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Revenue Committee
March 12, 2015

[LB466 LB550 LB574]

The Committee on Revenue met at 1:30 p.m. on Thursday, March 12, 2015, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB574, LB466, and LB550. Senators present: Mike Gloor, Chairperson; Paul Schumacher, Vice Chairperson; Lydia Brasch; Burke Harr; Jim Scheer; Jim Smith; and Kate Sullivan. Senators absent: Al Davis.

SENATOR GLOOR: Good afternoon. I'm Mike Gloor, District 35, Grand Island. I'm the Chair of the Revenue Committee. We'd like to welcome you today. We're sorry about the temperature in this hearing room but we're between seasons and I think people understand how that goes. You may want to weigh yourself after today's hearing. You'll be impressed at how much weight you've lost. (Laughter) A few general rules we'll start with: If you have cell phones, please turn them off or to the silent position. We'll take the bills in the order posted on the agenda in the back of the room. If you are planning to testify today, we need you to fill out a green sheet and hand that green sheet in to the clerk, Krissa, who is on my left here. The order of testimony will be the introducer. Then we'll go to proponents, opponents, those in a neutral capacity, and then the introducer will have a chance to do a summation at the end. We have a light system. Green for four minutes and then it goes to yellow for a minute and then it goes to red when your five minutes is up. And at that point in time, we'd ask you to wrap up. If you have handouts, we need 11 and give those to us when you get up here and we'll make sure and get them distributed. If you haven't got 11 copies, the page can make a copy for you if you just give them a heads up. We'd ask you to spell your name for us...give us and then spell your name for us when you sit down so that we get it right for the record. And please use the microphones as much as you possibly can so we're able to pick up on each and every one of those words of wisdom that you are sharing with us. To my immediate right is committee counsel, Mary Jane Egr Edson. Krissa Delka is the clerk. She's in the far left. Kay Bergquist is our research analyst. She's on my far right. And then Colin is our page today who is here to help both you and us. If you need something, let him know and he can help you out. I'll ask committee members that are with us today to introduce themselves starting with Senator Scheer.

SENATOR SCHEER: I'm Jim Scheer, representing District 19 which is Madison and a small portion of Stanton County.

SENATOR SMITH: Jim Smith, District 14 in Sarpy County.

SENATOR SULLIVAN: Kate Sullivan of Cedar Rapids, representing District 41, a nine-county area in rural Nebraska.

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

SENATOR HARR: And bringing up the rear, Burke Harr, representing midtown Omaha, Legislative District 8.

SENATOR GLOOR: Our page today, as I pointed out, is Colin. Colin is from Wayne, Nebraska. Did I get that right? For some reason, that doesn't sound right today. Colin is from Wayne. And with that, we'll start the hearing with LB574. [LB574]

SENATOR HARR: Oh. (Laughter) [LB574]

SENATOR GLOOR: We have a point system and that will be a deduction. I think it's an automatic deduction. [LB574]

SENATOR HARR: Rats. [LB574]

SENATOR GLOOR: Welcome, Christina. [LB574]

CHRISTINA CASE: Thank you. [LB574]

SENATOR GLOOR: And good for you for elbowing your way to the front. [LB574]

CHRISTINA CASE: Maybe a little too mildly. Good afternoon, Chairman Gloor and members of the Revenue Committee. My name is Christina Case, C-h-r-i-s-t-i-n-a C-a-s-e, and I'm appearing on behalf of Senator Al Davis who is still under the weather so he apologizes he couldn't be here today. Today, on behalf of him, I'm introducing LB574. This bill proposes a tax on intangible personal property of \$1.50 for every \$100 of valuation. The first \$150,000 of intangible property would be exempt for single individuals and the first \$350,000 for married couples. The bill also includes several exemptions from the tax such as retirement accounts and life insurance annuities. LB574 is primarily intended to address what Senator Davis feels is a disproportionate tax benefit for those whose assets are in untaxed stocks and bonds versus those whose assets are in things like homes and land which are very heavily taxed. Intangible property was taxed in Nebraska until the tax was eliminated in 1967. From then until now, property taxes are levied mostly on real estate and tangible personal property such as machinery. Farms and stock portfolios are different kinds of capital but their purpose is the same, to provide their owner with income. For most of our history as a nation, the taxation of real property was a sensible and logical taxing source. Our agrarian nation was a farming nation and the individual who had twice

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as much farm ground as another would pay twice as much tax. But today the majority of capital is invested in stocks, bonds, and the like, capital which does not pay property taxes. Those whose wealth is more tied to stocks and bonds may still pay property taxes on a residence or a commercial property but may escape taxation on the bulk of their wealth which is invested in exempt intangible property. High property taxes in Nebraska are primarily driven by the high cost of education, but taxes that are tied to real property cannot keep up with the needs for higher and more technical forms of education which are not inexpensive. Currently, we are unable to fully cover the cost of education across the state. The resources side of the state aid formula is primarily based on property value within a district. As a result, rising agricultural land valuations have knocked many districts out of equalization with the exception of the urban districts who, again, have most of their wealth in something besides real estate. The fiscal office estimates that LB574 could raise \$1.43 billion in fiscal year 2016-17. That amount of revenue could allow the average property tax levy rate to drop by nearly 36 percent. LB574 was drafted to include several exemptions from the intangible tax which are found in Section 5 of the bill including subsection 1 to 2, federal or state government bonds; sub 3, interest in retirement plans including but not limited to pensions and profit sharing, annuity, or stock bonus plans exempt from federal income tax, annuity contracts or custodial accounts, individual retirement accounts or annuities, employee stock options, foreign, civil, and armed services retirement plans provided by the federal government, Nebraska School Employees Retirement System Plans; in sub 4, life insurance and annuity policies; sub 5, processing of intangible personal property; sub 6, nonprofit, religious, and educational intangible property; sub 7, mandatory and required banking assets, mandatory deposits with the federal reserve bank, intangible personal property owned by international banking entities licensed to do business in Nebraska, cash, and cash equivalents including checking accounts; and in sub 8, intercompany financing instruments and obligations from an employer to an employee for services rendered. We attempted to address the potential constitutional concerns of articles 1 and 2 which allows the Legislature to define and classify personal property by type, use, user, or owner, and exempt such property from taxation if the exemption is reasonable. Senator Davis is willing to work on the language of some of the exemptions that may still present constitutional concerns. We have also been contacted by members of the insurance industry with concerns that their mandatory reserve assets are not included in the exemption of mandatory banking assets. Senator Davis is also willing to work with them on suitable language to address this before the bill would move forward. Thank you very much. I'm happy to convey any questions you have to Senator Davis and he will follow up with you when he gets back. [LB574]

SENATOR GLOOR: Thank you, Ms. Case. Does anybody have any questions they'd like her to relay at this point in time? Seeing none, thank you. [LB574]

CHRISTINA CASE: Thank you. [LB574]

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SENATOR GLOOR: We'll now move to proponents for LB574. Good afternoon. [LB574]

MICHAEL CARTWRIGHT: (Exhibit 1) My name is Michael Cartwright, M-i-c-h-a-e-l C-a-r-t-w-r-i-g-h-t. I'm from Whitney, Nebraska. I am today reading testimony for Mark Haynes also from Whitney, Nebraska, who could not be here today. Honorable senators of the Revenue Committee, I am in favor of LB574 as it supports increasing the tax base to fund education as well as modernizing the taxing of wealth in Nebraska. In 1952, personal property made up 41 percent of the property tax base. That has dwindled to 6.5 percent today. This is due to tax incentives and litigation eroding our tax base. Regardless of why we have eroded our tax base, the intangible tax is a solution to broaden the base. Why do we need to broaden the tax base? Because we rely too heavily on property tax to fund education. In the last 44 years, the cost per student has increased from \$700 to \$1,100 per student in K-12. This far exceeds the consumer price index. In another hearing, Senator Schumacher asked, how did this happen when we have fewer students? This is a great question. The answer can be found in the additional responsibilities that our schools have been required to provide. Examples of the additional responsibilities in the previous 44 years include required kindergarten, all-day kindergarten, educational and developmental responsibilities from birth to age 21 from the previous K-12, additional testing of students, the need for assessment coordinators, increased requirements for teacher certification, Rule 10 requirements, etcetera. Since the education system continues to broaden its responsibilities, then doesn't it make sense to broaden the tax base? Thank you. [LB574]

SENATOR GLOOR: May I ask you, Mr. Cartwright, are you also a proponent? Do you wish the record to show that you're also a proponent of this bill? [LB574]

MICHAEL CARTWRIGHT: Yes. [LB574]

SENATOR GLOOR: Okay. [LB574]

MICHAEL CARTWRIGHT: Yes. [LB574]

SENATOR GLOOR: Are there any questions? Seeing none, thank you. [LB574]

MICHAEL CARTWRIGHT: Thank you. [LB574]

SENATOR GLOOR: Good afternoon [LB574]

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JAMES T. O'ROURKE: (Exhibit 2) Senator Gloor and committee members, good to see you all again. My message, as you'll see in the handout coming out here in just a minute, is very similar to my testimony on LB280 and so I'm not going to go through that entire sheet but I'm going to concentrate on the bottom part. Sorry James T. O'Rourke, J-a-m-e-s T. O, apostrophe, R-o-u-r-k-e. [LB574]

SENATOR GLOOR: We knew you'd get around to it. [LB574]

JAMES T. O'ROURKE: (Laugh) I'm about as bad at that as I am filling out forms, aren't I? My message once again, folks, is fairness. Fairness. If you look at the list at the bottom of that page, the issues that were raised by the coalition that's been working for the last eight months, we talked about LB280 that's already before you. There's another bill, LB595 and particularly LB323, the school financing review commission, which we think is very important to restructure TEEOSA. Thirdly, broadening the sales tax base: I looked on your Web site and I see that you have the daunting task of looking at 60 bills related to sales tax in some form or another, most of them exemptions. You have a circuit breaker bill, LB186, and LB309. I guess I'd like to think about some of those bills being Band-Aids. Some of them might be invasive surgery. Some of them are tourniquets. Some of them are constructive surgery, and some of them are pulling life support. If we look at the--and I'm glad to hear what occurred yesterday--but the proposal of 75 to 65 reduction in property tax is a bad idea and I'm glad you all agree with that. That's pulling life support. And, frankly, so are all the sales tax exemptions. I think we're hurting ourselves there by shortening that leg of the stool considerably. So let me concentrate on taxing intangibles here for just a minute. I made the point on LB280 and it's the same point here, in fairness, that we have a businessman that's involved in agriculture, particularly in grass agriculture, that's paying 35 to 50 percent of his gross income in property tax. He's paying that as a tax on that resource that generates the income and he's paying tax on the income. The person that's in stocks and bonds, investment person, is paying nothing on the resource that generates that income but he is paying tax on the income from that...from those investments. An interesting thought, I think, for us to think about is that if this bill, if the intangible bill were to pass, we might think about whether or not LB280 would be necessary. Or would a lot of these be necessary? As you've heard before, there would be a considerable amount of resource brought into the picture to be used as a resource into the TEEOSA formula for school funding which would allow the reduction then in property tax, would allow the reduction in income tax. The page that you have attached to that thing shows some graphs of the amount of combined income and property tax that are...is paid by the rural residents as...versus urban residents and you see the combined is way higher for urban residents. I think we need to think about the opportunities to look at options where we can affect all of those taxes. And I think this intangible bill is one of those by tapping into that resource which, frankly, affects a very small percent of the population. The income tax approach, local income tax in LB280, affects a tremendous number of people and so obviously it is not quite as popular. So once again, I would leave you with the fact that we need

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to be taxing all wealth. We need to be looking at fairness, fairness once again. And I thank you for your attention. [LB574]

SENATOR GLOOR: Thank you, Mr. O'Rourke. Are there any questions for him? I see none today. Thank you for the long trip. [LB574]

JAMES T. O'ROURKE: Enjoy... [LB574]

SENATOR GLOOR: And thank you for coming down in a time of better weather than the last time you were here. [LB574]

JAMES T. O'ROURKE: Well, it's...driving through the Sandhills can never be bad. [LB574]

SENATOR GLOOR: Continue with proponents. Good afternoon. [LB574]

DENNIS SCHUSTER: (Exhibit 3) Good afternoon. My name is Dennis Schuster, D-e-n-n-i-s S-c-h-u-s-t-e-r. I farm and live in Pawnee County in southeast Nebraska. I'm here to talk today about the property tax issue in the state of Nebraska. I would ask the Legislature and the Governor to consider the fairness of taxes on land and personal property particularly in funding our schools. Most of our rural schools are 80 to 90 percent funded by personal property tax in the state of Nebraska. Thirty-one percent of the taxes of the land and personal property are paid by only 3 percent of the population, that being farmers. I would advocate that the education needs to be funded by other sources of revenue other than just land, taxes on land and personal property. I feel that education should be funded by a far more equitable share from land, sales, income tax, and tax on intangibles. To give you an example of fairness, on land taxes when I started farming in 1966, I rented land and purchased land to farm and make a living from. I continued to purchase land, work my way...for...that is when I retired I could rent the land out and live off the rent I received. In 1966 my taxes on my land were from \$5 to \$6 an acre. Now that same land is \$30 to \$40 per acre and in some areas, irrigated land is being taxed at \$70 to \$100 an acre. That is a tax that is...farmer pays every year. As for our tax system, it's currently structured...by the time you pay your land taxes, personal property tax, and income tax, one doesn't have much income left from that land to live on and basically that's my retirement fund. Now, if I would have worked in town at a job and built my retirement fund with stocks and bonds, all I would have had to pay is the income tax on the earnings from that land but no tax on the ownership of the principal amount from that retirement fund because stocks and bonds are considered intangible. Article VIII of the Nebraska Revenue Status (sic) 77-1363 of the state...of the Nebraska State Constitution states that all land, property, and tangibles will be taxed to fund the education system of every young person in Nebraska. I ask you, Senators, where is the fairness of taxation that all tangibles like land and personal property tax...are taxed for education but

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intangibles like stocks and bonds aren't taxed for such purposes yet both are assets which we have purchased over the years to generate retirement income? One of the wealthiest men in the world can live in Nebraska, own vast assets holdings, yet the only taxes he pays towards education he would be required to be paid from his house, vehicles, simply because his assets are classified differently than a person with vast assets holdings in land. I would propose that if there was a 1 percent tax on the value of intangible assets of stocks and bonds and that money was used for education, that mere 1 percent would generate such a revenue that it might start to take the load off of property taxes. I feel that LB574 is a good bill that attempts to bring fairness, and I mean fairness, to taxation. I feel it is time to bring into balance the taxes used to fund education, spreading them more equitably across tangible and intangible assets, sales tax, and income tax, so there would be not so much disproportionate burden placed on any one sector. I thank you for listening to me and if there's any questions, I'd be more than willing to take them. [LB574]

SENATOR GLOOR: Are there any questions for Mr. Schuster? Senator Scheer. [LB574]

SENATOR SCHEER: Thank you, Senator Gloor. Just real quickly, are you aware of any state that utilizes this system right now? [LB574]

DENNIS SCHUSTER: Not that I'm aware of. I heard at one time there was maybe one or two, I just don't know. But you got to consider, all the surrounding states for what we pay taxes compared to other states around on property taxes I'm talking about, we are the highest, one of the highest in the nation as far as on property tax. [LB574]

SENATOR SCHEER: No, I don't disagree with that. I was just curious if there were other states that utilize this. [LB574]

DENNIS SCHUSTER: That I couldn't tell you. No, I just wouldn't know. [LB574]

SENATOR SCHEER: Okay. Thank you. [LB574]

SENATOR GLOOR: Senator Sullivan. [LB574]

SENATOR SULLIVAN: Thank you, Senator Gloor. And thank you, Mr. Schuster, for your comments and your testimony. The bill indicates that the revenue derived from this new approach would be used for school funding but it doesn't identify how exactly. Right now, all property taxes are local. Is this how you would prefer this new source of revenue to be assessed

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and distributed at the local level? Or would you leave it up to the Legislature to determine how it would be distributed? [LB574]

DENNIS SCHUSTER: I would rather see it on the whole state level and then it...right now, we don't get any state aid. Rural schools are just almost...because we're land rich, all the state aid stays in Lincoln, Omaha, you know, the bigger schools. What I would like to see is thing all going into one pool and then divvied back out the same amount per student in the state. You know, if we've got a million kids out here in the state that are being funded by all the school districts, let's say if it's \$1,000 or \$2,000, every district could get that per student. This way would be fair. You'd be equaling it all the way out. And I know it just...what's going to come out of it. The city people say, well, all that...this tax is coming from there. Well, that might be true. But when you go look at sales tax in, like, Lincoln, Omaha, my town of Beatrice, they have a sales tax on there to help fund their city, to operate their city, which is fine. But when I go in there and buy my goods and all that, I'm paying for that. I don't have anything out here that, you know, I can help out with paying to the schools, you know, in that way too. So what I'm saying is, let's round this thing out and let's be...you know, I'd like to see it...fairness all the way around. It's...right now, the burden is on the property owner. I'd like to...there's a portion of the low-income families, you know, a lot of your rural sectors are 40, 50 percent poverty families that the schools are funding in that right now. And where does that fund come? From basically landowners. That's where the revenue is coming to fund that. And then we're not getting any state aid on top of it yet either. And I think we...if we're...if it's the state, the duty of the state constitution in the state of Nebraska to educate students, then the state should do it. Right now, that's all been funded down to the local level. You keep shoving all this stuff down that the taxes to fund these schools has got to come from the local level. Am I right or wrong? And that's what's happened. And what we've got to do is get this thing out where the state...I mean everybody in the state, they...it's their duty, all the people in the state, to educate the students of this...of the state. And maybe I'm wrong but I just want fairness out here. I mean, I retired now and I got a business but I retired. And by the time I get my rent and all that and I've got to pay property tax and income tax off of that, there ain't a great amount left. And I worked my life to build this up. And then to have it...got it be taken away with taxes all the time. This is, you know, this is what I'm saying. [LB574]

SENATOR SULLIVAN: Thank you. [LB574]

SENATOR GLOOR: Thank you, Mr. Schuster. Senator...I just blanked. (Laughter) [LB574]

SENATOR SULLIVAN: Schumacher. [LB574]

SENATOR SCHUMACHER: Schumacher, right. [LB574]

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SENATOR GLOOR: Schumacher. [LB574]

SENATOR SCHUMACHER: It's the heat. [LB574]

SENATOR SULLIVAN: That's right. Thank you, Senator Gloor. Where is an intangible located? [LB574]

DENNIS SCHUSTER: An intangible located? [LB574]

SENATOR SCHUMACHER: Yeah, where is it located at? [LB574]

DENNIS SCHUSTER: Well, it's your...just stocks or bonds is... [LB574]

SENATOR SCHUMACHER: Where is a stock or bond located at? If the certificates are in New York, are they taxed? [LB574]

DENNIS SCHUSTER: Well, I would think if they're...if I had stocks and bonds that I was the owner of them... [LB574]

SENATOR SCHUMACHER: But most people don't own them that way. Most people...the stocks and bonds are with a brokerage house on the coast. You just (inaudible). [LB574]

DENNIS SCHUSTER: But they get income from them, right? [LB574]

SENATOR SCHUMACHER: Right. But they're not here. [LB574]

DENNIS SCHUSTER: Okay. But still, if they're getting income on...see, I can't move my land. [LB574]

SENATOR SCHUMACHER: Isn't that really why almost all the states if not all the states have abandoned (inaudible). [LB574]

DENNIS SCHUSTER: And I can see where you're coming from, yes, sir. [LB574]

SENATOR SCHUMACHER: You know, all you would have to do to beat this tax is not have anything here or move or if it's construed to mean that your intangibles are within your body, just

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move across the border, conduct your operations in Nebraska with a shell corporation, and people who don't have anything for assets to tax and you've beat the system. [LB574]

DENNIS SCHUSTER: Okay, you've got a good point. But is it fair that I...okay, I own land in this state. Is it fair that I got to be taxed the way I'm being taxed? [LB574]

SENATOR SCHUMACHER: No. I take it you must own a farm and pay some... [LB574]

DENNIS SCHUSTER: Yes, I own quite a bit. [LB574]

SENATOR SCHUMACHER: And that farm probably has appreciated many times in the last few years particularly, worth a whole lot more than what you paid for it. [LB574]

DENNIS SCHUSTER: Right. [LB574]

SENATOR SCHUMACHER: And I suspect one day you have some type of an estate plan or something to pass it on to your children? [LB574]

DENNIS SCHUSTER: Right. [LB574]

SENATOR SCHUMACHER: And when your children sell that farm and there's big difference in price between what they sell it for and what you paid for it, is there any tax on that? [LB574]

DENNIS SCHUSTER: Not after I die. [LB574]

SENATOR SCHUMACHER: Right, so it's... [LB574]

DENNIS SCHUSTER: It's a stepped-up basis. [LB574]

SENATOR SCHUMACHER: Right so (inaudible). [LB574]

DENNIS SCHUSTER: It's the same with stocks and bonds too. [LB574]

SENATOR SCHUMACHER: Right, but so really in some respects, the system isn't that terribly unfair because in the end, you get a huge amount of appreciation or your kids do tax free. [LB574]

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DENNIS SCHUSTER: But you get a huge amount of appreciation in your stocks and bonds. The same valuation that land is going up, stocks and bonds went up, but they haven't had to pay taxes on those stocks every year like I've had to pay property taxes on the land. [LB574]

SENATOR SCHUMACHER: And what would your land be worth if you didn't have the state services to service your land? That land is a piece of the state. It's not a piece of some corporation somewhere. It's a piece of the state, piece of the boundaries cut out by Abraham Lincoln or whoever years ago. So what would that land be worth if you didn't have the state services, the roads, the police to chase somebody else off who wanted to farm your land, the court system for the trespasser, the...all those things that are intimately tied with that land, what would it be worth? [LB574]

DENNIS SCHUSTER: All right, are you saying that we got to go out and protect our own land now, then? [LB574]

SENATOR SCHUMACHER: No, I'm just asking what it would be worth. That...land is unique because it is a physical piece of the state and it has no value unless it has roads to it. It has no value unless there's bridges heavy enough to carry the trucks. It has no value unless there's cops to chase off trespassers. The value...there's a difference between a property tax on land and a property tax on an intangible and it's because that is a physical piece that needs to be physically defended and physically transported to and from. [LB574]

DENNIS SCHUSTER: But does it take that much money to protect this farm? Most of our money that we're paying is going to schools, to educate schools. I'm basically talking about educating schools. Most of my property tax goes to educating schools. That's where it's going. Yeah, we got counties. We got...you know, they patrol the roads and stuff like that and we got a sheriff and their deputies and all that. But not that much of my taxes go there. It all goes to education. [LB574]

SENATOR SCHUMACHER: But for the state to have the ability to defend your land, the ability to provide transportation to your land, utilities to your land, it's got to have a population. And that population has got to be educated. [LB574]

DENNIS SCHUSTER: Right. [LB574]

SENATOR SCHUMACHER: And so that is how your land gets the protection, why the tax exists. [LB574]

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DENNIS SCHUSTER: Through vast amounts of...you're saying that the high cost of education is my duty, not the state's, when the constitution states the states...it's a state duty? [LB574]

SENATOR SCHUMACHER: The constitution, if you read that... [LB574]

DENNIS SCHUSTER: I've read it. [LB574]

SENATOR SCHUMACHER: ...it does not say it's a state duty. But I...you know... [LB574]

DENNIS SCHUSTER: Yeah. [LB574]

SENATOR SCHUMACHER: ...we can get into that some other time. [LB574]

DENNIS SCHUSTER: Yeah, we can...but it's...it states in the constitution that it is the state's duty to educate every child in the state of Nebraska up to the age of 21. Am I right or wrong? [LB574]

SENATOR SCHUMACHER: I think it says the state shall provide for the common schools, something like that. [LB574]

DENNIS SCHUSTER: Okay, I got in my other...yeah, sure, no. No. [LB574]

SENATOR SCHUMACHER: Yeah. Fine. Anyway, thank you very much for your testimony. [LB574]

SENATOR GLOOR: Okay. Any other questions for Senator (sic) Schuster? [LB574]

DENNIS SCHUSTER: Well, I thank you for your time. [LB574]

SENATOR GLOOR: Mr. Schuster. We just had your running for office there for a second. (Laughter) [LB574]

DENNIS SCHUSTER: No, no, I'm not. [LB574]

SENATOR GLOOR: Thank you very much. Any other proponents? Seeing no proponents, we move to opponents for this bill. [LB574]

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RON SEDLACEK: Good afternoon, Chairman Gloor and members of the Revenue Committee. For the record, my name is Ron Sedlacek. That's R-o-n S-e-d-l-a-c-e-k. And I'm here on behalf of the Nebraska Chamber of Commerce in opposition. The Nebraska Chamber of Commerce has a tax council and the tax council met and discussed the legislation and voted to oppose it and the board of directors approved that position and I'm here today to relay that information to you. The intangible tax, just to kind of give a little bit of background, of course was once...well, first of all, let me start out with the notion of property tax relief and how we've been looking how to tackle property taxes in Nebraska. And I didn't think we would be talking about a new property tax to give property tax relief. And that's essentially what we're doing here. The intangible tax was somewhat prevalent before the income tax. And just as Senator Schumacher mentioned, that as...it was kind of a horse and buggy tax is what they called it when people did not have the mobility, did not have...there were no...not as many instruments or ways in which to move capital from one jurisdiction to the other. But as that was occurring, as the income tax became in vogue and then the intangible taxes were repealed state by state by state until there's, oh, about a handful, maybe a little over a handful that have some form of intangible personal property tax, not as extensive as what we're facing here. I think, perhaps, there are maybe four states or less that would go to the extent that the legislation before you proposes but then when you look at those states, a couple of them don't have an income tax, so that makes a little bit of a difference when you look at this. But our policy is, though, is that we were trying attract capital into the state and not drive it away. One of our states to the south, Kansas--most of the states that have an intangible personal property tax, the remaining ones, although there's some outliers, most of them reside in the south--but Kansas, our neighbor, happens to have a modified version. I believe it's a local option county by county and the voters can decide whether or not to impose the tax upon themselves or not. I can't give you the latest figures as to how many counties even have an intangible tax remaining. But Senator Schumacher was correct. Many states have found--and Florida was one of the last to repeal their intangible personal property tax--and that is that there are so many instruments, so many ways to avoid the tax and particularly for those of higher income, particularly those who maybe were more relying upon the investments such as retired citizens. But it's particularly, from a business point of view, highly detrimental, particularly those who own their own stock or other companies' stock, those that have valuable trademarks. We just don't believe this is a way to attract or retain businesses within the state of Nebraska. And with that, I'll close and entertain any questions. [LB574]

SENATOR GLOOR: Are there any questions for Mr. Sedlacek? Seeing none, thank you. [LB574]

RON SEDLACEK: Thank you, Senator. [LB574]

SENATOR GLOOR: Good afternoon. [LB574]

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MARK HESSER: (Exhibit 4) Good afternoon. Chairman Gloor, members of the Revenue Committee, my name is Mark Hesser, M-a-r-k H-e-s-s-e-r. I am president of Pinnacle Bancorp, which is the bank holding company for Pinnacle Bank. I am here in opposition to LB574. If this tax were implemented, it would cost Pinnacle Bank approximately \$52 million per year by my calculations, 85 percent of our pretax income. If passed, it would not make much sense to be in business in Nebraska. Alternatively, we'd at least have to raise loan rates--because you're taxing every loan we make at 1.5 percent--we'd have to raise loan rates at least 2 percent to cover that cost plus the tax on our other assets, investments that are left in, etcetera. I believe this bill would chase companies, individuals, and assets out of the state. I believe we tax retirees too much in our current tax structure. This bill would ensure they retire elsewhere. There also is a lot of wealth in this state. I've heard various times that we have more billionaires per capita than any other state. A person with \$1 billion in marketable stock would pay an additional \$15 million in taxes each year. They might consider moving. The fiscal note is definitely off on this bill. It would raise far in excess of the \$1.5 billion in the first year that is in the fiscal note. But it would create an extremely large loss in existing revenue on a recurring basis as everyone will have vacated the state in the following years, creating a budget crisis like we have never seen. The bill assesses a 1.5 percent tax on certificates of deposit which today currently yield much less than 1 percent. My mother's retirement assets are in CDs, not exempt retirement CDs, regular CDs. We would actually take any income she has away with this bill. I think, for obvious reasons, this bill should be killed in committee and I'd be happy to answer any questions. [LB574]

SENATOR GLOOR: Any questions? Senator Schumacher. [LB574]

SENATOR SCHUMACHER: Thank you, Senator Gloor. The bill seems to create a preference for government assets and debt that's not taxed. What impact do you see that happening as to...on the capital once the fed stops offering 0 percent interest windows but in the real market on availability of capital for businesses? [LB574]

MARK HESSER: Well, certainly that exemption helps as a banker some. That exempted about \$420 million in assets from taxation that represent government bonds or local municipal bonds. But we have many other investments, collateralized mortgage obligations, municipal investments in other states that would be taxed. So it could change where we invest a little bit. I think this bill also, depending on how you read it, would make any lender, whether they operated in Nebraska or not, if they made loans in Nebraska, pay that tax. So you've raised every home loan rate in the state 1.5 percent over the rate in any other state that I'm aware of immediately. Even if that lender is in California, they have to apportion their income to Nebraska. And they would have to pay that 1.5 percent on every loan on real estate in Nebraska. So you've just taken the 4 percent mortgage and raised it to 5.5 percent for every home buyer in the state. [LB574]

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SENATOR SCHUMACHER: Do you agree, as you read the bill, that all it takes to escape the tax for somebody that has the cash is just to leave? [LB574]

MARK HESSER: I don't believe...well, yes, they'd need to leave their residency, they need to get out of Nebraska for residency. [LB574]

SENATOR SCHUMACHER: Live at least six months out of the year someplace else? [LB574]

MARK HESSER: At least six months out of the year...at least six months a year not in Nebraska. I can go to Florida for a day and I can go to two other states for two months each. I just make sure I'm not in Nebraska for six months. [LB574]

SENATOR SCHUMACHER: Thank you. [LB574]

SENATOR GLOOR: Any final questions? Seeing none, thank you, Mark. [LB574]

MARK HESSER: Thank you. [LB574]

ROBERT J. HALLSTROM: (Exhibit 5) Chairman Gloor, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m, and I appear today as a registered lobbyist for the Nebraska Bankers Association in opposition to LB574. If Senator Davis is watching today, I certainly hope he's feeling better and I hope that my remarks don't deal him a setback. But we are here in opposition to the legislation. We feel that it does penalize investment and savings. Much of the legislation that comes before this committee, I believe, is designed with respect to economic development and tax policy to encourage folks to move to our state. This bill would accomplish just the opposite purpose. As Mr. Hesser alluded to, it would encourage people to be driven from the state. The fiscal note, I would agree, is probably far too conservative. That's not exactly a positive. But I would also suggest that you're probably looking at a situation where the bill certainly has a significant potential to raise revenues, but unfortunately, it may raise revenues in other states as folks move from Nebraska to avoid the imposition of this tax. Again, the application of the bill to business investments, particularly financial institutions, Mr. Hesser indicated the impact on his bank. It would be far in excess of that for the aggregate of banks in the state of Nebraska and would also have an adverse impact, as was suggested, on the price of loans for individuals to buy homes and such. It's a highly volatile source of revenue that cannot be depended upon from an administrative perspective. I think it would be...give rise to many controversies regarding valuations of nonpublicly held corporations. Senator Schumacher noted, where is the asset located? There would be arguments over the attribution and where the location of the asset is held. Mr. Sedlacek talked about the trends. Certainly when we did have an

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intangibles tax in Nebraska, it was at a time when we didn't have income and property taxes. Now that we do, I wouldn't want to pile on by adding intangibles tax on top of that. Florida found out most recently, I think, in about 2007, that the market distortions that resulted from their intangibles tax led to its repeal. And finally, I think at least it's worthy of consideration that the constitution, Article VIII, Section 1A provides that the state shall not levy property taxes. And there may be some question as to where that money goes but at least that may give some...make the bill constitutionally suspect. So with that, I'd be happy to address any questions that the committee may have. [LB574]

SENATOR GLOOR: Are there any questions for Mr. Hallstrom? Senator Scheer. [LB574]

SENATOR SCHEER: Thank you, Senator Gloor. Thanks for coming down today. Mr. Hesser made a point in his statement that...about interest rates for mortgages that would go up 1.5 percent to equate the additional payment. Where would banks be at if it was implemented? I mean, a lot of people have 15-, 20-year mortgage, 30-year mortgages. You aren't able to recoup any of that so where would you be in your margins with the amount of loan business that you would have on your books right now? [LB574]

ROBERT J. HALLSTROM: Well, it would impact it disproportionately. You don't have any measure to make up that difference on the existing loans, as you suggest. And that could put some pressure to even have to raise the difference higher to make up for it. [LB574]

SENATOR SCHEER: Thank you. [LB574]

SENATOR GLOOR: Seeing no other questions, thank you. [LB574]

ROBERT J. HALLSTROM: Thank you, Senator. [LB574]

SENATOR GLOOR: Other opponents. [LB574]

GALEN ULLSTROM: Chairman Gloor, members of the Revenue Committee, my name is Galen Ullstrom. That's G-a-l-e-n U-l-l-s-t-r-o-m. I'm senior vice president and registered lobbyist for Mutual of Omaha Insurance Company appearing today in opposition to LB574. Investments made by insurance companies are generally long term and major. And if you analyze those, the majority of those investments would be subject to the intangible tax. They're mainly stocks, bonds, mortgages, those type of things that are enumerated. That has an extreme negative impact on the insurance industry if those were taxed at a 1.5 percent. To put it in perspective, we ran the numbers just with our insurance subsidiaries, not including the banks or any other subsidiary we

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have. And the economic impact to us would be \$327 million the first year which is in excess of our net earnings last year. So it is a significant impact. I think all the insurance companies...we haven't determined exactly yet whether it only applies to Nebraska companies. But if it didn't, for some reason it brought in out-of-state companies, we also would be subject to a retaliatory tax in these other states since no other state taxes intangibles for insurance companies. So it would have a significant impact, but the \$327 million is the minimum that it would have for us on an ongoing basis each year. We mentioned the fact that we did have an intangible tax at one time but that was repealed in 1967. But when that tax was in existence, insurance companies paying premium tax were exempt from the intangible tax, so it's for the record. But I think it's a...we have been, the last X number of years, trying to encourage relocation of other companies from other states to Nebraska. We've been very successful at that over the last 10 to 15 years. Part of that has been because of the tax climate in Nebraska. The premium tax is one of the lowest in the country and it's brought people and people and jobs here. This would have amazingly chilling effect if anything is in the pipeline now. And I don't know that. I don't know whether there's companies the Department of Insurance is trying to recruit. But just the fact that this bill is out there imposing another 1.5 percent tax on intangibles would chill those companies and they would probably be running as fast as they could to Iowa or some other state. So I would hope that this committee would take some swift action on the bill if they feel that's justified. I'd be glad to answer any questions. [LB574]

SENATOR GLOOR: Are there questions? Seeing none, thank you, Mr. Ullstrom. [LB574]

GALEN ULLSTROM: Thank you. Thank you, Senator. [LB574]

SENATOR GLOOR: Other opponents. [LB574]

JESSICA SMITH: Hello. [LB574]

SENATOR GLOOR: Good afternoon. [LB574]

JESSICA SMITH: (Exhibit 6) Good afternoon, Chairman Gloor, members of the Revenue Committee. My name is Jessica Smith, J-e-s-s-i-c-a S-m-i-t-h, and I'm testifying today on behalf of the Platte Institute. I'm going to skip over some of my testimony just to save us all the...some time. It's a little redundant of what some folks have already talked about. Just wanted to say that the Platte Institute strongly agrees that we need property tax reform. It needs to be prioritized. But shifting this kind of tax liability is not the type of mechanism to do so. It's going to...you know, it will greatly harm our economy, as some folks have already testified to. And I also wanted to read a quote from the Tax Foundation: Creating yet another tax, especially another destructive income tax, will mean that Nebraska loses economic opportunities that it otherwise

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might have enjoyed. New and higher taxes will mean less economic development and growth in turn hobbling wage growth and corresponding improvements to Nebraskans' standards of living for years to come. I was here last week. You all heard me testify in support of LB259. We are very excited to see it advance. We're trying to get rid of taxing tangible property. It doesn't make any sense from a tax policy standpoint to further create havoc in our system and put a new tax on intangible. I thought Mr. Hesser did a fantastic job kind of stating what the consequences were going to be if we put this kind of tax on for Nebraska's economy. We need to do everything we can to make our economy competitive. We need to make sure that folks don't go out the door and flee for neighboring states. We...doesn't make any sense to basically be holding the door open for them as they're exiting. So with that, I will be happy to answer any questions and wanted to thank you for allowing me to come speak to you today. [LB574]

SENATOR GLOOR: Any questions for Ms. Smith? Thank you. [LB574]

JESSICA SMITH: Thank you. [LB574]

SENATOR GLOOR: Any additional opponents? Anyone in a neutral capacity? Good afternoon. [LB574]

RENEE FRY: (Exhibit 7) Good afternoon, Chairman Gloor and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of the OpenSky Policy Institute. I am here testifying in a neutral capacity at Senator Davis' request. He did ask for some research assistance on this bill which we provided and which I have handed out to you. Senator Scheer, there are five states that have some level of an intangibles tax. Those are listed on the second page there. Senator Schumacher, you are correct. Administrative and enforcement issues have been cited for the reduced use of taxing intangibles. I would be happy to answer any other questions that this committee might have. I would like to clarify for the record that I understand Jan McKenzie sent out an e-mail indicating that this was introduced at our request. And I am disappointed in her misrepresentation of our role. We do research for senators as they request and we see ourselves as a resource to provide data information. So I just wanted to clarify that to make sure that there wasn't any misunderstanding. And with that, I'd be happy to answer any questions. [LB574]

SENATOR GLOOR: Thank you. Are there any questions? Seeing none, thank you, Ms. Fry. [LB574]

RENEE FRY: Thank you. [LB574]

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SENATOR GLOOR: (Exhibit 8) And that's a reminder that we do have one letter from Jan McKenzie, Nebraska Insurance Federation. You're...as committee members, you're welcome to look through that and see if there was that concern of misrepresentation. Any other folks in a neutral capacity? Seeing none, Ms. Case, do you have any prepared comments for closing? [LB574]

CHRISTINA CASE: No, I don't. Thank you. [LB574]

SENATOR GLOOR: Okay. And that will end the hearing on LB574. Senator Harr, we would now welcome you to the dais. Whenever you're ready, sir. [LB574]

SENATOR HARR: Thank you, Mr. Chairman. And, members of the Revenue Committee, my name is Burke Harr, H-a-r-r. I am from Legislative District 8, midtown Omaha and I am here for LB466. LB466 would create a mechanism for delaying local option sales taxes due a job credit claimant under provisions of Section 77-27,144. Under the bill, a city that qualifies would be given one year's notice of refunds to be paid under the bill. The bill would allow cities to specifically budget and pay for all prior year refunds with a one-year notice. Currently, only first- and second-class cities and villages that refund 25 percent or more of their local option sales taxes a year qualify for the one-year notice. LB466 would allow those cities and villages to continue to qualify for the notice but it would also make it make all cities that refund \$1 million or more per year also qualify for the notice. The new cities that would qualify would be Lincoln and Omaha. This bill was brought to me by the city of Omaha due to their concerns about how the current process impacts their ability to budget. They have shared with me that the problem with the notice is that the projections are based on the information available in the Department of Revenue database and can vary from actual payout and credits depending on the time necessary for the approval of pending claims. The outcome may be much more dramatic than predictions. They may receive a notice detailing how many claims have actually been filed in any given month but no indication on when they will actually be approved. As a result, they may have a difficult time predicting the impact on their budget due to the limited information that is provided to them. As you will see in the fiscal note, there would be a reduction to the General Fund should LB466 be passed. This year's...first year's impact would be about \$5.2 million and the second impact would be nearly \$6 million. The impact in later years is estimated to be less than \$1 million. Steve Curtiss, financial director for the city of Omaha will testify after me to provide additional information to the committee. With that, I will happily entertain any questions you may have and ask for your support on LB466. Thank you. [LB466]

SENATOR GLOOR: Thank you, Senator Harr. Any questions for Senator Harr at this time? I don't see any. Thank you. [LB466]

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SENATOR HARR: Thank you. [LB466]

SENATOR GLOOR: We'll start with proponents. [LB466]

STEVE CURTISS: Good afternoon, Senators. My name is Steve Curtiss, C-u-r-t-i-s-s. I'm the finance director for the city of Omaha. I'll try not to repeat some of the things that Senator Harr spoke about but this provision in LB466 would expand the ability for cities to get notice and what it really says is, the notification requirements for first-class, second-class cities and villages will be expanded to all cities which we certainly think would be fair. One thing, to be clear, Omaha is very supportive of the advantage acts that have been passed including LB775 that began in the late 80s. We began to experience the refunds. In 1990, the last record that we had...or the first record that we had, and it was approximately \$5 million. Since that time, it's ranged between on the low side \$5 million and on the high side \$13 million which becomes fairly unpredictable including the last five years: It ranged from about \$5 million to about \$12.5 million. Those refunds waffle between 5 to 10 percent of our entire sales tax budget for the general fund. So it becomes fairly unpredictable. So there is some notice but it is fairly unpredictable in that we can't tell when things are going to occur or if they're going to occur. We don't know if an application that's been submitted will be approved. We don't know when for sure that the claimant will make their claim. So it becomes somewhat unpredictable. The pattern is also somewhat undiscernible for us so it makes it a very difficult task for us to try to predict...in a balanced-budget city like we have by charter, it becomes very difficult to decide, well, how much do we put in for that? And if it swings \$5 million, \$6 million, \$7 million, how do we account for that? Since we are a balanced-budget city, we have had to contemplate things like job freezes, layoffs, deferral of maintenance items. And in fact, the most recent event was in 2013 when we budgeted approximately \$7.5 million for these refunds which was consistent with the most recently closed year and our actual refunds were \$12.5 million. So that \$5 million became somewhat of a financial crisis for the city. We had to have...we had citywide job freezes. We deferred maintenance, contemplated layoffs. Public service and public safety expenditures were deferred. So I guess what we would say is, this would give us the opportunity to make our budgeting a little more predictable and we would certainly ask for your support for this bill and I'd be happy to take any questions. [LB466]

SENATOR GLOOR: Thank you, Mr. Curtiss. Are there any questions? Senator Schumacher. [LB466]

SENATOR SCHUMACHER: Thank you, Senator Gloor. I'm trying to get a picture of how this works and why there's these...negative fiscal notes are like this. So you have a company. It makes a deal with the state that it's going to get a refund of its sales or income tax if it meets certain investment criteria and/or job criteria. So that deal is out there. And then one day the sun rises

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and the Department of Revenue determines that, yes, the company has done what it said it did. So it...the state...or the company is owed a refund by somebody. And does that refund...and then I gather, under the present system, the state pays that refund right away once the... [LB466]

STEVE CURTISS: I believe so. I think the disconnect that you may be trying to discern is the fact that, from the time they put their paperwork in and we receive notice, it's not clear that it will be approved by the Department of Revenue or when that claimant will finally actually make that claim. [LB466]

SENATOR SCHUMACHER: But I guess what I'm getting at is that...so eventually the city has got to cough up the money, its share of it. [LB466]

STEVE CURTISS: Yes. And the notice provision in that case is not long enough to...yeah, as you know, like the state, our budget cycles are fairly long. [LB466]

SENATOR SCHUMACHER: But except for the time that...between the time the state refunds the money to the business and then recollects it from the city, I mean, overall they're...all we're talking about is interest on money, aren't we? Lost interest? We're not talking about money because eventually the state will get all the money that's due from the city. [LB466]

STEVE CURTISS: From the state, that is correct. [LB466]

SENATOR SCHUMACHER: Right. Right. [LB466]

STEVE CURTISS: From the city's perspective we're really expecting to pay or be netted out that full amount as well, to your point. It's just the predictability of the timing but, yes, all the money would still be paid out. [LB466]

SENATOR SCHUMACHER: Okay. So is it like in...once this initial surge gets through and, like, your 17 to 18, the \$781,000, does that represent interest on that money? [LB466]

STEVE CURTISS: It would probably represent the growth. If you think about it, you're deferring a year, so it would just be now the growth as you go from year to year. So if it was a total of \$20 million, after two years of that if it was \$20 million every year, there would be no additional cost. If it's \$20 million in that third year, that one additional million would be that float for one year. So it's just the growth from there on out. [LB466]

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SENATOR SCHUMACHER: So this bill, so to speak...the state pays the city's bill to the business and then is waiting a year to be reimbursed from the city? [LB466]

STEVE CURTISS: So to your point, it's just the interest, yes. [LB466]

SENATOR SCHUMACHER: Thank you. [LB466]

SENATOR GLOOR: Seeing no other questions, thank you. [LB466]

STEVE CURTISS: Thank you. [LB466]

LYNN REX: Senator Gloor, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We are here today in strong support of this measure and, again, we really appreciate the work of this committee in 2012 in particular, 2011 and 2012, when it was chaired by Senator Cornett because at that time, LB209 was worked on and advanced and that bill basically is the language that you have in the...if you look on page 2 of this bill, LB209 set the precedent by saying that basically the state of Nebraska would carry the refund amounts for municipalities if it was 25 percent of a municipality's--reading on line 17, page 2--25 percent of the municipality's total sales and use tax receipts net of any refunds or sales tax collection fees for the municipality's prior year. And then basically what's being inserted here is "or \$1 million, whichever is less." And a couple of things here that I think are important: The reason why this was so important for first-class cities, second-class cities, and villages, of which, by the way, currently we have 211 municipalities in this state with local option sales tax. The reason why it was important is from a funding standpoint. At the time, Doug Ewald came over and testified before this committee that there was a 22-year window from the time that an LB775 company would apply and then when they might decide or when they meet performance standards and then the municipality would have these, basically, deductions or these refunds would occur. And let me submit to you that even as this bill would apply to the city of Omaha and those cities when you have a \$1 million refund, you're looking here at a situation where, in the end, the state of Nebraska is going to get that money back the next year because they're going to deduct that amount in one-twelfth increments. So this is a budgeting tool for municipalities. These municipalities are not saying, and in particularly Omaha today is not saying, that we want you to basically pay this. They're saying, we understand that these are the kinds of refunds that are being paid out and so we want the state of Nebraska, as you're already doing, to pay the refund. We're just saying, if it's over \$1 million over the prior year, please do not deduct that from the refunds coming to the city of Omaha in the same way that this is being done for other cities in the state when it's 25 percent of their budget, or not 25 percent of the budget but 25 percent of their refunds that we've talked about previously here. And it's really important from a budgeting standpoint. This became critically important as more and

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more cities were getting...having these refunds taken out when you're looking at the third calendar quarter. And by that time, the impact on a municipal budget for cities like Chadron and Alliance are just devastating. When you're looking at anywhere from a \$500,000 to a \$600,000 refund, that's a boatload of money, and especially if it's a third calendar...third-quarter calendar refund. So this basically...LB209 was passed in 2012 for other cities in the state. This basically adds the \$1 million amount. And, Senator Schumacher, it isn't that the city pays it back. It is that the state of Nebraska...it's what the state of Nebraska deducts on the front-end. So they never pay it back. It's just what they don't get and then the state of Nebraska then deducts it in one-twelfth increments in the future. So bottom line is, this bill per se does not say that the state of Nebraska is paying for those LB775 Nebraska Advantage Act refunds that are local option sales tax refunds. It is saying, we are going to give you local governments one year to budget for that so that you are not...so you don't have a disparate impact on your budget. And I'd be happy to answer any questions that you might have. [LB466]

SENATOR GLOOR: Are there any questions for Ms. Rex? Senator Schumacher. [LB466]

SENATOR SCHUMACHER: Thank you, Senator Gloor. What was the reasoning for the exclusion of Lincoln and Omaha from the deal in 2012? There must have been...either they were sleeping or there must have been some controversy. [LB466]

LYNN REX: Really neither. What happened, Senator, is that Senator Cornett and others were meeting with the Department of Revenue and at that time they were given a directive, from whom I don't know, but it was communicated back to Senator Cornett that the state of Nebraska at that time did not feel that they could carry Lincoln and Omaha on this. When you look at the state budget compared to even the budget of Lincoln and Omaha, certainly the state of Nebraska can afford to carry this amount of money so that there can be some budgeting principles, you know, put in play in Lincoln and Omaha. So at that time, I don't know what else the reason was and so essentially Senator Cornett said, okay, well, we're going to go ahead then with first-class cities, second-class cities, and villages. And that is my recollection of what happened. Committee counsel may have more information for you that she can provide. But that's my recollection of what happened. [LB466]

SENATOR SCHUMACHER: Thank you. [LB466]

LYNN REX: You're welcome. [LB466]

SENATOR GLOOR: Other questions? Seeing none, thank you, Lynn. [LB466]

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LYNN REX: Thank you very much. [LB466]

SENATOR GLOOR: Continue with proponents. [LB466]

JACK CHELOHA: (Exhibit 1) Good afternoon, Chairman Gloor and members of the Revenue Committee. My name is Jack Cheloha. The first name is spelled J-a-c-k. The last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha and I want to testify in support of LB466. First of all, let me thank Senator Harr for introducing LB466 on our behalf. If I could, I...at first I didn't know if I needed to testify because I already had my finance director up. I know it's hot so I'll try to be brief. Senator Schumacher, your question to Ms. Rex played right into what I wanted to talk about. Back in 2012 on LB209, the city of Omaha and Lincoln were supportive of that bill, and we supported it. We worked in favor of it. But as it was explained to you, at the time we basically fell out of the bill. When the bill was debated on the floor, Omaha senators were aware of this. They tried a floor amendment, if you will, to put Omaha and Lincoln back into the bill and that's when the Department of Revenue came forward and said, we can't afford to carry the two largest cities because of the large amount of their refunds, you know, at this time. And in particular, we can't do it, you know, just with a floor amendment as we go along. And so we did have the support even back then from now Appropriations Chair Mello. Senator Krist offered the amendment on our behalf and we did try again last year with a similar bill to get Omaha and Lincoln included and then Revenue Chair Senator Hadley said, once again, with the floor amendment we're just not prepared for it but why don't you go ahead and get a bill? And I can't remember what the exact quote was but basically he said, I'll work with you to try to get you guys included. So that's why we're here in 2015. We thank Senator Harr as the only member of the metro delegation for introducing the bill on our behalf. And so in the interest of fairness, we'd like to be included. We'd like the bill to pass so that way Omaha and Lincoln could have that year's notice and be able to fully budget for what our refunds would be. And it would make things a lot easier for us especially near the end of the calendar year because Omaha does their budget on a calendar year. And that way we could know exactly how much our refunds were. With that, I'll try to answer any questions you might have. [LB466]

SENATOR GLOOR: Are there any questions for Mr. Cheloha? Senator Schumacher. [LB466]

SENATOR SCHUMACHER: Thank you, Senator Gloor. So the reason for the disparity between the first two years of \$5 million whatever and then less than \$1 million there out, is the city going to get any reprieve out of this at which time it will pay nothing? [LB466]

JACK CHELOHA: Basically, Senator, as I understand it, we could have a one-year reprieve, if you will, where we would have...you know, and then we would pay the year in arrears. We would

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always be playing catch-up. So that is possible. But once again, in the end, you know, the state will be fully refunded for whatever our local option sales tax refund was. [LB466]

SENATOR SCHUMACHER: So basically, after the money starts flowing, it will be about...they'll be about \$800,000 behind or...so to speak, and the state will advance that. But right now, because there's going to be a year pause in revenue from Omaha and Lincoln to the state in which nothing will be deducted, is that how you think this is going to work? [LB466]

JACK CHELOHA: Well, the bill is written to be implemented on January 1, 2016. [LB466]

SENATOR SCHUMACHER: Okay. [LB466]

JACK CHELOHA: And as I understand, if we did do it in one fell swoop, you know, it is possible to have that gap, if you will. I don't think, in terms of how...because the state runs your budget on July 1 through June 30, I don't think we would ever get a full year of not any...paying any refunds. It might be only six months. But once again, I think the way it's written, we ultimately are going to play catch-up and we'll fully reimburse the state for our local refunds. [LB466]

SENATOR SCHUMACHER: But if we didn't have a gap, if somehow we had an even flow of money through there where those two years in that fiscal note would drop considerable... [LB466]

JACK CHELOHA: Oh, absolutely, and... [LB466]

SENATOR SCHUMACHER: ...so the problem is, we're not charging...we made the payment, we're not charging for a whole year, whereas if we charge you something for that year, we can even out that \$500 million. [LB466]

JACK CHELOHA: Possibly, yeah, because the fiscal note looks high. [LB466]

SENATOR SCHUMACHER: (Inaudible) [LB466]

JACK CHELOHA: You're right. It looks high because of the first time period of refunds. [LB466]

SENATOR SCHUMACHER: Thank you. [LB466]

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JACK CHELOHA: And maybe there's something we could work out or we could implement it, integrate it somehow. But that's something to think about, I guess. [LB466]

SENATOR SCHUMACHER: Thank you. [LB466]

SENATOR GLOOR: I see no other questions. Thank you, Jack. [LB466]

JACK CHELOHA: Thank you. [LB466]

SENATOR GLOOR: Other proponents. Anyone in opposition to this bill? Anyone in a neutral capacity? Senator Harr, you're recognized to close. [LB466]

SENATOR HARR: Thank you. I will leave you with this thought: What's good for the goose is good for the gander. With that, I'd close. [LB466]

SENATOR GLOOR: Thank you, Senator Harr, and that ends LB466 on a high note. LB550 is now up. Senator Harr, that's also yours. [LB466]

SENATOR HARR: Thank you, Mr. Chairman, members of the Revenue Committee. My name is Burke Harr, H-a-r-r, and I am here on LB550. LB550 would eliminate the 3 percent administrative fee deducted from local sales and use taxes by the Department of Revenue and remit it to the Municipal Equalization Fund, or MEF. The fund is a form of state aid that was adopted in connection with the lid and levy restrictions passed in the late 1990s. The distribution formula currently in state law essentially provides assistance to the cities and villages with high property tax levies and low per-capita valuations. The formula is currently funded by two revenue streams: an insurance tax and a 3 percent of the local portion of sales tax dollars that the Tax Commissioner collects as administrative fees and then credits to the fund. LB550 would replace the 3 percent of local sales tax dollars with a General Fund appropriation. On page 4 of the bill, the new language limits the General Fund appropriation to an amount no greater than 3 percent of the local portion of sales tax dollars. As the fiscal note indicates, this would amount to approximately \$12 million per year. As I mentioned earlier, this is a form of state aid to our municipalities, but it is an equalization aid, rather than a population-based aid. It essentially results in some municipalities subsidizing others and also penalizes those communities with a low property tax levy. I would note that Nebraska's two largest cities or communities, Omaha and Lincoln, pay a significant amount to the fund, about \$4.4 million and \$12 million...or, excuse me, \$2 million, respectively, and getting nothing back in the form of...in MEF payments. There are other communities in the same situation. I would also note that there have been efforts over the years to adjust the MEF or amend the MEF status. In 2014 (sic), Speaker Flood

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succeeded in passing LB1114--that might be '12--in order to provide at least some MEF funding for communities that would otherwise be entitled to such funding but for their low property tax levy. In 2004, my predecessor, Senator Patrick Bourne, introduced a bill that tried to reduce the sales tax fee for MEF from 3 to 2 percent. Omaha, Lincoln, and the league supported the bill, but the bill was not advanced for further debate. To provide additional information on the merits of this bill, I am honored to say, Mayor Chris Beutler will be...and Lynn Rex will testify after me. But I would be more than willing to entertain any questions and again ask for your support on LB550. [LB550]

SENATOR GLOOR: Are there any questions right now? I don't see any. [LB550]

SENATOR HARR: Thank you. [LB550]

SENATOR GLOOR: Thank you, Senator. We will start with proponents. [LB550]

LYNN REX: Senator Gloor, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. Senator...or Mayor Beutler is now testifying before the Appropriations Committee and we're hoping he gets back here in time. He's testifying as we speak. So with that, we'd like to tell you why we support LB550. Back in 1996, when the Legislature was looking at what to do with levy limits and lids--that was following a major initiative by Senator Warner at the time--this Legislature passed what was then the levy limit bill, LB1114, and also the lid bill, LB299. The levy limits were to go in effect from 1996 to 1998, taking effect in 1998. The lid was in effect from 1996 to 1998 and it was supposed to go off. That never happened, so we have both the lid on restricted funds and we have the levy limits. Second-class cities and villages, in particular, as Senator Brasch knows--we've had this discussion many times and lots of her cities have been impacted by this--those cities at that time were already at \$1.05 per \$100 of valuation. That was their statutory maximum. They, in fact, and virtually every second-class city and village in this state--we have...at that time, we had 532 cities and villages; now we have 529--of those, we've got Lincoln, Omaha, at that time, 30 cities of the first class--the rest are all second-class cities and villages--they were all over \$1.05 per \$100 of valuation. They were given two years to go down to 45 cents plus 5. That had a draconian impact on them. So Senator Warner and this committee and others decided, look, we need to have some type of an equalization and assistance formula for them and the Municipal Equalization Fund came out of that. It was intended to provide...to be need based and it was, as Senator Harr has indicated, funded with the 3 percent collection fee from local option sales tax, as well as the insurance premium tax. So what has occurred, basically, is that you have other cities subsidizing other cities. And it's been kind of a longstanding effort to look at this issue and to try to figure out a way in which basically all municipalities can be treated with equity on it and certainly not impact in any negative way those municipalities that are rightly receiving

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Municipal Equalization Fund monies because it is on a need basis. So with that, this bill basically takes from the General Fund those funds that are now being provided by the 3 percent collection fee for local option sales tax in the state of Nebraska. So it basically puts in play what we think should have happened in the first instance, which is, if it's a state aid program, if you will, then it should come from the state General Funds, not from other municipalities subsidizing other municipalities. But certainly, these cities receiving the Municipal Equalization Funds really need those funds and we also think, in equity to those other municipalities, it is only fair to place this bill in effect. So we thank Senator Harr again for introducing LB550 and we do think that, again, out of fairness, this is one of those bills that should be seriously considered by this committee. I'd be happy to respond to any questions that you might have. [LB550]

SENATOR GLOOR: Are there any questions for Ms. Rex? I don't see any. [LB550]

LYNN REX: Thank you very much. [LB550]

SENATOR GLOOR: Thank you. We continue with proponents. [LB550]

CHRIS BEUTLER: (Exhibits 1 and 2) Mr. Chairman, good afternoon. [LB550]

SENATOR GLOOR: Mr. Mayor. [LB550]

CHRIS BEUTLER: Members of the committee, thank you for the opportunity to talk to you just a little bit. I'm having bad luck today. I've only testified once so far before the Legislature and today I have...I'm appearing before two committees and at exactly the same time. (Laugh) So I'm sorry for the lack of order here if it creates a lack of order. But I am delighted to be here. Again, my name, for the record, is Chris Beutler, mayor of Lincoln. As you may recall, the Municipal Equalization Fund was created back in 1996 with the lid and levy restrictions that have been adopted by the Legislature some time ago. That fund and the levy restrictions took place back in 1998. The distribution formula was designed to help those municipalities, of course, who were struggling with some of those restrictions. The formula basically provides assistance to those cities and villages with high property tax levies and low per-capita valuations. As Senator Harr noted in his opening, and again we'd like to thank Senator Harr for allowing this topic to be discussed again, as he noted in his opening, it is currently funded by two sources: the insurance premium tax and 3 percent of our local sales tax revenues. Here in Lincoln, that 3 percent equates to about \$2 million or so per year. And as Senator Harr also noted, neither Lincoln nor Omaha currently receive any of this MEF funding. There have been efforts over the years to tweak that formula. The problem with that approach though is that, unless new revenues are added, as Senator Sullivan I'm sure recognizes from her other work, most tweaks inevitably result in winners or...and losers. That is something we wanted to avoid and that's why this bill as

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drafted adds state General Fund dollars to the equation. By allowing municipalities to retain their local option sales tax interest, we're creating only winners. And I had handed out to you some information I thought you might find interesting about your own communities and what adding the dollars under LB550 would add to those communities, not take away but add. We all remember those challenging economic years starting in about 2008 or so. Except for the influx of stimulus dollars, federal revenues flowing to the state and to local governments were generally flat or reduced as the country struggled through the national recession. The state was forced to make difficult decisions in balancing its budgets which ultimately led to declining state assistance for municipalities, including the loss of state aid with the passage of LB383 in 2011. So here in Lincoln, LB383 resulted in the loss of about \$1.8 million. That had a negative impact, obviously, particularly after several prior years of significant local budget deficits. That loss is the assistance that we simply seek to restore today. But even before 2011 we, too, had to balance our budget locally and we, too, did so by making difficult decisions. We were forced to cut bus routes and services offered by our aging partners division. We reduced park mowing schedules, pool hours and library hours, and we cut 119 full-time-equivalent positions, or about 5.3 percent of our overall work force. We just had to reduce the size of government and we did. Looking back you'll see...and that reduction in the work force, by the way, continues to today. We have not replaced those people. Looking back you'll see that our non-public safety work force is actually reduced by 8 percent. We didn't cut firemen, we didn't cut police, but we did cut the rest of our budget even harder because we needed to reduce our expenditures. And that, all of that cutting, was done despite the city's significant growth, both in terms of area and population. Population over that time period is about 14 percent up and the area is about 8.3 percent up. So we know that local political subdivisions need to find greater efficiencies and continue to work at new technologies and partnerships and other means. It's our responsibility, obviously, always to continue to look to reorganize and to restructure and to do more with less and we have been. And as the past president of the League of Municipalities, I would submit that your political subdivision, your municipal governments have done a great job of that over the last decade and will continue to do so. That being said, we also need to invest in our communities if we want them to continue growing and moving forward. LB550 recognizes that need for investment and restores the partnership between the state and the municipalities, a partnership that Lynn Rex has told you more about just a few minutes ago. So I'm running out of time, but I hope that the Legislature as a whole will again give serious consideration to restoring that partnership that you've had with the municipalities, which has been greatly appreciated in the past. Thank you.
[LB550]

SENATOR GLOOR: Thank you, Mayor Beutler. Are there any questions? Senator Schumacher.
[LB550]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Mayor Beutler, thank you for coming to us today and for being in two places at once. I was going to try to find you in the other hearing

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at the same time to see how that worked. If you had a choice between this bill, LB550, and a piece of the action under an increase in the gas tax, which would you choose? [LB550]

CHRIS BEUTLER: Senator, off the top of my head, I don't recall the amount of money involved in the gas tax. This bill or the gas tax would be used for the same purpose in the city of Lincoln and it's to improve the roads and streets. So I can't answer your question. I'll send you an answer to the question though. [LB550]

SENATOR SCHUMACHER: Okay, well, we're a long ways from the gas tax yet but, nevertheless, I thought was interesting to know your answer. [LB550]

CHRIS BEUTLER: Yeah. [LB550]

SENATOR SCHUMACHER: Thank you. [LB550]

SENATOR GLOOR: Any other questions? I don't see any. Thank you for being two places at the same time. [LB550]

CHRIS BEUTLER: Okay, thank you for listening. [LB550]

SENATOR GLOOR: Continue with proponents. Afternoon. [LB550]

GARY PERSON: (Exhibits 3-5) Hello. My name is Gary, G-a-r-y, Person, spelled like "person," P-e-r-s-o-n. I'm the city manager from Sidney, Nebraska. I bring you greetings from the wild, woolly west. It's interesting to note that 135 years ago this week Sidney made national headlines with the largest gold robbery/heist in the history of the United States in beautiful downtown Sidney. I'm not here to get it all back. We just want to keep what we feel is rightfully ours. I'd like to thank Senator Harr for introducing LB550 and honorable Chairman Senator Gloor and the Revenue Committee members for considering forwarding this bill for potential approval. And I want to thank you for your public service and all that you do for our state, our citizens, and our local communities. In the many years the Municipal Equalization Fund has existed, its formula and funding mechanism has been a great source of irritation for our community of Sidney. LB550 will correct at least part of that issue and we would urge strong support for its passage. We strongly believe that if state aid or state equalization funds exist, the revenues should be funded by the state of Nebraska and not from formulas such as the 3 percent administrative fee placed on local sales tax revenue. Why should Sidney, Nebraska, be expected to help subsidize communities much larger than ours with more resources than we have? I'm providing you a chart to show this great disparity in just over the past ten years among first-class cities. While one

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community gets nearly \$1 million a year from MEF, a handful of us get nothing. If the state wants to do that, you certainly have the right to, even though philosophically we believe this is wrong and would certainly argue the formula is flawed. Above all, we believe our Sidney local taxpayers should not be responsible for funding other communities or state programs. The last six years, Sidney has ranked dead last in any type of state MEF funding and ranks number one in negative per-capita revenue loss to fund state programs. We lost approximately \$1.5 million local sales tax revenue to the MEF formula since its inception. In total, Sidney has lost approximately \$7 million of our local sales tax revenue in recent years to pay for state incentive programs. No community in Nebraska comes even close to being so negatively impacted on a per-capita basis. To place Sidney's local revenue loss impact into perspective, this would be like Omaha losing \$408 million or Lincoln losing \$256 million in the same time frame. To add more insult to our dilemma, Nebraska's community development block grant funding program now uses the MEF formula to help determine community need in its scoring. The issue is simple. Local citizens voted in local sales tax initiatives for specific local purposes. The state, we would argue, should not redirect those local funds without the consent of the local citizens or local governing authority in order to pay for state programs. Because our community now has a 2 percent local sales tax, the current MEF funding formula also now penalizes Sidney a disproportionate amount in comparison to communities who may have only 1.5 (percent), 1 (percent), or no sales tax. The 3 percent MEF fee projects to be \$120,000 loss for this next fiscal year for Sidney. Our growth and development has happened because of hard work, vision, and embracing business and industry on the local level with bold public- and private-sector decisions to grow our economy. Consequently, the state of Nebraska has benefited from our hard work through additional state income, state sales, and state fuel revenues, yet the formulas like this penalize us for our success. How many times have we all preached on the state and local levels that we need property tax relief? Sidney could cut 15 cents off of our local city property tax levy this year, more than a third of it, 37 percent, if we could just keep the local sales tax revenue that was adopted by our local citizens for local purposes but, instead, we lose to fund state programs. If Sidney even received a little bit of MEF for state aid, we could cut property taxes even more. And finally, I'd just like to note that Sidney did beat Scottsbluff in the first round of state basketball tournament this morning, so I wanted to make sure that got into the record (laughter). [LB550]

SENATOR GLOOR: Thank you. Any questions for Mr. Person? I don't see any. Thank you. [LB550]

GARY PERSON: Thank you. [LB550]

SENATOR GLOOR: And good luck tomorrow. [LB550]

GARY PERSON: Thank you. [LB550]

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STEVE CURTISS: Good afternoon again, Senators. My name is Steve Curtiss, C-u-r-t-i-s-s, and I am the finance director for the city of Omaha. And we're here today to support LB550 which does eliminate the 3 percent administrative fee that's deducted from the local option sales tax. This fee has been as much as \$4-4.5 million from the city of Omaha in the last few years, and that's each year. I believe the most current year that we just closed was about \$4.4 million. The city of Omaha, like most cities of our size, is constantly looking for ways to finance itself, and these funds are important to us. We know, as we look out to 2016, our other revenue sources are growing by probably less than 1 percent, which does put quite a strain on our budget going forward. Going into '17, the same kind of situation, we have labor union contracts to perform on and to adhere to and, in most cases, although those aren't exorbitant, they do get 2 percent. So between that and healthcare inflation, these sorts of funds help us to fund critical things like infrastructure, keep us from having salary freezes, layoffs, and things that would affect the efficiency of the government in that area. So I know you've had a lot of testimony. It's all been fairly compelling. I don't know that I have a lot to add other than we would ask for your support for this bill. We think it's important. We think it's fair. Just \$4.5 million from us seems like a lot of money. We could certainly use that money in our own local option sales tax to fund some of the initiatives and things that we believe are important in our neighborhood and that our sales tax was collected from our citizens to do. So we hope that you can see your way through to advance this out of committee and I'll be happy to take any questions. [LB550]

SENATOR GLOOR: Are there any questions? Senator Schumacher. [LB550]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Right now, as I understand it, the state gets 3 percent for collecting your sales tax. [LB550]

STEVE CURTISS: Yes. [LB550]

SENATOR SCHUMACHER: And you would just...and that gets plowed back into this fund. [LB550]

STEVE CURTISS: Yes. [LB550]

SENATOR SCHUMACHER: And you'd just as soon the state collect sales tax for free and that's the deal. [LB550]

STEVE CURTISS: Or, said another way, the city of Omaha would like to put in a bid to collect this for 2.5 percent. I think the...yeah, that's...I'm just joking. The fee, it's...I'm assuming that the administrative costs are maybe \$500,000 to \$1 million. I'm not sure. I think it'd be interesting to

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have them maybe collect enough to cover the fee and then let the cities decide how to spend the rest of that. [LB550]

SENATOR SCHUMACHER: Thank you. [LB550]

SENATOR GLOOR: I see no other questions. Thank you. Any other proponents? Anyone in opposition to this bill? Anyone in a neutral capacity? Senator Harr, you're recognized to close. [LB550]

SENATOR HARR: I'll make this brief because it is much cooler on this side than under the lights. You know, I jokingly say a lot, what's good for the goose is good for the gander, but in this case, you know, the reason I say what's good for the goose is good for the gander is because what we have here is money being collected and not being redistributed equally and that happens throughout the state and I think, you know, maybe that's okay. We do it in education. But we hear a lot of griping from other sectors about this that the money isn't redistributed equally and I just...I think this is important to show that there are other ways that monies are collected that they aren't redistributed equally. And if we're going to start taking that role, that money has to go directly back where it came from, then this is a viable bill that we probably should implement. And at that point, I'd close and entertain any questions. [LB550]

SENATOR GLOOR: I see no questions. Thank you, Senator Harr. [LB550]

SENATOR HARR: Thank you. [LB550]

SENATOR GLOOR: And that will end the hearing and it will end the hearings for today. Thank you. [LB550]