigar has a tax jump from \$1 to \$3.25 under this bill. Please amend the bill to remove the tobacco tax increase or vote to oppose LB438 completely. Thank you for your time. [LB438]

SENATOR SMITH: Thank you, Ms. Griffin. Senator Harr, then Senator Schumacher. [LB438]

SENATOR HARR: Thank you, Mr. Chairman. Thank you for coming today, ma'am. If we put that amendment in, would you support the bill? [LB438]

STACY GRIFFIN: I would not be opposed to it. [LB438]

SENATOR HARR: Okay. Thank you. [LB438]

SENATOR SMITH: Senator Schumacher. [LB438]

SENATOR SCHUMACHER: Thank you, Chairman Smith. Thank you, for your testimony. Did I understand you correctly that our sales tax taxes the...the tobacco tax? [LB438]

STACY GRIFFIN: You are absolutely correct, Senator. [LB438]

SENATOR SCHUMACHER: So we have a tax on a tax? [LB438]

STACY GRIFFIN: Which is a bone of contention. Yes, we do. [LB438]

SENATOR SCHUMACHER: I could see where there would be. Thank you. [LB438]

STACY GRIFFIN: Thank you. [LB438]

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SENATOR SMITH: I see no further questions. [LB438]

STACY GRIFFIN: Thank you. [LB438]

SENATOR SMITH: Thank you. Next opponent of LB438. Welcome, Ms. Fox. [LB438]

NICOLE FOX: (Exhibit 38) Thank you, Chairman Smith and members of the Revenue Committee. My name is Nicole Fox, N-i-c-o-l-e F-o-x, and I'm the director of Government Relations for the Platte Institute and the Platte Institute is here today to oppose LB438. While finding funding sources for behavioral health is commendable, using an unreliable revenue source like a cigarette tax to draw more federal grants is not a wise fiscal decision for the state of Nebraska. Historically, federal grants for programs mentioned in the bill are adjusted annually and sometimes stopped or significantly reduced with little or no notice to the state. This makes it even more risky to fund these operations with a revenue source that has declined an average of 2.1 percent per year over the last decade. A higher tax brings an expectation of lower sales, meaning the state can expect to see more decline if this additional tax were levied. During the same period, the state's demand for Health and Human Services related programs has grown significantly. If Nebraska is to rely on this tax to fund necessary services for the state's most vulnerable populations, it will create long-term funding shortfalls that will have to be paid for with other budget revenues. In recent years, 91 percent of cigarette excise tax increases across 32 states have missed their revenue projections, some by as much as 180 percent. Many national organizations also agree with this, even the National Conference of State Legislatures specifically states: Cigarette taxes are not a stable source of revenue. From a policy standpoint, this regressive tax would affect lower-income adults the most. According to the Centers for Disease Control and Prevention, 31.6 percent of adults in Nebraska who earn less than \$15,000 per year are smokers. Raising this tax will unfairly burden these low-income earners. Research has found that higher tobacco taxes reduce usage by an insignificant amount and are more likely to increase smuggling, creating an illegal tobacco market, without necessarily improving health outcomes. A 2014 study by the National Bureau of Economic Research found that current smokers have demonstrated a strong preference for the habit, that is largely undeterred by tax rates. The study also found that if the tax was increased by 100 percent, it would decrease adult smoking only by 5 percent. Adult smokers will go out of their way to avoid paying higher taxes by purchasing them from bordering states and through the black market, not by reducing or stopping their smoking habits. Under current law, Nebraska is ranked 40th in the nation, with Missouri and Wyoming the only neighboring states with lower rates. If this bill is enacted, the 234 percent increase will give Nebraska the 12th highest rate in the country and the highest among its neighbors. LB438 could also intentionally trigger an illegal market for tobacco. Economists at the Mackinac Center for Public Policy in Michigan have created a statistical model to estimate the degree to which cigarette smuggling occurs in all 50 states. According to these economists, Nebraska's 2015 smuggling rate was only 1.14 percent of total cigarette

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consumption in the state. But if the proposed bill, LB438, is adopted, that rate will increase significantly to 30 percent of the total market, putting Nebraska 6th overall behind Minnesota. In addition to smuggling concerns, the increased tax rate would also mean that Nebraska would see a decline in the sale of legally taxed cigarettes, but not on the assumption that fewer people are smoking. The Journal of Health Economics found that up to 85 percent of the change in legal sales after a tax increase is due to avoidance and evasion, not by quitting smoking. This was proven after the 2002 cigarette tax increase when Nebraska lost \$121 million in cigarette excise tax revenue to neighboring states and the state budget revenue fell 20 percent short of projections. Ultimately, variations in state cigarette taxes often result in smuggling, legal border crossings to low tax jurisdictions, and to Internet purchasing. With that, I'll conclude my testimony and take any questions if you have any. [LB438]

SENATOR SMITH: Thank you. Questions from the committee? I see none. [LB438]

NICOLE FOX: Thank you. [LB438]

SENATOR SMITH: Thank you. Welcome. [LB438]

MATT LITT: Thank you, Chairman Smith and members of the Revenue Committee. My name is Matt Litt, M-a-t-t L-i-t-t. I'm the Nebraska director of Americans for Prosperity, and I've greatly abbreviated much of my testimony as much of it has been discussed already. But I'm here on behalf of the organization, our activists across the state, in opposition to LB438. Proposals to raise funds on the back of smokers are nothing new and this is no surprise that state budgets are often strained and elected officials are looking for ways to raise funds while minimizing public backlash. As a result, taxes are often proposed on small groups of the population, in this case, smokers. As you all know, Nebraskans rarely talk about not being taxed enough and this legislation only adds to that burden. On top of that, as was previously mentioned, revenues from tax hikes like the one proposed rarely meet targets. And so in conclusion, state tax policy should strive to be a reliable, flat, and neutral to the revenue source. Cigarette taxes fail on these three goals. And with that, we urge you to keep LB438 in committee; and I will attempt to answer any questions that you have. [LB438]

SENATOR SMITH: Thank you, Mr. Litt. Questions? I see none. [LB438]

MATT LITT: Thank you. [LB438]

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SENATOR SMITH: Thank you for your testimony. Next opponent of LB438. I see no further opponents. We move to neutral testimony, those wishing to testify in a neutral capacity. Welcome. [LB438]

PAUL PAULMAN: (Exhibit 39 and 40) Thank you. Good afternoon, Chairman Smith and members of the Revenue Committee. I'm Paul Paulman, P-a-u-l P-a-u-l-m-a-n, a family physician and faculty member at the University of Nebraska College of Medicine. I'm here testifying on LB438 in a neutral capacity. Many of my comments have already been made by Mr. Stilmock, so I'm going to fill in...fill you in on a few details on the SIM-NE program and hopefully, the weather has not deteriorated and we can be brief. The four vehicles will be stationed in Scottsbluff, Kearney, Norfolk, and Lincoln. And when not on the road training EMS first responders and critical access hospital personnel in their hometowns, they will serve as simulation training resources for the UNMC College of Nursing, the campuses located in these communities. Each simulation truck, you've heard about the equipment. They also have a recording studio, they have a state-of-the-art adult mannequin, child, adolescent, and a delivery mannequin with her newborn infant. We feel it's important to train these folks in their communities. The EMS people, if they leave town for training, oftentimes the community is left uncovered in case there's an emergency, so we want to bring this training to them. The trucks and supplies can be purchased with grants from the Helmsley Foundation. LB438 funds would provide ongoing operational support to provide the 400-plus EMS units and more than 60...I think it's 64 critical access hospital ER staffs with training on an annual basis in their community so they don't have to travel. UNMC has worked with Nebraska's EMS providers on their needs assessments and training schedules. Logistics are being developed. We have our first vehicle in Omaha. It won't be there for very long and we'll receive the other three this spring as soon as the factory can finish them. And as a physician who practiced family medicine in both Greeley and Boone Counties, I can assure you this program will help to address serious needs in rural Nebraska. Thank you for the opportunity and I'll take questions if there are any. [LB438]

SENATOR SMITH: Thank you for your testimony. Senator Brasch. [LB438]

SENATOR BRASCH: Thank you, Chairman Smith, and thank you, Professor, Doctor...or Doctor. [LB438]

PAUL PAULMAN: Paul. (Laugh) [LB438]

SENATOR BRASCH: Paul. I've listened to all the testimony today and I have typically and will continue to sing praises of our EMS and our volunteers and however, I am a little stunned today because of all the smokers...and I don't know all the smokers. I'm not a smoker but the ones I know, and even some testimony, how hard it is to quit. They feel like they're victims and I know

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that EMS, you rescue people. You run to their aid. I've never seen a remedy by increasing more fiscal problems, would be a remedy to those...I have a feeling people will just pay more because they feel trapped. Not everyone, not everyone. There's some who I'm sure it's just a pleasure, but people say if you start, you can't quit, just from some of the testimony. So I'm a little surprised, it will buy us more equipment, so let's go for the money. Is that what I'm hearing? [LB438]

PAUL PAULMAN: So if I could answer real quickly, most smokers want to quit. [LB438]

SENATOR BRASCH: That's what I'm hearing. [LB438]

PAUL PAULMAN: They find it's very difficult and in my practice this morning I tried to help a few people quit. We work on it. It's not easy. It can be done. [LB438]

SENATOR BRASCH: And if they could do with a dollar, you think that would...paying a dollar more? [LB438]

PAUL PAULMAN: What I see as the biggest strategy is the kids starting. Adults have made their decision and I don't have as big an issue with that, but a kid, they do it because they think it's cool. They're doing a lifelong habit. They don't realize it and they're very price sensitive. And if the tax is...if the bill is passed and the revenue is available, we would like...I'd like to let you know what you might be buying. And I think to support our EMS people who are there and sometimes they're the only medical personnel in the community. We need to train them. The population is shrinking. [LB438]

SENATOR BRASCH: And it's against the law for kids to buy cigarettes, right? [LB438]

PAUL PAULMAN: Absolutely. Absolutely. [LB438]

SENATOR BRASCH: All right. So I do think...I just wanted to thank you on the EMTs but I would like you to think truly about be the one who saves the victims and not taxes. So I have no other questions. [LB438]

PAUL PAULMAN: Thank you. [LB438]

SENATOR BRASCH: Thank you. [LB438]

SENATOR SMITH: I see no further questions. Thank you for your testimony. [LB438]

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PAUL PAULMAN: Thank you. [LB438]

SENATOR SMITH: (Exhibit 41) Next person wishing to testify in a neutral capacity. Seeing none, we do have one letter was submitted for the record in a neutral capacity from Andrew Monson, First Five Nebraska. And Senator Howard has waived closing on her...on LB438 so that concludes our hearings for the day. Thank you. [LB438]