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Revenue Committee  
February 18, 2016

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[LB797 LB825 LB1104 LR390CA]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 18, 2016, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB797, LB825, LB1104, and LR390CA. Senators present: Mike Gloor, Chairperson; Paul Schumacher, Vice Chairperson; Lydia Brasch; Al Davis; Burke Harr; Jim Scheer; Jim Smith; and Kate Sullivan. Senators absent: None.

SENATOR GLOOR: Good afternoon. Welcome to the Revenue Committee. I'm Mike Gloor, District 35 which is Grand Island. I'm Chair of the Revenue Committee. Welcome. We'll take the bills today in the order that they're posted outside. Those of you who may be streaming this may have had a bit of a different agenda, but our order of the day is LB797, then we'll go to LB1104, then LB825, then LR390CA. So that's the order of the agenda of the day for those of you who haven't been able to see the updated agenda. We have a couple of general rules, would ask that you either turn off your cell phone or put it on mute. If you're planning to provide testimony today, please fill out one of the sign-in sheets for us so that you can hand that to the clerk when you come up to give your testimony. When you give your testimony we'd ask that you speak into the mike so that we can get it clearly. We'd ask you to give us your name and spell your name so that we also have it accurately for the record. If you have handouts, we need 11 handouts. And if you recognize that you don't have 11 handouts get the attention of our pages. Our pages will be glad to help you get your 11 handouts. This is...appears to be a regular to...the most part, a regular or professional presentation...crowd today since you're all sitting forward. I very much appreciate that. It's...we're not spending a lot of time with people going to and fro, but if you are getting ready to speak to us please move closer to the front as that time approaches so we're not doing a lot of time with back and forth. We have a time clock, five minutes. You'll see the green light up here when you start, and after four minutes it goes to a yellow light which tells you you have one minute left before it goes red. And we ask that you wrap up your comments when the light turns red. If you decided not to testify today but you would like your stance on a specific bill to be known, there are also sheets in the back where you can sign your name and let us know what your stance is on a specific bill. The order of testimony is the presenter of the bill will be given a chance to open, then we'll go to proponents, then opponents, those in a neutral capacity, and then the introducing senator has an opportunity to close. Staff for us are Mary Jane Egr Edson who is counsel, Kay Bergquist who is our research analyst, she's down at my right. And Krissa Delka who is clerk who's down there on my left. And we have Jordan and Brenda...no, we have Alex from Aurora and Brenda from Wakefield with us today, pages, they're here to help you as well as help us. Please try and speak into the microphone again. We had some problems yesterday with people having a problem hearing, although understand the microphones are less for projection out there than they are for the transcribers to be able to get the testimony accurately. I'll ask the senators to introduce themselves starting with Senator Scheer.

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SENATOR SCHEER: I'm Jim Scheer from 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 central Nebraska.

SENATOR BRASCH: Lydia Brasch, District 16; that is Burt County, Cuming County, and Washington County.

SENATOR HARR: And I am Burke Harr, Legislative District 8 in the hot seat.

SENATOR GLOOR: And our first presenter today with LB797. Senator Harr, welcome.

SENATOR HARR: Chairman Gloor, fellow members of the Revenue Committee, my name is Burke Harr, H-a-r-r. As I stated, I am from Legislative District 8 located in midtown Omaha. I am here on a NACO bill, so this may be a first where they testify in favor of one of my bills. I'm here on LB797. LB797 would clarify the process for determining when interest accrues when a homestead exemption is rejected by the Tax Commissioner. Under existing law, a property owner whose homestead exemption is rejected by the Tax Commissioner is almost always delinquent in paying their property taxes but they don't know about the rejection in time to make a timely payment. Homestead exemption applications are due by June 30 each year unless the county board elects to extend the deadline to July 20. The county assessor forwards the application to the Tax Commissioner...must forward it by August 1 for an examination of the eligibility requirements. By statute, the Tax Commissioner may take up to three years after December 31 of the year in which the exemption was claimed to take action. In the meantime, unpaid property accrues at an interest rate of 14 percent from the day they become delinquent. LB797 would clarify, clearly set a deadline when interest begins to accrue so the interest is not accrued during the time the property owner believed they had a homestead exemption but did not. When a homestead exemption is rejected or reduced, the tax commissioner gives notice to the county assessor. The county assessor presents it to the county board for placement on the tax rolls. Depending on the timing of the notice and the county board meeting, more interest can accrue. LB797 would give the property owner 30 days after the county assessor receives approval from the county board to remove or reduce the exemption from the tax rolls to pay the taxes without accruing an interest penalty. Following me will be members from NACO testifying in support of this bill. I would entertain any questions you may have. [LB797]

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SENATOR GLOOR: Thank you, Senator Harr. Senator Harr, who brought this bill to you, if I might ask? [LB797]

SENATOR HARR: NACO, so I'm hoping they'll testify in favor. [LB797]

SENATOR GLOOR: I'm just giving you an opportunity to dig the oar in one more time. [LB797]

SENATOR HARR: Yes. [LB797]

SENATOR GLOOR: I am surprised though that there's...it must be that the fiscal impact would be nominal I suppose. [LB797]

SENATOR HARR: It is...well, let me restate that. Nominal to the counties; to that individual, it's a huge amount. As you can imagine 14 percent accruing over that time. And if you're applying for homestead exemption you're probably pretty close and it's going to be hard for them to make that payment, let alone the additional interest payment. But I think this is a matter of fairness, and you know, that the parties that are affected most which would be the county are actually in favor of this bill. [LB797]

SENATOR GLOOR: Okay. Other questions? Senator Scheer. [LB797]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Harr, I'm not real familiar with the process. So I've applied for an exemption and two years later they determine that I don't get one but I've been receiving one for the two years? [LB797]

SENATOR HARR: Well, what it is, is you apply and then it takes a while for it to be approved. [LB797]

SENATOR SCHEER: Fair enough, but during that period of time, I've already taken that homestead exemption. [LB797]

SENATOR HARR: Yes, yes. [LB797]

SENATOR SCHEER: Okay. And at...when...how am I notified that it has been rejected or... [LB797]

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SENATOR HARR: Well, after it goes... [LB797]

SENATOR SCHEER: ...reduced or whatever? [LB797]

SENATOR HARR: ...yep--after it goes through the whole process then your efficient county assessor will call you and say, Senator Scheer, you owe us, will send a...maybe it will be a yellow card, maybe it won't be. But they'll send something to you telling you that you owe them the money. [LB797]

SENATOR SCHEER: And if you're not the person to answer that's fair too. I'm just trying to get... [LB797]

SENATOR HARR: Yeah. [LB797]

SENATOR SCHEER: ...a little more information. Why would it take three years to do? [LB797]

SENATOR HARR: That I don't know and I'll find out. [LB797]

SENATOR SCHEER: I'll ask someone else. [LB797]

SENATOR HARR: And it may not take that long, but the statute allows up to. [LB797]

SENATOR SCHEER: Understand, that just seems like an ungodly amount of time for somebody to do something. I'll ask somebody else when they come up. Thank you. [LB797]

SENATOR HARR: Great, thank you. [LB797]

SENATOR GLOOR: Senator Sullivan. [LB797]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you, Senator Harr. Well, it seems odd to me then that they get the exemption without really being approved for the exemption. So they are, without knowing it as you said, in arrears potentially. [LB797]

SENATOR HARR: Yep. [LB797]

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SENATOR SULLIVAN: So why wouldn't they get...granted they would have to pay their property taxes, but apply for the exemption and then get it. But then that would mean if they get it they'd have to be issued a refund. [LB797]

SENATOR HARR: Yeah, and I'll be honest, I think built into this bill...well, and I don't think, I know. Built into this bill is a good-faith assumption that the taxpayers of Nebraska won't exploit this and if they start to exploit it then we'll have to reexamine it. But the idea is most people apply for this tax exemption...property tax relief...well, exemption in good faith and some unfortunately for whatever reason, maybe they came into an inheritance, I don't know the reasons why the situation would change but it does and then they don't qualify for it anymore. The 14 percent penalty, probably they're still pretty close to the line. Again, and I would ask you to ask those others coming after me, but I would assume they're pretty close to the line and so to make that payment is pretty hard and to add that 14 percent on top of that is even more difficult. [LB797]

SENATOR SULLIVAN: Okay. Thank you. [LB797]

SENATOR GLOOR: Seeing no further questions. Thank you, Senator Harr. [LB797]

SENATOR HARR: Thank you. [LB797]

SENATOR GLOOR: We'll now move to proponents for LB797. Good afternoon. [LB797]

SHARON WOOD: Good afternoon, Senators. Can you hear me? [LB797]

SENATOR GLOOR: Yes. [LB797]

SHARON WOOD: Good. My name is Sharon Wood, S-h-a-r-o-n W-o-o-d, and I am the treasurer in Dawson County and I also represent the Nebraska Association of County Treasurers. I'm here this afternoon in support of this bill. As Senator Harr explained to you, there is a deadline for individuals to go to the county assessor and apply for homestead and that is usually June 30. Some counties allow until July 20. They go to the assessor. They fill out the forms. They bring in all the information that they have and then the assessor takes that to the tax...sends that to the Tax Commissioner on August 1 of that year. The tax commission then has until three years from December 31 of that year to explore the reports that they send into the IRS, their returns. They can take up to three years as allowed by statute, but lately it's been about two years. So that's better for the taxpayer, of course. So when they are notified by the tax commission that their exemption has been denied, perhaps you know, you ask this question. They have taken

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everything that they think they have to the assessor and perhaps they've left something at home-- their pension, Social Security--and it doesn't get reported on that form until they send in their IRS report and that's when the Tax Commissioner sees a discrepancy. And they send that notice to the taxpayer. Then the assessor takes it to the county board for approval to make a correction and then they bring it to the treasurer to send out a corrected tax statement. An example of one we received on February 1 was that he was approved for 100 percent exemption in September of 2013. So he was denied that full amount and the amount, the tax due was \$706.93. So by law, I would have to go back to May 1, 2014, to charge him interest on the first half and September 1 on the second half. So his total tax would have been \$156.87, which is approximately 22 percent of that tax. Now that's only for 640 days. So if it had been for three years it would have been 1,065 days and that would almost double their increase in interest. The income level changes every year and currently it's at \$27,000-\$40,000, I believe, approximately for single family and \$47,000 for a married couple. And the amount of homestead goes down in 10 percent increments based on your income. You can have a 50 percent eligibility or perhaps 100 percent. Most of these taxpayers are on fixed income to begin with and that's why as treasurers we find it very difficult to see people come in that are on a fixed income and we have to charge them interest for several years. So we have proposed this to NACO on behalf of our taxpayers. And LB797 would allow them 30 days from the date that the board approves the correction, when the assessor sends it to the treasurer and we send out a statement. So on behalf of the Nebraska Treasurers Association, I would ask that you support this bill. Do you have any questions that I can answer? [LB797]

SENATOR GLOOR: Thank you. Senator Brasch. [LB797]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you for testifying, Ms. Wood. How long have you worked in the capacity with NACO or with...in your county? [LB797]

SHARON WOOD: I've been the treasurer for 18 years in Dawson County and I'm the head of the legislative committee for the Association of County Treasurers. So I've worked with NACO quite a bit. [LB797]

SENATOR BRASCH: For the same amount of time? [LB797]

SHARON WOOD: Yes. [LB797]

SENATOR BRASCH: How long has that interest rate been 14 percent? [LB797]

SHARON WOOD: I could not tell you that. That's been a very, very long time. [LB797]

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SENATOR BRASCH: Has it always been 14 percent? [LB797]

SHARON WOOD: Yes, it's always been 14 percent. Yes. [LB797]

SENATOR BRASCH: I believe you're correct. [LB797]

SHARON WOOD: Yes. [LB797]

SENATOR BRASCH: And I just can...spoke with counsel on the side. We were both at the Revenue Department when they raised it to 14 percent. And at that time it reflect the interest rates back in the '80s and '70s and I don't believe it's ever been adjusted downward. And the reason for the 14 percent, if I recall, was that was the revenues lost had it been paid on time, the interest the banks may have been. And so do you think it's a fair rate of 14 percent? [LB797]

SHARON WOOD: It seems extremely high right now to me. It's very difficult for a lot of people. You know, some people truly forget to pay their tax and in this situation they're not aware that they didn't even owe the tax until their letter comes from the Tax Commissioner. Fourteen percent... [LB797]

SENATOR BRASCH: So I'm wondering if we need to modernize that interest rate perhaps. Your thoughts on that? [LB797]

SHARON WOOD: Well, my thoughts on it personally, we should do that. I'm sure the bidders who are now in the tax sale business would oppose that... [LB797]

SENATOR BRASCH: Okay. [LB797]

SHARON WOOD: ...because that is why they bid on that, is for the 14 percent interest... [LB797]

SENATOR BRASCH: I see. [LB797]

SHARON WOOD: ...because they can't get that interest anywhere else. [LB797]

SENATOR BRASCH: But it is a burden on the person who's delinquent for their lack of paying. [LB797]

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SHARON WOOD: I believe...yes, yes. [LB797]

SENATOR BRASCH: All right. I have no other questions. Thank you. [LB797]

SHARON WOOD: Thank you. [LB797]

SENATOR GLOOR: Senator Scheer and then Senator Sullivan. [LB797]

SENATOR SCHEER: Thank you, Senator Gloor. One, the 14 percent, is that you can charge up to or it's mandated at 14 percent? [LB797]

SHARON WOOD: Mandated, 14 percent. [LB797]

SENATOR SCHEER: Okay, thank you. Other question, the exemption is income related, correct? [LB797]

SHARON WOOD: Yes. [LB797]

SENATOR SCHEER: So if I apply by June 30, whatever year it might be, and I'm making \$16,000 a year. And so I qualify and it takes them two years to check it. So I provided you this year's information: I made \$16,000. While I'm waiting for you to determine that and I did qualify for that year, the next year for whatever reason, maybe I get a part-time job doing whatever... [LB797]

SHARON WOOD: You have to apply every year. [LB797]

SENATOR SCHEER: So you have to redo it. [LB797]

SHARON WOOD: Every year. [LB797]

SENATOR SCHEER: So when I applied the first year, I'm applying the second year not even knowing if I've been approved the first year. [LB797]

SHARON WOOD: Correct. [LB797]

SENATOR SCHEER: Does that seem like a really good system? [LB797]



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SHARON WOOD: Well, it doesn't, but I think it takes the tax commission considerable amount of time to research all of this. They have them from all over the state of Nebraska. So they have a... [LB797]

SENATOR SCHEER: Do you have any idea how that would be...? I mean I don't know how many... [LB797]

SHARON WOOD: I could not tell you, sir. I'm sorry. I wouldn't have any idea. [LB797]

SENATOR SCHEER: Do you know of a better way to do it? [LB797]

SHARON WOOD: No. [LB797]

SENATOR SCHEER: Okay. [LB797]

SHARON WOOD: I do not. [LB797]

SENATOR SCHEER: Fair enough. Thank you. [LB797]

SENATOR GLOOR: Senator Sullivan. [LB797]

SENATOR SULLIVAN: Thank you, Senator Gloor. And part of my question has been answered, the fact that they have to apply every year. [LB797]

SHARON WOOD: Yes. [LB797]

SENATOR SULLIVAN: Under this proposed legislation then, the window basically on which they will be charged interest is just collapsed. [LB797]

SHARON WOOD: Correct. [LB797]

SENATOR SULLIVAN: And it doesn't start accruing until 30 days after or the determination, so... [LB797]

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SHARON WOOD: No, 30 days after the board approval. They'll get a determination from the state, the Tax Commissioner. Then the assessor takes it to the board and they have to approve the correction. [LB797]

SENATOR SULLIVAN: And how long of...that's probably just within a month then. [LB797]

SHARON WOOD: Yes, usually. [LB797]

SENATOR SULLIVAN: Okay. [LB797]

SHARON WOOD: Or less. [LB797]

SENATOR SULLIVAN: Okay, so this potentially removes that large, potentially large amount of time when interest could be accruing as they wait for the determination. [LB797]

SHARON WOOD: Yes. [LB797]

SENATOR SULLIVAN: Okay. Thank you. [LB797]

SENATOR GLOOR: Senator Scheer. [LB797]

SENATOR SCHEER: That's what I want to clarify. So if I apply for the exemption in 2014 and I don't get knowledge that I wasn't eligible till 2016, I've got 30 days in 2016 to pay just the taxes that were due. And the interest then is waived for that two years? [LB797]

SHARON WOOD: It is waived for that two years and it will not begin to accumulate again until 30 days after the board approval. [LB797]

SENATOR SCHEER: So I have that 30-day window just to pay the taxes and I don't have to get stung for the interest. [LB797]

SHARON WOOD: Yes, right. Correct. [LB797]

SENATOR SCHEER: All right. Thank you. [LB797]

SHARON WOOD: Yes. [LB797]

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SENATOR GLOOR: Thank you, Ms. Wood. Appreciate your testimony. [LB797]

SHARON WOOD: Thank you. I appreciate your hearing me this afternoon. [LB797]

SENATOR GLOOR: Continuing with proponents. [LB797]

TOM PLACZEK: Hello, Chairman Gloor and members of the Revenue Committee. My name is Tom Placzek, T-o-m P-l-a-c-z-e-k. I am the Platte County Assessor and assessor representative to NACO. I did not plan to testify on this bill. A couple questions came up and I thought maybe perhaps I could help out, and also this is a first that I'm actually for a bill testifying. [LB797]

SENATOR GLOOR: I was going to bring that up. [LB797]

TOM PLACZEK: So I want to make sure everyone knows that. Just to make sure that you understand, people are made aware of their...they kind of have two approvals. You have your approval in October. You apply from up until June 30, to apply for it, okay? We collect the data. Whatever income information you give us, We just take. Now you have to remember, we've got...example, you have 80-year-old people that come, maybe have no help at all trying to do this. We take whatever information you have. We actually help them fill out the forms the best that we can with the information they've got. We've actually on occasion gone to their house to do it because they couldn't even get out. So we then send this to the department and in October of that year we get information from the department that they have been approved based on the information they've been given. They haven't had a chance yet to even go through their income status for that year. They're still working on past years. So when we send out the tax statement, the people that are approved, their tax statement in December now reflects this approval, okay? The department doesn't know whether they actually should have been approved for that year or not. So then maybe two years down the road we're getting this 2014 disapproval or it's gone from...well, I've had some from, say, 100 percent to 0 percent. It might have been a case were these people forgot to take...they took money out of their IRA in February or a pension payment or something and that affected their status. We have had people...we know people are trying to game the system, but that's probably the small majority. The vast majority of people, they just flat forgot. So through no fault of their own they've now been disapproved. Well, I again, I get a letter. They are informed by the state, by the department. They've been disapproved. They have some...an approval process to go through with the department so that they can work out and make sure that they, the department has all the information and then if at that time the department says, no, you don't...haven't hit the income guidelines, you're disapproved. So then we get a letter from them which is after the approval process and there are 30 days of challenging this ruling has occurred. When we get that, it's a done deal. We then write a tax correction, and depending upon the time, it will be at the next county board of equalization

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meeting. Now that could be the next week, it could be the next month, but it's within generally 30 days, that they approve it. And in some cases, I've seen \$2,000 and \$3,000--well, probably not \$3,000--probably \$2,000, \$2,500 on the high end for taxes. Well, at 14 percent you're talking, on one year on \$2,000, you're talking \$280 extra for a full year, plus they might have two years here. It does add up. Is it any consequence to the county? Not all that much, but you know, it's mostly to the taxpayer. I think this is a good thing. Sharon did say something about it can be three years and that had been the case. I believe the department, I don't know if they have added staff or whatever, but that process has come down to two years which is a good thing. But that's not to say that that couldn't change. So I don't know if this cleared up anything, helps out in anyway, but I just thought I would try and help you a little bit with the process. [LB797]

SENATOR GLOOR: Senator Scheer had a question. [LB797]

SENATOR SCHEER: Thank you, Senator Gloor. And this is a strange question, so if you don't know the answer I probably should have asked Ms. Woods. What happens if somebody applies, gets the provisional credit, and somewhere at about the first year or whatever they expire? And a very simple estate, the estate is closed within, you know, 120 days or however quickly you can do it because there's really nothing there other than the house. And it gets sold and, boom, and then they're denied. The county just void it, or what do you do with it? [LB797]

TOM PLACZEK: That's a great question. I honestly don't think I know the answer. I've never really had that happen. [LB797]

SENATOR SCHEER: She's shaking her head that's it's voided. [LB797]

TOM PLACZEK: Yeah, yeah. [LB797]

SENATOR SCHEER: So we got the answer. Thank you. [LB797]

TOM PLACZEK: Okay, good because that's kind of...(laugh). [LB797]

SENATOR SCHEER: I just was curious. [LB797]

TOM PLACZEK: Yeah. [LB797]

SENATOR SCHEER: But thank you. Thank you, Senator Gloor. [LB797]

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SENATOR GLOOR: Seeing no further questions. Thank you, Tom. [LB797]

TOM PLACZEK: Okay, thank you. [LB797]

SENATOR GLOOR: And you're welcome here in any capacity. Any more proponents? [LB797]

BETH BAZYN FERRELL: (Exhibit 1) Good afternoon, Chairman Gloor, members of the committee. For the record, my name is Beth, B-e-t-h, Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm with the Nebraska Association of County Officials. I'm appearing in support of LB797. We'd like to thank Senator Harr for introducing the bill on our behalf. And what I'm having handed out to you is just a sample of a letter that came from the Tax Commissioner to a homestead exemption applicant in Valley County so you can just kind of see what that looks like. I would like to address the question that Senator Brasch raised about the income rates. I think probably five or six years ago there was a bill that looked at reducing the income rates. And at that time, I know we had put together a handout that showed all of the different sections of statute that were affected by the reference to 45-104.01 I believe it is. I'd be happy to provide that to the committee and some background on the timing of that legislation. Be happy to answer questions. [LB797]

SENATOR GLOOR: Any questions for Beth? Senator Davis. [LB797]

SENATOR DAVIS: Thank you. Appreciate your coming. Homestead exemption is just for people over 65? [LB797]

BETH BAZYN FERRELL: There are... [LB797]

SENATOR DAVIS: Is that correct? I'm looking out in the audience and they say, yes, that is correct. Okay. That's I think all I wanted to know. Thank you. [LB797]

SENATOR GLOOR: I believe disabled also, under certain provisions. [LB797]

BETH BAZYN FERRELL: Yes, and veterans as well under certain circumstances. [LB797]

SENATOR GLOOR: Yeah, I remember that from some of our tax cuts that we don't get credit for. (Laughter) Any other questions? Thank you, Beth. Any more proponents for LB797? We'll move to opponents? Anyone in a neutral capacity? Senator Harr, you're recognized to close. [LB797]

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SENATOR HARR: Thank you, Chairman Gloor. I will be brief. The first thing I would say is I want to thank everyone who came and testified on this bill, even those who didn't plan to, for providing some more depth to what's really going on. Senator Scheer, your question about what happens if someone dies while the process, while you're still in. The answer is it already happens. This bill wouldn't change anything on that and it just...the county and the state don't collect that money, if that were to happen. The changing the percentage down to 14 percent, Senator Brasch, you know, I'm always open to legislation to that degree. What that shows you is though that when you put a 3 percent cap on or 14 percent, 14 percent was right for that time; 3 percent might be right for this time, but it may not be right two, five years from now because our interest rates constantly vary. And so we have to be careful when we do lock ourselves into low interest rates, that we aren't having unintended consequences many years down the road. With that, I would ask for your unanimous support on this bill and again thank NACO for bringing this to me. I think it ruins my record of 16 straight bills they've testified against, so. But other than that. [LB797]

SENATOR GLOOR: Senator Scheer. [LB797]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Harr, just out of curiosity, the cap that we have a place, does it have to be a finite number or can it be based on some type of fluctuating numbers so that...? [LB797]

SENATOR HARR: Right. You know, I have tried to do that on other bills and it's difficult to do because...well, I'll be honest. When I first got here, I wanted to use LIBOR. Well, we've since found out that that's a fraud. But there are other rates you can use, but the problem is then we're changing statute without voting on it if we use an outsource. If we say LIBOR plus 10 percent or 5 percent or 4 percent, then that rate changes without us approving it and that's unconstitutional. So it's hard to have a floating mechanism. I have yet to figure out how to do one. If there is a way to do it, I would be more than happy to do it. [LB797]

SENATOR SCHEER: Okay. Thank you. Thank you, Senator Gloor. [LB797]

SENATOR GLOOR: Seeing no further questions. Thank you, Senator Harr. [LB797]

SENATOR HARR: Thank you. [LB797]

SENATOR GLOOR: And that will end the hearing on LB797. We'll now move to LB1104. Senator Larson, welcome to the Revenue Committee. [LB797]

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SENATOR LARSON: (Exhibit 1) Good afternoon, Chairman Gloor and members of the Revenue Committee. My name is Tyson Larson, T-y-s-o-n L-a-r-s-o-n. I represent District 40 from O'Neill and I come before you today to introduce LB1104. LB1104 relating specifically to Native Americans creates special economic zones which includes any reservation as defined in Nebraska Statute 43-1503 or Indian country as defined in 18 USC 1151 and provides for tax incentives, intent provisions, revenue sharing agreements, and a federal low-income housing tax credit scoring bonus within said zones. The bill also changes provisions relating to the distribution of property taxes as it pertains to tribally controlled community colleges located within the community college area. Before I get to the specific intent of LB1104, I would like to share with the committee my motivation in introducing such legislation. The Santee Sioux Indian Reservation, the Ponca headquarters, as well as a portion of the Winnebago Indian Reservation fall within the boundaries of Legislative District 40, and as such, I have become familiar with the vast array of economic concerns they all face. I have reached out to our Nebraska tribal leaders and have had the opportunity to meet with them as well as representatives from the tribes to discuss their similar concerns. It is my intent to provide both incentives and solutions through LB1104 in an attempt to promote economic growth and sustainability as well as promote sovereignty within the designated special economic impact zones as addressed in the bill. LB1104 seeks to promote tax incentives to qualified businesses within special economic impact zones by providing the following: (1) any qualified business within such zone would be exempt from the income taxes due under the Nebraska Revenue Act; (2) qualified businesses would also be exempt from sales and use tax due under the Nebraska Revenue Act for the first \$10 million of taxable purchases made each year; and (3) a qualified business already receiving tax incentives under the Nebraska Advantage Act would also be eligible for these additional exemptions. Please let it be noted that the intent of these provisions were specific to qualified businesses within the special economic impact zone areas. Additionally, the sales and use tax exemption was intended to be on a per-business basis, not businesses as a group as currently written. An amendment that I handed out addresses these two oversights in Section 2. Furthermore, it is the true intent of this measure that qualified businesses shall be a new or expanding business. A business cannot relocate or qualify for these exemptions. Businesses that are currently located within the special economic zone would be eligible; however, I would entertain a notion of placing restrictions on ag-related businesses should it be a more fiscally conservative option, i.e., help the fiscal note. LB1104 also provides intent language to clarify in-state statute for the purposes of taxation relating to Native Americans and Indian reservations what has been proven through federal case law over numerous years. In general, these practices are currently taking place through the Department of Revenue. This bill simply codifies that language. I am happy to work with the committee and with the department moving forward to adjust this language if that is necessary. LB1104 provides further...provides for a revenue sharing agreement option between that an Indian tribe and the Department of Revenue. If an agreement contains all of the following provisions, then the department would be required to enter such an agreement. First, the Indian tribe shall impose a tribal sales and use tax that are equal...that are

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less than or equal to that of the state sales and use taxes. Second, the tribal taxes shall be imposed on both members and nonmembers of the Indian tribe. And third, 20 percent of the tribal taxes shall be shared with the state of Nebraska. If these criteria are met and the revenue sharing agreement is entered into, then for any transaction subject to the tribal taxes, the Department of Revenue shall not impose the equivalent state sales and use tax on such transaction. However, if the tribe presents a revenue sharing agreement that contains additional provisions, the department has the discretion on entering into an agreement. Additionally, LB1104 provides that an allocation of any federal low-income housing tax credits through the NIFA Act, the authority shall give a bonus to any project located within the special economic zone. The bonus shall be equivalent to 2 percent of the total number of allowable points. Lastly, LB1104 stipulates that a community college area includes a reservation, then the board for such community college area shall remit 15 percent of the property taxes collected on the real taxable property on such reservation to the tribally controlled community colleges in the state--of which, there are currently two. Again, I would like to reiterate my intent on this legislation as being an attempt to provide both incentives and benefits with the special economic zones in an effort to promote economic growth and stability to these areas. I have read through the concerns offered by the Department of Revenue and I'm happy to work with the department to address each issue moving forward. I am also willing to work with members of the Revenue Committee to address any concerns and fine tune this legislation. As many of you...I don't know if you have seen LB1104 already has the priority designation of the State Tribal Relations Committee and this is a...has the possibility to be a very large benefit and game-changing legislation in terms of providing economic growth, sovereignty to the tribes, and you know, working to take a first step to solving some issues that we as a Legislature can solve. And I hope that the committee keeps an open mind and we can work through this and have LB1104 on the floor this year as it already does have a priority. Thank you, Mr. Chairman. And I'd appreciate any questions. [LB1104]

SENATOR GLOOR: Questions? Senator Scheer. [LB1104]

SENATOR SCHEER: Thank you. Senator Larson, is Northeast the only community college that this would affect? [LB1104]

SENATOR LARSON: As written, yes. [LB1104]

SENATOR SCHEER: Do you perceive that to be equitable to the extent that they would be the only ones that we would be helping fund when you have a system all across the state? [LB1104]

SENATOR LARSON: Yeah, I can understand the concern. Right now, obviously the only...there are two tribal-run colleges: NICC, Nebraska Indian Community College; and Little Priest. NICC is shared between the Santee and the Omaha. And Little Priest is with the Winnebago. All of



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those lie within Northeast Community College's levy authority. Therefore, they would be the only ones that would...and as the bill designates, essentially they would only be able to receive part of the levy within the special economic zone. So the part of the levy that you pay as Norfolk, they wouldn't be...that wouldn't be available, yeah. [LB1104]

SENATOR SCHEER: Well, I understand it's coming from those dollars, but it's also a loss to that community college. So you know, you are essentially penalizing that specific community college versus all community colleges having some type of shared effort in that. [LB1104]

SENATOR LARSON: I can appreciate that. You know, I think as you talk to the tribes and I talk to the tribes, they feel...and maybe they can obviously speak for themselves better than I can, but my guess would...the answer would be they feel penalized that they're a fee-based land within the reservation. You know, that they are...fee-based land is land that is sales taxable. Trust land would be not sales taxable, subject to property tax. Trust land isn't subject to property tax. But the fee-based land within the reservation, they would say many of the students that are attending the Native American community colleges or the tribal community colleges, very few of them go to Northeast and that they're paying those... [LB1104]

SENATOR SCHEER: But using that theory... [LB1104]

SENATOR LARSON: ...that they're using... [LB1104]

SENATOR SCHEER: ...as Senator Davis brings up quite frequently, that very few students in his area of the state attend Western Community College and they're still required to pay those fees. The amount of attendance shouldn't be a determination fact of who we tax. I mean, if you're retired, you no longer have any children in school so you don't pay taxes to... [LB1104]

SENATOR LARSON: I understand. Essentially, I'm more than willing to work with the committee. I know the community college portion is obviously very dear to you representing Norfolk and Northeast being there. So I'm definitely open to ideas on how we can continue to move forward on the community college piece and working with you and the tribal leaders. And Dr. Chipp is obviously with Northeast. Hopefully we can come up with a solution on LB1104. [LB1104]

SENATOR SCHEER: Okay. Thank you, Senator. [LB1104]

SENATOR LARSON: Thank you, Senator Scheer. [LB1104]

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SENATOR SCHEER: Thank you, Senator Gloor. [LB1104]

SENATOR GLOOR: Senator Sullivan. [LB1104]

SENATOR SULLIVAN: Thank you, Senator Gloor. Thank you, Senator Larson. You mentioned a prioritization. [LB1104]

SENATOR LARSON: Yes. [LB1104]

SENATOR SULLIVAN: By whom and how? [LB1104]

SENATOR LARSON: The State-Tribal Relations Committee. [LB1104]

SENATOR SULLIVAN: And how does that play within our prioritization in the Unicameral? [LB1104]

SENATOR LARSON: It's a committee priority. [LB1104]

SENATOR SULLIVAN: Okay. And regarding the 15 percent of taxable property in the community...on the reservations. [LB1104]

SENATOR LARSON: Yes, just within the... [LB1104]

SENATOR SULLIVAN: But how will that be divided among the tribal colleges? [LB1104]

SENATOR LARSON: We don't designate in LB1104 because there are only two tribal community colleges, Little Priest and NICC. In the bill, we do not make that division. We just say that it shall be...you know, it shall be to those. If the committee feels that it's better to make that decision, I would like to continue to work with the tribes. Obviously NICC represents two of the tribes, the Santee and the Omaha; and Little Priest represents one. So I don't know if it's better to let the tribal leaders figure that out themselves or if the Legislature wants to work with them to decide how to best equitably split that. I think that's up to the committee and the body as a whole. [LB1104]

SENATOR SULLIVAN: Will someone be coming up to testify later to give us some examples of what those qualified businesses might be that would currently benefit if this legislation were to pass? [LB1104]

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SENATOR LARSON: Do you want the current...I can touch on...you know, do you want the current qualified businesses or...? [LB1104]

SENATOR SULLIVAN: Just give me an example or two. [LB1104]

SENATOR LARSON: Essentially any...and as I said in my intro...and the Department of Revenue gave us a list of current businesses. But the statute as introduced...or the bill as introduced is pretty broad. Essentially we talk about a qualified business is one that isn't like relocating, i.e., the Case-IH dealer in Grand Island couldn't move their entire manufacturing facility to the Santee Reservation or the Winnebago Reservation and be considered a qualified business. The intent was to do a new and expanding business, and I would understand if we needed to put a restriction on...right now it is my understanding that most of the businesses within the reservation are corporations or sole proprietorships that are non-Native owned because non-Native-owned businesses are the ones that are subject to income and sales tax right now. Native-owned businesses are not. So most of those are ag related that are currently there so if we need to work to place restrictions, more restrictions on the qualified businesses, I'm more than happy to do that to help that fiscal note. And you know, if it has to be an exemption that begins...that they aren't ag related. The main business on the reservation right now that is not ag related is there's a Dollar General on the Winnebago Reservation. But as the committee knows, all Native-owned businesses aren't subject to state income tax or if any of the goods are delivered on to the reservation, aren't subject to sales tax as well. And I know I've had meetings with Department of Revenue in terms of their concerns that on the sales tax portion of this, any good, that they want to make sure it's a little more clear that the goods delivered into the special economic zone for a business have to be used within that portion of the business in the special economic zone and can't be then transported to a different area the state. I'm more than happy because that's the intent of it. But I'm happy to clean that up and work with the committee to ensure that happens. [LB1104]

SENATOR SULLIVAN: Great. Thank you. [LB1104]

SENATOR GLOOR: Seeing no further questions... [LB1104]

SENATOR DAVIS: I've got one question. [LB1104]

SENATOR GLOOR: I'm sorry. Senator Davis. [LB1104]

SENATOR DAVIS: Thank you, Senator Gloor. So it's a pretty complicated bill, Senator Larson. And I'm just kind of getting a grasp on it. [LB1104]

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SENATOR LARSON: Yeah, please. [LB1104]

SENATOR DAVIS: So supposing Nebraska legalizes gambling then and we end up with a tribal casino. Tell me how that will be taxed. [LB1104]

SENATOR LARSON: Yes, so tribal casinos, it's my understanding, if it's a tribally owned, it's not taxed anyway because the tribes aren't subject to state income tax because it's Native owned. You could say with the current constitutional amendment that the push, the drive is going right now, that actually says that a casino has to be at a horse track. So there are no horse tracks within any of the reservations. The one horse track...and there's one in Sioux City, Columbus, and whatnot. So if we legalize gambling, I don't think this would actually affect anything because there's no...in the balloted question that's being asked right now, I don't think it has any effect because there's no horse tracks on any of the reservations. And even if a tribe were to own a horse track, they would still be off the reservation, they're not...therefore, still subject to the income tax because it's my understanding under the case law federally that they're only...only businesses that are located on the reservation are not subject to income tax. And even if a non-Native tried to set up a casino on the reservation, they'd have to build a racetrack first. And obviously that goes through the Racing Commission and a number of other entities. So I think there are definite, if you want to say that, safeguards in place to ensure that might not necessarily happen. [LB1104]

SENATOR DAVIS: And then when you started talking, and I think you were referring to some maybe federal language about, I think you used the term Indian country. [LB1104]

SENATOR LARSON: Um-hum. [LB1104]

SENATOR DAVIS: Can you explain what that means. [LB1104]

SENATOR LARSON: Yeah. So federally...I referenced this, so: "reservation shall mean Indian country as defined in 18 USC 1151 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation or a federally designated or established service area which means a geographic area designated by the United States where federal services and benefits furnished to Indians and Indian tribes are provided or which is otherwise designated to constitute an area on or near a reservation". I can get you the exact copy. (Laugh) [LB1104]

SENATOR DAVIS: And can you tell me exactly what that means? [LB1104]

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SENATOR LARSON: So specifically what Indian country...? [LB1104]

SENATOR DAVIS: I mean, so we've got designated reservations that we, I think, all of us understand. [LB1104]

SENATOR LARSON: We have three designated reservations. So that would be the Omaha, Santee, and Winnebago Reservations. And then we have one nonreservation tribe which would be the Ponca. So the Ponca has--and they might be able to describe it a little better and excuse me if I don't have the exact correct terminology--but they have what is called a service area. And it is my understanding that the Ponca have a 13-county service area within the state of Nebraska in which within that service area they can put land in trust. Land in trust, to put land in trust they have to go through the Department of Interior, i.e., the Bureau of Indian Affairs. They have to have hearings with...through that process. They have to...you know, at which point the county or the city in which they are trying to put the land in trust can...it is a, under my understanding, a judicial process. They can have...the city can say no, yes, follow all that. And then the BIA actually makes the decision on whether or not that land can go in trust. Now a number of places have...I know Lincoln has put under I think Mayor...Don Wesely was actually the mayor when they put land in trust here in Lincoln. And a lot of times when land does go in trust, and I've talked with members of the Ponca, that they still pay the property taxes in lieu because they want the services. They want the fire. They want the police available and a number of those things. So I know property taxes are a big issue for both of us and those are often paid. So Indian...but when that land goes into trust, that is then considered Indian land and Indian territory. So you know, the concept is could...will the Ponca have that ability on any land that is Indian land within that 13-county designated area? That's a definite possibility, but they have to go through obviously all the processes that it is to get that land. None of the land that is owned by...I know the Ponca own...well, I don't know. I believe that the Ponca own what's called fee-based land. That's just land that isn't in trust. The tribe may owe it, but it's not Indian land. It's still subject to everything else, just like if the Winnebago, the Omaha, or the Santee, they can have land in trust on the reservation which isn't subject to property taxes. They can own fee-based land. The tribe can still own fee-based on the reservation that is subject to property taxes. But for the for those three tribes, it is my understanding that any land owned off their own reservation has to be fee based. So the Winnebago can't buy land outside their reservation and put it in trust, anything off of their reservation has to be fee based. Does that give you a better, a clearer picture? [LB1104]

SENATOR DAVIS: Yes. So the fee-based land...and the Ponca have some land in Lincoln. [LB1104]

SENATOR LARSON: They do. [LB1104]

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SENATOR DAVIS: That's fee based, correct? [LB1104]

SENATOR LARSON: I think they have fee and trust in Lincoln. [LB1104]

SENATOR DAVIS: So then will that land in Lincoln be subject to this? [LB1104]

SENATOR LARSON: The fee based will not; the trust land could be. [LB1104]

SENATOR DAVIS: Okay. Then the final question I think is dealing with land in my district that is owned by the Lakota Sioux Tribe, not on the reservation but within the definition of Nebraska in which a nursing home is being constructed. [LB1104]

SENATOR LARSON: Okay. [LB1104]

SENATOR DAVIS: Is that a qualifying enterprise? [LB1104]

SENATOR LARSON: Is that...my first question would be to you, is that land that's in trust because this specifically says, under the definition that I read, it would have to be land in trust. And do you know...you said it's the Dakota Sioux? [LB1104]

SENATOR DAVIS: Lakota Sioux, yeah. [LB1104]

SENATOR LARSON: Lakota Sioux. And you know, someone behind me might have a better answer. I'm just speaking off the top of my head. Are they a reservation-based tribe in South Dakota? [LB1104]

SENATOR DAVIS: Yes. [LB1104]

SENATOR LARSON: Well, at that point...but their reservation does not dip into Nebraska, correct? [LB1104]

SENATOR DAVIS: Well, that's a very interesting question I don't have the answer to. [LB1104]

SENATOR LARSON: But federally, I don't think it does. [LB1104]

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SENATOR DAVIS: But the nursing home that's being constructed there is being constructed on trust...I think tribal trust land. [LB1104]

SENATOR LARSON: Okay. And that's a question that, you know, we can dive deeper into because...and maybe... [LB1104]

SENATOR DAVIS: And maybe someone following will know the answer. [LB1104]

SENATOR LARSON: ...the head of the Nebraska Indian Commission can answer that because it was my understanding that if they have reservation land, they can't have trust land outside of that reservation. Now again, they might have a different agreement with the federal government or whatnot. But that was my understanding. I could definitely be corrected on that though. [LB1104]

SENATOR DAVIS: All right. Thank you. [LB1104]

SENATOR LARSON: I appreciate....that's a great question though. [LB1104]

SENATOR GLOOR: Senator Scheer. [LB1104]

SENATOR SCHEER: Thank you, Senator Gloor. If you don't know the answer perhaps somebody else will. But looking at the Ponca specifically, they have a pretty large tract of ground that's undeveloped literally in the middle of Norfolk. It is...what type of ground is that? [LB1104]

SENATOR LARSON: I don't know if that's fee or trust land. If it's fee land then it wouldn't be subject to this. Now they might be able...they might try to put that in trust and if they put that in trust then obviously the city of Norfolk, the County of Norfolk (sic--Madison) can discuss that. I've had a lot of discussions on what are the benefits to this, even the Ponca's ability to do this. And I think that really it would be a benefit to any community to have, you know, the Ponca within them. Obviously moving it into trust takes away that property tax that aspect of it. But as I said, it is my understanding that almost all the land that is in trust in Lincoln or these other cities, they do pay property taxes...or in lieu of property taxes, and think about the economic investment that certain businesses might want to invest in because of the special incentives or the jobs that could come to those local entities. [LB1104]

SENATOR SCHEER: I understand, but doing that, to me, that is a different question than trying to solicit new businesses on a reservation, trying to attract business and commerce to such areas

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that are impoverished and trying to attract new business. I get that. But if you're in the middle of a community that is already experiencing fairly significant growth, that now puts that piece of ground at a distinct advantage over the rest of those folks that are already competing. And I'm not sure that's really the intent of what we're looking at. So that's why I'm asking. [LB1104]

SENATOR LARSON: I can definitely understand the concern of that and that's something that a lot of conversations have been had. And you know, that's going to be...the committee and the Legislature have to continue to work towards that to make that compromise or decide what we're going to do. Obviously the three reservation-based tribes have very distinct possible disadvantages: high unemployment and worse. We have a lot of social spending. [LB1104]

SENATOR SCHEER: And I get that part, Senator. [LB1104]

SENATOR LARSON: And so working with the Ponca, I'd encourage everybody to work with the Ponca to work towards that solution. And we have to remember that any land that specifically the Ponca have, to put it in trust is a significant process in which the city of Norfolk, the County of Madison would... [LB1104]

SENATOR SCHEER: That's why I'm asking. I don't know that it's not. I don't know that it is. [LB1104]

SENATOR LARSON: Yeah, I'm sure...a representative of the Ponca Tribe I believe will be coming up, so maybe they'd be a better one to say that specific tract. [LB1104]

SENATOR SCHEER: Thank you, Senator Gloor. [LB1104]

SENATOR GLOOR: Thank you, Senator Larson. And we'll, seeing no further questions, we'll move...are you staying around to close? [LB1104]

SENATOR LARSON: Yeah. [LB1104]

SENATOR GLOOR: I thought so. Okay, we'll move to proponents for this bill, if they'd step forward, please. [LB1104]

JOHN LINDSAY: Senator Gloor, members of the committee, for the record, my name is John Lindsay, L-i-n-d-s-a-y, appearing as a registered lobbyist on behalf of the Winnebago Tribe of Nebraska. Start by thanking Senator Larson for introducing this bill. And I think...just give you a



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little bit of background. Senator Larson over the interim reached out to the various tribes, brought them together trying to identify what are issues that are of concern to the tribes, what are the problems the tribes face. And LB1104 was his work product with a lot of input from the tribes to try to address what those issues are. And so we do offer him thanks for recognizing that there are some issues that the tribes face and we'd like to see those addressed. Conceptually, we support the bill although I think some of the questions from the committee are questions I don't think are new. We're still kind of trying to figure it out and I think the hope is that we'll get some conceptual durare (phonetically), some level of direction from the committee to get the language down, tighten it to where this committee would be comfortable with it. But overall, I think the...what the bill tries to do is to provide mechanisms to address one of the biggest issues facing the tribes and that is the issue of unemployment and trying to have...create these special economic zones to allow another tool to the tribe to try...to each of the tribes, to try to bring jobs so that tribal members will have access to that employment. The mechanism proposed by Senator Larson is an attempt to do that. And granted, I think Senator Larson mentioned tightening it up is probably necessary, but the goal, we are absolutely supporting and that is we would like to get jobs coming back to the reservation. Some of you, I think, attended a luncheon earlier this session that involved a presentation about Ho-Chunk which is economic development arm that is a wholly owned, tribally owned corporation that does just that, tries to engage in economic development on the reservation. And I mention that because there's a couple of issues that through that economic development arm, a couple other issues involved in the bill. One of those is the revenue sharing agreements and the one proposed for the sales tax makes a lot of sense. And the problem you run into is just, under federal law, who pays taxes where? There's determinations about on a reservation, who pay sales tax and I think federal law is pretty clear, which by the way, I'm not an Indian law expert. Senator Larson I think did a pretty good job. There are law firms that do only that law because it is...there is a long history of case law, treaties, statutes, etcetera. But I think under federal law, Indians on the reservation do not pay sales tax. So when you get into that, that's the structure that you start with. So the question is, why a revenue sharing agreement? And that is because the tribe is entitled to adopt a tribal tax that would be paid by tribal members on the reservation. And the question is, is that good policy to have a retailer making racial determinations at the counter about who does pay, or which tax is paid? And in other areas that the state has...the state right now does have a gas tax revenue sharing agreement with at least the Winnebago tribe. So there is precedent for doing this. The idea being clarity for the businesses, whether they're Native owned or non-Native owned, on the reservation. It would provide clarity with a tax that could be paid. Everybody knows who pays the tax, how much, and where it goes. And so with the revenue sharing agreement, the state would benefit as well from that clarity. Finally, with respect to community college funding, and I would...Maunka Morgan who runs the Little Priest College will be testifying in a neutral capacity and I think Senator Sullivan could answer some of your questions regarding funding there. But I think the one point that I would make is that using Ho-Chunk, only Ho-Chunk as an example. In 2015, Ho-Chunk paid \$186,000 in property taxes but the amount of money that I

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think Mr. Morgan will talk about that comes back out of just the development arm's payment of property taxes is minuscule. I think that's what the bill attempts to address is funding that I think is low and I think at least the Winnebago tribe would be open to other mechanisms to try to address that. Mr. Chairman, my time is up and I'd be happy to try to answer questions. [LB1104]

SENATOR GLOOR: Thank you, Mr. Lindsay. Are there questions? Senator Sullivan. [LB1104]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you, Mr. Lindsay. But I'm a little confused on...does Senator Larson's amendment address the issue that apparently is noted in the fiscal note because the bill as written does not restrict the \$10 million of taxable sales exemption to qualified businesses on the Indian reservation. The sales tax impact would be statewide and unchanging. Is that what his amendment changes? [LB1104]

JOHN LINDSAY: Senator Sullivan, I have not seen the amendment, so I don't know if it does address it. But I will take a look at it and get an answer to you. [LB1104]

SENATOR SULLIVAN: Okay, all right. Thank you. [LB1104]

SENATOR GLOOR: Seeing no further questions. Thank you, Mr. Lindsay. Next proponent, please. Good afternoon. [LB1104]

VERNON MILLER: Good afternoon. Good afternoon, members of the Revenue Committee My name is Vernon Miller and I am the chairman of the Omaha Tribe. I wanted to first of all start off by thanking Senator Larson for agreeing to meet with the tribes and really reaching a hand out to the tribes in coming forward and establishing dialogue and today's product is the result of that. You know, it's really good to know that Senator Larson reached out to the tribes and acknowledged the relationship that tribes have with the state and that's kind of the intent of today's bill as well. So my name is Vernon Miller and I am Chairman of the Omaha Tribal Council. I was elected in November of 2013, serving a three-year term and I'm on my final year of that term. I was a previous high school business teacher at Omaha Nation Public Schools which is a state school in Nebraska in the northeast corner. We are a federally recognized tribe which our reservation, Nebraska lies around it, so does Iowa. We have reservation land on both sides of the state along the Missouri River. Our total land area is approximately 307 square miles with a population of approximately over 8,400. While farming, tribal, and federal governments and our casino operations both in Nebraska and Iowa provide some jobs on our reservation, our efforts to establish economic activity have not created sufficient employment opportunities for our tribal members. The resulting situation is, to put it mildly, very dire. I'd like to start by giving you a snapshot of the economic situation on my reservation. To do so, I reluctantly share these alarming statistics with you. Over two-thirds of Native American children below the age of five

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on our reservation live in poverty. The poverty rate for Native Americans on my reservations is nearly one-half. There is a 69 percent unemployment rate on my reservation compared to the state unemployment rate of 2.5 percent. So that's an alarming statistic and if that was switched and the state of Nebraska was in a 69 percent unemployment rate, I'm sure you'd be feeling what I'm feeling today, to know what that feels like. Research has shown that living in poverty has a wide range of negative effects on the physical and mental health and well-being of children. Poverty impacts children at home, in school, and in their neighborhoods and communities. Children who live in poverty are at greater risk for negative outcomes such as poor academic achievement, school dropout, abuse and neglect, behavioral and emotional problems, physical health problems, and developmental delays. This is true everywhere including our reservation. What makes this worse for the Omaha Tribe is the rate of poverty on our reservation is probably higher than anywhere else in this state. Higher rates of general or adult poverty in communities as found on the Omaha Indian Reservation have a wide range of negative impacts as well. With respect to unemployment, I think we can all agree that a high rate of unemployment has tremendous social and economic cost to the unemployed. The Omaha Tribe of Nebraska as well as the state of Nebraska as a whole and through LB1104 is a step towards reducing that poverty and unemployment on my reservation in Nebraska including my reservation, the Winnebago Reservation, and the Santee Sioux Reservation. In regards to the special economic impact zones, first, LB1104 would create a special economic impact zone on reservations in Nebraska. With these impacts zones, qualified businesses would be exempt from sales and use taxes otherwise due under the Nebraska Revenue Act. The staggering unemployment rate on the Indian reservation is not because our tribe members don't want to work, it's because there's not enough employers or jobs available on my reservation. Our hope is that these economic impact zones and their tax exemptions as contemplated by LB1104 will attract businesses and employers to our reservation creating the jobs we so seriously need. Creating jobs and reducing unemployment on my reservation and other reservations will benefit both individuals and the state of Nebraska. For individuals, employment provides income security for not just the employed but for their families as well. This benefit cannot be understated. From a macro perspective, more jobs and higher employment rates result in increased production of goods and services and along with more jobs and higher employment rates come less dependence on all forms of public assistance. But ultimately job creation is our best weapon against poverty and all the harms that come along with it. It is our belief that LB1104 can accomplish our collective goals of reducing poverty and increasing employment on reservations and do so without increasing unemployment in other parts of Nebraska. Specifically, LB1104 prohibits businesses from relocating from one part of Nebraska to a special economic impact zone in order to qualify for those tax exemptions. What this means for Nebraska is jobs won't leave one part of the state and simply end up within Indian reservation boundaries. What it means for the Omaha Tribe of Nebraska and other tribes of Nebraska is new jobs will be created on reservations. In this respect, instead of just moving jobs around, LB1104 has the potential to create actual new jobs. Additionally, LB1104 does not mean the state of Nebraska will collect no sales tax or use tax

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from the special economic zones. LB1104 provides that tribes will impose a tribal tax that is less than or equal to the state sales and use tax. LB1104 further provides that the tribal tax will be imposed on both members and nonmembers of the Indian tribes. Twenty percent of this revenue will then be shared with the state of Nebraska in a revenue sharing agreement to be entered into by the individual tribe and the state of Nebraska. We currently have that with our fuel tax as well, the Omaha, like the Winnebago do. The benefit for the tribes is a potential for increased revenue. The benefit for the state of Nebraska is the potential for collecting new sales tax and use tax as well remitting the cost associated with that as well. I'll kind of end there and answer any questions that you may have. [LB1104]

SENATOR GLOOR: Thank you, Mr. Miller. Questions for Mr. Miller? Senator Sullivan. [LB1104]

SENATOR SULLIVAN: Thank you, Senator Gloor. Thank you, Mr. Miller. Of the 31 percent that are employed, what percent of those individuals are employed on the reservation and off the reservation? [LB1104]

VERNON MILLER: Well, those are the employed that are employed on the reservation. [LB1104]

SENATOR SULLIVAN: Oh, okay. All right. [LB1104]

VERNON MILLER: So you have to remember our reservation is also in Iowa. And our biggest employer for my tribe is our casino in the Iowa side of our reservation. [LB1104]

SENATOR SULLIVAN: Okay. [LB1104]

VERNON MILLER: We have a casino on the Nebraska side also that people aren't aware of. But that does create some jobs, but it's pretty minimal. So for example, when the casino (inaudible) was shut down by the flood that happened in 2011, my unemployment rate was 81 percent because of that casino. And so when the casino was reopened two years ago, it reduced down to 69 percent. So you can kind of see there, you know, it currently employs 180 individuals and so that's kind of the biggest source. Not only that, we have four hundred tribal employees as well, through the tribal government, and that provides jobs as well. But those are kind of limiting. The school does have jobs but obviously you have to be a certified teacher to work at the school. So that's a limiting source as well for employment. [LB1104]

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SENATOR SULLIVAN: What kinds of businesses do you think not only would be attracted to this kind of situation but would be attractive to the tribe? [LB1104]

VERNON MILLER: Sure. We have...one of our resources and assets is our land base, so we have the ability to have a manufacturing facility. If they want to come in and create jobs and hopefully utilize through this bill also our tribal college, you know. Unfortunately our tribal members aren't going to Northeast Community College and aren't going to other colleges. They're staying home where it's local and where the tribal college's curriculum is relevant culturally as well as engaging which really is how our students and our community really learns. If something is more culturally relevant, they're going to be able to learn that material better. And so hopefully like I said, manufacturing jobs is an option as well as other maybe goods and services employment...stores or anything of that nature would also help. [LB1104]

SENATOR SULLIVAN: Thank you. [LB1104]

SENATOR GLOOR: Senator Brasch. [LB1104]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you for your testimony. It was very informative, Mr. Miller. When you had mentioned the casinos, the casinos would not be affected by this. I thought that's what I heard Senator Larson say, that the casinos if you open other casinos is that considered a business in an impact zone or what was...did I miss something? This is where...is a casinos considered one of the businesses for economic development and jobs creation? [LB1104]

VERNON MILLER: So the current mechanism for even getting a casino on reservations in Nebraska is it's not going to be a Class III casino like Iowa has and Colorado and South Dakota. It would only be a Class II casino. And when you really think about the demographics of our reservation, it's extremely rural so we're not going to see a big, you know, Ameristar or Horseshoe Casino created on a reservation. Our casino that we do have in Nebraska, it's a Class II facility. It's really...it's maybe...the size of it is maybe a quarter of this room right here. So when we talk about sizewise I mean it's really small and so the staff that's needed to be employable there is minimal, maybe a handful of people. And so when you think about that, they're really...in terms of a market, too, because it's so rural, I mean it's not something that you would want to put another casino because they're just saturated in that market as it is. You know, the two casinos that are there, the Winnebago, they have Native Star casino which is similar in size. And then our casino, Lucky 77 Casino, I mean they're only nine miles apart. And our reservation itself is so much smaller. So creating another one, that's really saturating the market. And so after a feasibility study would be done, I doubt...it most likely would read not to build a casino. So I mean I'm not sure if that's even a... [LB1104]

SENATOR BRASCH: But will they be exempt from the sales and use taxes if this passes?  
[LB1104]

VERNON MILLER: Well, it also depends on the type of land that it's on. That's a big thing. If it's trust land, there's no ability to even levy a tax. But if it's fee land there's a possibility of then too. But it depends on who is building the casino there. A tribe...my tribe probably wouldn't because we already have our two casinos as it is and we're looking at other economic opportunities other than gaming because, you know, originally we were farmers and so we were really pride ourself on our farming industry. This year alone we've expanded it and doubled the size of the amount of land that we are now farming. We now farm our Iowa side of our reservation, 1,500 acres. So we're looking at other opportunities other than gaming to, you know, kind of build our economy. And hopefully this will entice other businesses to come to our community and help us. Like I said, it's really unfortunate that the unemployment rate is 69 percent compared to Nebraska's 2.5 percent. And so any assistance that the senator is reaching out for me, I'm going to welcome it and I'm going to be accepting obviously. Because of the relationships we have with the federal government as an Indian tribe and a sovereign nation, the level of interaction we have with the state is limited. And so this assistance through this bill would definitely be beneficial for Nebraska as a whole. [LB1104]

SENATOR BRASCH: And what I also wonder about is Nebraska has a tax advantage plan to attract businesses and it has incentives. And if it would help to say that a business needs to hire so many employees to receive credits, kind of an exchange because you want to create jobs so you need to have a job, a number of jobs created, not just an arcade of some sort that it's machines running, but people jobs. Is that also something when you say that the unemployment...you need something that will bring several bodies into a type of a business.  
[LB1104]

VERNON MILLER: Yeah, that's kind of where I alluded to a manufacturing facility... [LB1104]

SENATOR BRASCH: Right. [LB1104]

VERNON MILLER: ...is something that we would be interested in promoting within our community. We do have actual infrastructure already there. We do have two pretty large buildings that can be turned over into a facility. But right now because we're so rural, our community, businesses aren't really wanting...they'd rather go to Omaha or Grand Island or Kearney or Lincoln because where the people are and where the job force is bigger rather than a rural area. But my community where there's employable individuals there. Like I said, we have a tribal college there who are creating a work force that can be employable. And so anything that

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this bill can do would be just enticing businesses to come there and really work on making Nebraska... [LB1104]

SENATOR BRASCH: What kind of a population are we speaking of? How many do you have ready to start work today? [LB1104]

VERNON MILLER: Like I said, we have 8,400 members on my...citizens on my reservation, so you kind of do the math from there. [LB1104]

SENATOR BRASCH: Okay. Very good. I have no other questions. Thank you. [LB1104]

SENATOR GLOOR: Senator Scheer. [LB1104]

SENATOR SCHEER: Thank you, Senator Gloor. You may not have the answer, but I'm going to ask the question so somebody else could answer if they want. If I don't ask it then I'll forget it so that's why I'm asking you. The intent of the legislation is not from A in Beatrice to move a facility up onto one of the reservations. I understand that. But what is to stop an individual, we'll say in Pender, that's got a welding operation, 15, 20 employees, and it's ABC Corporation and it's a family-held corporation so they simply just start MNC Corporation, build a building, and take their production and their employees up on your ground just to take advantage of the incentives that are placed here. [LB1104]

VERNON MILLER: Well, Pender is on the reservation, and so I'd welcome... [LB1104]

SENATOR SCHEER: Right, well, use Wayne. I don't care what town you use. It's somewhere off the reservation and they simply just reform a corporation, move it 6 or 60 miles and it literally is moving from A to B to facilitate that. What protections are in there to stop that type of movement? [LB1104]

VERNON MILLER: I'd love to answer it but I can't answer that question. [LB1104]

SENATOR SCHEER: Nope, that's fine. [LB1104]

VERNON MILLER: But I appreciate the question. And like I said, I think from when you look at the impact of the poverty level in my community, I think... [LB1104]

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SENATOR SCHEER: I get that, but the implication was we're not trying to move business around in Nebraska. We're trying to attract new business. So I'm trying to find how we are, within the legislation, how we're stopping the bleed from inside Nebraska moving. And so it just hurts one part of the state to improve your part of the state and I don't think that was the intent of the bill either. [LB1104]

VERNON MILLER: I also want to mention, too, though that when you consider the staggering percentage of the 2.5 percent unemployment in Nebraska as a whole and then my community having a 69 percent unemployment rate, when you consider the weighing the pros and cons of that, I mean any job that's created in my community is good for Nebraska as whole. [LB1104]

SENATOR SCHEER: I understand that, but the intent as presented by the senator of the bill was not to move in-state jobs across lines on to reservation ground. It was to create new jobs within the state. So that's why I'm specifically more interested in my question in relation to that. I understand exactly where you're coming from. I don't have any qualms with that. I just want to make sure that we aren't just reshuffling the deck hoping that something comes out a little bit better. [LB1104]

VERNON MILLER: Thank you for the question. [LB1104]

SENATOR GLOOR: Senator Davis. [LB1104]

SENATOR DAVIS: Thank you. Thank you, Mr. Miller, just a couple questions. You said there are 8,400 people on the reservation. How many of your tribal members are off the reservation, do you have any count on that? [LB1104]

VERNON MILLER: Sure. So we have around 3,800 to almost 4,000 tribal members living off the reservation, and not only in Nebraska but across the world. The majority that live off the reservation live in Omaha and Lincoln, of my tribal members. [LB1104]

SENATOR DAVIS: And then you talk about in the fiscal note some things, 150 non-Native farmers located using land on the reservation, just leasing it, is that the way that works? [LB1104]

VERNON MILLER: Correct, yeah. Because we don't have enough...our industry is still growing with our own farming company, we can't farm all of land yet so we do lease it out to non-Natives. [LB1104]



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SENATOR DAVIS: And then the final question I have talks...it calls for Nebraska...NIFA, it's on the housing piece. Are you familiar with what I'm talking about? [LB1104]

VERNON MILLER: You can ask the question and I can try to answer it. [LB1104]

SENATOR DAVIS: Well, let me...I'm trying to find it here. Section 7 amends Nebraska Revised Statute 85-1517 to require community college...we talked about that. Well, I can't find the question now so maybe I will come back to that later. [LB1104]

SENATOR BRASCH: First page. [LB1104]

MARY JANE EGR EDSON: "The bill also requires", it's on the first page. [LB1104]

SENATOR BRASCH: First page, towards the bottom. [LB1104]

MARY JANE EGR EDSON: Towards the bottom. It says: "The bill also requires". [LB1104]

SENATOR DAVIS: Okay. "The bill also requires the Nebraska Investment Finance Authority, when allocating any federal low-income housing tax credits, to give a 2 percent scoring bonus to any project located in a special economic impact zone." I guess I'm just assuming that's because you've got a housing shortage there or substandard housing. [LB1104]

VERNON MILLER: So because of the sovereign status over our land, we have a lot of HUD funding which HUD...which affords us the ability to have a housing authority and that provides the homes. And so unfortunately because we don't have jobs there or housing, that's why you have my tribe members leaving my community and living in Lincoln and Omaha and other places across the world. [LB1104]

SENATOR DAVIS: So do you think that this is a significant enough, I guess, special credit to steer more housing in your direction? [LB1104]

VERNON MILLER: I don't, but I understand the state is in a budget situation and so I think anything is going to be helpful even though 2 percent, it's 2 percent. I'd love to see it increased more, but then you've got to sacrifice somewhere else in the budget to increase that. [LB1104]

SENATOR DAVIS: Okay, thank you. Thank you. [LB1104]

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SENATOR GLOOR: Thank you, Mr. Miller. Appreciate your testimony. [LB1104]

VERNON MILLER: Thank you. [LB1104]

SENATOR GLOOR: Continuing with proponents. [LB1104]

KENT ROBERT: Good afternoon, Chairman Gloor, members of the Revenue Committee. My name is Kent Rogert, K-e-n-t R-o-g-e-r-t, and today I'm here representing the Ponca Tribe of Nebraska. And I will say the last time I was here testify the power went out, so I hope that doesn't happen today. I'll kind of bat a little clean up here and try to answer some of the questions that were asked before me. I do have a few bullet points. The Ponca Tribe does strongly support creating economic impact zones on tribal-owned or tribal member-owned lands in reservation and service areas. They strongly support Section 4 such as Mr. Lindsay talked about, requiring the Department of Revenue to enter into revenue sharing agreements as long as the requirements of the bill are met. And we strongly support boosting low-income housing tax credits that might encourage some housing developments on the reservations or in areas where there is a need. For legal counsel, if there are definitions that need to be addressed moving forward, we have specific suggestions on those changes and we'd be happy to share those with you. We think LB1104 is a great starting point on which to build tribal economic development policy and will help boost employment among tribal members and on tribal grounds. And our chairman Larry Wright was not able to be here today because of business out of the state. But, Senator Scheer, you had a couple questions. One of them was on the undeveloped property in the middle of Norfolk. That is not land that's held in trust. The only trust land the Ponca owns in Madison County is 1800 Syracuse. There's a duplex and a fourplex and an eightplex, a gym. There's a little...I think it's an old school property there. [LB1104]

SENATOR SCHEER: That is the ground. [LB1104]

KENT ROBERT: That is? Okay. That's the trust ground. It would be...it is in trust. Senator Sullivan, you asked if the amendment satisfies the fiscal note. Possibly. We think it's pretty close to handling a lot of the concerns that were put in there by the fiscal staff. Senator Davis, you asked about the nursing home that's going on up there. That actually is...it is reservation ground that extends just across the state. So the answer is maybe it would qualify. It would have to go through the Department of Revenue and probably a court to be looked at, but possibly. And, Senator Scheer, you also asked about what's to stop a company from just shutting down, renaming, and building up over there? I don't know that the bill addresses it, but I think we could put in a qualifier that the Department of Revenue can look at and at least address that concern. I'll answer any other questions if you have any, or try. [LB1104]

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SENATOR GLOOR: Senator Schumacher. [LB1104]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Senator Rogert, for your testimony today. Currently the Winnebago Tribe is funding a petition drive for casino gaming. Everything I've seen in the case, unless the courts bring that effort down, it's probably going to be successful because casino gaming is something that is very popular among Nebraskans and this may be their first chance in years to vote on it. [LB1104]

KENT ROGERT: Sure. [LB1104]

SENATOR SCHUMACHER: That measure would authorize Class III gaming in Nebraska and also authorize under the Indian Gaming federal act all the tribes to have casino activity in Nebraska. That activity would also not be controlled by the Nebraska Legislature because we no longer have control over gambling or never did have control over it, unless it was authorized. [LB1104]

KENT ROGERT: Correct. [LB1104]

SENATOR SCHUMACHER: Now, and in reading through these provisions with that in mind, how do you see that interplay with a Ponca casino? [LB1104]

KENT ROGERT: Well, possibly I think that it depends on where this would be located, of course. That petition drive is requiring it to be anywhere a horse track is at currently, correct? [LB1104]

SENATOR SCHUMACHER: But that petition drive, once authorized Class III, it opens the door to the federal act. [LB1104]

KENT ROGERT: Okay. [LB1104]

SENATOR SCHUMACHER: So the rest of the tribes are not confined by the language of that petition. [LB1104]

KENT ROGERT: Sure. [LB1104]

SENATOR SCHUMACHER: And so how do you see this interacting with a tribal casino not in affiliation with the Horsemen? [LB1104]

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KENT ROBERT: There could be a door open through this bill for that. I think you could exclude it if you wanted to. You could exclude gaming from a qualified business. [LB1104]

SENATOR SCHUMACHER: So as written now, this particular bill would qualify for all these extras, so to speak, bonuses in this bill. [LB1104]

KENT ROBERT: Possibly. I'm not saying yes or no, but possibly. [LB1104]

SENATOR SCHUMACHER: Very possible. And that's... [LB1104]

KENT ROBERT: It's not restricted in this bill as far as I can see it. [LB1104]

SENATOR SCHUMACHER: That's the way I read it too. [LB1104]

KENT ROBERT: Yeah. [LB1104]

SENATOR SCHUMACHER: So that...and the timing of this bill is rather interesting with that in mind. [LB1104]

KENT ROBERT: I think it's coincidental, but some people don't believe in coincidences, right? But I don't think...I would say on behalf of the Ponca Tribe, our intentions with this bill would not to be using it for gaming, so you could exclude that from it. [LB1104]

SENATOR SCHUMACHER: But if it's there, it's there. [LB1104]

KENT ROBERT: (Laugh) [LB1104]

SENATOR SCHUMACHER: (Laugh) Okay. Thank you very much. [LB1104]

KENT ROBERT: You're welcome. [LB1104]

SENATOR GLOOR: Seeing no further questions, thank you, Senator Robert. [LB1104]

KENT ROBERT: Thank you. [LB1104]

SENATOR GLOOR: Next proponent. Judi. [LB1104]

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JUDI GAIASHKIBOS: Good afternoon, Chairman Gloor and Revenue Committee. I'm Judi gaiashkibos, the executive director of the Nebraska Commission on Indian Affairs and my name is spelled J-u-d-i g-a-i-a-s-h-k-i-b-o-s. And I have been the director of the Commission on Indian Affairs for 20 years and I would have to say that this is probably one of the first times that we've had a senator come to the tribes and come with an open opportunity for the tribes to find a way to improve the quality of life for our people. And as you know, Indian people have dual citizenship. We are citizens of our sovereign. I am a member of the Ponca Tribe and I'm also a citizen of the United States of America. So firstly, I would like to thank Senator Larson for his generosity and his intent and his spirit for reaching out to the tribes. Indian law is very complex. I am not an attorney. My daughter does do Indian law in Washington, D.C., and I am very proud of my daughter, but she's not here today. So I am the one that will have to answer your questions. So I hesitated to come up here and testify because although I'm a member of the Ponca Tribe, I don't always know every detail of what the Ponca Tribe is doing because I represent all the tribes so I have to have some neutrality and work on behalf of the Omaha, Winnebago, Santee, and the Ponca. So some of the questions today have already been answered, but Indian law is very complex. And I know I was involved with the negotiations of putting the Ponca 17th and E office into trust. And that was not an easy thing to do. It's very...and there's a purpose for that. It is for the Interior Department to work with the governor of the state, the mayor of the city, the county commissioners, and the tribe. Everybody works together to come up with an agreement that all can agree to. And in the case at 17th and E, the Ponca Tribe agreed to have in lieu of taxes so they could have the benefits of law enforcement and fire department and all of that. So I think sometimes people are very fearful of what tribes can do, but it's very, very difficult to do these things. Today I've heard a lot of questions about, you know...well, for example, that last question about gaming, on Class III gaming. And as you know, under IGRA, the Indian Gaming Regulatory Act of 1988, if the state of Nebraska allows for Class III gaming, which it currently doesn't, that would open that opportunity for all the tribes. Ponca Tribe does not have any gaming in Nebraska; the Omaha and Winnebago have Class III in Iowa because that state allows it. And the Santee have a Class II. So what would be wrong with the Ponca having that? Evidently people in Nebraska think that it might be a good thing for the state to have that. So if it were good for the state, it could be good for the Ponca. And what I'd really like to say is I hope that this conceptually, as has been said earlier by John Lindsay on behalf of the Winnebago, this isn't a perfect bill. It's very complicated. We've been working. We have different tribes, different challenges. We want to work with the Revenue Committee to craft it in a way so that you all feel comfortable with that. But at the end of the day, what I want to see is opportunities for our children, for our children to wake up in the morning and know that their parents have a job and that the family unit is intact so that these children who go to public schools in our state, not private BIA schools but public schools, that they can have a sense of purpose. They can feel pride that their parents have jobs, that they can have some...the playing field can be leveled because I truly do believe that it is education that will help our children have the opportunities to either stay on the reservations and work there to help their people or to move away like my

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daughter. She works...one of her clients is the Ponca Tribe, the Crow Nation, the Pechanga Nation. She's in D.C., but she's able to help her tribe. So I think that this is an opportunity for our people as a whole and as dual citizens in our state, it's an opportunity for businesses in Nebraska to locate on the reservations. And so we just have to work out a lot of those details and I'd be happy to answer questions. But again, overall, we're supportive, the Indian Commission as an agency. I'm here to help if this bill should come to fruition for the implementation process. I'm here to help get the answers to any of these questions that the committee has. Thank you.  
[LB1104]

SENATOR GLOOR: Are there any questions for Ms. gaiashkibos? Senator Schumacher, then Senator Scheer. [LB1104]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your testimony today. How many tracts of tribal lands are there in the Nebraska among the various tribes? How many are out there? Where are they located, if you know? [LB1104]

JUDI GAIASHKIBOS: Oh, boy. Let's see. Well, the Winnebago Tribe has their reservation which extends into Iowa and then they own land in the city of Omaha where they have some of their federal contracting business as they're developing as...the presentation that Lance Morgan made to all of you, he explained to you that they're working with the city on the riverfront there to develop lands there. I believe that would be fee land, land that's not in trust. But again, I don't know all the land holdings of the Winnebago Tribe, so. But to the best of my knowledge, the Omaha Tribe, I'm not...the chairman was here so he could speak to that. But I know their reservation is in Thurston County and that the land goes into Iowa. The Santee Sioux Nation, they're located up adjacent to what was the Ponca Homeland near Niobrara. I don't believe they have any lands elsewhere in the state. And our tribe, the Ponca Tribe who had four treaties with United States government, we were terminated and restored without a residential land base per Public Law 101-484. We were precluded from having a land base. So instead we have these counties where we provide our services. And those are on or near a reservation and are to be treated as the same as the other tribes. Now in the case of the Ogallala Lakota Sioux, they have lands up there near Rushville and I believe that was a farm that was given to them by a non-Indian person and that is where the nursing home is being built. So here you have a tribe that their headquarters and their land base is in South Dakota. They're building a beautiful facility in Nebraska that will benefit our state in many ways because of the goods that are going to be purchased. It will probably employ a lot of people, non-Indian people up at the nursing home. And so if they were to be able to benefit I think that could be a positive thing. I'm not sure if that land is in trust or not. That's something I'm not able to answer to, but for the other tribes as well, the Ponca Tribe, We employ I believe it's something like half of our employees in all of our service areas are non-Indian people. So the other tribes do business with non-Indian businesses as well. So we're here to try to make Nebraska the good life for all people and for our children.

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And there is...was a piece of land in the southeast corner of Nebraska called the Half Breed Tract and I'm not quite sure what the legal status of that is, but that is where half breeds were sent at one time. And there were many tribes besides the four headquartered tribes that were sent there. I believe the Sac and Fox and some of the tribes in Kansas were a part of that. [LB1104]

SENATOR SCHUMACHER: And one quick follow-up question then, let's assume that this bill passes without any amendments with reference to gaming. Currently, if I'm not mistaken the federal law is that if the state permits Class III gaming, that it has to enter into a compact with the Native American tribes. Is that your understanding also? [LB1104]

JUDI GAIASHKIBOS: Yes, the state of Nebraska would be required to act in good faith and compact with the tribes. [LB1104]

SENATOR SCHUMACHER: Let's suppose farther that last year this committee passed a piece of legislation out--it was passed on the floor, vetoed by the Governor--that was attempting to suppress Class III gaming that was emerging on a fairly large basis in the state and that as a result of that bill and its subsequent veto, that the expansion of Class III gaming is functionally de facto being permitted in Nebraska at this time and that the tribes make the proper petition and legal action to get the right to do that. How do you see, if that action is successful, this particular bill interacting with the state of Nebraska and what type of revenue sharing arrangements can we expect? [LB1104]

JUDI GAIASHKIBOS: I wouldn't be able to speak to that. That would be between the Revenue Department and the tribes and the state... [LB1104]

SENATOR SCHUMACHER: Okay. [LB1104]

JUDI GAIASHKIBOS: ...and negotiations in good faith. That's really not my area of expertise or my responsibility, so I wouldn't want to speak. And why I hesitated to come up here and testify, because I knew you would ask questions like that. So no, I'm not going to answer that. (Laugh) [LB1104]

SENATOR SCHUMACHER: I hope I didn't put any evil ideas into your head. (Laughter) [LB1104]

JUDI GAIASHKIBOS: That's all right. [LB1104]

SENATOR GLOOR: Senator Scheer. [LB1104]

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SENATOR SCHEER: Thank you, Senator Gloor. Judi, welcome. Were you involved in the process of developing the bill? [LB1104]

JUDI GAIASHKIBOS: Yes. Yes and no. [LB1104]

SENATOR SCHEER: It's not a trick question. Here's my...and somebody else can speak to it. From my perspective, this is a really, really big bill. And in a half hour or 40 minutes that we've been looking at it, we've found a lot of problems with it. I'm wondering if during the process or if it would be more attainable if we prioritized some of the things that you were wanting to do, not necessarily all of them because I don't know that you can fix this bill as much time as you've got left in a short session. And so if I'm not speaking to the right person, somebody that's right is out there, that perhaps the better option is to sort of prioritize and maybe look at some...a few things that we can fix and make workable and build upon. I mean as you stated earlier, this is the first time that something of this magnitude has happened. But it looks like we're afraid it's never going to happen again so we threw everything we could think of in a bill. And having said that, normally those don't work out real well, and so more of a comment. I'm hoping that perhaps rather than trying to fix everything under the sun, which I don't think you're going to be able to do, that perhaps people are able to prioritize a few things that they would like to start with and tighten those things up well enough that it's a workable bill and a passable bill because I...I'm on your commission and I am very empathetic. But on the same hand I'm not going to pass bad legislation either. And so I'm hoping somewhere that some compromise can be handled or priorities set so that we aren't trying to work with everything and not get anything done rather than working with something, some parts of it and get something done. [LB1104]

JUDI GAIASHKIBOS: Thank you, Senator Scheer. I wouldn't want to speak for Senator Larson, but I think the consensus of the tribes is that we understand that we have great need. And so perhaps too many things were put in here and that's what we would like to work with the committee on is taking it down and taking out things, that maybe we'd like to end up with something that's helpful and it'd be better to have something than nothing. So I agree with you if we can find what the best thing of this is, "take the best and leave the rest" philosophy. And so I'm certainly agreeable to that, but that would be...I would defer to the tribes and to the senator to work with you on that. [LB1104]

SENATOR SCHEER: Fair enough. Thank you. [LB1104]

SENATOR GLOOR: Thank you. Appreciate it, Judi. [LB1104]

JUDI GAIASHKIBOS: Thank you. [LB1104]



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SENATOR GLOOR: Next proponent. Are there other proponents? Seeing none, we'll move to opponents of this bill. [LB1104]

MICHAEL CHIPPS: (Exhibit 2) Good afternoon, Chairperson Gloor and members of the Revenue Committee. My name is Michael Chipps, M-i-c-h-a-e-l C-h-i-p-p-s. I'm president of Northeast Community College in Norfolk and I'm here to speak in general opposition to LB1104. Somewhat listening to Senator Scheer, I want to say general opposition to because I think there ought to be a needle up here that has strong opposition and general opposition. But to require Northeast Community College to submit 15 percent of the property taxes collected on the Native American reservations to the tribally controlled community college in the region is problematic for us. As you well know, under our current structure Northeast is already required to remit a portion of state aid dollars on the basis of FTE to the tribal colleges. Actually it requires a significant amount of time and effort to collect even that required information because it is hard to collect. We actually have visited the tribal colleges personally and have had them come to our campus to try to figure out a way where we could collect that a little easier, but it is hard to collect it for them. And there's no fault in that; it's just difficult to do that. It's unclear how this bill would work in practice and we are unsure as a college how we'd know what revenue was collected on the reservations and how we would know how much to even remit to the tribal colleges. So that would be...that's difficulty number one. And it seems as...again, I do this on a regular basis. I think I spoke on a similar issue a year ago, but it seems to me we're essentially doing the work of the Nebraska Department of Revenue and we'd respectfully request that the Department of Revenue work directly with the tribal colleges and submit the funds directly to them. Kind of some final thoughts for your consideration that I've been thinking about as I listen to the testimony today. Northeast Community College is a conduit of the state's work. It's good if the Department of Revenue would determine how much is owed...or how much is to be paid and then reimburse the tribal colleges accordingly. The question on how to determine 15 percent of the property taxes to be collected or to be paid, the challenge we have to acquire the information in the first place; and then the additional workload on our own resources to be able to do that. So with that, I'll answer any questions that you might have. And the light is still green. [LB1104]

SENATOR GLOOR: Thank you, Dr. Chipps. Any questions? Seeing none. Thank you for your testimony. [LB1104]

MICHAEL CHIPPS: Thank you. [LB1104]

SENATOR GLOOR: Others in opposition, please. [LB1104]

DENNIS BAACK: Senator Gloor and members of the Revenue Committee, for the record, my name is Dennis Baack, D-e-n-n-i-s B-a-a-c-k. I'm the executive director of the Nebraska

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Community College Association. I'm only going to speak to one portion of the bill because, quite frankly, I can't get my way through all of the business stuff that's in there. But quite frankly I think that the fact that the Legislature would be in a position to dictate to a college giving property tax to another entity I think probably runs afoul of the Nebraska Constitution, of the Duis Amendment of the Nebraska Constitution. If you go back to the original case when there was a State Technical Community College Board and you go back to that, there certainly...it certainly established the fact that the Legislature certainly has a right to provide limits on the levies. They provide limits on budgets. They can do all those things. But the whole case really hinged on the Legislature directing how they spend their money. And so I think you would run afoul of that. This whole issue goes back a long time. I think it was probably almost 30 years ago. When I was actually serving in this body on the Education Committee we were presented with the idea of trying to help out the tribal colleges. And we had a very difficult time coming with a way that we might help out the tribal community colleges because there were prohibitions. I remember Senator Warner saying you can't do that. The state cannot give money directly to a tribal college because they're a federally funded entity. They can't give money directly to them. So how do we go about this? And what we did was we used the same concept that we used when we...when the state could not give money directly to Wesleyan or a Hastings and instead we said, okay, the money will have to follow the students and the money will go for students, not for administration of the college. So it goes students, scholarships, those kind of things. That was permissible and that's the way we did it for the...for the private colleges. We did the same kind of thing for the tribal colleges where we said, okay, so I think our responsibility ought to be we ought to fund any non-Native students who happen to go to those colleges. We do fund those today and that's how the funding goes and the funding flows through Northeast Community College. The tribal colleges report to Northeast how many non-Native students went to those schools, what kinds of courses they took because we have weighting within our courses depending on the technical nature of our courses. And what we do is we then reimburse the tribal colleges with double the amount that we even get for them. If it's a very highly technical course, we get a 2.0 weighting in our formula; they get a 4.0 weighting. So we actually double the amount to it. It does not amount to very much money. There are not that many non-Native students who attend the tribal colleges. So this is a very complicated kind of issue as to how you work with the tribal colleges. But I will tell you that I am more than happy and I know that Northeast is more than happy to try to work with them if we can figure out some way of doing this. But right now, I don't think this bill is the answer to it. But I wish I could give you a better answer. If there was an easier answer we maybe would have come up with that 30 years ago, but I don't think there is an easy one. So with that, I'd be happy to answer questions if there are any. [LB1104]

SENATOR GLOOR: Are there any questions? Senator Davis. [LB1104]

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SENATOR DAVIS: Thank you, Mr. Baack. Thank you, Senator Gloor. So the only testifier from your group that was in opposition was Northeast which I understand, but are there other state community colleges that would have a...that this would impact in any way...? [LB1104]

DENNIS BAACK: No. [LB1104]

SENATOR DAVIS: ...like would Western be impacted at all by the small piece of ground that...? [LB1104]

DENNIS BAACK: No, not the way that the bill is currently written. No, they would not be impacted at all. [LB1104]

SENATOR DAVIS: So only Northeast. [LB1104]

DENNIS BAACK: The only one would be Northeast, yes. [LB1104]

SENATOR DAVIS: Okay. Thank you. [LB1104]

SENATOR GLOOR: Thanks for your testimony, Senator. Anyone else in opposition? Anyone in a neutral capacity? [LB1104]

MAUNKA MORGAN: Greetings. My name is Maunka Morgan, M-a-u-n-k-a M-o-r-g-a-n. I'm the current president of Little Priest Tribal College. I'm a member of the Winnebago Tribe of Nebraska and also a citizen of the United States. I'm here for two reasons. The Winnebago Tribal Council has asked me to make a statement on their behalf in addition to their lobby group. But primarily I'm here to talk about the disparity of funding to the tribal community colleges that we currently receive and as it relates to LB1104. I think that LB1104 in general as it relates to what the tribe wants, the tribe generally supports any economic incentives. But specifically from my point of view as the president of the college is that it falls short as it relates to the allocation of property taxes. For example, the total amount of taxes, property taxes, levied under Nebraska Revised Statute 85-1517 for Thurston County in 2014 was \$497.08, respectively. Out of that, the tribal colleges, community colleges, which are public institutions and open like any other community college, received zero. In Knox County, speaking to Knox County specifically, those property taxes were collected at \$1,614,373.84, respectively. Again, that would include the Nebraska Indian Community College, not Little Priest Tribal College. But again, the tribal colleges receive zero. Collectively, the two community colleges in 2014, that amount is \$2,511,870.92 respectively. That's one pot of money. And the second pot of money is state aid and we're currently receiving, as president of Northeast, Mike had mentioned that we are

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receiving something. But I want to be clear about what that amount is because it's really insignificant in terms of supporting our operational needs. In 2014-2015 academic year, the Northeast Community College received \$13,116,284.90 in state aid. Of this, Little Priest Tribal College received \$26,772.90. In my mind, it's a pretty big disparity. For the 2015-2016 academic year, Northeast Community College will receive a total of \$13,513,970.90 in state aid, respectively. Of this, Little Priest will receive a total of \$74,359.10. My concern with what's currently in place is that it specifically speaks to a formula that is tied to an allocation of tax resources based on a racial definition, whether someone is Indian or whether someone is not Indian. And just as a United States citizen, I have a problem with that. And what I would like to see somewhere down the road is that we work together to address that to eliminate that sort of language because our citizens within Winnebago, we pay...I live in Winnebago. I pay property tax in Winnebago on my home there. And none of that property tax is coming directly back to Little Priest Tribal College in Winnebago, Nebraska. My neighbors pay property tax and we have a housing initiative that we're about to build some more homes there and I suspect that a lot of them will be paying property tax. And there's a reason for that and a lot of it has to do with sort of whether you live on trust land or fee land and if you even want to deal with the headaches of that. So for me, I choose fee land in Winnebago so I can transfer that property to my heirs and I can leverage against it like any other normal citizen, but I do pay property tax. And it's my expectation as a person that pays taxes, whether it's at Wal-Mart off the reservation like everybody else where we're stimulating the economy in that area or we're paying property taxes, for those dollars to come back to the tribal community colleges which are public institutions. And I don't think it's equitable on any level to have some sort of race-based formula. But I truly believe that if we can collectively work together we can find a way to come up with a win-win solution for Northeast Community College, Nebraska Indian Community College, and Little Priest Tribal College. Thank you. [LB1104]

SENATOR GLOOR: Thank you, Mr. Morgan. Senator Brasch. [LB1104]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you, Mr. Morgan. It's interesting and the numbers that you're telling me. How many students do...what comes to my mind, and you can tell me if this is wrong or not, is that your student population is probably less than Northeast Community College, is that correct? [LB1104]

MAUNKA MORGAN: Yes, that's correct. [LB1104]

SENATOR BRASCH: And state aid is designed to help the students, the number based on how many students are being served, is that correct or is that wrong? [LB1104]

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MAUNKA MORGAN: Well, the state aid is based on some percentages, kind of a complex formula. They do build in...to my understanding, as I'm understanding this issue even more, is it's based on a formula. And it's based...and part of that formula is tied to full-time equivalency, etcetera, etcetera. [LB1104]

SENATOR BRASCH: And then does the Indian schools, at one point they were receiving some federal funding as well from the DoDEA perhaps and the MIA...or Bureau of Indian Affairs, BIA. [LB1104]

MAUNKA MORGAN: Yeah, BIE. [LB1104]

SENATOR BRASCH: And the... [LB1104]

MAUNKA MORGAN: Yes, so they...we refer to that as 471 money and that's tied directly to our treaty, contractual obligations with the United States government in exchange for land. So I don't see that as a primary issue as it relates to how this race-based formula plays in because that's a... [LB1104]

SENATOR BRASCH: But they are receiving... [LB1104]

MAUNKA MORGAN: They do receive... [LB1104]

SENATOR BRASCH: They do receive other funds than... [LB1104]

MAUNKA MORGAN: They do receive other funds and just like every other college, they're also eligible for federal grants just like we are. [LB1104]

SENATOR BRASCH: And I'm also curious, the previous testifier had said that some of the...maybe was the Ponca Tribe, that even though land is in trust they pay property taxes in lieu of for services for streets and roads. Are you aware if the Winnebago in, say, Thurston County are...the trust land, is that also paying property tax there in lieu of for services? [LB1104]

MAUNKA MORGAN: I would...well, it depends who owns the trust land. An individual tribal member can own the trust land. The government can own the trust land. A chartered entity that is under the government can own the trust land. So it depends. Some tribes are different. They may go into an in lieu of agreement with a local taxing authority. But generally, you can't encumber trust land, so it's nontaxable. [LB1104]

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SENATOR BRASCH: But they were saying even though it was a trust, they are paying. I think there's trust land in Lancaster County here. That was one of the examples. But even though it's trust land and they were not required to pay property taxes, they were doing so because of the services. They understand services that come with paying those taxes. [LB1104]

MAUNKA MORGAN: And that's a great question too. I mean, to give you some insight into that it's strategic because the organization itself may not have enough money to fund fire and rescue, for example. And so the local city or county has the additional resources so they would go in lieu of agreement to go to mainly...probably to fund fire and rescue primarily. That's my answer to your question. [LB1104]

SENATOR BRASCH: And you had...when you were talking about the disparity of taxes collected versus taxes disbursed in aid, that's why I was wondering how the taxes, were they being paid on the trust land to contribute to the tax base that was coming back to the school institutions there? [LB1104]

MAUNKA MORGAN: Well, the citizens within the reservation that are also tribal citizens and Nebraska citizens, they stimulate the economy every day and they spend millions and millions of dollars every year at Wal-Mart--that's kind of my example--off the res stimulating the economy in those areas. So they pay taxes outside of that tribal jurisdiction. [LB1104]

SENATOR BRASCH: But property taxes goes to education. Property tax pays for...for the most part. There is some sales tax and... [LB1104]

MAUNKA MORGAN: Property tax, yeah. It does subsidize education. And my issue is that property taxes isn't subsidizing the tribal community college educational system. And I just revealed some of the data on that and that's just in the recent year. We're not receiving any of that property tax. [LB1104]

SENATOR BRASCH: All right. I do want to just comment that you have an excellent college there. [LB1104]

MAUNKA MORGAN: Oh, thanks. [LB1104]

SENATOR BRASCH: Several senators went there I think not this year but the year before last. We had a tour and a good meeting and it is an impressive campus. [LB1104]

MAUNKA MORGAN: Thank you. Thank you. We're working very hard. [LB1104]

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SENATOR BRASCH: So thank you for your work there. [LB1104]

MAUNKA MORGAN: Appreciate that. [LB1104]

SENATOR GLOOR: Senator Scheer. [LB1104]

SENATOR SCHEER: Thank you, Senator Gloor. How is your college set up? What organizationally...who provided the authority for the college? [LB1104]

MAUNKA MORGAN: Our college is chartered under our tribe's law we have under our tribe's constitution which gives us the authority. [LB1104]

SENATOR SCHEER: Okay, but they weren't authorized by the state. [LB1104]

MAUNKA MORGAN: They're not authorized by the state but we are accredited through the Higher Learning Commission like every other college in the state of Nebraska. [LB1104]

SENATOR SCHEER: Understand, but where I'm going is that you aren't authorized via the state. Anyone can start a college. Anyone can be accredited. But you're wanting state funding for your college. [LB1104]

MAUNKA MORGAN: We want state funding because we don't see the differentiation between the Indian and non-Indian element in that we think that that's a form of discrimination... [LB1104]

SENATOR SCHEER: Well, but I'm not asking that. [LB1104]

MAUNKA MORGAN: ...and it has a disparate impact in the allocation... [LB1104]

SENATOR SCHEER: Just...sir. [LB1104]

MAUNKA MORGAN: ...of those funds. [LB1104]

SENATOR SCHEER: Sir, I'm asking the questions. You've got to answer my questions. Your system was not authorized by the state and you're wanting state funding as...in equivalence, if I

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understood you right, to a community college. But those entities were authorized by the state of Nebraska and... [LB1104]

MAUNKA MORGAN: But it's a public institution too. It's open to everyone. It's not exclusive. We don't discriminate against non-Indian people who attend our college. [LB1104]

SENATOR SCHEER: But, sir. [LB1104]

MAUNKA MORGAN: And I'm a citizen... [LB1104]

SENATOR SCHEER: Again, sir, please. [LB1104]

MAUNKA MORGAN: ...there paying taxes there too. [LB1104]

SENATOR SCHEER: Please. But so is any other private college is open to all students. The fact that you're open to all students doesn't make you a state institution. It makes you an institution. You are a qualified institution. The diplomas mean something. I'm not trying to imply that. But I do find a distinguishment between something that the state has authorized to operate, and through that authorization has provided a funding network, versus a independent organization that chose to build a facility and is looking for some type of funding other than tuition or other funding that may be available wherever. It may be grants or whatever else that you provide your funding from. So I do have maybe a fine line with the concern that you're presenting in relationship to the funding mechanism. Your students on the reservation that you provide the education, that's great. But to me that's really no different than if those students were going to Briar Cliff across the river or if they were going to Central Community College, there's really...there's no obligation on the state's part for those dollars to follow...to go to you. We've never...the state has never made the commitment or authorized your facility, would that be correct? [LB1104]

MAUNKA MORGAN: Well, Senator I would agree to disagree with you on that point. [LB1104]

SENATOR SCHEER: Okay, fair enough. [LB1104]

MAUNKA MORGAN: You know, our people fight in the armed services. They don't shoot just a certain percentage of the time. They shoot 100 percent of the time. [LB1104]



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SENATOR SCHEER: Sir, I'm not arguing...I'm not arguing that you are citizens of the United States. [LB1104]

MAUNKA MORGAN: Okay. [LB1104]

SENATOR SCHEER: I'm not arguing... [LB1104]

MAUNKA MORGAN: It's our right to charter our entities under our law as it relates to our relationship with the United States. [LB1104]

SENATOR SCHEER: Absolutely, and I'm not questioning that. But there is a difference between that process and the process that the state used to develop a community college network throughout the state of Nebraska. I think we both would agree to that, is that not correct? [LB1104]

MAUNKA MORGAN: And I don't think that there was meaningful consultation when that occurred with the tribes at the time. So here we are in the common era where it's time that we need to rethink this so that we have equality as it relates to the allocation of these resources. And it's... [LB1104]

SENATOR SCHEER: Okay, but... [LB1104]

MAUNKA MORGAN: We are part of the Nebraska Transfer Initiative as well which means that our credits... [LB1104]

SENATOR SCHEER: And fair enough. [LB1104]

MAUNKA MORGAN: ...transfer into the university. [LB1104]

SENATOR SCHEER: Sir. Sir. [LB1104]

MAUNKA MORGAN: And our students do transfer... [LB1104]

SENATOR SCHEER: Sir. Sir. [LB1104]

MAUNKA MORGAN: ...down to Lincoln a lot. [LB1104]

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SENATOR SCHEER: The conversation is here. I don't have a problem if that's indeed what you're trying to get at. What I do have a problem with is taking the resources exclusively from one community college simply because of the location of your colleges. You could have produced that college on other grounds that you may have owned that may not have been within that realm. That's...my concern is not that you are a fine institution and you provide a high-quality education. Mine is specific to that we're carving out only a small part of the community college system that will provide funding for your two institutions. If indeed we're going to provide funding to the those two institutions, I think it should be more of a state obligation, not necessarily a community college responsibility. I think that's where we differ. I'm just... [LB1104]

MAUNKA MORGAN: Can you clarify that? [LB1104]

SENATOR SCHEER: Well... [LB1104]

SENATOR GLOOR: Let me step in here if I might. I want to make sure I go back to your reason for being up here. You're here in a neutral capacity, is that correct? [LB1104]

MAUNKA MORGAN: I am. [LB1104]

SENATOR GLOOR: As it relates to that bill. [LB1104]

MAUNKA MORGAN: Thank you. Yeah. [LB1104]

SENATOR GLOOR: And it's worth pointing out that you have, as it relates to the community college, small community college piece of this legislation, some concern about how funding occurs within the community college system. But as it relates to this bill, you're neither for it or against it. [LB1104]

MAUNKA MORGAN: Yeah. [LB1104]

SENATOR GLOOR: And I am in the interest of time... [LB1104]

MAUNKA MORGAN: Contextually, my narrow focus is how the funding is allocated. And I'm concerned that I'd rather go back to the table and work on this and work out this piece specifically as it relates to property tax and as it could potentially impact state aid impacting the tribal community colleges within our area. [LB1104]

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SENATOR GLOOR: And I think the record makes that clear. I understand Senator Scheer is concerned about it. I'm not sure we can work out community college funding as relates to this in the limited time we have on this hearing. [LB1104]

MAUNKA MORGAN: Yes. Thank you. [LB1104]

SENATOR GLOOR: So thank you for your testimony, but I would like to... [LB1104]

SENATOR SCHEER: Senator Gloor, I wasn't finished, but excuse me. Thank you. I do appreciate and maybe I misinterpreted your point and I apologize for that. If you're saying that the bill as presented if it goes forward your specific interest is only exclusively into that funding process and for that part not to go forward, is that a fair assessment? [LB1104]

MAUNKA MORGAN: I would say from my point of view, yeah. I'm concerned, I don't think...I think it falls short. [LB1104]

SENATOR SCHEER: Okay. [LB1104]

MAUNKA MORGAN: And so that's my concern. [LB1104]

SENATOR SCHEER: Okay. Fair enough. Thank you very much. [LB1104]

MAUNKA MORGAN: I don't want to speak to the other economic points in the bill. [LB1104]

SENATOR SCHEER: Okay. Thank you very much. [LB1104]

SENATOR GLOOR: Thank you for your testimony. Senator Scheer? [LB1104]

SENATOR SCHEER: Thank you. [LB1104]

SENATOR GLOOR: Okay. Thank you. [LB1104]

MAUNKA MORGAN: All right. Yeah. [LB1104]

SENATOR GLOOR: Anyone else in a neutral capacity? Good afternoon. [LB1104]

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ROBIN AMBROZ: (Exhibit 3) Good afternoon. My name is Robin Ambroz, R-o-b-i-n A-m-b-r-o-z, and I am deputy director of programs at Nebraska Investment Finance Authority, or NIFA, and I'm here today to testify in a neutral position with respect to LB1104. On behalf of the state, NIFA administers the Low-Income Housing Tax Credit program to assist in the development of affordable housing across the state. We allocate tax credits to specific rental projects pursuant to a Qualified Allocation Plan which is vetted through a public process and approved both by the NIFA Board and the Governor. An amendment to the Nebraska Investment Finance Authority Act as provided in LB1104, to require a 2 percent bonus for tax credit projects located in special economic impact zones is not necessary to encourage the development of affordable housing on reservations located in the state. The NIFA tax credit program currently provides a specific set-aside for prioritized projects, one of which is Native American housing, in the process of awarding federal low-income housing tax credits. Since 2001, our Qualified Allocation Plan has provided a set-aside that includes Native American Housing as an eligible project type for the allocation of tax credits as part of our noncompetitive Collaborative Resources Allocation for Nebraska, or CRANE--you'll find that we love acronyms over at NIFA--our CRANE program. Since 2001, NIFA has received four applications for Native American housing on reservation land as part of the CRANE program. In each case, the tax credits were awarded for those projects. We see no evidence or indication that applications for Native American housing projects in Nebraska are at a disadvantage with respect to receiving allocations of the low-income housing tax credit or are in need of additional assistance to secure an allocation of tax credits. In fact, the opposite is true. The Qualified Allocation Plan for Nebraska, developed in the public process, has in the past and continues to give priority for the allocation of credits for the development of Native American housing. Accordingly, we believe that a statutory provision for a bonus score for projects to be developed in a special economic impact zone is not necessary. Thank you for your consideration of the information I have presented today and I'm happy to answer any questions. [LB1104]

SENATOR GLOOR: Thank you. Are there any questions for Ms. Ambroz? Senator Scheer. [LB1104]

SENATOR SCHEER: Thank you, Senator Gloor. I'm puzzled. You have said you're in a neutral capacity but throughout your testimony you're saying that it's not necessary. So I'm a little...what are you neutral about and what...? [LB1104]

ROBIN AMBROZ: We're in a neutral capacity on the bill as a whole and we wanted to just provide additional information to you regarding Section 6 of the bill which contemplates the bonus scoring for the Low-Income Housing Tax Credit program. [LB1104]

SENATOR SCHEER: Okay. All right. Thank you. [LB1104]

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SENATOR GLOOR: Seeing no further questions, thank you. Other neutral testimony. Seeing none. Senator Larson, you're recognized to close. [LB1104]

SENATOR LARSON: Thank you, members of the committee. Obviously there are a lot of questions and discussion moving through and I'll try to move through my closing as fast as possible. Just to touch on NIFA coming in neutral, I appreciate, Senator Scheer, that was kind of a negative neutral on that and it's my understanding that...I would love to see their four of the four because it was my understanding that there was a one on one of the reservations that lost by a couple points and whatnot. And so I'd love to see all those applications in working through those. I want to touch on a few questions that we were address. Senator Sullivan, at the beginning, the amendment that I handed out doesn't address the issues that were raised in the fiscal note. That's because we got fiscal note late. Obviously we all understand oftentimes fiscal notes come in either late the night before, early that morning. So more than happy to incorporate any of that into any amendments that we work forward on. Senator Brasch, in terms of the casinos, this isn't by any means a way to backdoor casinos. I stand by the concept anything built on the tribe right now by the tribe on trust land would be tax exempt anyway. Even so, this literally focuses on non-Native businesses. Those are the only businesses that are going to be exempt. If we want to...you know, the Ponca could be a unique exemption...exception. You know, if we want to exclude that for the Ponca on trust land because the Ponca could come into Omaha and Lincoln, I'd be okay with that. To exclude on the reservation-based land, I don't think we can. But you know, I'm happy that...that is not the intent of this bill, to backdoor casinos in...and that concept, like I said, any Native-run casino now on the reservation would be tax exempt just of how that's set up. Senator Schumacher, you weren't here at the beginning when we were discussing fee versus trust land and would have...you know, talking to the casinos is, as you were going, any land that is fee-based land wouldn't qualify under this. It has to be that the trust land that goes through the Bureau of Indian Affairs and the Department of the Interior. So just because the Ponca owns land or the Winnebago own land in South Sioux City, that's...if it's fee-based land, that doesn't fall under what is considered Indian land. Senator Scheer, to discuss you know the concept of closing...you know, that how do we...the closing of the business, I think former Senator Rogert touched on that concept. Department of Revenue, if you want more explicit authority, Department of Revenue would have the authority to go in and check, you know, the Socials of who owns LLCs and whatnot if that were happening. Happy to tighten that language because I can understand that concern and we are trying to, when we talk about qualified business, stop that relocation. So if we have any ideas to tighten that language, I'm more than happy to do that. I think what we heard here today is, you know, there is a specific issue that's dealing with poverty on the...within the reservations. I think the lowest unemployment rate for any of them is 54 percent. This is an opportunity that allows businesses stability. When you look at, you know, the manufacturing or the sales and goods businesses that Chairman Miller brought up, those aren't happening specifically from non-Natives. Well, why aren't these non-Native businesses investing? The only non-Native businesses there are focusing

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on ag related, i.e., because the ground is there. There's nothing else really that isn't ag related and we have to ask ourselves why. And well, because there's a lack of stability and certainty. When the tribes have the sovereign authority to levy a sales tax, a use tax, and an income tax, the state has the ability to levy a sales, a use, and an income tax, and then the federal government as well on any non-Native businesses. Why is any non-Native business going to relocate...not relocate, but invest, because we don't want the relocation but invest in the tribal areas? They're not because they have the opportunity to be triple taxed. So what this does, LB1104 creates that certainty of...you know, that the state isn't going to tax them. They will have a specific sales and use tax because the tribes will have that revenue sharing agreement. And then the tribe still does have the authority, if they should choose to, to have their own income tax, but that's up to the tribe. The state will not do that. And what this will do is it will finally allow access to capital in those areas. Businesses want certainty, businesses want stability, and this will offer them that. This will offer those areas the ability to attract capital, to get capital, and to get those jobs. So I think that's the true point. When they have the access to capital, that's when we can start to tackle the poverty issues. That's when we can start to tackle all of those issues concerned. And this isn't...like I said, this isn't a backdoor way to get gaming. They'll...if it passes the ballot measure, they'll have it at the horse tracks and the tribes, you know, if it's tribal owned...I mean, that's...this bill doesn't change any of that. That's not my intention. It really is on the other side of things. So I'm happy to work with the committee and the tribes. I think they have to be involved in every process...every step of this process to understand that, to get out something that we can move on specifically since it does have a priority. So thank you. [LB1104]

SENATOR GLOOR: Senator Larson, thank you. I have to ask this question. Do you think that there is enough time left in the session knowing that it's a short session for us to work through all of these issues? I don't want to set unrealistic expectations for those people in the audience who are heavily invested in this and I understand these are some important issues. But realistically, there have been a lot of issues that have been brought up here that are going to take a lot of time to try to work through. We're talking about everything from constitutionality to the issue and concerns about what it may mean for gaming. Do you think...? I mean, you understand we... [LB1104]

SENATOR LARSON: Yeah, I think we've had...you know, we've done a lot of work in the forefront and worked...you know, we've already had the discussions with you, Senator Gloor, as well as Department of Revenue recognizing...coming back and saying that these are the issues that they have concerns with. So I feel like...and you know, we can...Senator Scheer, if you want to discuss the community college portion specifically or what we can do on that. But I think what we've done in terms of the front work is we've identified a lot of those problems early and having those meetings, I've had a number of meetings with the Department of Revenue. We know what those issues are. If it's working with them I know I'm happy to do that in the next couple weeks to get this ready to come out of committee because once it...it does have that priority and

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obviously we're going to be working on priority bills from here on out on the floor of the Legislature. But I do think there's enough time to get certain specific measures of this done and moving forward. [LB1104]

SENATOR GLOOR: Okay. Other questions? Thank you, Senator Larson. [LB1104]

SENATOR LARSON: Thank you. [LB1104]

SENATOR GLOOR: And that ends the hearing on LB1104. We now move to LB825. Senator Davis. Welcome to your committee, Senator Davis. [LB1104]

SENATOR DAVIS: (Exhibit 1) Good afternoon. Thank you, Senator Gloor, members of the Revenue Committee. My name is Senator Al Davis, A-l D-a-v-i-s, and I'm representing Legislative District 43. I am here before you today to ask for your support and advancement of LB825 to the floor. The bill simply requires that owners of tax exempt property or properties file certain information with the county assessor every other year. Then the assessor turns this information over to the Department of Revenue and the Revenue Department uses the data to prepare an estimate of the fair market value of tax exempt property in this state by category of owner, which brings me to the real gist of this bill and that is the requirement of the property owner to identify the fair market value of the property in question. I expect you'll hear the opponents rail against this requirement. Some will suggest that doing so is the beginning of a slippery slope to the state repealing their tax exemption and this premonition is not a stretch because last year I essentially introduced the same bill except that bill required the county assessor assign the fair market value of the property. The counties objected because of the workload of doing so and the property owners objected largely based on the slippery slope argument. LB825 changes the onus, if you will, to place the determination of the fair market value more appropriately on the owner of the property. My reason for introducing this bill has not changed. Today, tax exempt properties place a toll on basic service counties provide to them at no charge. The bill does not suggest that the community's contributions provided by the owners of these properties are not valuable. However, there is a cost to the counties and the cities. And because of my commitment to lowering property taxes in this state, I believe it is critical that counties know both the cost of the services provided but also the ratio of value that tax exempt properties make up in their counties. A key question that keeps coming up is, why do you have to know the fair market value of the property when that dollar amount doesn't change the cost of the services provided? And I admit that sounds like a legitimate question. The value of the property's scoop for snow or the cost of fighting the fire at the property has basic costs assigned to the services provided regardless of the value of the property. And of course, there are other factors that do result in cost increases for services provided that proportionally the county should be able to figure out basic costs on a unit measurement. However, the real question for the

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counties is, how much of their services are being used by property not taxed? They know the value of the property taxed. So why shouldn't they know the value of the property not taxed? Shouldn't a budget be determined knowing where revenue streams are developed and those areas that produce no revenue for the county? Shouldn't the county be able to determine that a certain percentage of their services are paid for by a percentage of property owners served? If I may continue anticipating some questions, yes, not all services paid for by the county are for property owners. Yes, the determination of fair market values can be affected by a number of factors that at times defy uniformity, certainly uniformity between different parts of the state. However, I do find it interesting that there is no problem for many of our tax exempt organizations from telling the body the dollar value of their services provided to Nebraskans. Their determinations of value for healthcare services or educational programs, for example, are not challenged, nor do I think they need to be. But they are able to assert their worth as evidence of the wisdom of their being granted tax exempt status. So let's look at the counties...let's let the counties fully know what they have, and in this case don't have, on their books. Once a county has an understanding of the true picture owned property plays in their county, I believe the commissioners will be better able to budget for the needs of their county. I urge you to approve LB825. With that, I'm available for questions. And I picked up some information just prior to coming in here which I would like to share with you and I passed out a couple forms to you. You will note on one of those forms on the...about to the right side, there's a box which asks for the individual asking for that tax exemption to place a fair market value on that property. So the information or some information is apparently already available. It just needs to be maybe compiled and put together in a booklet so that we will have access to that and understand at the state level where this exemption might properly be. [LB825]

SENATOR GLOOR: Thank you, Senator Davis. Senator Davis, did you ever think about trying to flight this in some way? I mean, I can...I can think of large tax exempt organizations, but I can think of a lot more very small tax exempt organizations, everything from churches that operate out of store fronts, veterans organizations that don't really have any organizational structure or anybody that does much more than pay the bills who would now be responsible for filling this out on a yearly basis. Are we really interested in them or are we more interested in the large not-for-profit hospitals, community organizations and what...? I'm trying to get a handle on whether we really want to do a full inventory of all the little organizations as well as the big one, or whether we're more concerned about the impact of the much larger ones on our tax exempt status. [LB825]

SENATOR DAVIS: So I would say that depends on where you are in the state. These forms are required to be submitted I think every four years currently, so this is not an undue requirement. I mean once you apply for it you're not exempt for the rest of eternity. [LB825]

SENATOR GLOOR: Correct. [LB825]



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SENATOR DAVIS: You'd have to resubmit. And maybe it's even every year. I can't remember now how that works. I remember when I was running my community theater, you know, we had to submit a form and I think it was every year. So in many ways this information is out there. I mean they have that step. This is just one more step that I think is important for us to know. Obviously there are certain parts of the state, Lincoln being a good example, that are probably much more heavily impacted, say, than Hyannis in terms of the exempt property. But still, all services have to be provided for street cleaning and mowing and those sort of things in some parts of the state. So I think it's appropriate that the county have a value placed on that so that they at least understand what is there and they can go back to that property owner and say, by the way, this is a service you're getting. I hope you appreciate it. [LB825]

SENATOR GLOOR: Okay. Senator Schumacher and Senator Scheer. Senator Schumacher then Senator Scheer. [LB825]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Senator Davis. One of the things in the fiscal note shows a \$160,000 guesstimate for the university to value property I take it that it's leasing out. Do you know, have any idea whether or not the university has knowledge of its...the value of its property when it negotiates a lease with a private entity? [LB825]

SENATOR DAVIS: Well, I would assume that it does. And why they think they need a \$160,000 fiscal note to have an appraisal done I don't know because if they're leasing property out it wouldn't...and probably most of it is on a triple net basis, I would assume that that value is...that property is already being assessed. I can tell you that Smithfield does lease a property here in Lincoln from the University of Nebraska. Smithfield does pay the property taxes on that. So someone has done an assessment of that somewhere along the line. [LB825]

SENATOR SCHUMACHER: Okay, so that cost may not have to be specially done. Whatever they've assessed it for, for their own financial gurus to come up with a lease rate, would that satisfy for purposes of this? [LB825]

SENATOR DAVIS: Well, I would think so. If these are premises that are leased out, they're not...you know a tax exempt entity can own property which it can lease, but those properties have to be taxed. So my assumption on those parcels would be that the county assessor has already determined that value. But obviously the university has entered into some sort of a lease and they must have a greater return that they figured on that property. If it's 8 percent, you could certainly matriculate that out as to what it would be worth without a \$160,000 reappraisal. [LB825]

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SENATOR SCHUMACHER: The numbers that are used on this form that you handed out, 451 for an application for an exemption, would the...I guess it's kind of a self-evaluation that you be suggesting be done with this form and that be used for the numbers here. [LB825]

SENATOR DAVIS: So if everybody sees the form and there's a little dollar sign there on that form and it says total actual value of real and personal property. Well, it would seem to me that it would make more sense to split that so that you know what the real property is worth and what the personal property is worth. And in discussions that I had with some members of counties, county organizations, one of their suggestions was the insurable value of the property. Most property should probably be insured for what the replacement cost would be and that that might be a figure that would work for this. [LB825]

SENATOR SCHUMACHER: So the insured value, whatever obviously they would...an organization assuming you had some money, would insure it for what it thought it was worth. [LB825]

SENATOR DAVIS: Right. [LB825]

SENATOR SCHUMACHER: So that wouldn't require any more numbers than they already have. [LB825]

SENATOR DAVIS: It shouldn't require additional work. They should just be able to go to their insurance policy and determine what it's valued at, if we were to use the insured value. You know, I'm not trying to require the counties to go out and look at all these properties. That would be expensive and perhaps counterproductive. So you know, if we put...if we had the landowner, when the landowner makes this application he's asking something from the county. So all we're doing is saying in return for giving you this tax exemption, we think we need to know what this property is worth. Can you please put that on this form? And then we would have the counties send this form to the state. They could compile it, put it in a booklet just like we do with tax increment financing properties so that the state would have an idea of what's out there. [LB825]

SENATOR SCHUMACHER: And right now there's no easily accessible way to get that, those figures. [LB825]

SENATOR DAVIS: No. [LB825]

SENATOR SCHUMACHER: So this is a little bit like we're doing with the various credit programs. We're just trying to get a handle on the numbers. [LB825]

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SENATOR DAVIS: That's what I'm looking for. [LB825]

SENATOR SCHUMACHER: Thank you, Senator Davis. [LB825]

SENATOR GLOOR: Senator Scheer. [LB825]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Davis, I'm having a little trouble following the rationale to the extent that you say that it's important for the counties to know what's nontaxable or exempt from a budgetary standpoint for services. But realistically the county provides a very small portion of those services. By and large it's the cities. So it really has nothing to do with budgets on a county level and I'm...I guess from my vantage point I was involved in city government at one point in time. And we didn't look at how much value was on this block versus that block and if half of that block happened to be a church and it was tax exempt, we had to provide protection and coverage for the community. So I'm...you know, it really has nothing to do with budgeting. You budget to cover the services for everyone. You can't necessarily assume that that church is going to have three rescue calls or no rescue calls. I mean, you don't budget, you provide services. And a fire department may go three days without ever providing a service and you have all that cost that's involved in it, but you don't necessarily break it out per dollar valuation or nonvaluation because you still have to provide the coverage regardless of it's value or not. So how do we say it's for budgeting purposes? [LB825]

SENATOR DAVIS: Maybe I used the wrong term there. But let's say we have the city of Norfolk for example. It can go to Madison County and say, okay, tell us how much exempt property is in Norfolk as a percentage of the total. So we'll say it's 10 percent. Well, then you can say to those tax exempt organizations, here's the value of the services that you receive from the county or from the city. [LB825]

SENATOR SCHEER: You don't think that most if not all nonprofits understand that those services are being provided at no cost? [LB825]

SENATOR DAVIS: I don't think they ever think about it, Senator Scheer. [LB825]

SENATOR SCHEER: Oh, I...well, I don't think that's true. I mean I think every facility understands that there's a cost for public protection and public fire and you know like I said, cleaning the streets and making sure the snow is removed. I understand there may be a want on your part to know how many dollars are out there and the possibility of getting more of that put back on the rolls, but I guess I don't know that this is necessarily the rationale for doing that. [LB825]

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SENATOR DAVIS: Thank you. [LB825]

SENATOR SCHUMACHER: Any other questions for Senator Davis? Seeing none, we'll move on to proponents for LB825. Welcome to the Revenue Committee. [LB825]

RENEE FRY: (Exhibit 2) Thank you. Thank you very much. Members of the Revenue Committee, my name is Renee Fry, R-e-n-e-e F-r-y. I'm the executive director of OpenSky Policy Institute and we're here in support of LB825. Much like the Department of Revenue reports on our state tax expenditures, we support the collection and reporting of property tax expenditures as would be required in LB825. As our local governments become more and more reliant on property taxes to fund critical services, transparency of property tax exemptions will provide policymakers with the information to evaluate the impact on the owners of the remaining taxable property and consideration of the state's policy goals. Currently, there is not an easy or complete way to accurately assess the value of exempt properties in Nebraska. To start, you must either find where each county publishes the list of exempt properties or request a list from the county assessor's office. The list may or may not include a parcel ID for each property. If not, you must search the address and use the description as a guide to make sure you find the correct property. Some counties have websites that make the search process very simple while others are much more difficult to navigate and search. Once you find the property, it may or may not have a value assigned to it. If no value is given, you can see if there is a sales history or see if it used to be on the tax rolls. If not, you must model the price based on location, age, size, and type of property from the listings that do include prices. LB825 is in line with recent efforts by the Legislature to improve transparency around tax expenditures, including bills passed in 2013 that require hearings on the tax expenditure and tax incentive reports; LB989, passed in 2014 which requires enhanced reporting of sales tax expenditures; and LR444, which led to LB538 passed in 2015, which requires an evaluation of our state's major tax expenditure programs. Thank you for your time. I would just mention one other item in line with Senator Scheer's questioning. We support this because we believe that the data helps inform policymaking. In Wisconsin, they have a similar process to this. The amount of property tax exemptions are listed in their tax expenditure report. They find property taxes could be reduced statewide by about 7 percent if all property was taxed, not that we're suggesting that should be the case. But we believe that that information should be available to policymakers to make a determination about whether that exemption policy is in fact where we want to put those dollars. And that's the reason why we support LB825. As Senator Davis indicated, there is this Form 451 where that data is already required so you could have the Department of Revenue who are already is getting that information, they could then instead compile a report and include that in the tax expenditure report which could cut out a lot of the extra steps that are currently in the bill. So I would just encourage you to think about an amendment to the bill to make it a little bit cleaner while still being able to provide that information to the public. And with that, I'd be happy to answer questions. [LB825]

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SENATOR SCHUMACHER: Any questions for Renee? Wouldn't that information just be available on a public records request to the Revenue Department then? [LB825]

RENEE FRY: Well, you have to do a public records request and then I assume what you'd get is you'd get a copy of each of those forms. So then they would have to be entered and it would be quite a long process. I'm not sure how many parcels there are as exempt property in the state, but my assumption would be then you'd be looking at thousands of 451 forms that would have to then be manually entered. So the data is already being given to the Department of Revenue. So if they enter that data in some sort of spreadsheet and put that up on their website like they do with a number of other reports that would be helpful. For example, Senator Davis mentioned the TIF projects. That's required in statute, that the Department of Revenue report that. So you could change the bill to require the Department of Revenue to report the data that they already have and it would be much more accessible that way. [LB825]

SENATOR SCHUMACHER: Do you know whether or not when they get these exemption sheets with that data, and maybe this is more appropriate to ask them, whether they digitize it or they just throw these things in a basket? [LB825]

RENEE FRY: Yeah, I have no idea. I don't know the answer to that. It's a good question. [LB825]

SENATOR SCHUMACHER: Senator Scheer. [LB825]

SENATOR SCHEER: Thank you, Senator Schumacher. Thank you, Ms. Fry, for coming. The spots on the form, so the Revenue Department just...I mean why is it there if they don't utilize it? I mean do they input it? Have you ever asked the Revenue Department what they do with that box or is there a...? [LB825]

RENEE FRY: I wasn't aware until today that was...that that was even being remitted, collected and remitted to the Department of Revenue. So I don't know the answer to that. [LB825]

SENATOR SCHEER: So the information may already be available. [LB825]

RENEE FRY: I would say it's not publicly available. We've looked for that before on their Web site. It could be that they are cataloging in and all they would need to do is put it on their Web site. That it is possible. [LB825]

SENATOR SCHEER: Okay. [LB825]

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RENEE FRY: It is not included in the tax expenditure report though. [LB825]

SENATOR SCHEER: And I don't know either. [LB825]

RENEE FRY: Yeah. [LB825]

SENATOR SCHEER: I just...the box is there, and so if... [LB825]

RENEE FRY: Yeah, and I'm... [LB825]

SENATOR SCHEER: One would assume if they have a box, that you have the box for some purpose. [LB825]

RENEE FRY: Right. [LB825]

SENATOR SCHEER: It's got to be somewhere but maybe not. It is government so I'm not going to say that it is there. [LB825]

RENEE FRY: Well, and I can certainly call the department and find out whether they are compiling that and putting that. They are not including that information in the tax expenditure report. I do think that you would have to utilize...you would have to change statute to require that it's part of the tax expenditure report. But they're already getting that data. So yeah, I think...you know I can certainly follow up or I'm sure Senator Davis' office could follow up to see whether they're digitizing that data, and if so then the only requirement would be to include that in the tax expenditure report. If they're not, then it would require a statutory change for them to do so. [LB825]

SENATOR SCHEER: No, I was just wondering. I assume that you were aware of the form. And if the box was there, if you fill it out, what do they do with it, if anything? And obviously neither one of us know. [LB825]

RENEE FRY: Yeah, I don't know. [LB825]

SENATOR SCHEER: So that's fine. Thank you, Senator Schumacher. [LB825]

SENATOR SCHUMACHER: Thank you, Senator Scheer. One follow-up question, prior years when we've had similar type proposals, the allegation has been made that, oh my goodness, this

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is a bear looking at the picnic basket and pretty soon he's going to be in it. In states that have gathered this data for analysis, have they ever got into the picnic basket or have they used it just for informational services? [LB825]

RENEE FRY: Yeah, that's a good question. I tried contacting the Department of Revenue in Wisconsin to have a conversation with them to find out what's happened. I have a call in and haven't gotten a call back. But I'll certainly ask them that specific question if...assuming I get a return call. But certainly all of the types of organizations that are exempt from property in Nebraska are still exempt from paying property taxes in Wisconsin and that legislation has been on the books since I think 1971 or something like that, early '70s. So it's been around for a very, very long time. But I do have a call in to find out what, if any, impact that's had. But you know, the same sorts of organizations are still exempt from property...paying property taxes in Wisconsin. [LB825]

SENATOR SCHUMACHER: Thank you. Any further questions? If not, thank you very much for your testimony today. [LB825]

RENEE FRY: Thank you. [LB825]

SENATOR SCHUMACHER: Further proponents for LB825. Seeing none, we'll move to opponents to LB825. Welcome back again. [LB825]

TOM PLACZEK: Good afternoon for a second time. Revenue Committee members, my name again is Tom Placzek, T-o-m P-l-a-c-z-e-k, Platte County Assessor and assessor representative to NACO. I am, as most assessors are, are in opposition to this bill mostly because of administrative issues that we have with it. In Platte County there are 193 permissive exemptions, of which 32 of those are cemeteries, 79 are churches, and 62 is what I call miscellaneous because they're kind of all over the board. They're everything from my partial exemption to a Eagles Club to Columbus Community Hospital, Columbus Family YMCA, things of that nature. So it kind of runs the gamut a little bit, everything from big to little. There's a lot of...been talk about this Form 451. This form is done every four years, in the years divided by four. So this year is 2016, divide it by four; comes up with an even number; we have a Form 451. The next three years are what they call affirmation; it's 451A. This is the first year that I am aware of...now this information as far as the total actual value of real and personal property has been on there, this is the first year to my knowledge that there's been any attention even paid to this part of the form. It has never...there's been no emphasis on it in the past. So this year, our understanding of it was, okay, applicant, give us whatever your best estimate of value is on this. Now we've got everything from insured values to some volunteer at XY Church that has 30 members and he's the secretary/treasurer and he put down some number. We have no basis. So the Revenue Department that will get these, they will

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get copies of all these. Every county scans these into the Department of Revenue. So they have all this information. Now this is the first year, again, like they're collecting this data. So I guarantee at this point they don't have any idea what they've got. The second problem I have with it currently is, there is just...these numbers just are based on nothing. Like I said, some are insured, and is the insured value anything remotely connected to market value? I would say maybe in some cases. But the insured value for a large church is certainly different than the market value of that church. And then the market value of a church, are you looking at the church as it...value of it as its current use or if it's to be put on the market for sale? Well, that change things a lot. What is that market value for that church? It becomes literally whatever. They don't sell for...they sell for pennies on the dollar. So I guess I'm thinking if they really want some accurate information, they probably should require some type of appraisal which causes a problem for us in this bill that if it's not done then we have to go out as a county, hire somebody to do it, they're going to want to be paid. So I guess since we're having it done, we have to pay them. Then we have to hope that we're getting it collected. Assessor's office has never been in the collection business. It's kind of not in our wheelhouse, if you will. So I think that causes some problems. Normally we receive these get applications from December 1 through December 31. And then in January or February we have to go through the county board of equalization for approval of these and if there's any questions, that such thing. Now in this bill, it talks about April 1, that they have until April 1 to come up with this value. So then it's 30 days after that and then we have to have them make sure we've got that to the department by July 1. Well, I can see some issues for somebody that's not compliant. They don't give it to us. We have to go out and get ahold of an appraiser. There's only three certified general appraisers in Platte County that aren't affiliated with a bank or an institution. And of those three, there's one I wouldn't use it all. So now we're down to two. Now we've got a time frame to get. It isn't like they've been waiting by the phone for us to call them so they can do this job. There's some issues with this. Now I'm not against this in general of whatever idea they have of getting this information and using it, fine. That's above my pay grade. But administratively this is really going to be a big problem. The accuracy of it is I think without question really, really hard. Lastly, if you let me add one more point, if they want this done...it talks about doing this every other year. I would recommend it done the year that the 451 is used, not every other year. We don't even do any property that often, where we have a six...as you well know, it's within a six-year time frame. We have to do every property at least once every six years. To require on these kind of properties more often I think is kind of crazy. And how fast does the value of a church change? So I think beyond that...so I would go with if...if go forward with this, I would say the year that the 451 is and leave it at that. [LB825]

SENATOR GLOOR: Okay, thank you. [LB825]

TOM PLACZEK: I will stop there. [LB825]



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SENATOR GLOOR: Questions? Senator Schumacher. [LB825]

SENATOR SCHUMACHER: How many parcels...and thank you for your testimony today. How many parcels of land are there in Platte County that you individually tax, estimate? [LB825]

TOM PLACZEK: Well, we have 18,800 parcels. I don't know how many are taxed because there's these permissive and then of course there's city property, county property, and that sort... [LB825]

SENATOR SCHUMACHER: So we're talking of private piece of property, probably at least 15,000. [LB825]

TOM PLACZEK: At least, yeah. At least. [LB825]

SENATOR SCHUMACHER: Okay. And there were how many of these in this category that... 160, I think you said? [LB825]

TOM PLACZEK: 193. [LB825]

SENATOR SCHUMACHER: 193. So a tiny percentage of the property. [LB825]

TOM PLACZEK: Correct. [LB825]

SENATOR SCHUMACHER: If...and if you did this, you'd normally assess a piece of property every six years roughly. [LB825]

TOM PLACZEK: Yeah, depending upon the ratios and requirements to hit our ratios. [LB825]

SENATOR SCHUMACHER: Okay. So if we divide that 190 by 6, we're talking 30 parcels a year to do the...and what if you just were required to kind of do the same kind of mass appraisal on them as you do on everything else, couldn't you work in 30 parcels a year? [LB825]

TOM PLACZEK: Well, number one, these are really...some of these are really complicated properties. [LB825]

SENATOR SCHUMACHER: But almost every business can say my factory... [LB825]

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TOM PLACZEK: Well, and I'm not trying to get out of it, Senator Schumacher. If we're required to do it, yeah, we can get it done. We'll find a way to get it done. We're...as every assessor will tell you, county boards do not allow much staff expansion. And we typically have to appraise...well, if it's every six years we have to do 3,000 properties a year to stay on track. There's two of us in our office that can do that; now we've added a third but...up to speed. So you're talking a...yeah, you're adding 30 properties. Those properties take a lot of time, more time than the typical residential property which makes up most of it. I would prefer that the application, if this is required, that as part of the 451, they just submit an appraisal form with it documenting what the appraisal is, the amount and be done with it. [LB825]

SENATOR SCHUMACHER: That's additional cost on their... [LB825]

TOM PLACZEK: On their part for something that they're asking to get free. [LB825]

SENATOR SCHUMACHER: What if we just require a copy of the insurance policy? [LB825]

TOM PLACZEK: If that's the way you want to go, that's fine by me. I'm just saying that currently we've got kind of a mishmash. If you just required an insured value that's great, and a copy of that, that's fine by me. That's fine. At least then the department would know what kind of information you're actually getting as opposed to, say, well, we know this is the insured value. This isn't...if they're thinking this is the actual market value, it's probably totally different. [LB825]

SENATOR SCHUMACHER: I think all Senator Davis is trying to do is give us a rough, rough general idea of which way the wind is blowing on this. [LB825]

TOM PLACZEK: Insured would do that and that's fine by me. And actually having the documentation attached with this form, that's fine. I have no problem with that. [LB825]

SENATOR SCHUMACHER: Thank you. [LB825]

SENATOR GLOOR: Senator Scheer. [LB825]

SENATOR SCHEER: You're talking about the 162 items. What expertise would you have in valuing Columbus hospital? I mean that's the small one that you're going to be doing. [LB825]

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TOM PLACZEK: That one would take a lot of time. I would...honestly, we would probably have to hire somebody to do that for us. [LB825]

SENATOR SCHEER: How about the community college? [LB825]

TOM PLACZEK: The community college, that would be beyond my ability to do that. We would hire a certified general to do those kind of properties. [LB825]

SENATOR SCHEER: So it would be extra expense. [LB825]

TOM PLACZEK: Yes. [LB825]

SENATOR SCHEER: In your...well, you're probably the wrong one to ask so that's okay. Thank you. [LB825]

TOM PLACZEK: Okay. [LB825]

SENATOR GLOOR: Thank you, Tom. Appreciate it. [LB825]

TOM PLACZEK: You bet. Thank you very much. [LB825]

SENATOR GLOOR: Others in opposition. Mr. O'Neill. [LB825]

THOMAS O'NEILL: Chairman Gloor, members of the Revenue Committee, my name is Tip O'Neill; that's and spelled T-i-p O-'-N-e-i-l-l. I'm the president of the Association of Independent Colleges and Universities and Nebraska. I'm here today testifying in opposition to LB825. Article VIII, Section 2 of the Nebraska Constitution gives the Legislature permissive authority to exempt property owned by and used exclusively for educational purposes by educational entities. That language is similar for agriculture and horticultural societies, for cemeteries, for religious and charitable organizations. Section 77-202(ii) provides for that exemption with the additional clarification for educational purposes that an educational organization means: "an institution operated exclusively for the purpose of offering regular courses with systematic instruction in academic, vocational, or technical subjects". Now what does this mean? It means that a college or university must own the property and use it for educational purposes. If Hastings College owns a farm, for example, it must pay property taxes. And the determination of exemption is determined before there is any determination of what value would be placed on the property. It's conditioned precedent to a determination of what value should be placed on the property. And

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we know that all nongovernment exempt properties are published on a yearly basis in a newspaper of general circulation. So we already have that information that's published out there for the general public on a yearly basis. That's public information. Why do we oppose LB825? First, it would place a significant administrative burden on colleges and universities with, we believe, no real public policy purpose. In addition to the administrative burden, we would be required to pay a fee to the county. Our colleges are not taxpayer supported, so these costs would have to be recovered through tuition to our students or from donor gifts. Since property owned by government entities, except those properties which are leased, would be exempted by this bill and would not have valuations affixed it would make us even less price competitive. We believe it is also discriminatory. How is it appropriate for the Legislature to mandate that Nebraska Wesleyan affix a value to the Abel football field while the Oak Bowl at Peru State would not be required to be valued. If the point of this bill is that there is a lot of tax exempt property out there in Nebraska, then government tax exempt property ought to be included. Second, valuing academic buildings would be subjective at best. We know what it costs to build and replace residence halls and science building. However, the buildings are only worth their optimum value when there is an operational college or university and comparisons would be difficult. Ask the people of Blair or Wahoo how much campus buildings are worth if a college closes. Fair market value assumes that there is a market and if there is no market for a building then the value is diminished greatly. Third, the language in lines 18-20 on page 2 would appear to allow the county assessor to substitute his or her judgment for the owner's estimate of the fair market value without any recourse by the owner. There are many questions that we have about the bill. For example, we've been talking about Form 451 and the Department of Revenue. If I was filling out a Form 451 for a client, I would not fill in the value part quite frankly because, in my opinion, the determination of exemption is made before you get to the issue of valuation and once a property is determined to be exempt, I don't think you ever get to a valuation issue. I would leave that point...I would leave that part blank. In line 11-14 on page 2 it discusses property that was leased. Does leased mean rented? There are many events held on our campuses, examples being wedding receptions and family functions, where we charge for the use of buildings where the functions take place. To identify all those functions in the properties that were used and then to describe how the payments were used would be a real nightmare for us to administer and maybe that's why you have a big fiscal note from the University of Nebraska. I don't know. But that would be very difficult to administer from a college or university standpoint. These are just some of the reasons we have oppose LB825. I'd be happy to answer any of your questions. [LB825]

SENATOR GLOOR: Thank you. Any questions? Senator Schumacher. [LB825]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony. I mean, you indicated, well, look at the situation in Blair. What are they worth if they close down? But couldn't that argument be made for every big factory, I mean Behlen Manufacturing in Columbus, 20 acres under roof, if they close down arguably has no value because it would be

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really hard to find somebody who wants 20 acres under roof. So isn't that an argument that could be made for just about anybody? [LB825]

THOMAS O'NEILL: I think there are properties that are easier to utilize. We're talking about generally a larger campus. I mean Behlen may be an unusually large factory for purposes of Nebraska. I don't know. But I think that college or universities with the type of specialized equipment that they have, science labs, theaters, residence halls, those sorts of buildings are very difficult I think to value and I think they're worth less perhaps than a factory building if a college closes. [LB825]

SENATOR SCHUMACHER: And your testimony that right now you just advise a client to let the numbers be blank and not submit the insurance policies or whatever that goes with it, doesn't that give us a reason to proceed with this and require that information if it's ambiguous whether it's required now? [LB825]

THOMAS O'NEILL: I don't believe so. I mean I think once you make the determination that a property is exempt, I don't know why you go on to the next that step to determine whether...what a value is. [LB825]

SENATOR SCHUMACHER: Thank you. [LB825]

SENATOR GLOOR: Seeing no further questions. Thank you, Tip. [LB825]

THOMAS O'NEILL: Thank you, Senators. [LB825]

SENATOR GLOOR: Others in opposition. (Exhibits 3 and 4) And I would read into the record letters of opposition from Diane Battiato, Douglas County Assessor/Register of Deeds; and Heath Boddy, Nebraska Health Care Association. Good afternoon. [LB825]

ELISABETH HURST: (Exhibit 5) Good afternoon, Senator Gloor, members of the Revenue Committee. My name is Elisabeth Hurst; that's E-l-i-s-a-b-e-t-h H-u-r-s-t, and I'm director of advocacy with the Nebraska Hospital Association. It is the mission of the NHA to enhance the delivery of quality patient care and services for our state's citizens. Every year, in support of that mission, Nebraska's hospitals commit hundreds of millions of dollars in uncompensated care to their communities. On behalf of our mission, our 90 member hospitals and the 41,000 individuals they employ, we offer the following testimony in opposition of LB825. Under state law, persons or entities possessing ownership of real property eligible for tax exemption must currently submit annual filings as has been mentioned in previous testimony. LB825 requires that

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these persons or entities submit an additional filing that includes a fee determined by each individual county. The NHA opposes the requirement of an additional filing insofar that the subjectivity of the reporting procedures outlined in LB825 will not produce a meaningful report of actual valuations across the state. The bill requires that a person or entity submits to the county assessor an estimate of the fair-market value of the property every two years. The county assessor may then adjust the self-reported valuation using his or her own discretion. This creates two inconsistencies that will result in a distorted picture of property valuations across the state and even within individual counties: the variance in self-reported valuation and the discretion of county assessors to modify the reported valuations. Persons or entities will rely on differing methods of determining fair-market property values as has also been mentioned. This will result in marked variability between properties, regardless of category, size, location, proximity, etcetera. Additionally, a county assessor may choose to alter the reported valuation without a basis for determining the fair-market value, such as an on-site assessment. Both scenarios result in subjective reporting that defeats the purpose of the additional filing requirement. Now while we respect the intent of LB825 and welcome continued conversation on determining an effective mechanism for increasing transparency, again, we do oppose LB825 as currently written. And I am happy to take any questions. [LB825]

SENATOR GLOOR: Questions? I see none. [LB825]

ELISABETH HURST: Great. [LB825]

SENATOR GLOOR: Thank you, Liz. Others in opposition. Anyone in a neutral capacity? Senator Davis, you're recognized to close. [LB825]

SENATOR DAVIS: Thank you, Senator Gloor. A couple things I want to point out that I think are important, on the bottom of the 451 form, you will see where the individual owning the property needs to sign off on it. The county assessor needs to sign off on it. The county board of equalizations also needs to sign off on it. And then a legible copy is to be mailed into the Department of Revenue within seven days. So the form is already required. So what we...and I would say this. I'm perfectly willing to gut the bill and work with county officials and work with the Department of Revenue to find something that works for everyone. So we've heard a lot of discussion from people behind us that, well, this information isn't going to be any good because it's just, you know, all over the map. But any information is better than what we have today because we have a form that requires, that asks for this information but we do have one entity within the state, one rather large hospital...or one large church group that has refused to do that. So we really...they're asking for the exemption but they're even refusing to comply with what we're asking for, which I don't think is appropriate and I think that they...that needs to be rectified. I think we need to make statutory changes if we need to. I'm not trying to impose

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burdens on the properties. I'm not trying to impose any burdens on the counties or the assessors. The information will be helpful to the state in knowing where we are. I can tell you that there are public entities within the state that have some concerns about potential changes that might take place, not with this bill but with existing entities who were asking maybe for additional tax exemptions based on projects that they may have in the works. And those affect the state budget one way or the other. So it's an important piece of information for us to know. Mr. O'Neill talked about, you know, if they're renting their hall, if they're renting their public property to somebody for a wedding or something. Well, it looks to me like those people then, at Creighton University I'm assuming is who he is talking about, is competing with someone in the private sector. So isn't it inappropriate in one way or another that we know what that is, what the value of that property is and why are they...why are they permitting these activities to take place on their property in competition with somebody who is paying property taxes? I think we've learned enough today that we should be able to go forward with this. As I said, I'm willing to work with anybody and everyone on it, but I think it's an important piece of policy that will help us learn more about what we are...what we have in the state. It's already required. The Department of Revenue already has the obligation to collect the information. We can compile it if we need...if we want to go with the insurable value I think that would be appropriate and very easy for any of these entities to put forward. Mr. Placzek talked about some of the different properties and I think Senator Schumacher made a good point that if you...it's not imposing an undue burden on them if we were to go that route, to ask them to look at it. You know, 32 cemeteries, pretty easy to value those I would think. So I don't think it's an undue request and I think there are ways around it. Thank you. [LB825]

SENATOR GLOOR: Thank you, Senator Davis. Just...I guess it's a bit of a question. I think of hospitals and when you're talking about larger hospitals that might be in Norfolk or in Columbus or in Grand Island, the cost of building and the land that the building is on is certainly going to be a sizable amount. But the equipment inside it, when you talk about MRIs and the CAT scanners, the cost of that property is going to be I think far in excess of the holdings, the land holdings that are there to the extent that I think it skews what we're really looking to try and measure. And I'm guessing each of us could come up with our own ideas of the buildings that house very expensive equipment. Maybe there is a not-for-profit that has a creamery operation of some kind. Has that crossed your thought? Does it...is it even play into the thought process of gathering this information? [LB825]

SENATOR DAVIS: Well, certainly I think that there ought to be a division of that box and we would ask for a value of the personal property and a value of the real property both. I think that would give you a good idea of what's there. [LB825]

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SENATOR GLOOR: But that's more work, and again, the people who are able to verify that information within the county structure are going to be...they're going to have to take people's word for it or hire somebody to do it. [LB825]

SENATOR DAVIS: Well, if we were to use insurable value, I'm sure that every hospital has an insurance policy just like I do on the ranch that talks about my personal property and my real property. [LB825]

SENATOR GLOOR: Okay. Questions? Senator Scheer. [LB825]

SENATOR SCHEER: Well, one, and if he's going to gut his bill, I guess it maybe is a moot point, but following up on the discussion of insurable value and what we use in the state is market value for...are two completely different concepts. I mean, for example, in Hyannis and I don't know that they've got an American Legion but if they had one and it was in an older building, the market value of that older building may be \$30,000. But if they're insuring it to what it would cost to replace, maybe \$180,000. Now which is the right value? You know, if you're saying, well, let's use insurable value, well, then all of a sudden that building just became \$180,000 and I would venture to say there's probably not a building that would sell for \$180,000 in downtown Hyannis. And there may be, as I shouldn't say that. But the point is, insurable value, insured value is a world away in a lot of cases from what the market value is. And just trying to come up with something easy now complicates what we're really using as actual value. So I guess I...if we're going to do it then we ought to come up with some type of standardized system, some standardized value that will work that everybody uses that really gives us an accurate knowledge base because, again, going back to the \$180,000 on a rural VFW or American Legion, that if it was the local restaurant would be valued at \$30,000, I don't think that's fair either. But that's my soapbox and that's my industry so I'm...just felt compelled to say something. But...and I might have missed it, Senator Davis. Perhaps you heard it and maybe somebody is here. Is the valuation part, the little dollar sign on 451, is that new this year? [LB825]

SENATOR DAVIS: I don't think so. [LB825]

SENATOR SCHEER: So it's been there but we've just never...but we don't know what they do with it I guess. [LB825]

SENATOR DAVIS: I think we heard testimony earlier that really never had been much paid attention to until probably now because I had brought this bill last year. And so, it became on the radar for the assessors. [LB825]



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SENATOR SCHEER: But we don't know if Revenue is even compiling it or not. [LB825]

SENATOR DAVIS: Well, Revenue has the forms, so all they would need to do is compile it. [LB825]

SENATOR SCHEER: Right, but I mean we don't know if they're inputting it in somewhere that they by some miracle would have. Whoever did put the number in, we don't know that either though. I mean I guess is if we're trying to work with people, some of it would already be maybe started, I guess. [LB825]

SENATOR DAVIS: Right, I don't know that, Senator Scheer. What I would say about it is it seems to me it wouldn't be a huge demand on revenue to say pull those and please give us these figures and where the parcels are at... [LB825]

SENATOR SCHEER: Yeah, I'm not saying... [LB825]

SENATOR DAVIS: ...by city and county. [LB825]

SENATOR SCHEER: No, if they're in there, they're in there. The box is there. I'm assuming at some point in time somebody thought that was pertinent. But if we're going to go about that, I guess I really think part of the process has to be a standardized way of valuing. And you know, that's apples and oranges if we don't. [LB825]

SENATOR DAVIS: And you know, I will tell you that when the bill came forward last year, we had a lot of concern about it's going to be so expensive and so difficult for us to do this. And why are we doing that? So what I'm trying to do now at this point is at least get an idea because even though you've heard people say, well, this is...the information isn't good information so it's not reportable, we shouldn't be reporting it. In the interest of fairness and openness in government I think any information is helpful, even if it isn't totally accurate. An insurable value to me is at least some indicator of the situation. I will tell you, in 1989, a long time ago when our community theater burned, it was insured for \$44,000 but the replacement value was \$77,000. So I get what you're talking about. The value of it when we bought it was like \$20,000. So you know, you've got...you're all over the map here, but at least it's something and at least it's not difficult for anyone to produce. They have the document. They can bring it in and show it to the assessor and say here it is. [LB825]

SENATOR SCHEER: Well, and that may be. I guess the difference where I'll agree to disagree with you is that you're saying the bad information is better than no information and my

perspective is bad information is bad information. If we want information it ought to be good information. [LB825]

SENATOR DAVIS: And my, I guess, my retort to that is in a significant number of our communities which are larger communities where most of these properties probably exist, I think the insurable value will probably be pretty close to the actual value, in Omaha, Lincoln, most of our major cities. When you get out into the smaller cities, it's probably not going to be that way. [LB825]

SENATOR SCHEER: Well, and we're getting off track here, but I will tell you that's not true because the older the building becomes, the higher the insurable value is and the lower the market value is. And you'll see that in large communities, middle size, or small communities. That's just the way it works. [LB825]

SENATOR DAVIS: Thank you. [LB825]

SENATOR GLOOR: Seeing no further questions. Thank you, Senator Davis. And that will end the hearing on LB825. We'll now move to LR390CA, also Senator Davis. Welcome back. [LB825]

SENATOR DAVIS: Thank you. I didn't have to even get up. Again, good afternoon, Chairman Gloor. My name is Senator Al Davis from District 43; that's A-l D-a-v-i-s. I'm here today to ask your support for LR390CA, a constitutional amendment that would be placed on the November 2016 General Election ballot and would ask voters to approve or reject an amendment to the constitution which would restrict funding for community colleges to sales and income tax and not property tax revenue. I have introduced similar legislation in the past but this is the first time this issue of community college funding with property taxes has been referenced to the Revenue Committee. In 2013, I introduced LB651 which would have repealed the property tax levying authority of Nebraska's six community colleges and would have resulted in the community colleges being funded by state general funds in the same manner as the University of Nebraska and the Nebraska state colleges. Last year, I introduced LB144 which would gradually reduce the property tax levying authority of the community colleges over the next four years from the current 11.25 cents to 6.25 cents in fiscal years 2019 through 2020 where it would be capped. The loss in revenue to the community colleges was to be made up by general funds. Now this year based on continued conversations about the role of community colleges in remote areas, I introduce this constitutional amendment to let the people decide whether the community colleges should be a part of the property tax burden. As a senator, I have tried to consistently demonstrate my commitment to reducing the property tax burden on our citizens. What this bill reflects is my belief that those expenses and programs that are statewide should be funded with general funds.

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If a county doesn't have authority to control the bottom line, then the program or expense should not rely on property tax dollars to exclusively or significantly fund the program. While community colleges fill an important niche in our state's overall educational system, the burden of funding them is applied unevenly across the state. It is obvious that community colleges are great economic engines for host cities and satellite campus locations but they provide far less obvious benefits to those who live in remote and isolated areas of our state. This is the reason that community college funding is usually the number one--the number one--property tax complaint I hear across my district despite the fact that it takes a much smaller slice of the pie than local school funding or county expenditures. There are three sources of revenue available to community colleges: tuition, state aid, and property tax. Tuition must be somewhat market based and there is very little additional revenue that can be raised in that manner, especially in our smaller and more rural community colleges where the declining enrollments in many of our rural K-12 school districts are the sources of the many of our students. State aid plays a significant part in community college funding, but unfortunately the current formula for funding the community college system is somewhat similar to the TEEOSA formula allocating state funding based on needs minus resources. The runaway growth in rural agricultural valuations has boosted the resource side of that equation in all community college districts but in a disproportionate manner depending on the amount of agricultural land which the taxing district maintains. Therefore, in highly agricultural districts, even if the community college budgets were frozen, more and more revenue must be raised at the local level to compensate for the declining state aid. This is why the dramatic rise in agricultural valuation over the past several years has not brought about significantly lower community college levies across the state. In 2005, taxes levied for community colleges amounted to almost \$90 million. Ten years later in 2015, the taxes levied amounted to almost \$205 million. The taxes levied have more than doubled, therefore, in ten years. When I introduced the bill in 2013 I wanted to show the contrasting contributions made by each county for each student that enrolled in the community college. To do this, we took the property tax asking per student and divided it by the number of students enrolled from each district. At that time, Scotts Bluff County contributed \$380 per student to support the Western Nebraska Community College. Wheeler County contributed \$30,065 per resident student to Northeast Community College. The evolution of my commitment to reducing the property tax burden by allowing voters to amend the constitution to prohibit the use of property taxes to fund them is before you today. This is the most radical of my proposals because I recognize I could lose. If the voters would vote down the question, it would seem to be an endorsement to continue to use property taxes as part of their funding. But if the ballot question is voted in the affirmative, voters are just saying to fund community colleges, just not with property tax dollars. This is not an indictment of community colleges. It is more akin to a vote against an unfunded state obligation focused upon the taxpayers in the counties. I appreciate your consideration of the measure. I ask for your support of it so that our constituents have a voice in this important funding decision. With that, I'm available for any questions. Thank you. [LR390CA]

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SENATOR GLOOR: Thank you, Senator Davis. Questions? Senator Scheer and then Senator Schumacher. [LR390CA]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Davis, the community colleges follow the same format as a multitude of other multi-county organizations. So why just one? I mean, you have your NRDs that are across county lines that are funded. And I guess from my vantage point in the middle of Norfolk, I'm not sure I get a lot of services via the NRD. I think they're more rural located but we still pay our same amount. From a county perspective I still pay...you know, even bringing it down to a county level, do I get the same bang for the buck from my county taxes which are the same rate as the person that lives five miles south of Norfolk and the maintainer goes across and blades their road to their home every time. You have ESU units throughout the state that are across multiple counties that we fund that way. Is it your intent then to start moving all of the multi-county facilities to fully operational cost to the state? [LR390CA]

SENATOR DAVIS: Well, Senator Scheer, I don't see the state doing any significant steps towards trying to solve the property tax problem. And when I talk to my constituents all across my district--13 counties, 21 percent of the state--the number one complaint I hear about property taxes is we need to do something about the community college levies. So I've met a year ago with county commissioners and a very usual thing to happen. The county commissioners I met with in rural parts of Nebraska who are in the Western Nebraska Community College district said we've got to get a handle on community college levies, they're just out of control. I've tried to do that through bills I've introduced before and I haven't been able to get that done. So I think at this point now it's appropriate to say to the taxpayers, we're going to give you a decision in this. [LR390CA]

SENATOR SCHEER: Well, I'm wondering though and going back to one of the bills were heard yesterday that was...had to do with assessing, if you remember which one I'm maybe talking about. It seemed to be pretty isolated in one county. And you know, I live in...in full disclosure, I do live in Norfolk. The community college is located in Norfolk. And even in my district I don't get that many miles away from the facility. And I got to tell you, I've never had anyone tell me that the community college's tax levies are too high. You know, conversely, yeah, I've had people tell me the schools are, but everybody says that. But I honestly have never had anybody talk to me about the community colleges. So I'm wondering is it a geographic problem with western Nebraska because of the sparsity and the distance that people don't feel that they're getting the bang for their buck more exclusively in western Nebraska because of the isolated population versus those in southeast or northeast or even central Nebraska where we're not population centers but there's more population in closer proximity to the facilities? Could that have anything to do with it? [LR390CA]

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SENATOR DAVIS: You know, I'm certain it probably does because I have constituents in Brown County which is affiliated with your community colleges and they are not happy with their levy. They don't think they're getting any services. You know, as you probably know, most of the community colleges have developed kind of a college prep approach to a lot of education so a lot of people view that there's a lot of duplication of services. Western has I believe a basketball team of which there's scholarship students from overseas. How does that benefit anybody in Hyannis? You tell me. You've got activities that go on in Scottsbluff which is two hours from Hyannis and I'm 20 miles from there which, you know, we're not able to partake in. But we're forced to pay the taxes that go with that. [LR390CA]

SENATOR SCHEER: I understand that and I guess that's why I'm wondering if the problem is more related to the geographic area of the state rather than the funding of community colleges as a whole. [LR390CA]

SENATOR DAVIS: Well, I would say no. If you go through your property taxes and you look over the last ten years, you know, the community colleges have, like I said, \$90 million to \$205 million, by far and away the largest increase in the levies. I can't explain why that is. Maybe Mr. Baack can do that. I think people are...at least where I come from, they feel that they have...they have more of a say about their local school district taxing policy. The community college system is so vast, so large in most of Nebraska and based in some respects on population. So you know, we have one representative in maybe four counties in the Western Nebraska Community College District and probably three or four of them live in Scotts Bluff County. So they're not as attuned to the property tax problem as the rest of us. But when you have counties like Wheeler County that are putting \$30,000 per student into every student that goes to community college, you can see that that can really rub people wrong. [LR390CA]

SENATOR SCHEER: Okay. Thank you, Senator. Thank you, Senator Gloor. [LR390CA]

SENATOR GLOOR: Senator Schumacher. [LR390CA]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you, Senator Davis, for this idea. You're absolutely right as far as the enormous increase in budgets of the community colleges put largely on the backs of the agricultural taxpayer. And that may be due to the fact that we somehow see them as the magic solution for training students to enter manufacturing or low-cost education or something like that. And it may also be due to a gigantic disconnect between those boards and those boards' ability to control their administration and a disconnect with the taxpaying public. So why do we need a constitutional amendment? Why don't we just bring them under the state if we're going to pay the bill anyway? Why leave this disconnect in place between the boards and control over the spending and just bring them into the state system,

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pay the bill with income or sales tax and administer as part of the university or state college system? [LR390CA]

SENATOR DAVIS: You know, I think that would be a very acceptable approach to taxpayers in Nebraska. [LR390CA]

SENATOR SCHUMACHER: It seems to be we've...the environment has changed from the 1970s when they were junior colleges and now where they are this catch-all, let's train these kids to stay close to home and to enter manufacturing. [LR390CA]

SENATOR DAVIS: And you made reference to something earlier that I will hit on. You said it's fallen on the backs of the agricultural producers, but we're training people to go into manufacturing. So we're not really sending folks back into the farm and ranch environment. We're doing something else with those students, but we're asking the agricultural entities to pay for it. [LR390CA]

SENATOR SCHUMACHER: Thank you. [LR390CA]

SENATOR DAVIS: Which is a concern. [LR390CA]

SENATOR GLOOR: Seeing no further questions at this time. Thank you, Senator Davis. We'll move to proponents for this bill. (Exhibit 1) And I would read into the record Barb Cooksley with the Nebraska Cattlemen. Senator. [LR390CA]

LAVON HEIDEMANN: Chairman Gloor, member of the Revenue Committee, for the record, my name is Lavon Heidemann, L-a-v-o-n, Heidemann, H-e-i-d-e-m-a-n-n, and I come before you today on behalf of Nebraska Farm Bureau. Nebraska Farm Bureau's member adopted policy states: Inasmuch as the community colleges increasingly serve a student's educational needs throughout the state, we believe that property tax funds for community colleges should be replaced with state general funds. We believe the Legislature should place a constitutional amendment before the Nebraska voters to remove the authority of community colleges to levy a property tax. That being said, our members also support local representation and control on the community college boards. By no means does Farm Bureau...we want to support community college. They do great and wonderful things for a lot of our members and for rural Nebraska. We question about where the money comes from and we would welcome any shift of the funding they get from property taxes to the state General Fund. You brought up a good point, Senator. We could do this already. We've tried to do this already and we haven't been very successful doing

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this, but I think it's something that we need to look at. I'm going to just close with as I sat back there for the last, I don't know, it seems like a few hours... [LR390CA]

SENATOR GLOOR: It was. (Laugh) [LR390CA]

LAVON HEIDEMANN: ...I looked at the members of this committee and I think about how many bills that you have seen on property tax this year from even your own members and from there...I'm looking at Senator Sullivan and thinking about that you could be part of the solution when it comes to property tax inside of your committee and you have been. You've introduced bills to address that. I ask the members of this committee to try to get something done and I know there's a lot out there before you, but let's try to figure out what we can do to work together to address that. I believe a lot of people in this state believe that there is a problem and I just ask that you try to figure out what you can do and let's move forward as a Legislature and as a state to try to address this problem. With that, I will try to answer any questions. [LR390CA]

SENATOR GLOOR: We were hoping you had the answer. [LR390CA]

LAVON HEIDEMANN: I have all the faith in this committee and this Legislature to try to accomplish something. [LR390CA]

SENATOR GLOOR: Thank you. We'll start with Senator Sullivan, then go to Senator Scheer. [LR390CA]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you, Senator Heidemann. If Farm Bureau has indicated that there needs to be less reliance on property taxes, but you value the local control and the local resource of community colleges, how do you balance both of those? And is that...have you, your organization, had any discussion of what might be the potential restructuring because with more state dollars comes more state control? [LR390CA]

LAVON HEIDEMANN: There is...that is out there. And I remember I was at a meeting in August out in Kearney on a policy discussion we had and we talked about community colleges. And we had one member that sits on the community college board, was very adamant that no matter what happened we had to somehow figure out how to keep some of the local control and local opinions at that level. How that might be accomplished I'm not for sure. I understand that any time you have more state funding there's more state control at least expected. I don't know if that has to be that way, but it's always the perception that that's the way it goes. [LR390CA]

SENATOR SULLIVAN: Okay. Thank you. [LR390CA]

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SENATOR GLOOR: Senator Scheer. [LR390CA]

SENATOR SCHEER: Thank you, Senator Gloor. Thanks for stopping by and waiting, but the obvious question to me then is if the Farm Bureau says this is a great deal...or a good deal, shouldn't say...you know, something we should move to, then are you also here to support a increase in either income or sales tax because both...you worked on Appropriations for a long time. You know smiles don't pay bills. So if we are going to fund them from the state, I didn't see an extra couple hundred million in the budget this year to do that and people are paying that. So I mean we have to assume that you're supportive of increasing the income or sales tax because we have to generate more dollars to pay for existing services that will no longer be paid for by property tax. So I'm completely serious because I don't want you to come and say, yep, we don't want to pay property tax any more of that. But there's the other side of the sword. So you have to be willing to pay more in some other type of tax. [LR390CA]

LAVON HEIDEMANN: I will say that I have been involved with this organization now for about a year, and as I have talked to some of the members they feel so much frustration when it comes to paying property taxes that they are willing to look at other forms of revenue. I've...I will continue on to say that if something like this would ever go down and the state would pick up more of the money, I have all the faith in the world that you're going to figure it out. [LR390CA]

SENATOR SCHEER: Well, I'm not asking...no, we won't figure it out because the point is it still takes the same amount of money or relatively close. So when you say that you're amenable to looking at other avenues, there is only those other two avenues. And so if you have to increase those amounts by...you know, you got the balance. So if we're going to take the \$200 million or whatever it is from property taxes from the community colleges, they're up and they're operating. We have employees. They're providing services. If now all of a sudden that becomes the state's responsibility by this bill's being paid for by state income or sales tax, then I'm assuming that you as Farm Bureau are here as well to support the increase in either one or both of those taxes. [LR390CA]

LAVON HEIDEMANN: I think it's something our members would look at. If this would hit at the right time and we've all been here long enough to realize that if revenues would come in above expectations or if it would be a period of time that revenues were at 7 percent or 8 percent, and we've seen that already, you could actually absorb lot of this. I would give an example that this year that you guys are looking at \$150 million shortfall and you're going to handle it. [LR390CA]

SENATOR SCHEER: No, we aren't going to handle it. That's the problem because how we are handling it is using unused preapproved funding. Come January, we are already in the hole \$150



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million. And you're not answering the question and I'm not going to badger you because we both know that's what it's going to take. And we can't say that we solved the problem because we haven't. We've just pushed it off a year and I think we both have to acknowledge that as well because I don't want the public thinking we took care of a problem. We didn't. That's going to show up again first thing in September or in January when we...those that are elected come back. We're still in a deficit. We have to find those dollars. And I guess maybe your point is exactly right. It's bad timing. You know, three years ago might have been an easy pop over, but maybe it's just bad timing. [LR390CA]

LAVON HEIDEMANN: There are certain times in the past that we could have absorbed this without anything. I get your point though and I'm not here to argue with you, that this money would have to be replaced with something. And whether it would be good fortune then that there would be extra revenues of the state to pick that up or you're going to have to look other places, there's no doubt about that. I've been there, done that. [LR390CA]

SENATOR SCHEER: Appreciate it. Thank you. Thank you, Senator Gloor. [LR390CA]

SENATOR GLOOR: Other questions? Senator Brasch. [LR390CA]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you, Senator Heidemann and Farm Bureau. From what I'm hearing in the district, you're absolutely right. Whatever needs to happen to reduce the ag land, the property taxes statewide, whatever. But I guess where I'm going with this is when I first took office six years ago, we sat down with nearly a billion dollar's deficit, correct? [LR390CA]

LAVON HEIDEMANN: One fall, yes. [LR390CA]

SENATOR BRASCH: Yes, yep. [LR390CA]

LAVON HEIDEMANN: That's what I was looking at in October. [LR390CA]

SENATOR BRASCH: And we did what we had to do to make things work. I mean, we made cuts. And I think we've just grown back again. We recuperated things and I'm just wondering if it's going to instead of increasing taxes, you know, can government, again, just try to readjust itself, I don't know, you know, reshape a few things? Or do you think that's been done? And you...it hasn't been that long ago since you left your post. We've grown back some, not as much this last year. But when times were good, it was Christmas again. Your thoughts, can we do this, as Senator Schumacher is suggesting, by just policy? [LR390CA]

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LAVON HEIDEMANN: We could do this by policy. That's almost two different questions in my mind. [LR390CA]

SENATOR BRASCH: Okay, all right. [LR390CA]

LAVON HEIDEMANN: So I appreciate him bringing that up. I think where you're trying to go with the question is, can we...we did it when we had budget shortfalls. For every percentage point less you spend, right now with the budget being a little over \$4 billion, you save about \$40 million. That's never easy. I've been through that and it's not the best thing to have to go through. The easier way is to grow the economy, to get more revenues in, to capture that, and to do things like this. That's the perfect world. [LR390CA]

SENATOR BRASCH: That is the perfect world. I would agree, but we're looking at very slow population growth and as many tax incentives as we can out there and that's what we hear a lot of is, you know, give us more reasons to bring in entrepreneurs and businesses. So I want to thank you for your testimony and your thoughts and I think we do have some discussion here moving forward. [LR390CA]

LAVON HEIDEMANN: I wish you well. [LR390CA]

SENATOR BRASCH: Thank you. [LR390CA]

SENATOR GLOOR: Senator Schumacher. Oh-oh. [LR390CA]

LAVON HEIDEMANN: Couldn't resist, could you? (Laugh) [LR390CA]

SENATOR SCHUMACHER: I just want to know where I sign up for this 8 percent growth in a 3 percent or 4 percent economy. [LR390CA]

LAVON HEIDEMANN: You know, sometimes when it looks so deep and dark, and we had that in 2008 and 2009, that's when we saw a larger actually revenue growth than you could have imagined. [LR390CA]

SENATOR SCHUMACHER: They were all afraid of Obama taxing them so they wanted to cash in early. [LR390CA]

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LAVON HEIDEMANN: That was a little bit later year. There was a little bit of that. (Laugh)  
[LR390CA]

SENATOR SCHUMACHER: Thank you. [LR390CA]

SENATOR GLOOR: Thank you for your testimony. [LR390CA]

LAVON HEIDEMANN: Thank you. [LR390CA]

SENATOR GLOOR: We'll continue with proponents. We'll move to opponents for this  
legislation. [LR390CA]

MICHAEL CHIPPS: I wonder if I could borrow a little of my last time I had up here. Just  
kidding. [LR390CA]

SENATOR GLOOR: Doesn't work that way. [LR390CA]

MICHAEL CHIPPS: (Exhibit 2) I know it doesn't. It's all right. Good afternoon, Chair Gloor and members of the Revenue Committee. My name is Mike Chipps M-i-k-e C-h-i-p-p-s. I'm the president of Northeast Community College in Norfolk. I'm here to speak to you today on behalf of the Nebraska Community College Association in opposition of LR390CA, a constitutional amendment to eliminate property tax levying authority and provide state funding through sales and income tax for Nebraska's community colleges. I'd also like to say my grandfather was a Farm Bureau agent so I certainly sympathize with the testimony that we just heard. I certainly understand it with my parents being farmers in their background as well. But LR390CA would give new meaning to the word "community" for Nebraska's community colleges. I think it's important to remember that I've been 35 years in Nebraska community colleges. This is my third college. I've also...I'm a Nebraskan from Grand Island. I think that's important to note that. I lived in Hastings and lived in, of course, Grand Island; lived in North Platte; lived in Norfolk; and have lived in Kearney. And so I've lived around the central part of Nebraska have been in community college work for a long time. And so on the back side of my career, I don't take this defensively. If I was 40, I might take it a little more defensively what we're discussing today, but I have nothing really to gain except to represent my heart as a fellow Nebraskan, and frankly, a pretty heavy taxpayer myself. This legislation would remove all local support from community colleges, which currently totals more than \$196 million annually for general operations and capital funds. The state would carry then the fiscal load, would be challenged by adding community college's to its budget. What would it take for the state to pick up the facilities and payroll on the six community college campuses across Nebraska, let alone the amount that we've

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talked about earlier? This piece of legislation would turn local control over to the state, and you've already said it, but it would hinder community college's ability to address our work force concerns and respond in a timely and effective manner to community, business, industry, and constituent needs. I'm very concerned about that. That local control issue in the state Nebraska is critical and that...and you would say, well, that would still be retained. And I'm here to tell you I've worked 35 years across this nation working with community colleges consulting with them and as soon as they continue to move toward state control, advisory boards begin to take place and decision-making boards go away. And I'm very, very concerned about that as a fellow Nebraskan. The governing board would likely become advisory councils under this legislation. Speaking on behalf of local board members who give their...voluntarily give their time and serve on Northeast's board, these individuals have the best interests of the service area in mind. For instance, there was a comment earlier from Senator Davis that from Brown County he's hearing from ranchers. And yet I was just there not too long ago. We put a regional office out there and I don't see any other college or university out there very much to be frank with you. But we put a regional office and one of those ranchers came up to me and said, I've complained about you, Mike, for a long time but I'm not complaining anymore because finally you put something out here. You know, and so we're...community colleges are on behalf of these communities. I mean, it's important to recognize that. And frankly our board of governors who represent a number of very powerful people in our area are taxing themselves when they're actually looking at those levies. So, it dramatically erodes the community colleges ability to offer affordable and accessible education. Now what's happened locally with Iowa? Iowa is at I think, 5 percent, I think of their budget is now state aid, if I recall correctly. Their tuition rates to keep it affordable and accessible are \$186 a credit hour. Northeast is \$86 a credit hour. Nebraskans are proud of their community colleges. I hear it all the time. But the issue is we have a different way of doing business in Nebraska with our community colleges. That personal property tax really gives us the rapid response piece that we can use with our boards to be able to accomplish frankly what you want, at least that's my opinion. Next, it provides an adequate support to allow the colleges to support expensive career technical education. This is the second thing I've seen across the nation what happens when they pull the rug out on property taxes is the fact the first thing that goes from those community colleges...there's really two things that happen. Technical goes away. Technical you cannot take...really what those colleges are beginning to revert to are junior colleges. And if that's what you want in the state of Nebraska are community colleges to become junior colleges and just teach academic transfer, that's what's going to happen on the long run. It just does. I've seen it historically many times. Trying to shorten this up very quick for you. Let's go to the last part. It's really interesting to me that many states would like to replicate what Nebraska currently has as far as its tax structure. Many of them are what we call two-legged stools. Nebraska is one of the few that has kept the three-legged stool: the property tax, state aid, and of course, the tuition. And we are responsible, in my opinion, to keep this affordable and accessible for these students and what happens is when it moves, migrates away from that, eventually it gets tagged on to the student of which is just the opposite of what we want to do. So

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if you want to keep a community college education affordable and effective, as fellow Nebraskans I urge you not to advance this constitutional amendment. By moving forward towards more state control of community colleges, students will suffer the most in all this, since tuition and fees would significantly increase to support the lack of available funding. That's the end of my testimony. I'll be glad to answer any questions. [LR390CA]

SENATOR GLOOR: Thank you, Dr. Chipps. Questions? Seeing none. Thank you for your testimony. [LR390CA]

MICHAEL CHIPPS: Thank you. Appreciate it. [LR390CA]

SENATOR GLOOR: Good afternoon. [LR390CA]

JAMES GROTRIAN: Good afternoon. Thank you, Chairman Gloor. Pardon me, I've been sitting there awhile. Thank you, Chairman Gloor and members of the Revenue Committee, for the opportunity to speak on LR390CA. My name is Jim Grotrian, J-i-m G-r-o-t-r-i-a-n, and I'm the executive vice president for Metropolitan Community College. I'm here today representing the college in opposition of LR390CA, I know I don't have to remind you but it's always good to is that Metropolitan Community College does serve the residents of Douglas, Sarpy, Washington, and Dodge Counties. We enroll approximately 40,000 students in credit and noncredit classes every year. Thank you. And as already discussed this evening and Dr. Chipps reiterated, if the community colleges were to lose our property tax revenue, it would be pretty devastating to not only our students but to our operations. And what would that mean to Metropolitan Community College? At Metro, property taxes account for 45 percent of our general fund budget which is approximately \$43 million dollars of our general fund and \$11 million dollars in our capital funds support. And if the constitutional amendment were to pass, it really jeopardizes a large portion of our revenues and risks shifting the financial burden onto our students. I'd like to go back a little bit to that four-county service area and it was mentioned earlier regarding the local control. And this is certainly not part of my script but it came to me in the years I've spent at Metropolitan because local control is important to the community colleges. I spent a total of 20 years at Metropolitan. I certainly did not...was not raised and did not grow up in urban Nebraska. I grew up on farm in southeast Nebraska where a majority of my relatives and I spend many of my...much of my time on a personal basis. So I have a perspective when you talk about local control and how we talk about multiple counties and everybody's perspective. In the 20-some years I've spent at Metropolitan Community College, I've grown to appreciate the perspective people have in the greater Omaha area. And so when we talk about somebody from one county feeling like they don't have the same services as somebody from the other county, I'll give you a perspective from Metropolitan. I spent a lot of time across the four-county district at many of our locations and working with many of our communities. The one thing I've learned in our area, our

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area of local is relative to us. So for example, I can be in Sarpy County, down in southern Sarpy County and somebody might tell me, why are you building something in south Omaha, which might be ten miles away. And I can be in Fremont and somebody might ask me is, why are you always spending your time in north Omaha, and it might be 30 miles away. And so for us, we have some of the same challenges and we have some of the same opportunities. But my point is if you were to take away our boards and our ability to serve our students in a local way and where we even have our own challenges on a daily basis to be able to meet the needs of our students and our constituents even based upon our geographic diversity, I would guess that it would be even more difficult if we were to lose that ability to respond to those local issues if something like this were to pass. And that's an example I give you in my own personal basis over the several years. So it is all particularly relative. In some ways we're very different, and in many ways we're exactly the same. The miles might be a big difference. So on behalf of Metropolitan Community College, I'd just like to reiterate our opposition to LR390CA and make myself available for any questions on behalf of our institution. Thank you. [LR390CA]

SENATOR GLOOR: Thank you. Are there any questions? I don't see any. Thank you. [LR390CA]

JAMES GROTRIAN: Thank you. [LR390CA]

DENNIS BAACK: Senator Gloor and members of the Revenue Committee, for the record, my name is Dennis Baack, D-e-n-n-i-s B-a-a-c-k, and I'm the executive director of Nebraska Community College Association and I'm also speaking on behalf of the State Chamber today in opposition to LR390CA. I think that Dr. Chippis and Mr. Grotrian have done an excellent job of laying out what happens if you might start losing some local control and what happens with technical education. I've watched it over the years and there have been states that have gone to state systems of community colleges and they've lived to regret that afterwards because a lot of the technical programs were the ones where if they get into a little bit of a budgetary bind, the technical programs go away because those are most costly ones. I think we saw that same thing even happen in K-12 education. A number of years they went away from the industrial arts and a lot of things when they were having some difficulties with their budget. So I think the same thing would happen with community colleges. This isn't the first time that I've faced this. I was looking back over my records. In my 33 three years in association with the Legislature--my 9 years with Legislature; this is my 24th year here--12 times the...getting rid of our property tax has been introduced outright, 12 times. And four other times it was introduced in varying forms, you know, reducing our levies or you know...so there been a number of those. This is the first constitutional amendment though that we've had come up on this issue. But there are...I mean Senator Davis already has a bill over, I think he mentioned it, across in the Education Committee and that bill would simply reduce our property tax levy over a number of years, over four years I think. It would basically cut it in half. Senator Heidemann, as he was going out he said good luck

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to you, you're older, you're supposed to be even wiser than me. You know, it...these are tough times. I mean, it really is difficult to figure out what to do with property tax and the only time we really faced up to it in my years was in the late '80s when we passed LB1059 for schools and raising state aid to schools. And in that package was an increase in both the sales and the income tax. We increased them both. And then there was a petition drive that put it on the ballot and it actually survived on the ballot. The people voted for it and LB1059 became the law and they voted themselves a tax increase at that time. So timing is, you know, I think is one of the kind of essential things on this. And you know, there is a lot of turmoil out there over property tax. I understand that. But I...there's...I don't think there's very many ways to deal with it. There just really aren't. It's a very, very complex and kind of difficult issue to deal with. I mean, we are a local control state. We believe in having lots of local government, and you know, if you start talking consolidation of government and those...oh boy, everybody gets really excited about that. It's a very, very tough thing. I don't envy your job at all. And since I'm going to be retiring this year this is probably the last time I'll testify before a committee. I'm really going to miss it, you know. But I don't envy you trying to come up with an answer, but I think we still have to continue to look. It's frustrating, I know it's frustrating. But I think you have to continue to look and try to find some solutions to what we're doing out there. But I don't think taking property tax away from the community colleges is one of the viable solutions that you might have. With that, I'd be happy to answer questions. [LR390CA]

SENATOR GLOOR: I won't ask a question, but I'll point out the obvious and that is, you don't have to stop testifying in front of committees. You'll be unencumbered by any allegiances (laughter) and you can just share your wisdom to your heart's content and... [LR390CA]

DENNIS BAACK: True, but you meet in the winter. I might not be here. (Laughter) [LR390CA]

SENATOR SMITH: Just as long it's five minutes or less. [LR390CA]

SENATOR GLOOR: Yes, just as long as it's five minutes I've been reminded. Questions? Senator Brasch. [LR390CA]

SENATOR BRASCH: And I do want to thank you for your testimony. Community colleges are important to rural areas. They truly are. But with the numbers we've looked at on property tax and compared to residential or business...and I think what's happening is farmers have...and tax experts, it's you're exasperated with how to find a solution. And right now what I keep hearing is in Nebraska being a farmer should not be a tax burden. We're an ag state. And so, you know, if we can get the community colleges and all of the taxing entities that we agreed to work together, have a special session of your own (laugh) and work numbers. But you've been through this. And

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I introduced LB351 which was trying to regenerate LB1059 last session and that couldn't grow any legs. So you're just saying good luck like the last testifier. [LR390CA]

DENNIS BAACK: Yeah, kind of, you know. [LR390CA]

SENATOR BRASCH: Kind of. [LR390CA]

DENNIS BAACK: But it is...I mean, I don't envy your spots because it is a tough...they are tough decisions that you have to make. And I've often thought that...I mean I've looked at old maps of the state of Nebraska. When I see the panhandle of Nebraska where I was...where I'm originally from and you look at that and you see that there was one county in the panhandle of Nebraska at that point in the territories, only one. And with technology and the things that we have today, there's probably no reason that there couldn't be one today. But people aren't going to accept that very easily, I don't think. I think people are going to fight that tooth and nail. But I mean we built an infrastructure...we built our state on the basis that we were going to have at least 2.5 million people in this state. We set up local government accordingly if you look back over history. Well, we never got there and we don't have enough to support all of that local government that we put in place and so it makes it very, very difficult. [LR390CA]

SENATOR GLOOR: Senator Sullivan has a question. [LR390CA]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you, Mr. Baack. I know that community colleges have been talking this last year about their funding formula. But do you as a group, will you as a group, would you as a group talk about the delivery of higher education in this state in line of changing demographics and offer some solutions that look beyond your own boundaries and your own situations and help us deal with this? [LR390CA]

DENNIS BAACK: Sure. I mean I have no aversion... [LR390CA]

SENATOR SULLIVAN: And you...but you haven't... [LR390CA]

DENNIS BAACK: ...to doing that at all. [LR390CA]

SENATOR SULLIVAN: ...you haven't to... [LR390CA]

DENNIS BAACK: Yeah, I... [LR390CA]



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SENATOR SULLIVAN: ...to this point, have you? [LR390CA]

DENNIS BAACK: What? [LR390CA]

SENATOR SULLIVAN: You haven't probably. You kind of looked at your own silos and said, how are we going to continue... [LR390CA]

DENNIS BAACK: We do it to a certain extent. [LR390CA]

SENATOR SULLIVAN: ...business as usual? [LR390CA]

DENNIS BAACK: But I also, you know...I will also tell you that there is awfully good cooperation between all of the community colleges. [LR390CA]

SENATOR SULLIVAN: I... [LR390CA]

DENNIS BAACK: You know, we do...when one college maybe does a certain kind of technical program and all the others just pick up on that and utilize that same program rather than creating it all over the state. So we do do that. [LR390CA]

SENATOR SULLIVAN: Okay. [LR390CA]

DENNIS BAACK: But there's more that can be done. [LR390CA]

SENATOR SULLIVAN: Yes. [LR390CA]

DENNIS BAACK: We're not done with that. [LR390CA]

SENATOR SULLIVAN: And I'm just looking for the right venue to do that because... [LR390CA]

DENNIS BAACK: Sure. [LR390CA]

SENATOR SULLIVAN: If not for a funding situation like this, should it take place in the standing committee that has jurisdiction or should it take place in a P-16 initiative? Should it take place in a conversation just among community colleges? But we're kind of at the tipping

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point whether it's how we fund education, how we deliver it, and where it's at in this state.  
[LR390CA]

DENNIS BAACK: Yeah, and I think we have to look beyond ourselves to look back at what takes place in our K-12 schools that we've got to make sure...and quite frankly the State Board of Education and Department of Education is making a lot more efforts this way to make sure that their curriculum lines up with ours so we don't have to put lots of resources into foundations education, and you know, just fundamentals so we don't have to do that when they come to our schools. They'll have those things. So those things are taking place and it's better. I can tell you that it's improved an awful lot since I took this job in 1993. Things have changed a lot within because of the communication between the different sectors of education. But we're not there completely yet. We've still got ways to go. [LR390CA]

SENATOR SULLIVAN: Thank you. [LR390CA]

DENNIS BAACK: There's always ways to go. [LR390CA]

SENATOR GLOOR: Senator Scheer. [LR390CA]

SENATOR SCHEER: I apologize. I know I'm maybe the last question between us and leaving, but two things. One, I want to thank you for your service both to the state in the Legislature and as Speaker and in the time that you spent on behalf of the community colleges. At least in my short time here, I've always found you to be very forthright, honest, impeccable integrity, and could take what you told me to the bank. So I do thank you for that. [LR390CA]

DENNIS BAACK: I do appreciate that. Thank you. [LR390CA]

SENATOR SCHEER: Back to the topic at hand which is the funding sources, I guess to me, worst case scenario. This passes, the state doesn't have the money to fund it. How much does tuition goes up? [LR390CA]

DENNIS BAACK: I think it goes up dramatically. And I think you look at the state of Iowa right now, their tuition for their community college, and if you look at the one right across from Metro, you look at that community college, I saw again where they're going to raise their tuition another 7 percent this year. They raised it 7 percent last year. They'll be in the \$160 per credit hour range, whereas Metro's on a semester basis is about \$90 a credit hour. It would have to go up fairly dramatically and that's one of the things that we concern ourselves with, with state takeover is... [LR390CA]

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SENATOR SCHEER: State funding about 45 percent, is that fair assessment on average for most of the community colleges? [LR390CA]

DENNIS BAACK: Well, some of them are much higher than that. Some of them...property tax is much higher than that for some. State funding doesn't...it only gets to...it only gets over 40-some percent to like Western and maybe Mid-Plains. But most of...there's still a great deal of their share comes from property tax. And you know, I mean there was a number of years where the Legislature decided to put more money in community colleges and we had a trigger within our formula that automatically gave property tax relief for those two years. [LR390CA]

SENATOR SCHEER: Would it be fair to say that it would go up 50 percent? [LR390CA]

DENNIS BAACK: Does what? [LR390CA]

SENATOR SCHEER: Fair to say it would go up 50 percent? [LR390CA]

DENNIS BAACK: Oh, I would think even probably more than that. At least 10 percent, and probably more than that. It would have to... [LR390CA]

SENATOR SCHEER: Okay. [LR390CA]

DENNIS BAACK: ...in order to provide those same kinds of services. [LR390CA]

SENATOR SCHEER: Thanks. [LR390CA]

SENATOR GLOOR: Okay. Seeing no further questions. Thank you. [LR390CA]

DENNIS BAACK: Good luck. [LR390CA]

SENATOR GLOOR: Anyone else in opposition? Anyone in a neutral capacity? Senator Davis. [LR390CA]

SENATOR DAVIS: Well, I was just going to waive closing but I decided I would sit down first of all to say, like Senator Scheer, I have a tremendous amount of respect for former Senator Baack, a very intelligent man and a lot of integrity. I've worked with him on my prior bills and even though he never liked them, he always gave me good information. I am glad to say that I was able to bring a constitutional amendment as his last testimony (laughter) so we'll be able to

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remember that. So I think he said something interesting and I also want to make a comment about the fact that we have entities on board with this, Farm Bureau and Nebraska Cattlemen who haven't traditionally stepped forward to talk about sort of a radical departure from where we are. I think that really indicates the problem that we have in Nebraska, this crisis of property taxes. We're learning that Iowa's rates may be significantly higher than ours in their community colleges. So we are putting the subsidization of tuition, essentially that's what it is, on the back of the farmers and ranchers in western Nebraska and rural Nebraska who are paying these property taxes. Farming and ranching are businesses just like any other businesses. So when taxes are taken out and taxes become onerous and difficult, what do they do? All they can do is defer maintenance, defer new investment, defer other things to pay these taxes. What happens when that takes place over 20 or 30 years? They become obsolete and uncompetitive in the real world because we compete on a world basis, not just a national basis and not just a Nebraska basis. This proposal is a radical one and I get that. But it says, okay, the state isn't willing to deal with this. So let's let the voters have a shot at it. If they want to vote to eliminate property taxes, we'll have to radically reform the community college system, maybe to the detriment of the community college system. But you know, we'd have to do it. It's what the people want. Senator Baack said, you know, Nebraska was built on a 2.5 million population basis and we never got there and that is one of our problems. So maybe we've got too many...too many local pieces of government. I'm not going to argue with that. We've seen consolidation, probably not the kind that maybe will happen in the future, but maybe we can't afford a community college system like we have anymore. Maybe we're going to have to radically reform it and look at it in a different manner. The community colleges in my part of the state have, in some respects, I think probably in response to my initiatives and others, have doubled down their building facilities in communities and those communities are pretty supportive of that. That's okay, but that is additional property taxes that have to come out of somebody's pocket. We have to find a fix somehow. This is an idea that I think has some merit. So I'd appreciate the body looking at it and this committee moving it to the floor. Thank you. [LR390CA]

SENATOR GLOOR: Thank you, Senator Davis. Senator Scheer. [LR390CA]

SENATOR SCHEER: Thank you. One last comment, and in fairness, Senator Davis, I've heard as many comments from those people from residential with homeowners property tax as...everybody thinks their property tax is too high. It's not...it really is not unique only to agriculture. I think everybody feels that the property taxes are higher than they should be. So we'll agree to that anyhow. [LR390CA]

SENATOR DAVIS: Well, you know the difference between a residential individual and a person in agriculture is just what I said, you have to reinvest in your business. That's a business. There aren't...there's no other business in the state of Nebraska paying the kind of taxes that agriculture pays. And we also pay income and sales tax. [LR390CA]

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SENATOR GLOOR: Seeing no further questions. Thank you, Senator Davis. [LR390CA]

SENATOR DAVIS: Thank you. [LR390CA]

SENATOR GLOOR: And that will end the hearing on LR390CA and that will end the hearing.  
[LR390CA]