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Transcriber's Office

Revenue Committee
January 27, 2012

[LB850 LB872]

The Committee on Revenue met at 1:30 p.m. on Friday, January 27, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB850 and LB872. Senators present: Abbie Cornett, Chairperson; LeRoy Louden, Vice Chairperson; Greg Adams; Lydia Brasch; Deb Fischer; Galen Hadley; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR CORNETT: Good afternoon and welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue. To my left, Senator LeRoy Louden from Ellsworth will be joining us, as will Senator Deb Fischer from Valentine. Senator Greg Adams is on my far left, from York. On my far right is Senator...will be Senator Schumacher; he is introducing a bill in another committee. Senator Brasch from Bancroft. Senator Pete Pirsch from Omaha. And Senator Hadley is the introducer of the first bill today and is in the audience. Our research analyst today is Steve Moore, to my right. And committee clerk is Matt Rathje, to my far left. Our pages are Michael Killingsworth and Matt McNally. Before we begin the hearing today, I would advise everyone to please turn your cell phone to either the "off" or "vibrate" while in the hearing room. Sign-in sheets for testifiers are by both back doors and need to be completed prior to coming up to testify. Please print when you complete the form. And when you come up, please hand the completed form to the committee clerk. There are also clipboards by the back door; if you wish to indicate either your support or opposition to a bill, this will be included in the official record. We will follow the agenda posted on the door today. The introducer or a representative will present the bill, followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed closing remarks. As you begin your testimony, please state your name and spell it for the record. If you have copies of...or handouts, please provide the committee with ten copies for staff and the senators. If you do not have copies, we will make them for you. When you come up to testify, please hand those to the pages. With that, we will begin the hearing. Senator Hadley, you are recognized to open on LB850...I'm sorry, one...go ahead. I was just going to say before we begin today, because there are a number of testifiers, we are going to be using the light system. Senator Hadley will be given as much time as he needs to introduce his bill and to close. Proponents and opponents will be given five minutes, at maximum. Thank you. Senator Hadley, I apologize.

SENATOR HADLEY: Chair Cornett, members of the committee, my name is Galen Hadley; that's G-a-l-e-n H-a-d-l-e-y. I'm the senator from the 37th District in Nebraska. I appreciate this opportunity to bring LB850 to you. First of all, I would like to thank the committee for holding the study on this bill earlier this summer in Kearney, where we had a great turnout, had a lot of great discussion on the concept and what was happening. So I appreciate those people. It's always great in Nebraska to find out that the interstate runs from Lincoln out west, because we always assume it just runs from out west to Lincoln and Omaha. Is that correct, Senator Fischer? [LB850]

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SENATOR FISCHER: I don't travel a lot on the interstate, Senator Hadley, because I'm in north-central Nebraska. [LB850]

SENATOR HADLEY: (Laugh) Okay. Anyway, I introduced this bill for two purposes. One, for the sake of providing an incentive for people to move to rural Nebraska, much in the same way we provide incentives for companies to move to our state. Secondly, I introduced this bill because rural population loss is a substantial issue facing this state now, not an issue to be addressed in the future. The sooner we as a legislative body work proactively to provide the best quality and cost of living to our residents in rural areas, the stronger our state will be as a whole moving forward into whatever the future may bring. The further details of the bill are: the bill provides for a refundable tax credit of \$1,500 to individuals who move from out of state to counties in Nebraska that have lost 5 percent of their population or more over the last decennial census. This area represents 54 out of the 93 counties in Nebraska. To apply, individuals would make an application with the Tax Commissioner for a refundable tax credit. The tax credit would apply up to but not more than \$1,500 as a tax credit. Currently by a recent tally in Kansas as many as 190 people have applied for a similar program which was put into effect in July of this year. At the rate of roughly 1 a day, Nebraska may expect as many as 1,800 individuals to apply for this program. Much has been asked about the fiscal note of this program. Given the potential number of applicants, I recommend putting a cap on the program of \$500,000 annually, for a total of 2,500 for the five-year life of the program. I appreciate the committee's interest in this bill, and I would be very happy to answer any questions on it. [LB850]

SENATOR CORNETT: Senator Pirsch. [LB850]

SENATOR PIRSCH: Thanks for your bill here. This is a very important concept. And as you mentioned, 54 of those 93 counties...what is the threshold, then, the number requirement that distinguishes the 54? You have to have experienced... [LB850]

SENATOR HADLEY: A 5 percent loss in population over the last...the census in 2000 and the census in 2010. And, Senator Pirsch, obviously, the next follow-up question obviously would be, why did I use 5 percent? Well, you have to pick a number. The larger the number you use for loss, the fewer the counties would be involved; the smaller the number, the more counties. So we used 5 percent. But I think the significant thing is, is that 53 counties in Nebraska lost 5 percent of their population in the last ten years. [LB850]

SENATOR PIRSCH: Well, I think you've hit the nail on the head with a big problem that we need to address here in the Legislature, and so I commend you for that. Then, you mentioned that this has been employed last year in Kansas, right? [LB850]

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SENATOR HADLEY: Yes. [LB850]

SENATOR PIRSCH: Is there any other state, to your knowledge, that's doing this or some closely associated...? [LB850]

SENATOR HADLEY: Not that I know of, Senator Pirsch. Just a quick, kind of a little bit of an overview of the Kansas program: their governor made this a real keystone, that Senator Brownback ran for governor and he made it a real part of his campaign for governor. And it's interesting, the counties, they have a two-pronged approach: they have a tax credit, but they also have a loan forgiveness for educational expenses, which we tried to put in the bill, but we found out that's basically unconstitutional in Nebraska, for the state of Nebraska to pay off individual people's loans. I will say, Kansas has been successful. And what is interesting is the counties that Kansas...have, basically, not only using the tax revenue...or the tax credit but also using the loan forgiveness, are the counties that border Nebraska and Colorado. So they're really targeting those border counties for Kansas...for Nebraska and Colorado. It's a pilot project. It's...they're facing the same problems we are as far as losing population in outstate Nebraska. [LB850]

SENATOR PIRSCH: You said 190 people... [LB850]

SENATOR HADLEY: Yes. [LB850]

SENATOR PIRSCH: ...in the first year of operation moved... [LB850]

SENATOR HADLEY: Since July 1 of... [LB850]

SENATOR PIRSCH: Oh, since July 1. [LB850]

SENATOR HADLEY: ...so it's basically just a little less than a half a year. [LB850]

SENATOR PIRSCH: Okay. Okay. And is there a way to know, are these individuals who are being targeted in other states introduced, really, with the concept...is there marketing going on in these...in Nebraska and Colorado (inaudible) that Kansas...? [LB850]

SENATOR HADLEY: It's interesting, I was just told that they actually...Kansas put \$200,000 into marketing this program. And if you watched the Cotton Bowl, there was an, actually, an ad by Kansas encouraging people to move back to Kansas to take advantage of this particular act. [LB850]

SENATOR PIRSCH: So that sort of eliminates a little bit of the worry that these people are going to be moving into the state of Kansas "any old how"... [LB850]

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SENATOR HADLEY: Yeah. [LB850]

SENATOR PIRSCH: ...right? [LB850]

SENATOR HADLEY: That's right. [LB850]

SENATOR PIRSCH: So these are... [LB850]

SENATOR HADLEY: I mean, there are...we would like not only people my age, you know, the mature people that are, you know, want to retire and come back--they're important, you know, they buy homes, they buy...they...sales taxes, property taxes, income taxes--but also the young people. I know that Kansas, their first 50 people that took advantage of this were...a number of them were education majors and pharmacists and veterinarians, the professionals that we need in some of these counties. [LB850]

SENATOR PIRSCH: Thank you. [LB850]

SENATOR CORNETT: Further questions? Seeing none... [LB850]

SENATOR HADLEY: Thank you. [LB850]

SENATOR CORNETT: With that, we'll open the hearing to proponents. [LB850]

NICOLE SEDLACEK: (Exhibit 1) My name is Nicole Sedlacek; that's N-i-c-o-l-e S-e-d-l-a-c-e-k. Good afternoon, Chair Cornett and members of the Revenue Committee. My name is Nicole Sedlacek, and I'm the executive director at Holt County Economic Development. And today I'm speaking in support of LB850. Holt County was one of two counties in Nebraska with the largest numeric population loss from 2000 to 2010. We lost a little over 1,100 people. We have an unemployment rate of 3 percent. And our biggest problem in Holt County is simply a lack of people. By no means are we a dying county. We have excellent school systems, amazing healthcare facilities, and if I could talk to some of those Occupy people, we have some pretty darn good opportunities. We just simply need a tool to help us bring people back to Holt County. We need a work force. We are trying to get that work force; we're trying every possible way to get people back. We give our graduating seniors a real mailbox with an invitation to come back home. We host alumni open houses; we send alumni postcards; we attend job fairs at our local community college. We, again, need a tool to help us bring those people back to Holt County. And I think LB850 could be that tool that would benefit greatly. We know incentives work to get people back in Holt County. Our healthcare professionals have been using the Nebraska Student Loan Program and Nebraska Loan Repayment Program for years, and it's helped us bring back many professionals to Holt County. But it's time we open those doors to other occupations.

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Not only do rural communities rely on healthcare, we also rely on just general needs and retail services in our communities. I have a community in Holt County that is in need of a plumber. We also need nurses, welders, electricians, IT professionals. All of these positions pay a really good wage and even could become an entrepreneurial opportunity for someone who was interested in running their own business. Currently, right now in Holt County we have 51 job postings on our Web site, and over half of those are full-time careers. A few of them have even been advertised for months simply for a lack of qualified applicants for those positions. We also have existing companies in Holt County who would like to expand, but they are uneasy with the unavailable work force available to them. Urban Nebraska needs strong rural communities. Without people in rural communities, we won't have kids to send to the universities, we won't have people to visit the bright lights in the cities for their entertainment and shopping. The tax burden would then rely on urban Nebraska. Rural Nebraska is not asking for a handout today. We're simply asking for a hand up. We're trying our hardest to bring talent back to our communities for opportunities. And I think LB850 can help us...can assist...be that tool to assist us. Thank you for your time today to show my support for LB850. [LB850]

SENATOR CORNETT: Questions from the committee? Senator Brasch. [LB850]

SENATOR BRASCH: Thank you, Chairman. And thank you for joining us this afternoon, Ms. Sedlacek. Are you a native of your county? Is that right? [LB850]

NICOLE SEDLACEK: I am, yes. I've spent time also in Boyd County, so north-central Nebraska I've been most of my life, yes. [LB850]

SENATOR BRASCH: What would you...and what you're trying to do is have the people there return home? Or would you like people from all over, from New York City to come? [LB850]

NICOLE SEDLACEK: All...we would...all over. We... [LB850]

SENATOR BRASCH: Very good. [LB850]

NICOLE SEDLACEK: ...yes. Yes. [LB850]

SENATOR BRASCH: And what population is currently the population you have? Are they mostly the native people there? Or do you have some transplants from Texas? [LB850]

NICOLE SEDLACEK: We are getting...we are...we have seen a good number of transplants in our community. And we're trying to keep them engaged so they, you know, will stay and like Holt County and our communities. So I say, I think it's a good

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mix of transplants and the alumni who have returned home that make up Holt County. [LB850]

SENATOR BRASCH: Excellent. I am proud to say that I represent rural communities. I live in Bancroft. And the bright lights couldn't get any brighter right over our barn most nights. And we do have a lot of people that have come from urban areas and have really enjoyed the quality of life, of living. And so you have jobs, just need the people... [LB850]

NICOLE SEDLACEK: We need people. [LB850]

SENATOR BRASCH: ...is that correct? [LB850]

NICOLE SEDLACEK: That is correct. We just simply need people. [LB850]

SENATOR BRASCH: Thank you. [LB850]

NICOLE SEDLACEK: Thank you. [LB850]

SENATOR BRASCH: I have no other questions. [LB850]

SENATOR CORNETT: Further questions from the committee? Senator Fischer. [LB850]

SENATOR FISCHER: Thank you, Senator Cornett. Good to see you, Nicole. Welcome. [LB850]

NICOLE SEDLACEK: Thank you. [LB850]

SENATOR FISCHER: I can verify that Holt County is a vibrant county. And it's discouraging when you lose population, because then it limits growth. Can you tell me what the percentage loss in population was from 2000 to 2010? [LB850]

NICOLE SEDLACEK: It was about 8 percent. We were under the 10 percent. That was...we were hoping to be under the double digit, and we were, between 8 percent and 9 percent. [LB850]

SENATOR FISCHER: Are there other programs? You mentioned, for doctors, that they can come back and get their student loans paid through different programs that are offered. But do you know if there are businesses in Holt County that have taken advantage, say, of the internship program that we passed last year? [LB850]

NICOLE SEDLACEK: We do have one that is taking advantage of that at this time. And

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that looks to be very favorable for this company. And we've also had some programs with our teachers at the school, that have been able to take advantage of some programs to be able to stay in the rural community. [LB850]

SENATOR FISCHER: Okay. Well, I thank you for your hard work that you do. Nicole also does a leadership class in the area, for young people. And that's very, very important to keep them active in a community. So thank you for your work on this. [LB850]

NICOLE SEDLACEK: Thank you. [LB850]

SENATOR CORNETT: Senator Pirsch. [LB850]

SENATOR PIRSCH: Thanks for your testimony here. And I don't think there's any doubt there's a pretty clear trend that's gone on for a while that needs to be reversed. In terms of...there's many different methods in which that can be done. This one proposes a particular method, for tax credits, right? Pretty broad... [LB850]

NICOLE SEDLACEK: Um-hum. [LB850]

SENATOR PIRSCH: ...\$1,500, any individual, right? And...or is it per...are there any caps per household, do you know, or...? [LB850]

NICOLE SEDLACEK: Not that I am aware of per household, just the out-of-state target area. [LB850]

SENATOR PIRSCH: Oh, there's an out-of-state target area... [LB850]

NICOLE SEDLACEK: Um-hum. [LB850]

SENATOR PIRSCH: ...from whence you must derive your...? [LB850]

NICOLE SEDLACEK: You have to live out of Nebraska I think it's five years. [LB850]

SENATOR PIRSCH: Okay. [LB850]

NICOLE SEDLACEK: Is that correct? And I think that's fair. We... [LB850]

SENATOR PIRSCH: Yeah. [LB850]

NICOLE SEDLACEK: ...you know, we don't want to, you know, we want to grow Nebraska's population, so we don't want to steal from the urban area to bring to rural Nebraska. And so I think that that is fair. [LB850]

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SENATOR PIRSCH: Five-year requirement. Okay. And so it's not like there's certain subzones for, like, northern Nebraska? [LB850]

NICOLE SEDLACEK: Huh-uh. [LB850]

SENATOR PIRSCH: Okay. Question as to...have you ever kind of dug in and attempted to see, as you've described this loss of 1,100 people, kind of through surveys or other methods, to see what, in terms of ranking...I guess you can't really pick the appropriate tool to cure it until you've diagnosed what the major lackings are, why people are leaving the areas. Have you done some pretty good surveying of those exiting to try to see, what are the major reason or reasons that you left the area? [LB850]

NICOLE SEDLACEK: There is a perception of lack of career opportunities. And we've been trying to put out that negative perception, because we do have some really good opportunities. But when we do survey alumni, and we do it pretty regularly, it's the perception that there isn't opportunity. [LB850]

SENATOR PIRSCH: So it's jobs, then... [LB850]

NICOLE SEDLACEK: Um-hum. [LB850]

SENATOR PIRSCH: ...that is the big driver... [LB850]

NICOLE SEDLACEK: Yes. [LB850]

SENATOR PIRSCH: ...then. So this is tailored in a fashion, you think, that would address...help address that lack...that primary lack of jobs, opportunities? [LB850]

NICOLE SEDLACEK: I think so. I think it's a "carrot" saying, look, we have jobs, and we also have this tax credit that's available for you to move to Nebraska... [LB850]

SENATOR PIRSCH: Okay. [LB850]

NICOLE SEDLACEK: ...and to our rural communities. [LB850]

SENATOR PIRSCH: Yeah. Thank you. [LB850]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB850]

NICOLE SEDLACEK: Thank you. [LB850]

SENATOR CORNETT: Next proponent? [LB850]

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CHRIS ROTH: (Exhibit 2) Good afternoon. My name is Chris Roth; last name is spelled R-o-t-h. Chairman Cornett and the members of Revenue Committee, my name is Chris Roth, and I'm the president of Reinke Manufacturing. I'm also a graduate of the University of Nebraska-Lincoln. I was born and raised in Callaway, a small town of about 500 people in central Nebraska. I currently live with my wife and four children in Deshler, a town of about 800 people in south-central Nebraska. I lived the vast majority of my life in rural Nebraska. Reinke Manufacturing is located in Deshler, and we manufacture large agricultural irrigation systems and chassis trailers used in the intermodal industry. We sell our products throughout the United States and on every agriculturally active continent in the world. Deshler is located approximately 10 miles from Kansas, in Thayer County. We currently employ between 400 and 500 people. Please keep in mind, as I've already stated, we are located in a town of about 800 people. So we employ about half the town, if you wanted to look at those kind of numbers. This week when we sent payroll out, we hit 50 ZIP codes, primarily in south-central Nebraska and north-central Kansas. We are currently building a state-of-the-art galvanizing facility in Deshler that approaches \$10 million in build cost. It will employ approximately 30 people when operational yet this spring. We also obtain houses in the town and refurbish those. And then those are used to rent to employees coming to the area, or we sell those to the employees. We also are currently building an apartment complex in Deshler to try to help with our housing issues we have when we're trying to recruit people to town. The primary counties we draw from in Nebraska are Nuckolls, Thayer, and Jefferson counties in south-central Nebraska. We also, in Kansas we also draw from Jewell County, Republic County, and Washington County. The population base in Nuckolls, Thayer, and Jefferson counties is dwindling. For example, in 1990 Nuckolls County had a population of about 5,700; in 2010 it was about 4,500. This is a reduction of about 22 percent. Thayer County had a population of about 6,600 in 1990, and in 2010 it was down to about 5,200. This is a reduction of 21 percent. Jefferson County had a population of about 8,700 in 1990, and in 2010 it was down to about 7,500. And that's a reduction of about 14 percent. The counties in Kansas that we're drawing from are not very much better; they're about the same. The unemployment rates are low in all of these counties. They range in percentage from 3.3 percent to 3.9 percent. Reinke Manufacturing is looking for more employees as we speak. And then once we get our galvanizing facility operational, we'll be looking for more, probably about 50 more employees at this time. I think it's interesting that unemployment rates are low in these counties. However, the population continues to dwindle; I'm not exactly sure why that is. But there's opportunities for jobs in these areas, but the population continues to dwindle. We can recruit employees to our facility. For example, we have recruited folks to our area in the last six months from Idaho, Colorado, South Carolina, California. And we've even, in the past few years, even got somebody to transfer to our facility from Russia. So we can recruit people to our area. But we do understand that we run into problems when we are trying to recruit some folks to the rural areas, that they just don't see that as an advantage, to live in that area

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versus living in some other area that might be a little more populated. As was spoken before, to help combat this problem, Kansas enacted a law that went into effect on July 1, 2011. It is referred to as a "Rural Opportunity Zones" bill. I did include some of the information that I had drawn off the Kansas Web sites, in the packet that I handed out, so you can see what that bill is about. It basically identifies those counties in Kansas that have been experiencing a population decrease. The law allows someone to move into these counties in Kansas to be exempt from Kansas state income tax for up to five years and also can have up to \$15,000 worth of student loans paid off. Reinke competes for labor with several manufacturers in north-central Kansas. We provide a full range of benefits, including health, dental, matching 401(k), continuing education, just to name a few. We also pay competitive wages to our employees. We also provide a safe work environment and have won several safety awards due to these efforts. However, I am concerned that we may have a difficult time in recruiting employees in some situations if they also have opportunities in Kansas. For example, say an individual is originally from south-central Nebraska or north-central Kansas...and this does happen, people call us. They're living someplace else, and they want to come back; they're looking for job opportunities. They will call us. And so if they have an opportunity in north-central Kansas at a manufacturer or they have an opportunity at our facility, I'm concerned that they may, you know, choose to go with another facility versus ours. I understand that you all have a difficult job of keeping the budget balanced, and I appreciate those efforts. However, we need to do something to help foster growth in rural Nebraska, and that is why I support the concepts of LB850. Our company is growing; there are other companies in rural Nebraska that are growing as well. But as populations continue to decrease, it makes it harder and harder for them to grow their business. Our company has taken advantage of the Nebraska Advantage Act and, prior to that, LB775. Those programs have helped our company grow; however, we need help in getting our population base to grow. We have jobs, but we need people to fill those jobs. I believe a strong rural Nebraska with a growing population would be good for the state of Nebraska. I appreciate your time, and if you've got any questions for me, I'll try to answer any of those questions. [LB850]

SENATOR CORNETT: Senator Pirsch. [LB850]

SENATOR PIRSCH: Thanks. You indicated you have jobs, you just don't have the people for the jobs. Is part of the problem, maybe, an awareness, or is it they're aware that the jobs exist, but their location, the remoteness from...? [LB850]

CHRIS ROTH: We advertise. We are on the Kansas and the Nebraska job service Web sites. We advertise heavily in the area newspapers. We also hit, like, we have a billboard right now on the highway between Grand Island and Hastings that we try to advertise. It's...we're doing our best to try to get that word out. We hit that pretty hard. We hit Amazon; we hit all the Web sites. [LB850]

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SENATOR PIRSCH: Okay. Thank you. [LB850]

CHRIS ROTH: Um-hum. [LB850]

SENATOR PIRSCH: It helps. [LB850]

SENATOR CORNETT: Senator Fischer. [LB850]

SENATOR FISCHER: Thank you, Senator Cornett. Hi, Chris. Nice to see you. [LB850]

CHRIS ROTH: Hello. How are you? [LB850]

SENATOR FISCHER: I had the opportunity to tour Reinke. And it's one of the gems here in Nebraska. [LB850]

CHRIS ROTH: Thank you. [LB850]

SENATOR FISCHER: And congratulations again on the award you received about a year ago from the State Chamber... [LB850]

CHRIS ROTH: Oh, thank you. [LB850]

SENATOR FISCHER: ...as Business of the Year. [LB850]

CHRIS ROTH: Thank you. [LB850]

SENATOR FISCHER: Can you tell me what the percentage loss was in your county, in population? [LB850]

CHRIS ROTH: Since 2000? [LB850]

SENATOR FISCHER: Yes. [LB850]

CHRIS ROTH: I have that. Take me just a second to find it. [LB850]

SENATOR FISCHER: You are obviously above the 5 percent... [LB850]

CHRIS ROTH: Yes. We are... [LB850]

SENATOR FISCHER: ...so you would qualify for this. [LB850]

CHRIS ROTH: ...it went from about 6,600 to about 6,000, so about 10 percent. [LB850]

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SENATOR FISCHER: Do you participate in the intern program that I had mentioned to the last testifier? [LB850]

CHRIS ROTH: Yeah, we will. That came into effect in July, I believe, of 2011, and we were going to try to do that. In fact, I had been in contact with Richard Baier at the time and trying to get that date pushed up, because a lot of our interns we would bring in in middle of May and work from May 15 to about August 15 (inaudible) college (inaudible), so we were not able to participate in that this last year. But we will be this year. We've already got three, I think, signed up for this year. [LB850]

SENATOR FISCHER: Do you think that will help with your situation? [LB850]

CHRIS ROTH: It will. Certainly we try to get interns in when we can, because then they get used to the area, they understand what the way of life is. And that's the other thing I'd like to comment on, is once we get folks recruited to our area, they have a tendency to stick around because they understand what the way of life is. You know, they...when we talk to folks when we're trying to get them recruited, especially if they're coming as far away from South Carolina or California, what we have to talk to them about is matter of minutes to places, rather than miles. Because if we tell them miles, they equate traffic jams and everything, and that's three hours away. Where if we tell them 30...if we say 30 minutes, it's 30 minutes to something. If we tell them 30 miles, they might say it's an hour and a half. So we just...once we get them to the area, then they start getting accustomed to how things get done where we're at. [LB850]

SENATOR FISCHER: Yeah, I think that's true across rural Nebraska. [LB850]

CHRIS ROTH: Um-hum. [LB850]

SENATOR FISCHER: Once you can get people to come and see what we... [LB850]

CHRIS ROTH: That's absolutely true. [LB850]

SENATOR FISCHER: ...have, it helps. Are you losing people in your community...are they moving to Kansas because of what Kansas is offering? [LB850]

CHRIS ROTH: We have not seen that yet. And again, that's fairly new yet; that was enacted on July 1, 2011. So we have not seen that yet. But I do know, we've...there's a large manufacturer in Beloit, Kansas, which is about 80 miles away. There's another large one in Marysville, which is about 80 miles away. And so we do compete with those folks for labor. And so I do have some concerns about that. [LB850]

SENATOR FISCHER: Okay. Thank you very much. [LB850]

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CHRIS ROTH: Thanks. [LB850]

SENATOR CORNETT: At the hearing this fall, Senator Louden, I believe it was, brought up a number of good points in regard to this. We can make all the offers we want, to try and get people to return to the rural communities. [LB850]

CHRIS ROTH: Um-hum. [LB850]

SENATOR CORNETT: But has it reached a tipping point? Maybe not in your community specifically. But are the amenities there for families? Senator Louden pointed out, people with kids aren't going to come if the kids have to travel an hour and a half each day to go to school. [LB850]

CHRIS ROTH: Certainly. [LB850]

SENATOR CORNETT: They're not going to come if there isn't a grocery store... [LB850]

CHRIS ROTH: Right. [LB850]

SENATOR CORNETT: ...within a reasonable...I mean... [LB850]

CHRIS ROTH: Right. [LB850]

SENATOR CORNETT: ...this is just one portion of the problem, though... [LB850]

CHRIS ROTH: Um-hum. [LB850]

SENATOR CORNETT: ...isn't it? [LB850]

CHRIS ROTH: I would agree. I mean, like I said, I'm born and raised and lived most of my entire life in rural Nebraska. And so certainly, you know, you do see that in some of the, you know, much smaller communities, where they've lost that. We've been fortunate; we still have a fairly full array of amenities. [LB850]

SENATOR CORNETT: And I was going to say, not specific to your community, but overall. [LB850]

CHRIS ROTH: Right. Yeah. I do...there are concerns about that, you know. From where I'm from, Callaway, Nebraska, they had to consolidate with the Arnold, Nebraska, high school. And when I was in high school, there was already kids coming from 20-25 miles away to get to school. And now when those two communities are together, those kids, if they're trying to get to where they need to be at for functions, you're talking probably 45 miles that they have to go to get to a function. So that would be a concern, certainly, for

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some individuals coming from out of state to get to those places. What I'm concerned about is, you know, some of those places, there may be a tipping point, but I'd hate to see more communities go over that tipping point. [LB850]

SENATOR CORNETT: And I guess that that's the question. And I'm not opposed to this bill, so don't get me wrong. [LB850]

CHRIS ROTH: Right. I understand. [LB850]

SENATOR CORNETT: But is there...have some of our communities reached a point where this bill just isn't the answer? [LB850]

CHRIS ROTH: Potentially. It's very hard for me to answer that without being inside those communities and understanding exactly what their politics are and what their strengths and weaknesses are, you know. That's very hard for me to answer. I know, like, for example, Callaway, where I'm from, you know, the things that they have going for them is they do have a hospital there. They do have a, you know, the school. Between Callaway and Arnold, they still have some schools going on...school functions going on in Callaway. They've got a good hardware store, a grocery store. You know, they've got a rest home there. So they've got some things going for them there. So I think they're in pretty good shape. But there's other communities that just don't have those kind of assets in their community, and that makes it difficult for those communities. [LB850]

SENATOR CORNETT: Senator Louden. [LB850]

SENATOR LOUDEN: Yeah, thank you, Senator Cornett. Right now I don't recall that I've been through Deshler; that's probably one of the few places in the state... [LB850]

CHRIS ROTH: You're welcome to come whenever you'd like. [LB850]

SENATOR LOUDEN: Thayer County, then...that's a farming community? [LB850]

CHRIS ROTH: Yeah, it'd be primarily a farming community. [LB850]

SENATOR LOUDEN: How much of that loss of population has come about because of the increase in the size of the farms over the--you said, your paper here shows--over the last ten years or so? [LB850]

CHRIS ROTH: Certainly. Certainly there would be some of that, because the farms are getting larger. That's a phenomenon across the state; that's certainly going to happen. [LB850]

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SENATOR LOUDEN: And then on your jobs that are available, are those jobs on farms or ranches? Or are they... [LB850]

CHRIS ROTH: No, the jobs we have available... [LB850]

SENATOR LOUDEN: ...do you have manufacturing? [LB850]

CHRIS ROTH: ...yeah, the jobs we have available: you're talking electrical engineers; you're talking programmers for IT; welders; fabricators; shippers. [LB850]

SENATOR LOUDEN: Now, you've got a manufacturing plant there? [LB850]

CHRIS ROTH: Um-hum. We employ between 400 and 500 people. [LB850]

SENATOR LOUDEN: Okay. And what kind of a pay scale do they have there? [LB850]

CHRIS ROTH: Welders is what we primarily look for. And welders, depending on what your skill levels are, if you can run a robot--because we have robotic welders--you're talking anywhere from \$12 to \$19 an hour, plus full benefits. [LB850]

SENATOR LOUDEN: Okay. And yet you still can't get people to come to that area to take up that kind of work or work in the...? [LB850]

CHRIS ROTH: We can get some, but we can't get all of our positions filled. And so that creates a situation where we work quite a bit of overtime on some of our folks, especially this time of year, when we're trying to get irrigation systems out, to be prepared for the spring planting period. [LB850]

SENATOR LOUDEN: Well, what, I guess...have you figured out if there was some other reason why these people...I mean, if there's jobs that are paying enough to make a living and everything and there's people in Michigan and all over that are, you know, that are... [LB850]

CHRIS ROTH: Well, we did...we have went up to...we have advertised in Michigan. We have went up there. We've targeted areas where they have high unemployment, say 20 percent; and we'll go out and do the Internet search and find those places. The problem that those folks have is that their houses are underwater and they can't sell them, and then they don't want to move because they don't want to take that loss. That's one of the primary reasons. We get a few...we'll get a few if they happen to be renting, that they will move. But if they own a home and they're underwater, then that makes it very difficult for them to...they're already financially struggling, and then they have to sell a house and take a hit on the mortgage; that's difficult for them. [LB850]

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SENATOR LOUDEN: Have you been able to keep your post office open in Deshler?
[LB850]

CHRIS ROTH: Yeah. Post office is... [LB850]

SENATOR LOUDEN: Yours isn't on a list to be closed? [LB850]

CHRIS ROTH: Ours is not on the list. I think, with our facility we put enough mail
through that that we're okay for a while. [LB850]

SENATOR LOUDEN: Okay. Thank you. [LB850]

CHRIS ROTH: Thanks. [LB850]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB850]

CHRIS ROTH: Thank you. [LB850]

SENATOR CORNETT: Next proponent. Could the proponents please move to the front
of the room and be prepared to testify. [LB850]

DENNIS HOUSTON: (Exhibit 3) Good afternoon. My name is Dennis Houston,
D-e-n-n-i-s H-o-u-s-t-o-n. Madam Chair and distinguished members of the Revenue
Committee, I'm the president and CEO of the Norfolk Area Chamber of Commerce. As
you know, Norfolk is the proud home of our native son Senator Mike Flood, the Speaker
of the Nebraska Legislature. On behalf of the Norfolk Area Chamber of Commerce and
its more than 650 member firms, the 15,000 area residents and jobs they represent, and
the 125,000 people in the Norfolk trade area, we urge your support of LB850. I would
personally like to thank Senator Hadley, his colleagues Senators Brasch, Larson, and
Sullivan, and the Revenue Committee for bringing this important issue to the forefront.
LB850 provides a refundable income tax credit to eligible people relocating to our
neighboring rural Nebraska communities. The board of directors of the Norfolk Area
Chamber of Commerce has voted in the affirmative in full support of the incentive-area
tax credit program. As LB850 is currently written, new citizens of the city of Norfolk and
Madison County are not eligible for this program. Let me repeat: Norfolk and Madison
County is not eligible for this program. So you may be asking why am I here today. I am
in the right room. Trust me. I'm here today because Norfolk is surrounded by 13
northeast Nebraska counties that do qualify. And nearly 7,000 employees that work in
the Norfolk area live in surrounding counties outside of Madison County itself. Small
rural communities and regional hubs both count on each other for survival. Today our
people stand together as one to position rural Nebraska in a more competitive
environment for economic success in the future. A well-trained work force and
people-attraction are two of the greatest challenges facing our area as well as the state

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of Nebraska. Recently, representatives from Faith Regional Health Services, our largest regional employer and our area hospital; Northeast Community College; and the new University of Nebraska Medical Center College of Nursing are just a few of the organizations who have indicated that the Nebraska incentive tax credit program would be a tremendous help in attracting new employees and students from new families who would possibly relocate to our area because of this program. Norfolk Area Recruiters, now a program of the Norfolk Area Chamber, was founded in Norfolk six years ago and is a showcase project for the entire state. Its purpose is to reverse the brain drain as we proactively reach out and bring our alumni back home to northeast Nebraska to, hopefully, succeed in their professional careers, their personal lives, and increase their opportunity for contribution to the community. The incentive area tax credit program would help us build on our already successful local initiatives, such as NAR, as another tool in our toolbox for people-attraction. One adjustment to LB850 that we might suggest is to look at the requirement that the person must have lived outside of Nebraska for a minimum of five years and perhaps consider looking at a four-year time period. The reason for doing so would be to coincide with college students who may be completing their college education in four years who may have established residency in other states. As a state, we need to attempt to bring those new college grads to Nebraska before they settle down and begin a family in another state. One year ago this week I stood before the Business and Labor Committee in full support of the Nebraska internship program. We were pleased that working together we made that a reality. This program has been nothing short of amazing in the demand by the business community as well as its track record of success in its first year. We see the Nebraska incentive area tax credit program as a perfect partnership bill for the Nebraska internship program. What better way to grow rural Nebraska than to introduce interns to new communities and job opportunities while in college and then be able to later bring them back with this tax credit. It would truly be a one-two punch in the fight for economic vitality in rural Nebraska. In regard to the fiscal note, one might look at it from a point of view that the fiscal note could perhaps be focused on the administrative costs only and not so much as the lost tax revenue. The reason for this being that the people that would take advantage of this incentive program do not currently live in Nebraska at this time, and therefore we would not be taking away from any general funds that are currently out there, or other state programs. Rather, new residents of rural Nebraska that would take advantage of this program would actually be contributing new tax dollars to the cities, counties, and the state of Nebraska. The issue at hand is not just our ability to sustain but to succeed as we grow rural Nebraska. We do not simply want to survive, but we actually want to thrive. Partnering together to collaborate on growing rural Nebraska is one of the most important initiatives we can focus on as a state. Thank you for your service to Nebraska, and thank you for your time today. [LB850]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you so much for coming to testify. [LB850]

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DENNIS HOUSTON: Thank you. [LB850]

SENATOR CORNETT: Next proponent. [LB850]

JESSICA KOLTERMAN: Thank you, Senator Cornett and members of the committee. For the record, my name is Jessica Kolterman, K-o-l-t-e-r-m-a-n. I serve as the director of state governmental relations for Nebraska Farm Bureau, and I'm here on their behalf. In agriculture we realize the importance of population growth in rural areas for a number of reasons. More people not only broaden the tax base, but those same people are also new faces in the communities, providing new faces at activities, schools, churches, and other organizations and institutions that rely on involvement. Those same people also bring with them skill sets and talents that are very much needed. Our farmers and ranchers are dependent on many different types of people in their careers and professions, and they rely on those people just like those people rely on them. At our 2011 state convention, our delegates revisited our policy on rural development specifically related to this bill. They added language to our policy that states: We support incentives to reverse population loss in rural areas. Previously that had not been included in our policy. Senator Hadley brings a bill today that gives us a place we can start. I know there are lots of ways to approach this problem, and I know that you all have a lot of other ways that we can look at as well. No matter what you decide to do, now is a time when you can start that discussion of population loss and ways we can reverse the trend. Farm Bureau appreciates being at the table, and we're happy to work with you. And I'd be happy to answer any questions you might have. [LB850]

SENATOR CORNETT: Questions? Seeing none, thank you, Jessica. Next proponent. [LB850]

MICHELE EHRESMAN: Good afternoon. Senator Cornett and members of the Revenue Committee, my name is Michele Ehresman, M-i-c-h-e-l-e E-h-r-e-s-m-a-n. And I am here today in support of LB850. I come here today wearing two hats, one being the executive director of the Holdrege Area Chamber of Commerce and the other as the president of the Holdrege Board of Education. I ask that you would carefully consider the positive impact LB850 would have on communities such as mine that are constantly fighting declining population. As you are aware from the recent census results, numerous counties are experiencing a reduction in residents, Phelps County included. Our community is one that is very progressive and whose residents take pride in their efforts to continually work to not only sustain our excellent quality of life but to continually improve it. The product of LB850 would equip us with a powerful tool in which to achieve this even more. While most boast about a low unemployment rate, it can and is a direct result of declining population and a detriment in the recruitment of new businesses and more importantly the expansion of my existing businesses. The challenge a Holdrege and Phelps County faces today are in production-level jobs. We are pretty much at full employment. To attract someone from outside to relocate to that

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type of job is very difficult. We currently have many successful businesses, some of who export their products globally. But they struggle with attracting new employees. Recently I was contacted by a business who wanted to expand the work force by 40 jobs. And I am having a difficult time to accommodate this with him. If it's that tough for my existing businesses, imagine trying to sell that to a potential new business or industry or a retail business. There's a definite need for a local system that identifies prospective employees and a state or federal system for helping redistribute the population to the land of low employment. While we have made some strides in attracting new residents and young professionals in calling Holdrege their home, out-migration has been detrimental to our community. It is very apparent that a great rural-to-urban shift has and continues to occur in our state. And those of us who live there, in the nonmetro areas, are continually searching for ways to attract people and businesses. As you know, declining population has many negative effects on the community, including the reduction of school-age children. And that concerns me greatly. As the population patterns shift, so too do local school enrollment patterns. Even as the state's population of students is growing, student enrollment is declining in many localities, most notably in rural communities. Declining enrollment that is long term and chronic can and does cause significant challenges for schools and districts. These challenges can be especially intense in rural areas, where schools are already small and it's harder to absorb those decreasing numbers. Each student we lose or we cannot attract due to declining population results in a decrease in state aid. Since many costs, such as transportation, teachers' salaries, facilities upkeep, cannot be reduced at a per-pupil level, schools are left meeting many of the same costs with fewer dollars, which could and do result in the reduction of staff, consolidation, and even the closure of schools. I have been told that state aid is very simple: needs minus resources equals state aid. I would compare that (laugh)...I know. I would compare that to another simple formula: communities with declining population plus LB850 equals viable schools and sustainable communities. In researching Holdrege alumni who today would be between the ages of 20 and 45, our results show that approximately 25 percent to 28 percent have not only left our community but have left this great state. This is unacceptable. And we must begin to work towards bringing them home. LB850 could be a powerful incentive to promote the state, bring people back to rural areas, and spark economic growth. It is tools such as this bill that help us in our mission to attract potential new residents and businesses to live in our communities. I urge you to consider advancing LB850 as another vehicle to which Nebraska rural communities such as mine can utilize in our efforts to grow and sustain the quality of life we have. Thank you. [LB850]

SENATOR CORNETT: Senator Pirsch. [LB850]

SENATOR PIRSCH: Did I hear the statistic correct, 25 percent to 28 percent leave the state altogether... [LB850]

MICHELE EHRESMAN: Yes. [LB850]

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SENATOR PIRSCH: ...from Holdrege... [LB850]

MICHELE EHRESMAN: Yes. [LB850]

SENATOR PIRSCH: ...25 to 40, is that what...? [LB850]

MICHELE EHRESMAN: We were able to...I have a alumni database, and I pulled those ages. And we could tell that, of that, that is the percentage that have left the state... [LB850]

SENATOR PIRSCH: So a little bit under... [LB850]

MICHELE EHRESMAN: ...because we regularly communicate with them through our school foundation. [LB850]

SENATOR PIRSCH: Okay. A little bit under 1 out of every 3... [LB850]

MICHELE EHRESMAN: Correct. [LB850]

SENATOR PIRSCH: ...have left the state. Is there also a significant population who, while not leaving the state, migrate to Lincoln, Omaha, and to various...? [LB850]

MICHELE EHRESMAN: Correct. There is, yes. [LB850]

SENATOR PIRSCH: Is that a equally big...? [LB850]

MICHELE EHRESMAN: I would say that was probably even a larger...we have a lot of kids that go to college, and then we don't get them back. [LB850]

SENATOR PIRSCH: Okay. [LB850]

MICHELE EHRESMAN: And we're working on efforts to put them in touch with our current employers through different types of career fairs so that they are able to know...a lot of kids don't know what is available in your own community, so we have to work at that. [LB850]

SENATOR PIRSCH: Um-hum. And so for your needs, what works for Phelps and Holdrege, you would say this \$1,500 would be something that would be material in...? [LB850]

MICHELE EHRESMAN: I think anytime...actually, I came to Holdrege...I am a...I was born and raised in Lincoln, Nebraska, and ended up out there 21 years ago on a rural

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manpower shortage loan, which was for a physician, where, basically, you would go out and they would forgive part of your loans. It is something to make people take a double look at your community, because people can move anywhere they want with jobs that we have now today. So if we can give them a little incentive to come back to our community and experience our quality of life, this would be a tool that we could utilize. [LB850]

SENATOR PIRSCH: Okay. Thank you. [LB850]

MICHELE EHRESMAN: Um-hum. [LB850]

SENATOR CORNETT: Senator Schumacher. [LB850]

SENATOR SCHUMACHER: Thank you, Madam Chairman. Is this a one-time \$1,500 thing? They'll only get it once? [LB850]

MICHELE EHRESMAN: My understanding, it's for five years. [LB850]

SENATOR SCHUMACHER: So they could get \$7,500. [LB850]

MICHELE EHRESMAN: Correct. That correct? Yes. [LB850]

SENATOR SCHUMACHER: Okay. And then that refundable tax credit is then subject to our state and federal income taxes? [LB850]

MICHELE EHRESMAN: That I'm...would need clarification on. I think so. I would believe so. [LB850]

SENATOR SCHUMACHER: And... [LB850]

MICHELE EHRESMAN: But I think more importantly is also when you bring residents into our communities, it's not...they're paying property taxes, they're paying sales tax. So there's other incomes that are generated by having people into our communities. [LB850]

SENATOR SCHUMACHER: Do you have...is there any statistical information that would show that \$1,500 would make a difference for somebody who has resided out of state and moved away? [LB850]

MICHELE EHRESMAN: I think if they're looking at our community, if they're looking at coming home, which...we have had, from the years of 1997 to 2007 we had a 23 percent decrease in the amount of school-age children, which to me says that there was a lot of people leaving. We are now working on efforts...we received the BECA grant

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that we utilized to send out alumni...and we are starting to see a change. But anything that we can put in front of these alumni, residents, it's helpful. It is helpful. [LB850]

SENATOR SCHUMACHER: I have no further questions. [LB850]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB850]

MICHELE EHRESMAN: Thank you. [LB850]

SENATOR CORNETT: Next proponent. [LB850]

HEATHER SIKYTA: (Exhibit 4) Madam Chair and members of the Revenue Committee, my name is Heather Sikyta, H-e-a-t-h-e-r S-i-k-y-t-a. I am currently the president of the Ord Area Chamber of Commerce. I am here today on behalf of 200 rural businesses to support LB850. In 2010, I graduated from the University of Nebraska College of Law and moved back to my hometown to join my father's practice. I am now a partner in the family firm, active on numerous boards and committees in Ord, and represent two communities that are facing population decline. Much of what I had to say has already been said today, so I will just be brief. What we are missing in rural Nebraska is people. Will you open The Ord Quiz and see multiple help wanted ads? No. That is not because the jobs do not exist but because our employers know that there not qualified people to fill those jobs, so they just get by. Our rural communities need a hook to attract people. LB850 gives us that hook, a hook we can use to attract the attention of people looking for a good job and a safe community like the one they grew up in. When we add that hook to LB850 funds, business transition plans, job opportunities, and high-quality education, economic developers will have an entire package to attract people we so desperately need. Thank you for addressing the issue on rural population decline. This is an issue that affects the entire state. The Ord Area Chamber of Commerce's 200 business members ask you to please support this bill. Thank you for your time and your dedication to Nebraska. [LB850]

SENATOR CORNETT: Thank you. Questions from the committee? Senator Schumacher. [LB850]

SENATOR SCHUMACHER: Thank you, Madam Chairman. Just in reading through this...and perhaps I missed it because I was introducing another bill. When it says, to be eligible in order to get this subsidy, the "individual shall" do these things. If you had a family composed of six individuals, do they get six times the money? [LB850]

HEATHER SIKYTA: I'm not sure. [LB850]

SENATOR SCHUMACHER: Thank you. That was my question. [LB850]

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SENATOR CORNETT: Senator Louden. [LB850]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Well, I've asked this question already today. But in Ord and Valley there, as you look at the population loss over the...since 1980, it's somewhere around 400 people in each 10-year period. And Ord is a rural county, for the most part. How much of that would you equate to the increase in the size of farms or ranches or some of that farm ground that's been...ranch ground that's been turned into farm ground, that sort of thing? [LB850]

HEATHER SIKYTA: I think that's a portion of it. I think a greater portion is we obviously have an elderly community that is dying off. And we don't have the young people moving back to replace them. I also think you see a lot of young people leave the rural communities as well as the state for their education, and they don't come back. And I think this tax incentive perhaps gives them some funds to transition back to the community; some moving expense fees are paid. Also, I personally have an \$80,000 student loan I'm paying off. And this tax credit over five years would pay off almost 10 percent of that. That is a huge chunk of money to me. [LB850]

SENATOR LOUDEN: Well, I'm not worried about a lawyer if you say that's an aging population, because you've got all these old people to probate their estates. (Laughter) [LB850]

HEATHER SIKYTA: Hopefully. [LB850]

SENATOR LOUDEN: What I'm wondering about is how about the average person who moves to Ord. What is there to do in Ord? I didn't think there was that much for manufacturing or anything. It's agriculture, and you're either going to have to value-add to the products you produce, or there's nothing else...or work on a farm or ranch. Is that...can you help me with that? [LB850]

HEATHER SIKYTA: Sure. I think farmers and ranchers need the services that we provide in town. They need someplace to shop for their groceries. They need my legal services to help them incorporate. To help them invest their money they need bankers. I think you see professions in towns that support the agricultural community; we work hand in hand. The agricultural community can't survive without the services we offer in town, and the town cannot survive without the farmer and ranchers. We work together, and without either one of us, we would not succeed. So I think you need them both together. And obviously not everyone is going to have the student loan debt I have; I understand that I have an opportunity to learn that. But we have lots of young people who are moving back with student loan debt. It's increasing all of the time. And any incentive you can give them to move back to these communities, it's a help. They come with a spouse; they come with children. All of these things help our communities. And

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when I talk about the Ord community, I'm not just talking about the town; I'm talking about the farmers and ranchers that surround us, as well. We all work together. [LB850]

SENATOR LOUDEN: Now, when...in that community, like, what, Valley has 4,200 population, something like that. How much room...how many lawyers will that support, that area you're talking about? I mean, you think about it as a, what, a Tyrannosaurus rex; they can only be 1 in 100 because of the predators like that. I mean, otherwise... [LB850]

HEATHER SIKYTA: Um-hum. [LB850]

SENATOR LOUDEN: ...they'd eat...how many... [LB850]

HEATHER SIKYTA: Well, currently, we... [LB850]

SENATOR LOUDEN: How many...? [LB850]

SENATOR CORNETT: (Laughter) I think they're called apex predators. [LB850]

SENATOR LOUDEN: Okay. [LB850]

HEATHER SIKYTA: Yes. Currently, we have... [LB850]

SENATOR LOUDEN: How many lawyers can live in that area where you're talking, as a apex predator...? [LB850]

HEATHER SIKYTA: Currently, we have six predator lawyers in Ord. (Laughter) And, Senator, we...Ord also supports a lot of counties surrounding Valley County. Again, in the rural communities, we don't stand alone; we all work together. And so we have people, in Ord, coming to use our services from, really, Loup City, Burwell. I mean, several of the surrounding areas work together. [LB850]

SENATOR LOUDEN: Well, there aren't any lawyers in Loup City or Burwell, is there? [LB850]

HEATHER SIKYTA: There is...there's a attorney in...two attorneys in Burwell. There's an attorney in Loup City. [LB850]

SENATOR LOUDEN: Okay. [LB850]

HEATHER SIKYTA: There's an attorney in Greeley, one in Spalding; we also have a satellite office there. You know, in rural Nebraska, driving a half an hour, 45 minutes to one of these communities is nothing. You know, that's...half an hour is driving across

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Lincoln. In the rural communities, I drive a half an hour from Ord, I'm in Loup City, I'm in Burwell, I'm in Greeley, I'm in Spalding. It's like driving across town... [LB850]

SENATOR LOUDEN: Um-hum. [LB850]

HEATHER SIKYTA: ...in Omaha or Lincoln. [LB850]

SENATOR LOUDEN: Then you're equating this, rather than just Valley County, those surrounding counties around there, and that. And I've been to Loup City quite a lot. This is a...how many of your post offices are being closed in that area? [LB850]

HEATHER SIKYTA: A few. None in Ord. I don't know for sure how many, but I have heard a couple in the area. [LB850]

SENATOR LOUDEN: Because, I mean, that's a big deal where I come from out there... [LB850]

HEATHER SIKYTA: Absolutely. [LB850]

SENATOR LOUDEN: ...is a bunch of those, and the difference...and then your school consolidation, do you have a bus route for your...do you have any rural elementary sites left in any of that...those areas there? [LB850]

HEATHER SIKYTA: Yes. There's one in the Ord area, one in the Burwell area, um-hum. And we bus. [LB850]

SENATOR LOUDEN: The schools are in those towns or... [LB850]

HEATHER SIKYTA: We have a school in Ord, and we have a rural school, like a one-room schoolhouse. [LB850]

SENATOR LOUDEN: Outside of Ord. [LB850]

HEATHER SIKYTA: Yes. [LB850]

SENATOR LOUDEN: Yeah, okay. [LB850]

HEATHER SIKYTA: And Burwell has the same. [LB850]

SENATOR LOUDEN: Yeah. [LB850]

HEATHER SIKYTA: We do have some communities that have consolidated--North Loup-Scotia--but a lot of our schools are still on their own. [LB850]

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SENATOR LOUDEN: Hmm. Because as we try to bring people in there, you've got to have something for them to do... [LB850]

HEATHER SIKYTA: Absolutely. [LB850]

SENATOR LOUDEN: ...and you've got to have some of these amenities, as I mentioned, to draw people in there. [LB850]

HEATHER SIKYTA: Yes. [LB850]

SENATOR LOUDEN: Your doctors, are you...do you have doctors around there, or do you rely mostly on physician's assistants, or how does that work for your community? [LB850]

HEATHER SIKYTA: We currently have three physicians at the Valley County Health System. There are also two doctors who practice in their own separate clinic in Ord. Valley County Health System also has satellite clinics in Loup City, Burwell, Greeley, North Loup. [LB850]

SENATOR LOUDEN: And these are clinic-type deals that... [LB850]

HEATHER SIKYTA: Um-hum. [LB850]

SENATOR LOUDEN: ...that...for emergency use or examinations or something like that. [LB850]

HEATHER SIKYTA: Yes. And we also draw physicians from Kearney and Grand Island who are there a couple of times a month. [LB850]

SENATOR LOUDEN: For their clinics. [LB850]

HEATHER SIKYTA: For orthopedists, that sort of thing... [LB850]

SENATOR LOUDEN: Okay. I mean... [LB850]

HEATHER SIKYTA: ...yes. [LB850]

SENATOR LOUDEN: Yeah, I know how rural areas work. [LB850]

HEATHER SIKYTA: Um-hum. [LB850]

SENATOR LOUDEN: We live in it. Okay, thank you. And I didn't mean to be derogatory

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of lawyers. I...we can't live without them, you know. [LB850]

HEATHER SIKYTA: That's all right. We hear it all the time. (Laughter) [LB850]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB850]

HEATHER SIKYTA: Thank you. [LB850]

SENATOR CORNETT: May I see a show of hands of the number of proponents left to testify? Okay. Just wanted to make sure. Trying to get a head count. [LB850]

CALEB POLLARD: (Exhibit 5) Greetings, Madam Chair, members of the Revenue Committee. My name is Caleb Pollard: C-a-l-e-b, last name Pollard, P-o-l-l-a-r-d. I'm the executive director of Valley County Economic Development/Ord Area Chamber of Commerce. I'm going to summarize my full testimony today for your benefit by saying that I support the statements of those that testified before me. And I also would like to address a few questions that Senator Loudon has raised with the prior testifier, as well. I also am representing not only my organization but 200 rural businesses in our area. We have businesses that are members of our chamber of commerce that are not just located in Ord or Valley County. We are what we call an area-wide, in fact carry members as far away as Columbus. I'm also here on behalf of 350 urban and rural professional economic developers supporting this bill, on behalf of Nebraska Economic Developers Association. And I would like to say the population decline is the primary economic threat to rural Nebraska. And this also constitutes, in my opinion, a major liability for our metropolitan communities. Curiously, if you look at some of the research that exists, that much of the growth of Lincoln and Omaha has much to do with rural in-migration over the last 40 years. Yet surprisingly, in my opinion, we Nebraskans have never taken a substantive policy step forward to address this specific issue. And I believe that LB850 presents us that opportunity. I want to wrap up very quickly with a final statement and then address that I think rural communities are working incredibly hard to address this issue independently. I would counter some of the statements that...or at least the questions that Senator Loudon raised about rural being able to carry this. Value-added ag is an important aspect of our community and our economy. We have a 50,000,000-gallon ethanol plant that exists in our county, five miles south of Ord. And I met with the plant manager yesterday, and they're having an incredibly hard time finding two positions specifically. One of them is a safety/health inspector, that they recently lost a candidate that chose not to relocate from St. Louis. In addition to that, of the three most recent businesses that we have funded through our economic development office in 2011, all three of those businesses are owned by individuals that are not from Nebraska--California, Arizona, and Oregon--chose to relocate to our community, years past. So this does have a substantive opportunity when paired with rural programs that are in existence--like the Local Option for Municipal Economic

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Development, or LB840, that we have in Ord--to be incredibly powerful. We still need to recruit workers back to Nebraska for viable jobs. I believe they're very good jobs. You don't address work force shortages with something like Nebraska Advantage. A rural tax credit proposed in LB850 does that. You can tackle what I call a two-headed hydra: work force challenges, the shortages that you've heard about today, and also population decline. And it helps us make ourselves more competitive. On behalf of 200 central Nebraska businesses and 350 Nebraska economic development professionals, I ask you to please support this bill. Thank you. And thank you for your time. [LB850]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB850]

CALEB POLLARD: Thank you. [LB850]

SENATOR CORNETT: Are there any further proponents? We'll move to opposition testimony. Are there any opponents? Is there anyone here to testify in a neutral capacity? Senator Hadley. [LB850]

SENATOR HADLEY: Thank you, Chairwoman Cornett; I appreciate it. I appreciate your questions; they were very good. I won't take much time. Senator Schumacher, I believe the tax credit is not income. That's my understanding, but I will check to be sure. Secondly, it is not our intention for someone with five or six children to move back and have eight tax credits. So we will make sure the language reflects that. The thing that we heard in Kearney at the hearing we had there was the chicken and the egg. Should we be spending money on economic development, bringing companies to rural Nebraska? Or should we spend time trying to bring workers to Nebraska and helping the companies that are there? This project deals with people, because we consistently heard at the hearing in Kearney, from many different people, the problems of hiring a work force for the positions that are there. I think this bill is a step in that direction. We spend a tremendous amount of money bringing companies...or trying to bring companies to Nebraska. This is one of the first things that I've seen that we try to bring human capital to Nebraska. With that, I would answer any questions that you might have, or end. [LB850]

SENATOR CORNETT: Senator Schumacher. [LB850]

SENATOR SCHUMACHER: Senator Hadley, did you consult with any of these predator lawyers on whether or not it's okay to discriminate against somebody coming from out of state versus somebody coming from--who might want to move to a small community--coming from Omaha? [LB850]

SENATOR HADLEY: You know, Senator Schumacher, that question came up. We did not look at whether we were discriminating or not. We would hope that we were not

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discriminating. But our goal is to bring people from...it is not to steal people from Omaha or Lincoln and get them to move to Ord. That is not the purpose behind this bill. Because I don't think any of our cities in Nebraska want to lose population. Because there's just...it just...that's just a downward trend that no city wants to do. And I certainly wouldn't want to steal people from Lincoln to Ord through some kind of tax program. [LB850]

SENATOR SCHUMACHER: Thank you. [LB850]

SENATOR CORNETT: Further questions? Senator Fischer. [LB850]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Senator Hadley, for bringing this bill; I think it's very important. Do you have any information on the programs that we offer through our state colleges, like Chadron, where students can go there and then transfer to the med schools, and then they go back to rural areas? [LB850]

SENATOR HADLEY: Right. [LB850]

SENATOR FISCHER: How...can you get information on that? I won't... [LB850]

SENATOR HADLEY: Yes, I'll get information on that. [LB850]

SENATOR FISCHER: I'd like to know how many stay in rural communities once they're there. [LB850]

SENATOR HADLEY: I will get information. I will give you just a little anecdotal...I went to the reception that the Nebraska State Colleges had the other day. And there was a student from Wayne, a brilliant young lady, who is a junior who is...and I believe it's called the RHOP program. And she had already been accepted to the University of Nebraska Dental School. And her goal was to go back to her hometown as a dentist. One other anecdotal is the state of South Dakota is looking at requiring their third-year medical students to spend the entire year in rural South Dakota, you know, getting the experiences in rural South Dakota, because they're like us, trying to get people... [LB850]

SENATOR FISCHER: Right. [LB850]

SENATOR HADLEY: ...to rural parts of the state. [LB850]

SENATOR FISCHER: And those programs have been in effect here in Nebraska, the RHOP, for a number of years. And it sounds good, but I just want to know if it is accomplishing what we want. [LB850]

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SENATOR HADLEY: I...we will get our information and get you information, Senator Fischer. [LB850]

SENATOR FISCHER: Okay. Thank you. [LB850]

SENATOR HADLEY: Thank you. [LB850]

SENATOR CORNETT: Senator Hadley, we had talked about, at the hearing, do we want to incentivize someone through tuition reimbursement to come for four or five years, get their loan paid off, and then leave immediately? Have you considered a clawback provision? [LB850]

SENATOR HADLEY: We had considered that; we decided not to put it back in. That would be something that if the committee felt being so inclined to do...I guess our idea is to convince people to stay. And the clawback, at times, to me, has a little negative when you're dealing with individual people, and that... [LB850]

SENATOR CORNETT: I think that's the point, though, of a clawback. [LB850]

SENATOR HADLEY: Sure. Yeah. [LB850]

SENATOR CORNETT: Senator Schumacher. [LB850]

SENATOR SCHUMACHER: One other follow-up question. Thank you, Madam Chairman. Senator Hadley, in looking through this, do you think it would be a good idea to put in some requirement that they be employed? Otherwise, you know, somebody might come here and sign up for welfare programs and any medical programs we have and the \$1,500 bonus. [LB850]

SENATOR HADLEY: Senator Schumacher, we actually did discuss that. But our thought was getting someone who lives in New York City that wants to retire to Ord, Nebraska, and may not have a working position can be very valuable to the community. So we didn't want to discriminate that you had to have a job and taxable income to do it, because we felt that person moving back as a retiree could add to the community paying property taxes, sales taxes, income taxes in Nebraska, where we're not very liberal in exempting retirement pay. So any retirement pay they had would be subject to Nebraska taxes. [LB850]

SENATOR SCHUMACHER: But what about somebody who's on welfare and deciding to move in from Council Bluffs and over to one of our 60 counties that are depopulating and sign up? [LB850]

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SENATOR HADLEY: Senator Schumacher, I suppose that could happen. We would have to look at how we would write it; the devil would be in the details of writing it. And our goal is not to catch the 10 percent; we're trying to help the 90 percent. [LB850]

SENATOR SCHUMACHER: Thank you, Senator Hadley. [LB850]

SENATOR HADLEY: Thank you. [LB850]

SENATOR CORNETT: Further questions? Seeing none, Senator Hadley, you are recognized to open on LB872. [LB850 LB872]

SENATOR HADLEY: I must change folders here real quick. [LB872]

SENATOR CORNETT: Again, for the audience, may I see a show of hands of proponents for LB872? A show of opponents? Neutral? We will limit testimony. Thank you, Senator Hadley. Please begin. [LB872]

SENATOR HADLEY: Chairwoman Cornett, I appreciate bringing LB872 to you. It was interesting, this was brought to me with the caveat...they thought that if I could understand it, there would be no problem with the other 48 senators understanding this bill. So that was the reason it was brought to me. The bill is about changing multistate corporate income tax sourcing, rules for purposes of sales-only apportionment rule. I am Galen Hadley, G-a-l-e-n H-a-d-l-e-y, representing the 37th District. I am here today as the introducer of LB872. I want to start with an example, because this was the easiest way for me to understand this bill. In 1987, we rewrote the Nebraska tax law. And one of the important parts of that rewrite was for tangible sales. We went to a market-based method, meaning a Nebraska firm that sold a tangible product in another state and had a nexus, an economic nexus, there could pay taxes, income taxes, in that state and did not pay taxes in Nebraska. It's called the marketing approach. We did not change the rule for intangible sales, because no one thought about...in 1987, intangibles and services just weren't a big part of our economy. The example I have is if you're a Nebraska company that is selling an intangible--that means it has no physical substance--IT, franchises, anything intangible, and you sell 5 percent of your product in Maine--Maine is a market-sourced state--Maine will expect you to pay 5 percent income tax in Maine for 5 percent of your net income. If you have an office in New York state--it is a cost-based state--and if your costs in New York are 20 percent of your total company costs, you will pay income tax on 20 percent of your income in New York. Nebraska is a cost-apportionment state. And what this means: it's all or nothing. If the majority of your costs incurred in providing that service are in Nebraska, you pay on 100 percent of your sales, or your income. So the firm that has 5 percent of its sales in Maine, 20 percent of its costs in New York, and the other 80 percent in Nebraska will pay 100 percent...tax on 100 percent of their income in Nebraska, 20 percent in New York state, and 5 percent in Maine. So they're going to pay 125 percent of tax on their

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net income. That wouldn't happen for a tangible sale. So what LB872 does is change the method of sourcing income of multistate corporations from sale of services and intangible property for purpose of Nebraska sales-only apportionment formula, which is used to apportion such income among the 50 states. LB872 would be operative for all taxable years beginning after January 1, 2013, and repeal the current version of the statutes, as opposed to amend. Under current Nebraska law, as I just explained, other than sales of tangible personal property, income from sales and income derived from intangible property are sourced to Nebraska rather than another state if, one, the income-producing activity is performed in this state or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on a cost of performance. That is the operative clause. It basically says, if it meets either one of those, you're going to pay 100 percent...100 percent of your net income is going to be subject to Nebraska taxes, no matter what the other states charge you in income tax. LB872 would change that method of sourcing such income of multistate corporations for purposes of Nebraska sales-only apportionment formula and would redefine the word "sale" and define 15 new terms and phrases. The intent of the bill is to provide that, for purposes of income taxation, the sale of intangibles and services be treated the same as current Nebraska law treats the sale of manufactured and retail tangible goods and imposes the state income tax based on a market-based source-of-income approach rather than the current all-or-nothing rule that we have right now. It has a number of advantages, but I want to talk real quickly about an important, important advantage. If you have a firm in Nebraska, let's say, that right now has 45 percent of its cost-based items in Nebraska, it now pays zero income tax in Nebraska because 55 percent is in other states. If that firm decides to expand in Nebraska, bring more jobs into Nebraska, so that percentage goes from 45 percent to 55 percent, they will suddenly now pay 100 percent...tax on 100 percent of their net income in Nebraska. So what is the incentive for a firm selling services and intangibles to expand in Nebraska if it moves them to a tax bracket that they did not have before? That is the purpose behind this bill, is to level the playing field for Nebraska-based businesses. The other side of the coin--and you'll probably hear it--firms from outside of Nebraska that do business in Nebraska under this basis right now are not paying income taxes. Under this...under the sales basis, if they had an economic nexus in Nebraska, they would be required to pay Nebraska income taxes. That, in a nutshell, is the bill. It is a complicated bill because it deals with income taxes. I would say, in closing, this is very similar to the cloud computing bill we heard about last year. It's very similar to the biochip bill we heard the other day, in that when we wrote the tax code in 1987 we didn't envision that you could get your tax information from TurboTax via the Internet. We didn't envision that you didn't have to have a...send a physical product someplace. My understanding and people that will testify will say that the service and intangible industry is now larger than the tangible sale of products in the United States. I would be happy to answer any questions that you might have about the bill. [LB872]

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SENATOR CORNETT: Senator Hadley, you and I have had a long meeting about this, and I've had a number of discussions on it. Currently there are businesses, depending on where they're located, that are paying more than 100 percent. [LB872]

SENATOR HADLEY: That's correct. [LB872]

SENATOR CORNETT: Correct. But if they're located in a state that is in the market base but are selling in a state that is not, then they only pay a percentage of their income, so they're actually paying way less than 100 percent, correct? [LB872]

SENATOR HADLEY: That's correct. [LB872]

SENATOR CORNETT: So the opposition we're going to hear are from companies...or industries that are not currently paying income taxes in Nebraska even though they provide services in Nebraska, correct? And generate income. [LB872]

SENATOR HADLEY: That's correct, yes. [LB872]

SENATOR CORNETT: Okay. [LB872]

SENATOR HADLEY: Yes, you will hear it...I think that's...the opposition will be out-of-state companies. Because under the sales basis, if they have an economic nexus and sales in Nebraska, they would have to apportion their income. [LB872]

SENATOR CORNETT: But let's be clear, we're only talking about income tax. Because depending on what...they have to pay sales tax if they have nexus here. [LB872]

SENATOR HADLEY: That's right. The sales...this is strictly an income tax bill; it is not...but I want to reiterate again, what I am primarily concerned about are Nebraska businesses. And there's a long list of Nebraska businesses that we're trying to grow that we don't want to put an artificial impediment from a tax standpoint. And you could carry this out to a terrible example, where a firm in Omaha is doing business in Council Bluffs, in the IT business, where they're paying 100 percent...they're paying on 100 percent of their income in Iowa and 100 percent of their income in Nebraska. Two hundred percent of their income could be taxed. [LB872]

SENATOR CORNETT: Senator Fischer, I believe, was first and then Senator Schumacher. [LB872]

SENATOR FISCHER: Thank you, Senator Cornett. Senator Hadley, can you tell me how many states handle this like Nebraska, with the cost apportionment, and how many handle it like New York, under cost based? [LB872]

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SENATOR HADLEY: Okay. Let's see, I have that. I can find...just one second here. I have a map. The majority right now are using the cost-apportionment... [LB872]

SENATOR FISCHER: A cost... [LB872]

SENATOR CORNETT: Cost base. [LB872]

SENATOR FISCHER: Cost base. [LB872]

SENATOR HADLEY: ...the cost basis that Nebraska is. [LB872]

SENATOR CORNETT: There are 13 states that are... [LB872]

SENATOR HADLEY: Thirteen states. [LB872]

SENATOR CORNETT: ...or 14 states that are... [LB872]

SENATOR HADLEY: Around us. [LB872]

SENATOR CORNETT: ...doing the market base. [LB872]

SENATOR HADLEY: California, Utah... [LB872]

SENATOR CORNETT: Illinois. [LB872]

SENATOR HADLEY: ...Minnesota, Iowa, Illinois... [LB872]

SENATOR FISCHER: Okay. [LB872]

SENATOR HADLEY: ...Wisconsin, Michigan, Ohio, Maine. Looks like... [LB872]

SENATOR FISCHER: A bunch. [LB872]

SENATOR HADLEY: ...Mississippi. [LB872]

SENATOR FISCHER: Okay. I love your bills. I say this with sarcasm; I... [LB872]

SENATOR HADLEY: (Laugh) [LB872]

SENATOR FISCHER: ...love your...just to clarify it for the transcribers. I love your bills, with the...because I always look at fiscal notes first, you know that; and your last bill had a big fiscal note. And so does this one, in the loss of revenue. You said that currently we're putting an artificial impediment on business. But that's...it's not adding anything.

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It's because it...currently this is how business is done in Nebraska, right? [LB872]

SENATOR HADLEY: That's correct. [LB872]

SENATOR FISCHER: And businesses know that when they establish themselves here in Nebraska or when they do business here in Nebraska, is that correct? [LB872]

SENATOR HADLEY: That's correct. [LB872]

SENATOR FISCHER: Do you think businesses will want to do business in Nebraska if we are going to, it looks to me like, penalize corporations from out of state? [LB872]

SENATOR HADLEY: Senator Fischer, I believe we will have someone testify after me that says, when they're looking at other states to put their business in and expand their business, this is one of the criteria they look at. And they look to see that it's a market-sourced state so they don't run into the idea that suddenly their costs will expand and they suddenly go to New York state, where they're going to pay, if they have 40 percent of their costs in New York state, they're going to pay 40 percent of their income on 40 percent...or tax on 40 percent of their income. So I think this is two...companies look at this two ways. If they are now a current Nebraska company, I think they look at this when they're looking at expanding. And we may hear from another company that has gone to Texas because Texas is a market-sourced state. And you will also then hear of companies that are looking for states to come into. And they want to come into market-sourced states so they don't get caught in putting a part of their business in the state, costs escalate, and suddenly their income tax burden escalates. [LB872]

SENATOR FISCHER: Okay. Thank you. [LB872]

SENATOR HADLEY: Think of it as, kind of, cattle, moving cattle between South Dakota and... [LB872]

SENATOR FISCHER: I'm thinking you've got three shells on that table and you're moving them around. [LB872]

SENATOR HADLEY: (Laugh) [LB872]

SENATOR CORNETT: Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Madam Chairman. Just want to make sure that I understood your main point there. I've got a business that does 49 percent of its business in Nebraska selling these intangibles. And I'm considering expanding my business. But if I expand my business and ramp it up any more in Nebraska and I get to

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51 percent of my business in Nebraska, then 100 percent of my income is used as a basis that I'm applied a corporate tax rate to. [LB872]

SENATOR HADLEY: That is my understanding on this bill, Senator Schumacher. And also the cost of performance. It can be...you might be doing business in eight states, and it's the one that you...if they're all cost-of-performance, it's the one that has the largest amount, that you pay the taxes on. But you're absolutely right, that if I was doing business in two states, 49 percent in one state, 51 percent in another state, the cost of performance...if I move the Nebraska investment up to 51 percent, the other state goes down--of my total percent--yes, I suddenly start paying on 100 percent. [LB872]

SENATOR SCHUMACHER: And before that I was just paying on 49 percent of my... [LB872]

SENATOR HADLEY: I was paying on nothing in Nebraska. [LB872]

SENATOR SCHUMACHER: On nothing in Nebraska. As long as I kept it below the 50 percent mark. [LB872]

SENATOR HADLEY: As long as the cost of performance was less in Nebraska than someplace else where I was doing business. [LB872]

SENATOR SCHUMACHER: Then we don't tax at all. [LB872]

SENATOR HADLEY: That's right. [LB872]

SENATOR SCHUMACHER: Okay. Then the next question is, assuming for the company who may not be taxed here now, that would be under the market approach, is the new income from that offset in the fiscal note now? Or is the fiscal note just what we lose? [LB872]

SENATOR HADLEY: I believe the...fair statement that the Revenue Department had a difficult time trying to come up with the fiscal note. And I think they're saying that as time goes on, it will reverse, and there will be more of a gain as companies better understand the system. [LB872]

SENATOR SCHUMACHER: Thank you, Senator. [LB872]

SENATOR CORNETT: Isn't it correct that a good part of the fiscal note is also costs associated with implementing the program to begin with, for the Department of Revenue? [LB872]

SENATOR HADLEY: That's right, because they must audit...you know, when you

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start...it's pretty easy to audit now, because you do the cost of performance, and that's it. But when you start having a company that might do business in ten states, you've got to apportion income and such as that. [LB872]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you, Senator Hadley. [LB872]

SENATOR HADLEY: Thank you. [LB872]

SENATOR CORNETT: With that, we'll open the hearing to proponents. Again, I'm limiting testimony. May the first proponent come forward and the others move forward and be ready to testify, please. [LB872]

SCOTT GUBBELS: (Exhibits 6 and 7) Good afternoon, members of the committee. I am Scott Gubbels, S-c-o-t G-u-b-b-e-l-s. And I am treasurer of the Nebraska Intangibles and Services Association and a managing director of tax and corporate planning at Nelnet. The Nebraska Intangibles and Services Association is a coalition of businesses with facilities, headquarters, and employees across the state of Nebraska. We are interested in moving Nebraska from a cost-of-performance state to a market-based state. I want to thank Senator Hadley for introducing LB872 and to all of you for your time on a Friday afternoon to listen to testimony on this bill. Very simply, LB872 is a modernization of our tax policy as it applies to services and intangibles. The goal of this modernization is to remove the inequities that have grown up over time and to eliminate the significant barriers that the current statutes create for service-type businesses as they attempt to grow and invest in our state. The handout outlines many of the benefits provided to Nebraska with this bill. My job is to explain the bill, which is not an easy task. In order to do that, I'd like to start with companies that sell goods, or tangible products. Currently, if a company sells products in Nebraska only, that's easy. All the income from those sales are taxed in Nebraska. But if the company decides it is going to sell those products in many states, we have to figure out a way to apportion, or divide, the income between those states. Let's take Cabela's as an example. If they sell fishing poles in Nebraska, Iowa, and Colorado, Cabela's will be taxed in each state on the income from the sales of those products in that state. So if Cabela's makes \$1,000 of income from sales in each of those states, they pay tax on \$1,000 of income in each state. The law changes significantly when a company sells an intangible, or a service. In Nebraska, when a company sells an intangible, or services, in more than one state, rather than apportioning the income across the various states, like we do with products, we tax all the income or none of the income. This is referred to as "cost of performance." The way that Nebraska determines whether any income from the sale of intangibles will be taxed in Nebraska is if the largest portion of the cost of performing the service is found in Nebraska compared to other states. If it is, then all the sales in Nebraska and any other states are taxed as income in Nebraska, in addition to being taxed in multiple other states. And the converse is also true. If I have my headquarters

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or the largest portion of my costs outside the state of Nebraska, I pay zero dollars of tax in Nebraska, even if all my sales are here. That is true because the largest cost of my performance is outside Nebraska. If every state had a cost-of-performance law dealing with sales across state boundaries, there would be no problem. Everyone would be taxed on all their sales, somewhere. However, some states have changed the game. Some states treat intangibles like products. These states say that if a service is delivered in their state, the income from that service should be apportioned or allocated to their state. The problem comes in when we have states one way and some states another way. Let me give you an example. Based on current law, a company that has 100 percent of its costs in Nebraska and all of its customers in Iowa would pay tax on all of its sales in Nebraska and would also pay income tax on all of its sales in Iowa. On the flip side, a company that has all of its operations in Iowa and all of its customers in Nebraska would pay nothing on that same income in either state. Knowing that, where would you locate your business or grow as a service company? This is clearly an extreme example, but it illustrates the point that in a state's move from a cost-of-performance system that Nebraska has to the market-based sourcing system that taxes services like products, there is an inequity that needs to be fixed. Specifically, LB872 does the following. Section 1 sets out the definitions of what services or intangibles are so that we know specifically what we're going to tax, and it makes it clear which items are included. Of note, "application service" is intended to address the types of cloud-based services applicable both now and in the foreseeable future. The loan and credit card sections are there to address any lending not conducted by a financial institution, currently defined in a Nebraska statute. The "treasury function" helps bring clarity to the current statute in identifying what is included and later how it should be sourced to the state. It further defines how to determine where a sale is made so we know where to allocate income from the sale. Section 2 makes it clear that when there is a sale of a service or an intangible, the service is considered in Nebraska if: the buyer is located in Nebraska, the service relates to real or tangible property located in Nebraska, or the service was provided to an individual who resides in Nebraska. It sets out when application services are located in the state so as to be taxed here. There also is a catchall paragraph that describes the sale of any other service or intangible, that says that income must be allocated in the manner that most fairly indicates where the sale took place. The result of the bill is that the income tax burden becomes shared with a much bigger pool of taxpayers and out-of-state companies that have a presence in Nebraska begin paying their use of our state's infrastructure and legal and commerce systems. In addition, there would be consistency between the sales of tangibles, intangibles, and services, and there would be consistency among all taxpayers and all industries. As you can see on the map, Nebraska is 1 of only 3 states that currently utilize both a single-sales apportionment... [LB872]

SENATOR CORNETT: Go ahead and finish. It's a complicated issue. [LB872]

SCOTT GUBBELS: Okay, thanks. [LB872]

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SENATOR CORNETT: Go ahead. [LB872]

SCOTT GUBBELS: So as you can see on the map, Nebraska is 1 of 3 states that currently utilize both a single-sales apportionment that is based on greatest-cost-of-performance method, which is the most punitive form of taxation. The map also highlights the 14 states that have recently enacted market-based sourcing. As more states move in that direction, every state will ultimately move to some sort of similar system for the sale of services and intangibles. Nebraska's current all-or-nothing tax law is unfair to both established as well as startup companies, both large and small. And it hurts companies that are hiring the young, talented people we are working so hard to keep in the state. There will be several other speakers after me who will talk about these inequities. Thank you for the time. I realize this is a complicated bill, but the policy behind it is quite simple: LB872 taxes income from the sales of intangibles and services the same way we tax from the sale of products. I'd be happy to answer any questions. [LB872]

SENATOR CORNETT: Okay. Nebraska, we tax everything if you're inside the boundaries of the state, correct? [LB872]

SCOTT GUBBELS: That's correct. [LB872]

SENATOR CORNETT: Explain to me, or explain to the committee, how you end up with one of our companies paying more than 100 percent. And I...just walk them through the states and what that means. [LB872]

SCOTT GUBBELS: Okay. Similar to what Senator Hadley said, in the green states on our map, if you have a market and you have a customer there, you are apportioning income to that state and paying tax based on the percentage of your customer base there. And if you're in Nebraska, the all-or-nothing state, and you have more cost in this state than in any other state in producing that revenue, you have to pay tax on 100 percent of that sale here as well. That generates the double taxation. [LB872]

SENATOR CORNETT: So example: You have a company in Nebraska, residing here, does more than 50 percent of its business here; it pays 100 percent of its income tax in Nebraska. But it also has a location in California, where it does 20 percent of its business there, and a company in Idaho...or, yeah, what would that be? Utah? [LB872]

SCOTT GUBBELS: Utah, um-hum. [LB872]

SENATOR CORNETT: ...that they do another 15 percent. So they actually end up paying 135 percent, correct? [LB872]

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SCOTT GUBBELS: That's correct. [LB872]

SENATOR CORNETT: Okay. But if we move to this, and they are doing business in Nebraska, and they're doing 50 percent, 51 percent, business there, they get 51 percent of income tax paid in Nebraska, correct? [LB872]

SCOTT GUBBELS: If it... [LB872]

SENATOR CORNETT: Whatever the percentage of their business is. [LB872]

SCOTT GUBBELS: Yeah, according to their customer base. [LB872]

SENATOR CORNETT: And then they would pay the remainder in the other states they're doing business, that are already part of a market-based state, correct? [LB872]

SCOTT GUBBELS: That's correct. [LB872]

SENATOR CORNETT: But if a company is a market-based company, say a company in California, but does 50 percent of their business in California and 40 percent of their business in Nebraska, they're only paying 50 percent, period, correct? Because we don't collect from them. [LB872]

SCOTT GUBBELS: That's correct. [LB872]

SENATOR CORNETT: So they're paying less than 100 percent. [LB872]

SCOTT GUBBELS: That's correct. [LB872]

SENATOR CORNETT: Okay. [LB872]

SCOTT GUBBELS: And Nebraska is getting zero of that. [LB872]

SENATOR CORNETT: Right. [LB872]

SCOTT GUBBELS: Correct. [LB872]

SENATOR CORNETT: Senator Pirsch. [LB872]

SENATOR PIRSCH: So just to...kind of in broad-perspective terms why we as legislators would be interested in this, it's really two factors. I mean, it's...it may be deemed as fair to the company not going all-or-nothing, right? But in terms of our interest, it would come within the spectrum of economic development, that the whole goal is to attract employers and jobs to the state, correct? And that, in doing so,

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Nebraska and every state has to analyze its own state demographics and goals and that Nebraska tends to be a state, compared to other states, that do not have large sums of people. I think California has 40 million customers there and 25 million customers in Texas, so...and yet our goal, then, is to attract the actual companies here, the producers of these type...so given that kind of dynamics, then, this would be something that, in terms of economic development, would help the state, to have this structure put in place, correct? [LB872]

SCOTT GUBBELS: Yeah, Senator Pirsch, I would agree with that. The other benefit I see to the state is that it diversifies its tax revenues, in that it's spread amongst a lot of other taxpayers in different geographies, different industries, and it becomes more diversified and stable. But the primary benefit is economic driver. [LB872]

SENATOR PIRSCH: Thank you. [LB872]

SENATOR CORNETT: Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Madam Chairman. In this intangible world, where everything lives in the sky, how does the Revenue Department or the system know where the sale is to be attributed to? [LB872]

SENATOR CORNETT: Sales tax. [LB872]

SENATOR SCHUMACHER: If you don't (inaudible)... [LB872]

SCOTT GUBBELS: Typically, we...right now the sales tax doesn't apply to most services and intangibles in Nebraska. So... [LB872]

SENATOR CORNETT: Go ahead. [LB872]

SCOTT GUBBELS: Okay. However, I think states are becoming wiser. They know, you know, businesses are registered in their state; they have payroll in that state; they may be paying property tax in that state; and nexus questionnaires and different activity, compliance audits and so forth. Typically, it will come to the surface. [LB872]

SENATOR SCHUMACHER: Well, I mean, I assume that...a stock brokerage account, is that one of the things we might be talking about, possibly? [LB872]

SCOTT GUBBELS: It very well could be, um-hum. [LB872]

SENATOR SCHUMACHER: Okay. Yeah. So I got a brokerage account. And I've got my iPad-phone-thingy with Verizon up to the cloud. And I...how does the system know whether I am booking that sale in Nebraska, in Florida, or in Switzerland? [LB872]

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SCOTT GUBBELS: Are you speaking in regard to the brokerage company or the state?
[LB872]

SENATOR SCHUMACHER: Yeah, the money that we're going to be taxing, the income that we're going to be... [LB872]

SCOTT GUBBELS: Okay. So the brokerage typically knows your address, right? And they know...they'll track your account for the year and know the cumulative fees that they earn from your account and every other citizen across the country. They'll extrapolate that by your Nebraska state and code it appropriately so they would know what dollar amount of that revenue came from Nebraska citizens. [LB872]

SENATOR SCHUMACHER: But I was sitting in Florida for six months out of the year, running my iPhone. [LB872]

SCOTT GUBBELS: Yeah, the...the bill actually goes...is situs to your billing address. If it's not sourced to or generated from tangible or real property, it typically will default to the customer's billing address. [LB872]

SENATOR SCHUMACHER: Would that be my credit card address? [LB872]

SCOTT GUBBELS: Likely whatever address you used when you set up the account.
[LB872]

SENATOR SCHUMACHER: I'm just trying to see the mechanical application of how this would work. [LB872]

SENATOR CORNETT: Senator Schumacher, that's a huge question that we have in sales tax allocation for streamline: Where was the actual, physical purchase made? And it always comes back to where the purchaser's address...where the, like, where you're registered to have made that purchase from. Your billing address usually. [LB872]

SENATOR SCHUMACHER: So which would be the credit card. Okay, thank you.
[LB872]

SCOTT GUBBELS: Senator, I might add that we worked very closely with the Department of Revenue and that we used their specific guidance in that regard. [LB872]

SENATOR CORNETT: Senator Brasch. [LB872]

SENATOR BRASCH: Thank you, Madam Chairman. And thank you again for your testimony here today. Now, the intangibles, they are, maybe, typically transaction fees

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of some sort or a membership...agreement, contractual, or something, where we do know there's X dollars of income, whether it's per contract, of, say, \$10,000, or we're going to charge you a nickel every time you...or is that what we're looking at, making equitable and fair for corporations or businesses who choose to be Nebraska-based and also do business in other states? Is that correct? [LB872]

SCOTT GUBBELS: Yeah, that is correct. [LB872]

SENATOR BRASCH: Okay. [LB872]

SCOTT GUBBELS: It includes franchises and royalties and certain variations of cloud computing. [LB872]

SENATOR BRASCH: So at the end of the day, there is either X amount of income or it's...we're going to charge you per transaction. And then you do...at the end of the taxable year, you know the amount of transactions times X, and so...I just wanted to make sure I was clear on that. [LB872]

SCOTT GUBBELS: Correct, um-hum. [LB872]

SENATOR BRASCH: All right. Thank you. No other questions. [LB872]

SENATOR CORNETT: Seeing no more, thank you. [LB872]

SCOTT GUBBELS: Thanks. [LB872]

SENATOR CORNETT: Next proponent. [LB872]

JERRY DEMBOWSKI: Good afternoon, Senator Cornett. My name is Jerry Dembowski; it's J-e-r-r-y D-e-m-b-o-w-s-k-i. Thank you for the opportunity to speak to you today. I am vice president of state tax with First Data Corporation. First Data, in way of background, has 5,000 employees now in the state of Nebraska, and we're a global provider of payment processing services. Regarding LB872, we believe this represents a significant opportunity to expand our Nebraska overall state tax...sound state tax policy and, really, complete the work that commenced back in 1987 with the adoption of the single-sales factor. Prior to '87, Nebraska was like most other states, where you had to look at the average of your property, your payroll, and your sales to arrive at your apportionment formula, which is nothing more than a fancy word for, how do I divide my income up between the various states? Regarding apportionment, we're seeing two national trends right now. One is the adoption of the single-sales factor, where Nebraska was an early adopter. The second is the adoption of what we call destination-based sourcing for service income, market-based sourcing. Where is your customer? Basically, follow the revenue. But when you look at eliminating property and payroll, as we have done--we

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believe that's a great step forward--it then puts additional emphasis and pressure on that final factor, which is the sales factor. And that's what LB872 is looking to do, is to take the treatment between the two--destination for services and for tangible property--with the same goal, and make it the same. We've already talked about the cost of performance, but when you really look at it under the greater cost of performance, it really occurs where you're performing your services based on your property and your payroll. And we've already talked about that there are 14 states but that it's also understanding that there's still those 24 states out there or so that are using greater cost of performance, and an early adoption would actually put Nebraska ahead of those remaining states that are clinging to the antiquated cost of performance. Currently, Nebraska has a statutory fence around the state with these signs that are basically saying, beware of greater cost of performance. I think it's critical to point out that it's the combination of the single-sales factor and market-based sourcing for services that gives us the best position to compete for our fair share of investments in the state, our fair share of jobs, as they're looking at different locations throughout the country. I actually am one of those folks that has to look around the country and look at the various types of factors, the apportionment, what is good, what is bad. And we are somewhat on an island here in Nebraska because of that single-sales factor combined with the greater cost of performance. In conclusion, First Data fully supports this legislation. And we believe that ultimately, if enacted, it will be judged on hindsight as a fundamental and crucial enhancement for the overall state tax policy. Thank you. And I'm happy to answer any questions. [LB872]

SENATOR CORNETT: Immediately I see the benefits for the Nebraska-based companies in doing this, because it reduces their income tax liability to, at maximum, 100 percent. Am I correct? [LB872]

JERRY DEMBOWSKI: That's possible. Yes. [LB872]

SENATOR CORNETT: But I see the incentives for companies to locate in these market-based states to reduce their tax liability, also by doing business...by locating in Nebraska but then doing business in states that are not market-based but cost-based, am I correct? [LB872]

JERRY DEMBOWSKI: The way I could restate that is that there is a definite incentive to locate in the market-based state... [LB872]

SENATOR CORNETT: In a market-based state. [LB872]

JERRY DEMBOWSKI: ...yes. And then if you are doing business in a cost state, it still may not trigger anything for you, because you're...depending on how much costs you have in that state. If it's the greater cost, you probably would never trigger the other state. So the rule is you want to actually locate in a market-based state. And so if we

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would adopt that, that's where, I think, it opens up the gates for people to say, why shouldn't we come here, add as much as we want; it will not impact the income tax liability; we would still pay tax on any of our receipts that we'd receive from Nebraska customers. [LB872]

SENATOR CORNETT: So if you have a company that's currently located in a market-based state... [LB872]

JERRY DEMBOWSKI: Um-hum. [LB872]

SENATOR CORNETT: ...that does business in Nebraska and is currently not paying income tax on that business that is generated in Nebraska... [LB872]

JERRY DEMBOWSKI: That's correct. [LB872]

SENATOR CORNETT: ...and we move to a market base... [LB872]

JERRY DEMBOWSKI: Um-hum. [LB872]

SENATOR CORNETT: ...then we've increased their income tax liability. [LB872]

JERRY DEMBOWSKI: But if they are located in a market-based state...if I could... [LB872]

SENATOR CORNETT: No, no. I'm just...I'm trying to... [LB872]

JERRY DEMBOWSKI: ...if I could pick Iowa... [LB872]

SENATOR CORNETT: That's fine. [LB872]

JERRY DEMBOWSKI: ...if I could. I pick Iowa. If they're located in a market-based state and let's say they're giving 20 percent of their sales to Iowa, if that's where...their customers are there, and they are selling into Nebraska, you're correct, they wouldn't give anything to Nebraska under our current regime. But if they moved to market, and if they had 10 percent or 5 percent of their customers, yes, they would be paying tax in Nebraska now, because they are actually generating revenue from our customers. [LB872]

SENATOR CORNETT: If there is a business, though, located in another cost-based state... [LB872]

JERRY DEMBOWSKI: Okay. [LB872]

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SENATOR CORNETT: ...that is doing business in Nebraska... [LB872]

JERRY DEMBOWSKI: Um-hum. [LB872]

SENATOR CORNETT: ...and we move to the market base... [LB872]

JERRY DEMBOWSKI: Um-hum. [LB872]

SENATOR CORNETT: ...then we are costing them money, correct? [LB872]

JERRY DEMBOWSKI: They would then have to pay their fair share, you're right, based upon... [LB872]

SENATOR CORNETT: But their fair share then could be over 100 percent. [LB872]

JERRY DEMBOWSKI: Well, it would...yes, it depends on their structure. They would have to be in another greater-cost-of-performance state... [LB872]

SENATOR CORNETT: That's what I'm saying. [LB872]

JERRY DEMBOWSKI: ...and have their greater portion there, yes. [LB872]

SENATOR CORNETT: And the majority of the states are still on a cost base, correct? [LB872]

JERRY DEMBOWSKI: There's about 24 states that have greater cost of performance of some form, yes. [LB872]

SENATOR CORNETT: So 24 states are cost of performance... [LB872]

JERRY DEMBOWSKI: Um-hum. [LB872]

SENATOR CORNETT: ...and... [LB872]

JERRY DEMBOWSKI: Well, we say there's 13 to 14 that are in market base. [LB872]

SENATOR CORNETT: ...14 are market based. So... [LB872]

JERRY DEMBOWSKI: Then there's 10 that are kind of out there. [LB872]

SENATOR CORNETT: There we go. What are the other 10? [LB872]

JERRY DEMBOWSKI: The other 10 have any other type of thing, where it could be

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based upon a pro rata cost of performance, where it may be if a certain percentage of your costs are in a given state, you could do that. They have some that just go under reasonable method; they do a look at percentage. But mainly it's percentage of costs. I mean, it gets pretty crazy. You could even get out there where they get it down to, like ATM transactions, trying to find out where the transaction originated and where it terminated. So I don't want to go to that, but... [LB872]

SENATOR CORNETT: Oh, I don't want to get into that level of minutiae. Questions from the committee? Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Not sure why I'm having such a difficult time understanding this, but let's say that I owned one of these service companies and my only place of business was here in Nebraska, 100 percent of my employees, 100 percent of my buildings, 100 percent of everything I did was here, so all my cost here, and the name of my business was Ivy League Services, so all of my customers were in the Ivy League states. [LB872]

JERRY DEMBOWSKI: Not in Nebraska. [LB872]

SENATOR SCHUMACHER: Not in Nebraska. Would I be taxed 100 percent because all of my cost was here? [LB872]

JERRY DEMBOWSKI: Yes, you would. [LB872]

SENATOR SCHUMACHER: And then if one of the Ivy League states happened to be green, I would... [LB872]

JERRY DEMBOWSKI: You would be paying tax in those states based upon the market base there, because that's where they would...they would tax based on where the customer is located. [LB872]

SENATOR SCHUMACHER: And then if we shift away from this, since none of my customers are in Nebraska... [LB872]

JERRY DEMBOWSKI: Um-hum. [LB872]

SENATOR SCHUMACHER: ...I wouldn't pay any corporate tax to Nebraska. [LB872]

JERRY DEMBOWSKI: You would have nothing for receipts to put in your numerator of your fraction; that's correct. [LB872]

SENATOR SCHUMACHER: Okay. Thank you. [LB872]

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JERRY DEMBOWSKI: Um-hum. [LB872]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB872]

DOUG DURHAM: Good afternoon, Senator Cornett and committee members. I appreciate the opportunity to speak to you today. My name is Doug Durham, D-u-r-h-a-m. And I'm representing Nebraska Global Investment Company here in Lincoln, Nebraska, where I'm a principal and cofounder. Before I talk about Nebraska Global and why I'm here, I want to just give you a little background on myself. I was born and raised in Omaha, Nebraska. I graduated with an engineering degree from UNL. At that time, in the '80s, there were no Nebraska companies interviewing for people of my skill set and was forced to leave the state for a job in St. Louis. My wife, also from Nebraska, grew up on their family ranch outside of Valentine. We were living in St. Louis and looking for every opportunity to come back to Nebraska. We did so after seven years. We came back. And since that time, in '95, I spent a lot of time working on software companies here in Lincoln specifically, many of them startups. And about three years ago, three of my colleagues and I were talking about starting yet another software company. And at the time, we thought, you know, we've kind of done that a few times and created jobs here. But we thought, you know, what could we do differently to increase economic development or have a bigger impact on Nebraska? So we came up with this idea, or vision, to raise funds from Nebraska investors to start software companies here in Nebraska and to create...help create an ecosystem of Nebraska software technology companies that we hope would have a catalytic impact on that industry here in Nebraska. Two years ago we were able to raise \$37 million from, like I said, exclusively Nebraska investors. And our main objectives in that were to create profitable software companies in Nebraska. And I might add that historically all of our software companies' revenue was almost exclusively generated from sales outside of Nebraska. So we were a revenue-importing company. And that is true with our initiatives at Nebraska Global. Another main objective is to retain Nebraska talent. We're heavily involved with the University of Nebraska-Lincoln right now but have plans to be involved in more universities throughout Nebraska, to help both mentor individuals with our skill sets but also make them aware that there are opportunities to start software companies in Nebraska. Thirdly, we want to try to recruit back those people like myself who had to leave the state because there weren't opportunities there. And maybe they went to start software companies in Silicon Valley or Austin, Texas, or Seattle, Washington. The reality of software companies is that they can exist anywhere. And they typically exist where the talent pools are. Our mission of attracting and retaining Nebraska talent in Nebraska is a constraining factor. We just don't have a huge talent pool. You know, we have to face the reality that as we expand and grow our businesses, we have to consider the possibility of moving some of our business outside of the state to where the talent is. It's not desirable, but it is a reality we have. You can kind of see why I'm here today. The current tax law creates a disincentive for us to continue to work to try to keep all of our cost structure and all of our employees back in

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Nebraska. With software companies, typically 80 percent to 90 percent of your total costs is salaries. These are high-paying jobs that are often greater than two times the average salary in any particular area of the state or the country. So that...you can kind of see where this could potentially create a disincentive. And as both a founder and a representative of...or a steward of our investors' money, I have to balance our desire to create and retain these Nebraska jobs against my fiduciary responsibility for our investors as a whole. So with that, I'll take any questions. [LB872]

SENATOR CORNETT: Questions? Seeing none...oh, sorry. [LB872]

SENATOR BRASCH: Just one. I'm just very curious, when you speak of a talent pool, who are you looking for? Are you looking for programmers, tech support, engineers? And you're thinking there...we don't have any in Nebraska, or...? [LB872]

DOUG DURHAM: No, I didn't mean to represent that. [LB872]

SENATOR BRASCH: Okay. All right. [LB872]

DOUG DURHAM: We have less here. And there's, you know, with the software companies here there's pretty good competition for that talent. But, you know, the University of Nebraska computer science college...if we were just to take graduates from the computer science college at Lincoln, we're only talking about 100 or so kids a year. And not all of them, really, fit our needs. I mean, there's a variety of different roles in computer software development. Some of it's IT, working in companies. We create software products, and so it takes a different type of skill set, a different type of aptitude. And we're also looking for those kids who have entrepreneurial ambitions, and not everyone has that. [LB872]

SENATOR BRASCH: And because I'm a cosigner on helping to repopulate rural communities and live in a rural community, I...are you just seeking your talent within universities? And in our rural community--I know Verdigre, I know West Point--we have people who are tech support for Microsoft and Pearson out of London, England. I mean, it's virtual occupations. [LB872]

DOUG DURHAM: Um-hum. Yeah. [LB872]

SENATOR BRASCH: And if you're saying you're going elsewhere for talent, outside of the state, because you don't... [LB872]

DOUG DURHAM: We're...sorry, I'm not going outside for talent at this point. [LB872]

SENATOR BRASCH: It's not that. Okay. Okay. [LB872]

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DOUG DURHAM: But what I did say was as we grow... [LB872]

SENATOR BRASCH: All right. [LB872]

DOUG DURHAM: ...the access to talent here will be a constraining factor for us. [LB872]

SENATOR BRASCH: And at this point, you're looking for some tax...not only is there...you would like to grow employment here but also balance it with this tax... [LB872]

DOUG DURHAM: Correct. [LB872]

SENATOR BRASCH: ...inequity. [LB872]

DOUG DURHAM: What we don't want to be faced with... [LB872]

SENATOR BRASCH: Right. [LB872]

DOUG DURHAM: ...is a decision, an economic decision, to... [LB872]

SENATOR BRASCH: Okay. [LB872]

DOUG DURHAM: ...as we become more and more profitable, I don't want to be faced with a decision that requires me to contemplate moving outside the state to, you know... [LB872]

SENATOR BRASCH: Okay. [LB872]

DOUG DURHAM: ...to avoid that tax liability that we have here. [LB872]

SENATOR BRASCH: I just wanted some clarification. [LB872]

DOUG DURHAM: Yeah. Can I...? [LB872]

SENATOR BRASCH: I commend you for your line of business and... [LB872]

DOUG DURHAM: Well, and I might add, you know, we called it "Nebraska Global" for a reason. It's not "Lincoln Global." It is...we have...probably more than half of our employees are not from Lincoln or Omaha; they're from all over the state. And they have a desire to help, you know, create software startups in rural communities. There's no reason these companies can't exist there. So we have a desire to get involved not just at the university level but at the high school levels and to try to...a lot of it has to do

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with educating people that there are opportunities here. They just...they see what's on TV and they think: I've got to go to Silicon Valley if this is what I want to do, or I've got to go to Austin, Texas. A lot of it is just a lack of awareness that there are companies like Nebraska Global and these other software companies that tend to fly under the radar because we don't do a lot of sales and marketing in Nebraska. Most of our customers are outside the state. [LB872]

SENATOR BRASCH: Okay. And thank you. Very commendable. [LB872]

SENATOR FISCHER: Thank you, Senator Brasch. Other questions? I see none. Thank you, Mr. Durham, for coming in today. [LB872]

DOUG DURHAM: Thank you. [LB872]

SENATOR FISCHER: Other proponents, please. Are there any other proponents for the bill? Good afternoon. [LB872]

COREY WATTON: Good afternoon. Thank you for your time this afternoon. My name is Corey Watton, C-o-r-e-y, last name W-a-t-t-o-n. I'm vice president of finance for Home Instead Senior Care, based out of Omaha. We are an international franchise network that has franchises in all 50 states and in 16 global markets. We provide in-home senior care for the aging population. We are family owned. We were started by a husband and wife in 1994, both graduates of the University of Nebraska. I myself am also a graduate of the University of Nebraska, having grown up in Nebraska City. Currently we have 150 full-time employees in Omaha. We also employ 200 part-time caregivers as part of our company. In 2010 we created 17 new jobs in the Omaha market, in a support capacity for our franchise network. Annually we employ 13 to 15 new jobs. We have plans for 15 this year, and that number will continually grow as our business continues to grow. And a lot of that growth is going to be in the support of our international franchise partners. So more unique skill sets, more challenging job roles we'll be looking to fill in the future. I represent a company that is a classic example of the cost-of-performance issue that we're here discussing. One hundred percent of our cost of performance is in Omaha. We all, 150 employees, work in Omaha and provide support to our franchise network. So 100 percent of our net income is subject to Nebraska income tax. And in the three years that I've been with Home Instead, we've had a growing number of market-based states that now require us to file and pay income tax in their states as well because our revenue source are the royalties we collect from our franchises in all 50 states. So what this is doing is the state income tax burden from the other states is causing us to really sharpen our pencils when it comes to the number of new hires that we have every year. It's the spirited and the most fun part of our annual planning process, but as our state income tax and these expenses continue to go up, we're forced to hold back the number of new hires that we would like to add on an annual basis, which we find extremely challenging. And it's definitely more enjoyable to hire new people and add to the Home

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Instead culture than it is to send money off to Iowa and Wisconsin and Minnesota. So that's really all I have to add this afternoon. I'd be happy to take any questions. [LB872]

SENATOR FISCHER: Are there questions? Any questions? Senator Pirsch. [LB872]

SENATOR PIRSCH: Is the overall effect of, well, the concept behind this bill here is you're giving up a higher percentage of the pie in hopes of growing a much bigger pie? [LB872]

COREY WATTON: Absolutely. Since we're a service-based company, we don't have machinery, equipment; we have people. And that's the number one goal of our founders, is to continually reinvest in the company to hire more people that can support the people that take care of our growing aging population. [LB872]

SENATOR PIRSCH: Thank you. [LB872]

SENATOR FISCHER: Thank you, Senator Pirsch. Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Senator Fischer. If you know, are you a C or an S corporation? [LB872]

COREY WATTON: We are an S corporation. [LB872]

SENATOR SCHUMACHER: So the shareholders get...we don't have a corporate tax issue involved there. [LB872]

COREY WATTON: Correct. [LB872]

SENATOR SCHUMACHER: Okay. Gotcha. I understand. Thank you. [LB872]

SENATOR FISCHER: Thank you, Senator Schumacher. Other questions? Thank you, Mr. Watton. I had an opportunity to visit your headquarters this summer, and it was very interesting. [LB872]

COREY WATTON: Thank you. [LB872]

SENATOR FISCHER: Thank you. [LB872]

COREY WATTON: You're welcome anytime. [LB872]

SENATOR FISCHER: Thank you. Next proponent, please. Good afternoon and welcome. [LB872]

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DAVID GRAFF: Thank you very much. Thanks for your time today. My name is David Graff, and I'm the CEO and founder of a company here in town called Hudl. We make online sports software for teams at all levels, from youth all the way up to the NFL. It allows them to upload their video; provide breakdown and analysis on their own games, their practices, and opponent scout video; and share it out to their players and coaches. [LB872]

SENATOR FISCHER: Could you spell your last name, please. [LB872]

DAVID GRAFF: Yep. It's David, D-a-v-i-d, Graff, G-r-a-f-f. [LB872]

SENATOR FISCHER: Thank you. [LB872]

DAVID GRAFF: I was born here in Nebraska, in Omaha. I went to Millard North High School. I love the state of Nebraska. All six of my siblings are here in the state. Nebraska has been a great place for us to build a company. After graduating from the university back in 2005 and getting my master's through the Raikes School in 2006, we started our company here in Lincoln with just the three of us cofounders and have grown it since then. We've received awesome support from the community and see Nebraska as a great place to build a business, in general. There's a great talent base here, to further the comments that have been made, just based around the kind of hires that we're looking to do, which is engineers, which is programmers, computer programmers, computer designers, and tech support folks. That's primarily what we're hiring. And we've found a great talent base here. It is a shrinking talent base and a more competitive talent base, but there still is one. And we've had a great time building the business over the past six years. And we've seen our team grow from me and my two cofounders to now over 44 full-time employees and 6 interns here in Nebraska. A lot of that growth has occurred in the past three years. We've grown from 12 schools that use our products in 2008, to 350 in 2009, to over 2,000 in 2010. Last year we purchased our biggest competitor. We doubled our company size, to that 44 figure. And we also grew our customer base to over 6,000 schools in all 50 states; 50-plus college teams, Division I college teams; 4 NFL teams; an NBA team; and a couple NHL teams. We have one employee recently...so we've grown beyond our Nebraska base to acquire more talent. We had one employee move out to southern California; we have two employees now that are based in Austin, Texas. Everyone else is here in Lincoln. We want to continue to grow, but it's a challenge at times. We want to continue to grow here. Compared to Austin, Nebraska, (sic) or Santa Monica, California, you can imagine that Nebraska can be a little bit boring at times for the hires that we're looking to make. And it can be a little cold, despite our unseasonable weather. There's no question that statewide we're working to change that image and to change that reality. And I definitely support the initiatives that are in place to do that. But I'm not going to sugarcoat it or lie to you guys. It's tough. The kind of talent that we're hiring is a 22-, 23-year-old talent, 24-, 25-, that most likely has a software engineering degree and is going to go

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somewhere. If they go out to the coasts, they're going to make \$80,000 or \$90,000 a year. And they want...that kind of opportunity is exciting to them. So it takes a company like ours or a company like the ones you've heard from other people to make them want to stay here. We have a lot of our employees that tell us, I mean, that, straight up, they come back here to do our...to work our job because of this company being here. To attract and retain this kind of talent that we're talking about, to pull it in from other states, it's going to have to rely on the companies in addition to the community to be there. We need places that people want to work, and we need them to want to grow here. Our current tax policies, as you've heard from the other testifiers, is very challenging for a company like ours. They make it a reality for us that as soon as we started recognizing a profit, we're incentivized that it's not fiscally responsible for us to continue to want to grow our business here in Nebraska. In fact, our current policies make it necessary for us to, in order to be fiscally responsible, to want to relocate over half of our cost factors--which is a lot of times those high-priced engineers, who would be paying income tax and would be spending other money in the state--outside of the state so we don't have to pay over 100 percent of taxes. Because of that, I think it's important that we adopt a policy that is competitive with the rest of the United States, the policy that was laid out here. At Hudl we have strong support for it, and I'd encourage you guys to also. [LB872]

SENATOR FISCHER: Thank you, Mr. Graff. Senator Cornett. [LB872]

SENATOR CORNETT: Thank you, Senator Fischer. Questions from the committee? Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Madam Chairman. This is maybe cheating a little bit, but why are...you're located in Lincoln. [LB872]

DAVID GRAFF: Yes. [LB872]

SENATOR SCHUMACHER: Why aren't you in Holdrege? [LB872]

DAVID GRAFF: We like the university that's here. And, honestly, most of our talent is from Omaha or Lincoln. We have been growing a lot from statewide. [LB872]

SENATOR SCHUMACHER: Basically that's because you like it more in Lincoln than you would in Holdrege. [LB872]

DAVID GRAFF: Yes. [LB872]

SENATOR SCHUMACHER: Okay. Thank you. I don't have any further questions. [LB872]

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SENATOR CORNETT: Senator Louden. [LB872]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. I've been trying to understand how this thing works. My understanding is if you're making more than half your money in another state, then you would pay your taxes in that state? [LB872]

DAVID GRAFF: Yep. So because we have the vast majority of our cost center here in Nebraska, we would pay income tax on any money that we make anywhere in the country, here in Nebraska, 100 percent of it. In addition to that, in the two states that we have people at also, Texas and California, we would pay the portion of the money that we earn in those states, also. So we pay over 100 percent of taxes. [LB872]

SENATOR LOUDEN: Okay. What if...and I see it's intangible property and that sort of thing. [LB872]

DAVID GRAFF: Yep. [LB872]

SENATOR LOUDEN: What if a farmer or rancher or somebody, you know, could foresee the future and went out into the commodity markets and started making tons of money in the commodity markets, opened up an office in Chicago or wherever and then started making his money there, and he was actually making more of his income out of that than he was off his farm or ranch? Now, where would he pay his taxes at? [LB872]

DAVID GRAFF: I guess it would depend how he structured his company. If it was all tied together and the majority of his costs were here, then he would pay here, under the current system. [LB872]

SENATOR LOUDEN: But he wouldn't pay any in Chicago or wherever his office is? [LB872]

DAVID GRAFF: I don't have the map in front of me. It would depend on what kind of state it was and depend on where he earned it. [LB872]

SENATOR LOUDEN: Okay, well, if it was another state that had this, as we saw this map here with these little red states on there. But he still wouldn't pay taxes over there? He'd still pay it in Nebraska? [LB872]

DAVID GRAFF: Yes, under current policy... [LB872]

SENATOR LOUDEN: Okay. [LB872]

DAVID GRAFF: ...if it was all structured so the majority of costs were here. [LB872]

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SENATOR LOUDEN: Okay. Now, what about these, oh, Ameritrade and some of these outfits that trade stocks and stuff for you? And where do they pay their tax at? How are they set up to do that? [LB872]

DAVID GRAFF: It depends on...I can't speak for them; I can really only speak for Hudl. But if the majority of their costs are here in Nebraska, unless they have some sort of exemption in place, they would pay taxes on everything here. [LB872]

SENATOR LOUDEN: Even if they were making beaucoup bucks out of state, they would still, being they're headquartered here...wherever they're headquartered, that's where they're going to pay that taxes? [LB872]

DAVID GRAFF: Wherever more than 50...if more than 50 percent of their costs are incurred here, from my understanding, then they would be paying tax here, unless there's some exemption. [LB872]

SENATOR LOUDEN: Where their costs or where their income? [LB872]

DAVID GRAFF: Where their costs. [LB872]

SENATOR LOUDEN: Costs. [LB872]

DAVID GRAFF: Yeah. [LB872]

SENATOR LOUDEN: Okay, thank you. [LB872]

DAVID GRAFF: Yep. [LB872]

SENATOR CORNETT: Senator Brasch. [LB872]

SENATOR BRASCH: Thank you. And thank you for your testimony today. Now I'm curious, you have 40 employees, you said? [LB872]

DAVID GRAFF: Yep, 44 full-timers. [LB872]

SENATOR BRASCH: Are any of them remote or virtual, or are you in a building here in downtown Lincoln? [LB872]

DAVID GRAFF: Yep, so everybody who works in Nebraska is located in our offices. We're down in the Haymarket, just above Scooter's. [LB872]

SENATOR BRASCH: Okay, but could they be remote, potentially? [LB872]

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DAVID GRAFF: They absolutely could. [LB872]

SENATOR BRASCH: Okay. [LB872]

DAVID GRAFF: And the employee that is in California and the two that are in Texas are remote. They're developers that just...they connect to the office. [LB872]

SENATOR BRASCH: So perhaps we should incentivize you to hire remote from rural Nebraska rather than California, perhaps? [LB872]

DAVID GRAFF: (Laugh) Yeah, absolutely. [LB872]

SENATOR BRASCH: Okay. [LB872]

DAVID GRAFF: We would love to keep our employees here in Nebraska. [LB872]

SENATOR BRASCH: Okay. I have no other questions. Thank you. [LB872]

SENATOR CORNETT: Senator Pirsch. [LB872]

SENATOR PIRSCH: Does Nebraska Advantage play a role, or other economic development programs, in sort of leveling the field for you, or...in terms of allure of other states? [LB872]

DAVID GRAFF: They're nice. And we'll be using the Intern Nebraska program; we started using that in August. And we like those kind of incentives being in place. But overall I don't think those are going to net out against that increased tax liability that we're going to have once we start earning... [LB872]

SENATOR PIRSCH: Thank you. [LB872]

DAVID GRAFF: ...significant profit. [LB872]

SENATOR CORNETT: Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Madam Chairman. Now, the income taxes that you pay to other states... [LB872]

DAVID GRAFF: Um-hum. [LB872]

SENATOR SCHUMACHER: ...are they deductible from your income that you report to Nebraska? [LB872]

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DAVID GRAFF: That's a good question that I don't have the answer to. [LB872]

SENATOR SCHUMACHER: Because that would mitigate the unfairness of this system some, wouldn't it? [LB872]

DAVID GRAFF: There are probably better...people that could better speak to that than I can. [LB872]

SENATOR SCHUMACHER: All right, thank you. [LB872]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB872]

DAVID GRAFF: Thank you. [LB872]

SENATOR CORNETT: Next proponent? [LB872]

BRUCE BOHRER: (Exhibit 8) Thank you. Senators, good afternoon. Bruce Bohrer, appearing on behalf of the Lincoln Chamber of Commerce. For the record, B-r-u-c-e B-o-h-r-e-r. I think probably, after hearing the previous testifiers, you understand why the Lincoln Chamber of Commerce would be here supporting this bill. These Nebraska-based companies, a lot of them in Lincoln, started talking to us about this. And, frankly, when they talked to us about it and the application that it had on their growth plans for the future, we were stunned, and I think a lot of you probably were stunned a little bit when you first heard the words, "We were tax...we pay the tax here, and then we also have to pay the tax in the other state," so over 100 percent. And so, clearly, it is a economic development issue for us. It's a equity issue for the companies and our tax policy, obviously. It's a competitive issue. And really, what you heard a lot from the previous testifiers, too, it's a talent--what we used to call the brain drain--it's a talent-retention issue. And not just for Lincoln. I really like the point that was made earlier about it isn't "Lincoln Global," it's "Nebraska Global." And I think Doug even mentioned, we'd love to have some software developers that want to stay in Nebraska and be in Holdrege. By the way, I'm a proud graduate of Holdrege elementary schools, as well. So with that, you know, I do want to mention, you know, a few hours before the hearing I heard from some other members--we've got 1,500 members as part of the Lincoln Chamber--heard from some other members you're going to hear from this afternoon, and their concerns. So I do think it's fair to say we would like to see if there's a possibility to find some kind of way to address their concerns. That's obviously something that we would like to do too, if it's possible. Legitimate concerns. But the main thing is, you know, these are Nebraska-based companies that you heard from that really are having challenges and get to that point where they're growing and have a customer base and selling outside the state and say, we really have a disincentive to grow any more jobs here in Nebraska. And I think it's pretty clear why a chamber of commerce representative would be here in support of changing that policy. I'd be happy

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to answer any questions. I'm sorry, I also have a letter from the Nebraska Economic Developers Association. I am not testifying on their behalf, but they just asked me to submit this for the record, and it's a letter of support on LB872. [LB872]

SENATOR CORNETT: Thank you. [LB872]

BRUCE BOHRER: I'd be happy to answer any questions. [LB872]

SENATOR CORNETT: Questions from the committee? Senator Schumacher. [LB872]

SENATOR SCHUMACHER: By our very nature, because we have very few people in Nebraska, we're going to consume less, proportionally, of this kind of stuff... [LB872]

BRUCE BOHRER: Right. [LB872]

SENATOR SCHUMACHER: ...than the rest of the world. So by our very nature, if we, particularly in the case of Sub S corporations, say we're not going to tax your income, the income derived...that our citizens derive through the Subchapter S chain because, you know, you're selling your stuff mostly someplace else... [LB872]

BRUCE BOHRER: Right. We'll tax it for their consumers that are still here in this state. But, yeah, you're right, it's a smaller proportion. [LB872]

SENATOR SCHUMACHER: I mean, but, I mean, in the overall, big picture, since there's very few of us compared to the rest of the world... [LB872]

BRUCE BOHRER: Right. Right. [LB872]

SENATOR SCHUMACHER: ...we're...so we're going...there...we're going to have some businesses in this state deriving income using our state facilities and not paying income tax here. They'll be paying to build a road in New York or Florida or wherever it's being...but not here. Am I getting that picture right? [LB872]

BRUCE BOHRER: They'll be paying income taxes here for their consumers that are here, but not based off... [LB872]

SENATOR SCHUMACHER: For the...right, right. But, I mean, their...I mean, I make...let's just say I make \$5 million a year on a Subchapter S corporation. For all practical purposes, all my sales are everywhere else. I don't pay any income tax here. That's how that... [LB872]

BRUCE BOHRER: But you know, I'm not sure about that example. There's a gentleman I know, following, that is probably a little bit more conversant on the details. I think he's

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going to testify neutral. He may be able to... [LB872]

SENATOR SCHUMACHER: Okay, I'll ask him then. Thank you. [LB872]

SENATOR CORNETT: Further questions? Seeing none, thank you, Bruce. [LB872]

BRUCE BOHRER: Yeah, thank you all. [LB872]

SENATOR CORNETT: Next proponent? Are there any further proponents? Then we'll move to opposition testimony. [LB872]

BETH CANUTESON: Madam Chair, members of the committee, my name is Beth Canuteson; it's B-e-t-h C-a-n-u-t-e-s-o-n. I represent AT&T. And AT&T respectfully opposes LB872 not because we believe it's wrong for these companies to attempt to reduce their tax burden here in the state but because they're doing it on our back. AT&T isn't headquartered in Nebraska; however, in 2009 we paid \$13 million in state and local taxes, including corporate income taxes. And I believe that--and I'm not a tax expert--but I believe that we paid corporate income taxes here because we do provide...we actually do produce some of our services here because we actually have our towers and whatnot here. From 2008 to 2010 we've invested over \$80 million in our wireline and wireless networks here in Nebraska. And we're committed to our customers and employees here in this state. And we believe that the services that we provide, the telecommunication services we provide, are considered more and more today essential services to our customers. But we can't be headquartered in all 50 states, and so the single-sales factor does tend to discriminate against companies that play an important role in the state but aren't necessarily headquartered there. And maybe that's why only 13 states have issued that sort of mandate thus far. The single-sales reflects the contributions of the taxing state to the creation and production of the services that produce income. And it's an appropriate methodology resulting in equitable apportionment. Excuse me, that's the cost of performance. And there are many ways to interpret market sourcing: So where is the bill sent? Where is the call originated? LB872 says to use any reasonable method. And uniformity among states is key in determining how that is sourced. The Multistate Tax Commission is currently reviewing this issue now but has yet to make a recommendation. And without consistency, LB872 could lead to double taxation, which is exactly what it's trying to avoid. Arizona is also looking at this issue and considering legislation--in fact, which passed the Senate, I believe, last week--that would allow companies the choice of either the singles-sales factor or cost of performance. You know, this is a really complicated issue, as you've seen today. And a lot is at stake, as you can tell by the fiscal note, which takes into account over quadrupling AT&T's impact; it's almost at \$5.8 million despite that dramatic increase in our tax burden alone. Therefore AT&T would respectfully suggest that you take more time with this legislation and study it a little bit further before advancing it. I'd look forward to working with Senator Hadley and those who have spoken previously on the

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legislation. And with that, I will answer any questions I can. [LB872]

SENATOR CORNETT: Where are you...where is AT&T headquartered? [LB872]

BETH CANUTESON: We are headquartered in Dallas, Texas. [LB872]

SENATOR CORNETT: Okay. [LB872]

BETH CANUTESON: And we also have a lot of... [LB872]

SENATOR CORNETT: So what is your income tax in Dallas, Texas? Because... [LB872]

BETH CANUTESON: I have no idea. [LB872]

SENATOR CORNETT: Because... [LB872]

BETH CANUTESON: I can find out that answer for you. [LB872]

SENATOR CORNETT: What percentage out of your total income are you actually paying? And are you paying...aside from the parts of your business that are located in Nebraska that you're paying \$13 million off of, what tax liability from the state of Nebraska are you not paying, out of the 100 percent that would be due? [LB872]

BETH CANUTESON: Out of the 100 percent of our total income... [LB872]

SENATOR CORNETT: Hundred percent of total income. [LB872]

BETH CANUTESON: Um-hum. What percentage do we pay... [LB872]

SENATOR CORNETT: What percentage are you not paying? [LB872]

BETH CANUTESON: Are we not paying? Or are we paying? [LB872]

SENATOR CORNETT: Well, either. [LB872]

BETH CANUTESON: Okay. Okay. [LB872]

SENATOR CORNETT: And you talk about consistency among states. We currently don't have consistency... [LB872]

BETH CANUTESON: No. [LB872]

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SENATOR CORNETT: ...and that's the underlying issue, correct? [LB872]

BETH CANUTESON: Right. Right, and currently, you know, it tends to lean towards the way that Nebraska currently is. [LB872]

SENATOR CORNETT: Now, recently...until recently...my legal counsel and I have been going back and forth about Texas. Do you pay income tax in Texas? [LB872]

BETH CANUTESON: I will have to... [LB872]

SENATOR CORNETT: Because I don't believe there was corporate income tax in Texas that...Steve says that may have changed recently. [LB872]

BETH CANUTESON: I will double-check that. I don't know. [LB872]

SENATOR CORNETT: So if you didn't pay corporate income tax in Texas and you're not paying it for all of your income generated in Nebraska, where are you paying corporate income tax at? [LB872]

BETH CANUTESON: Well, I believe we pay in numerous states. I mean, we have, obviously have...there are states that we would pay 100 percent in, some states, and zero in others. [LB872]

SENATOR CORNETT: Depending on the state's law. [LB872]

BETH CANUTESON: Depending on the state's law, correct. And I'm sure there are states that we pay only a percentage of what we generate in that state. [LB872]

SENATOR CORNETT: And no one is, certainly, discounting what any company, particularly telecommunications, pay in the state of Nebraska in property tax and in sales tax. But those are the two issues...when you said your tax liability. [LB872]

BETH CANUTESON: Right. [LB872]

SENATOR CORNETT: But income tax is the third branch of your taxes. [LB872]

BETH CANUTESON: Is the third branch, and it's what we're discussing today. I understand, yes. [LB872]

SENATOR CORNETT: Okay. So, I mean, it's fine to say you pay...you have so much in infrastructure, we all understand that, but that's a completely separate issue from income... [LB872]

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BETH CANUTESON: Yeah, I just meant that to say that we are invested in the state. And obviously, you know, no matter what you do, we're not going anywhere. [LB872]

SENATOR CORNETT: You can't. (Laugh) [LB872]

BETH CANUTESON: I mean, we're committed to the state. Right, exactly. We're committed to the customers here. So... [LB872]

SENATOR CORNETT: Well, I was going to say, I think there are some federal laws involved here too. [LB872]

BETH CANUTESON: (Laugh) Yeah, we've got licenses. [LB872]

SENATOR CORNETT: Questions from the committee? Senator Fischer. [LB872]

SENATOR FISCHER: Thank you, Senator Cornett. Thank you, Ms. Canuteson, for being here. [LB872]

BETH CANUTESON: Um-hum. [LB872]

SENATOR FISCHER: Nice to see you, and welcome back to Nebraska. [LB872]

BETH CANUTESON: Thank you. [LB872]

SENATOR FISCHER: Can you tell me how many states AT&T is in? [LB872]

BETH CANUTESON: We are in all 50 states and 220 countries. [LB872]

SENATOR FISCHER: And you mentioned the investment in Nebraska, and that was \$80 million since when? [LB872]

BETH CANUTESON: It was 2008 to 2010. So that doesn't include 2011; I don't have those figures yet. [LB872]

SENATOR FISCHER: In listening to this and now looking at the telecommunications industry, a thought...I'm just thinking out loud here, and it may not have anything to do with this. But do you think there might be interstate commerce problems with... [LB872]

BETH CANUTESON: Hmm. [LB872]

SENATOR FISCHER: ...what we do with this tax situation for companies like yours that are in a number of states and...? [LB872]

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BETH CANUTESON: I would guess not, because I didn't hear that raised by my tax experts. [LB872]

SENATOR FISCHER: Okay. But if you, maybe, could ask them about that, just to clarify it for me. [LB872]

BETH CANUTESON: Yeah, I will. I've jotted that down, and... [LB872]

SENATOR FISCHER: You know, you are providing a service... [LB872]

BETH CANUTESON: Um-hum. [LB872]

SENATOR FISCHER: ...and intangibles and crossing state lines to do it. [LB872]

BETH CANUTESON: Right. [LB872]

SENATOR FISCHER: Because I would imagine that consumers in Kansas use your towers in Nebraska. [LB872]

BETH CANUTESON: Right. And we talked about the fact that, you know, I could...well, not right here because I don't get very good service in this building. But I could sit here and buy an app, and it would be taxed in Missouri, for instance. You know, so those kinds of things. Or a student who, maybe, attends the university might have their bill sent home to their parents in California. [LB872]

SENATOR FISCHER: Right. [LB872]

BETH CANUTESON: So those are the kinds of tax, you know, issues. And you mentioned earlier the streamlined sales tax issue. And those things aren't addressed on the income tax side. Again, it's a sales tax issue. So those issues haven't been addressed and haven't been uniformly applied across income tax issues across the states. And that's the concern, one of the concerns. [LB872]

SENATOR FISCHER: Okay. Thank you very much. [LB872]

BETH CANUTESON: Um-hum. [LB872]

SENATOR CORNETT: So what is AT&T doing in the 14 states where this has become law? [LB872]

BETH CANUTESON: We're complying with it, obviously. [LB872]

SENATOR CORNETT: And so therefore your tax people haven't seen an issue with

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interstate commerce in 14 other states, correct? [LB872]

BETH CANUTESON: Probably not, no. [LB872]

SENATOR CORNETT: Okay, thank you. Further questions? Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Madam Chairman. What percentage of the income that AT&T generates in Nebraska is subject to Nebraska tax, do you know? [LB872]

BETH CANUTESON: I don't, I'm sorry. And Senator Cornett, the Chair, asked that question earlier, and I will get that information to the committee. [LB872]

SENATOR SCHUMACHER: Okay, but some is, and some is not. [LB872]

BETH CANUTESON: Yes, some is. I know we pay a certain amount in the state already, but I don't know what percentage it's based on. [LB872]

SENATOR SCHUMACHER: And how many long-distance or cell phone customers do you have? Is that public information? In Nebraska? [LB872]

BETH CANUTESON: It's not public information. And I couldn't tell you, if it was, off the top of my head, I'm sorry. [LB872]

SENATOR SCHUMACHER: Thank you. [LB872]

BETH CANUTESON: Um-hum. [LB872]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB872]

BETH CANUTESON: Thank you very much. [LB872]

SENATOR CORNETT: Next opponent? We'll move to neutral testimony. [LB872]

NICK NIEMANN: (Exhibits 9 and 10) Good afternoon, Senator Cornett and members of the Revenue Committee. My name is Nick Niemann; that's N-i-e-m-a-n-n. I'm a partner with the Omaha-based law firm of McGrath North. And I'm here today on behalf of both the Greater Omaha Chamber of Commerce and the Nebraska State Chamber of Commerce, in a neutral capacity. I had initially been asked to testify as a proponent to the bill. As the bill has become circulated and made known to other members, some members have had some questions, to give them some time to fully address how the bill may affect them. And so both Chambers have asked that I testify in a neutral

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capacity to give some opportunity for those members to study that a little closer and have a better understanding of the bill. So I believe both Chambers will be working diligently to do that. A little bit of my background and the reason that I'm here, I've had the opportunity to work with the business community and with Nebraska government officials since back in 1987. I was the principal designer and drafter of what we know as LB775, the incentive program that was adopted then, as well as its successor program, the Nebraska Advantage Act that was adopted in 2005. I also, in 1987, drafted LB772. And that is the legislation that moved Nebraska from a three-factor apportionment formula to the single-factor apportionment formula that we have today for sale of tangible property. Back in '87, the emphasis on the sale of services was not as prevalent as it is today. I think we all know that the service economy has grown; it has outpaced the growth in the sale of products. And so it's a bigger impact, for various reasons I think we're all familiar with. So what this LB872 does, it provides the opportunity to complete what was started in 1987, which was a tax policy choice that was made then. It's the opportunity to now complete that in 2012. The Chambers are very interested in long term as well as short term. So they want to have a good understanding that what's being done here is good tax policy and that it's good economic development policy, both short term and long term. So as they have looked at this from a tax policy standpoint...and you've seen the states that have started to move this way; there is a trend in this direction. And so they did ask me to think about it in those terms. And as I look at it from a tax policy perspective, taxable income is earned from sales; sales are from customers. In that sense, then, the taxable income should be apportioned to the location where those customers come from. That's the market-state apportionment method that's being discussed today, as opposed to this cost-of-performance method that we've had in the past. So from a state tax policy standpoint, it makes good sense. From an economic development policy, it also makes good sense, because it's a way to invite, encourage companies to bring jobs and facilities to our state without increasing your income tax. The current cost-of-performance method runs afoul of that, and the market-state approach would be in favor of that. So if a company wants to bring more jobs, it's not going to be penalized because of the formula that we use here in the state. There's been some discussion. I might just cite a couple of points that have come from some others that have looked at this over the years. One of those is the Multistate Tax Commission, and I'm going to leave a copy of that here for the committee. Its executive director here recently, in 2009, as well as its general counsel said that, "ideally, the rules for services and intangible property should be coordinated with the rule for tangible property and should reflect market sourcing." As one of the previous testifiers noted, the MTC has not yet reached a formal recommendation. But that is the opinion of their executive director and general counsel. One other example here is John Swain. He is a law professor at the University of Arizona, long history in state tax policy areas. And he said this in a law review article in 2008. He said, "A glaring weakness in UDITPA," and that's just...that is the apportionment methodology, is what that acronym is referring to. He said, "A glaring weakness in UDITPA is its treatment of receipts from services....The problem of

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remotely consumed services may have seemed esoteric 50 years ago. Today it is pressing. The service sector of the economy has increased dramatically in the intervening years." Those are just a couple of thoughts in terms of other state policy individuals who have been studying this issue. I will also leave the committee with an example. And this, I believe, Senator Schumacher, goes to an illustration you brought up, you observed earlier, of the company that has 51 percent of its business in Nebraska and, let's say, 49 percent in Iowa. And let's say that those percentages were true of both its costs and its customers, just to keep it simple. So with that type of example, under current law, that company would be taxed on 100 percent of its income here in Nebraska, and it would be taxed on 49 percent of its income in Iowa. So it would be paying state income taxes on 149 percent of its income. With LB872, it would now apportion that income based on where those customers are at, so now it would be 51 percent Nebraska and 49 percent Iowa. I have with this the converse of that. So that if that company decreased its share here in Nebraska from 51 percent to 49 percent, so that it had 49 percent Nebraska and 51 percent in Iowa, now it would have zero tax in Nebraska under the current regime, and it would still have a proportionate amount in Iowa; that would be 51 percent. Under LB872, it would now balance that out; it would reflect that 49 percent because it sells to its customers here 49 percent and 51 percent in Iowa. So I do have that in terms of a graphic that might be helpful to the committee as it considers this bill. One of the questions that I was asked in preparing for the testimony today is: Why now? Is this something that needs to be done now? Because we've...certainly we've had decades when we've lived under the cost-of-performance formula. And so certainly it is, like all other tax policy issues, something that should be studied carefully, and whether that's this year or next year...I don't think anyone could say that it absolutely has to be this year, it's going to be a major difference one way or the other. One of the things, though, one of the observations that many of us have made is that those of us that work in the economic development area...I've had the opportunity to work with a lot of companies as well as with chambers of commerce, and they're always very proactive in terms of recruiting new business to the states and in keeping what we have here. From a timing standpoint, we are, we think, emerging from a recession. And we're seeing more and more activity by companies who are looking to invest, to expand, to say: What should we do now? There may have been some retreat. Now there's a sense of now's the time to be moving forward. And part of that movement forward is to say: Where? Do we stay where we're at? Do we move somewhere else? Do we add new jobs? In what state? So in that sense, we don't want to miss too much of that upswing. If we can catch that as these new decisions are being made, that certainly would be an argument for moving relatively quickly with this, if this is a policy that the Revenue Committee agrees with. And with that, I'd be happy to take any questions. [LB872]

SENATOR CORNETT: So we're one of only three states left that are solely based on the greater-cost approach, correct? [LB872]

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NICK NIEMANN: One of... [LB872]

SENATOR CORNETT: The cost approach. [LB872]

NICK NIEMANN: Oh, in terms of the greater? [LB872]

SENATOR CORNETT: Yes. [LB872]

NICK NIEMANN: I looked at... [LB872]

SENATOR CORNETT: The map that we have says that. [LB872]

NICK NIEMANN: In terms of those that are greater of cost...you have a couple different cost-of-performance methods... [LB872]

SENATOR CORNETT: Correct. [LB872]

NICK NIEMANN: ...some where it's a cliff effect, like we have here, that's it's all or nothing. [LB872]

SENATOR CORNETT: Oh, I was going to say that it shows there are three states that are all or nothing. [LB872]

NICK NIEMANN: I don't know what is the exact breakdown between a percentage cost of performance or the cliff-effect cost of performance. [LB872]

SENATOR CORNETT: That's fine. With the market approach, the woman from AT&T testified that another state was actually in the process of looking at a different approach to this, where they got to choose. How many states...we have 14 states that have went to the market approach. How many states are currently engaged in seeking legislation to this effect? [LB872]

NICK NIEMANN: That would give you an election to one or the other? [LB872]

SENATOR CORNETT: No, to what we're looking at, just the market. [LB872]

NICK NIEMANN: Oh, to move to a market state. [LB872]

SENATOR CORNETT: Yes. [LB872]

NICK NIEMANN: I believe I've heard that Arizona... [LB872]

SENATOR CORNETT: That's what the woman from AT&T testified to. [LB872]

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NICK NIEMANN: Right. And in terms of those other states that have pending legislation, I don't know the answer to that. I'd be happy to try to track that down for the committee. [LB872]

SENATOR CORNETT: Well, what I was hearing today was this was a trend, that states were moving towards this. I guess I'd like to see the trend, who else is looking at it. [LB872]

NICK NIEMANN: Sure. Would you like...? [LB872]

SENATOR CORNETT: I mean, I can understand why certain states would have done this, because they end up reaping benefits for their companies, and it makes them...to attracting companies. But is this a nationwide trend, that other states are looking at this also, besides Arizona and Nebraska? [LB872]

NICK NIEMANN: In terms of the states that have pending legislation, I don't know the answer. We could certainly work to track that down. In terms of the trend, if we were to look at the states that have adopted it, we can look in 2003, 2005, 2007, 2009, 2010, 2011. [LB872]

SENATOR CORNETT: Well, that may be just a trend to protect the companies that exist inside their state, correct? [LB872]

NICK NIEMANN: In terms... [LB872]

SENATOR CORNETT: And to make themselves more marketable. [LB872]

NICK NIEMANN: I would expect that that's the...that they looked at it? I wasn't in those debates in those states. But I would have to expect that the kind of issues that came up were to say: What is the best tax policy? What is the trend? And what works best for our state? And so in that sense, we think that this is a trend, that states are starting to recognize this is a better tax policy. [LB872]

SENATOR CORNETT: So then what is the greater policy, or what is the benefit of the legislation that Arizona is looking at? [LB872]

NICK NIEMANN: What is the benefit of it? [LB872]

SENATOR CORNETT: Where they give them the option. [LB872]

NICK NIEMANN: Well, if they're going to look at it as an option, then they may have some companies that say, we would rather stay on cost of performance or go to the

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market state. From the standpoint of the companies, I'd have to say that's probably the best of both worlds. [LB872]

SENATOR CORNETT: I was going to say, wouldn't that be the best? Because that way these companies that are located inside your state then don't have to pay more than 100 percent income tax liability, but the companies that are located outside of your state can do it on the apportionment. [LB872]

NICK NIEMANN: They could do it on an apportionment method and... [LB872]

SENATOR CORNETT: Which is cost effective to them. [LB872]

NICK NIEMANN: It could be cost effective to them to do it that way. It depends on what is that option. Is that option a cost of performance? Is it some other type of multi-factor formula? So I would think, from the state's perspective, if they do give that option, they would still want to capture some... [LB872]

SENATOR CORNETT: Some. [LB872]

NICK NIEMANN: ...taxable income, on account of those companies are using their state as a marketplace. [LB872]

SENATOR CORNETT: When you say "capture," you're talking about income. [LB872]

NICK NIEMANN: Yes. [LB872]

SENATOR CORNETT: Okay. Thank you. Questions from the committee? Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Madam Chairperson. Maybe you can help me out with a question I had before. Got a company that does \$5 million in sales, Subchapter S corporation. Its home is...its physical facility is here in Nebraska, all the sales in Florida, no income tax in Florida, personal income tax. Does that person who owns that company then pay no income tax on those sales, under the market approach? [LB872]

NICK NIEMANN: Let me make sure I have the facts right. [LB872]

SENATOR SCHUMACHER: All right. [LB872]

NICK NIEMANN: We have a Nebraska-based company that has all of its facilities here; it earns \$5 million in taxable income. [LB872]

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SENATOR SCHUMACHER: Subchapter S. [LB872]

NICK NIEMANN: It's a Subchapter S company. Under cost of performance, maybe to start there, that income would be fully taxable in Nebraska at the individual shareholder level because it's a pass-through entity. So it would be apportioned here and then taxed to that individual shareholder. If all of its sales were to Florida, and Nebraska adopted a market-state approach, then from the state of Nebraska's perspective, you'd say those sales are all of Florida, the income is not going to be apportioned to Nebraska. And in terms of the benefit to Nebraska, of course, we have a company that can say it's glad we're based here. We've imported money to the state of Nebraska through that type of company, through those kind of sales. And it's been incented to stay here on account of the fact that it does not owe taxes. Now, if it sells to Florida, it's going to pay taxes in Florida based on whatever Florida's tax regime happens to be at that time. [LB872]

SENATOR SCHUMACHER: And Florida, like South Dakota, is zero. [LB872]

NICK NIEMANN: Florida...I believe Florida would tax that income. There is some question...and if we look at Florida, that the books would say it's a cost-of-performance approach, but there are some rulings that appear to where the tax commission is saying, we'll be market state. And so there are a number of rulings that are saying that will be allowable that way. [LB872]

SENATOR SCHUMACHER: Do I end up paying tax in Florida, or not? I mean, they don't have an income tax in Florida. [LB872]

SENATOR CORNETT: They do have a... [LB872]

SENATOR SCHUMACHER: So do I end up paying anything there? [LB872]

NICK NIEMANN: Corporate income tax. [LB872]

SENATOR CORNETT: They have corporate income tax. [LB872]

SENATOR SCHUMACHER: Right. [LB872]

NICK NIEMANN: Right. [LB872]

SENATOR SCHUMACHER: But I'm Sub S. [LB872]

NICK NIEMANN: Whether they would flow that through to the individual because it's Sub S, I'm not sure, under Florida statute, if that would flow through or not. [LB872]

SENATOR SCHUMACHER: Okay. [LB872]

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NICK NIEMANN: Now, if it was C corp, then, of course, it would be taxable there.
[LB872]

SENATOR SCHUMACHER: Thank you. [LB872]

SENATOR CORNETT: Just so you know, Florida is in litigation over those very issues.
Senator Pirsch. [LB872]

SENATOR PIRSCH: No. I have no question at this time. Thanks. [LB872]

SENATOR CORNETT: Thank you very much. [LB872]

NICK NIEMANN: Thank you. [LB872]

SENATOR CORNETT: May I see a show of hands of how many people are here in a
neutral capacity? [LB872]

CURT BROMM: (Exhibit 11) Thank you, Madam Chairperson. Curt Bromm, B-r-o-m-m.
And I am a registered lobbyist for Verizon Communications. And I'm passing out to you
a letter which was authored by Nancy Riedel, director of state tax policy, out of Denver,
Colorado. She couldn't be here today. And I'm not going to...I'm not an expert, certainly,
on this tax issue. I might highlight just a few things that she mentions. I think, primarily,
heading into today, certainly yesterday, I think our client was inclined to be opposed to
this legislation. We have been encouraged by the discussions that have been...a
willingness, I guess, to look at this issue, by Senator Hadley and others. And we'd like to
be part of that discussion. And we do feel that there are questions that need to be
answered and care needs to be taken. This is a major policy. From a big-picture
standpoint, we are a very small state, compared to the rest of the United States. So if
we elect to go away from a cost-based method to a sales or market method, it's not
surprising that we have a fiscal note like we have, because we're going to be an
exporter rather than an importer, probably. So that, of course, is a major concern that
you have. Some of the details that we'll want to have worked on is, for example, the
clause in the bill that says that the apportionment among states can use any reasonable
method. And we're concerned about what that means, what that might wind up. The
suggestion that the default jurisdiction is the mailing address, which is defined as...or
the billing address, which is defined as the place where the bill is mailed. And many
times that could result in a different place than where actually the service was delivered.
And so those details, I would suggest, need to be thought about. The Department of
Revenue certainly probably has some thoughts. And so we suggest some caution in
looking at the bill before it would move out. And that's...I won't take any more of your
time. And if you have a question, certainly you can ask it; I will not guarantee I'll know
the answer, but...do what I can. [LB872]

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SENATOR CORNETT: Senator Bromm, when you talk about the question in regard to billing, isn't that always the question in telecommunications and in tax law? And isn't that the common definition that is used? Currently, isn't that how most tax liability or whatever is assigned, is by... [LB872]

CURT BROMM: Well, for example... [LB872]

SENATOR CORNETT: ...the billing address? [LB872]

CURT BROMM: Yeah. Like for Universal Service Fund, for example. [LB872]

SENATOR CORNETT: Um-hum. [LB872]

CURT BROMM: I think you're right on that, Senator. But we're looking... [LB872]

SENATOR CORNETT: That's a whole can of worms... [LB872]

CURT BROMM: Yeah. [LB872]

SENATOR CORNETT: ...that would--if we tried to change that language--would significantly impact a number of other areas, am I correct? [LB872]

CURT BROMM: Well, I don't know that it would. I mean, I don't know that it wouldn't. But this is a unique, different body of law we're talking about than some of the other areas where that method is used. So I don't know that it would overlap. But I think the discussion and looking at the experience of other states certainly is worthwhile, to see if that's the best way to do it. [LB872]

SENATOR CORNETT: I was going to say, I think my legal counsel just handed me a court case where it was decided in Illinois. But that's okay. [LB872]

CURT BROMM: Yeah, okay. [LB872]

SENATOR CORNETT: Further questions from the committee? Senator Schumacher. [LB872]

SENATOR SCHUMACHER: Thank you, Madam Chairperson. Senator Bromm, I asked this question to AT&T, and they indicated they were trying to provide the information. Just to be fair, I'll ask it to Verizon. Do you have any idea what percentage of Verizon's revenue in the state of Nebraska is not currently taxed on because...? [LB872]

CURT BROMM: We tried to find out that answer after you asked the lady from AT&T. I

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haven't got an answer yet. But I will find that out for you, Senator. [LB872]

SENATOR SCHUMACHER: And, of course, that isn't gross revenue. I mean, the fact...whatever your gross is, your net is substantially less than your gross. [LB872]

CURT BROMM: Yeah. [LB872]

SENATOR SCHUMACHER: So I would guess what we would tax you on is the spread between whatever our cost of that is. [LB872]

CURT BROMM: Right. [LB872]

SENATOR SCHUMACHER: Must be. Thank you. [LB872]

SENATOR CORNETT: Further questions? Seeing none, thank you, Senator Bromm. [LB872]

CURT BROMM: Thank you very much for your time. [LB872]

JUSTIN BRADY: Senator Cornett and members of the committee, my name is Justin Brady, J-u-s-t-i-n B-r-a-d-y. I appear before you today as the registered lobbyist for the Nebraska Cable Association as well as the Nebraska Broadcasters Association. I won't go through nor will I pretend to understand it as well as the people before me. I would say, originally we were going to come in in opposition to the bill. After discussions with Senator Hadley and with members of the state Chamber, we indicated that we would change that to a neutral position and just raise some concerns but continue to work with them on the bill. I would say, Senator Hadley told me he was going to, in his opening, make it clear enough that I would be able to understand it. And so all he's done is made it clear enough that I'm now a little dangerous, not that I understand it. So I do understand that both the cable and the broadcasters support helping Nebraska-based companies expand and do not want to stand in the way of a policy of that. But I guess they would also say, should not the reverse be true? That an out-of-state company that wanted to look to expand...right. And if this were changed, it would punish them. I mean, if someone like a Time Warner were to increase, it would increase their liability to the state. Those are just questions they have at this point; they aren't saying they've got a fix for it. It was suggested by a representative of the state Chamber that there are certain businesses that are exempt under this, like financial institutions and others. So then we talked briefly: Is that a path that could be (inaudible) to address some of the concerns? Of which we didn't have the answers earlier today. Another thought that came up, just so you know what we were looking at, was similar to streamlined sales tax, which said, after a certain number of states do this, then this becomes the method for Nebraska. Because I can see, in a perfect world, if every state charged the same income tax and every state did this, yes, this would be the best way to do it. The reality

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is, that's never going to happen. So those are just some of the things that I wanted to bring up. And know that I'd be happy to work with the committee as well as Senator Hadley to continue these discussions. [LB872]

SENATOR CORNETT: Let me just ask you a couple of questions. [LB872]

JUSTIN BRADY: Um-hum. [LB872]

SENATOR CORNETT: In the bill, there is a set-aside for insurance companies and banks. I believe that is because both of those institutions pay what's called a franchise tax. [LB872]

JUSTIN BRADY: Right. [LB872]

SENATOR CORNETT: What would be the policy decision or underlying policy for excluding telecommunications from this? And secondly...it's a two-part question, sorry. When you talk about companies where we would increase their tax liabilities...and you understand the benefit for helping companies inside of Nebraska. The companies inside of Nebraska would be, if they're selling to a market-based state, would be paying 100 percent of income tax. Where the companies that you're referring to might not currently be paying 100 percent of their income tax liability because they're doing business in the state of Nebraska, am I correct? [LB872]

JUSTIN BRADY: I understand, yes. I don't want to give the impression they aren't paying income tax. [LB872]

SENATOR CORNETT: No, no. Not that, not that... [LB872]

JUSTIN BRADY: And I think that's been said earlier, that so and so from out of state... [LB872]

SENATOR CORNETT: ...not pay...there's a difference between not paying... [LB872]

JUSTIN BRADY: ...not having 51 percent, would not be paying. That was an inaccurate statement. Because, I mean, all these companies... [LB872]

SENATOR CORNETT: They pay... [LB872]

JUSTIN BRADY: ...are paying corporate income tax in Nebraska. [LB872]

SENATOR CORNETT: But they may not be paying 100 percent of that. [LB872]

JUSTIN BRADY: They may not be paying 100 percent. [LB872]

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SENATOR CORNETT: And... [LB872]

JUSTIN BRADY: But the statements earlier were they were not paying income tax in Nebraska. [LB872]

SENATOR CORNETT: Well, what would be the, again, the policy decision for allowing a company not to pay 100 percent of their income tax liability just because they're not residing in the state of Nebraska... [LB872]

JUSTIN BRADY: Right. [LB872]

SENATOR CORNETT: ...versus a company that is residing in the state of Nebraska? And I'm just trying...we're still working through this. [LB872]

JUSTIN BRADY: I don't have all the answer. In all honesty, had I not been told that some entities are exempt, I never would have even thought about saying, hey, let's just exempt the telecoms. The one thing I would say is... [LB872]

SENATOR CORNETT: That they were exempt because of the franchise tax. [LB872]

JUSTIN BRADY: Right. The one thing I would say, though, that's unique to the telecommunications industry is, at least when it comes to telephone service, they are mandated to provide that service. [LB872]

SENATOR CORNETT: And that is the one... [LB872]

JUSTIN BRADY: So if you have a company that comes in and adds 100 employees, they have to provide them service. [LB872]

SENATOR CORNETT: And that is... [LB872]

JUSTIN BRADY: And that's unique... [LB872]

SENATOR CORNETT: ...the argument that we've been bouncing back and forth. [LB872]

JUSTIN BRADY: ...compared to any other business, so... [LB872]

SENATOR CORNETT: Okay. Questions from the committee? Seeing none, thank you, Justin. [LB872]

JUSTIN BRADY: Thank you. [LB872]

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ERIC CARSTENSON: Senator Cornett and members of the Revenue Committee, my name is Eric Carstenson. Eric is E-r-i-c; Carstenson is C-a-r-s-t-e-n-s-o-n. I'm with the Nebraska Telecommunications Association. You have heard from a number of folks in a neutral capacity. We want to echo that. We support what Senator Hadley is trying to do. So going forward, we'd like to work with him and make sure that as we go forward we don't have any unintended consequences. So with that, that's the end of my testimony. [LB872]

SENATOR CORNETT: Brief and succinct. Thank you. [LB872]

ERIC CARSTENSON: Senator Fischer has schooled me. [LB872]

SENATOR CORNETT: Further questions? Seeing none, thank you. Is there anyone else in a neutral capacity? Seeing none, that closes the hearings for...or, I'm sorry, Senator Hadley. My apologies, I was just going to ignore you. [LB872]

SENATOR HADLEY: I'm not...I know you're ready for my 45-minute closing, but I think Senator Fischer...the restraining order I have against her on the floor doesn't work down here. (Laughter) Just a couple of things. I don't know who it was, but let's say it was Jerry Warner sitting in that seat in 1987. I'm sure they heard a lot of the same arguments and they worked through the process when they went from a three-factor basis to a one-factor basis for tangible goods. So I think we can work with these groups and come up with something that is fair and equitable to the Nebraska companies, the companies that do business in Nebraska, and to the state of Nebraska. Secondly, I have to just remind you, when the speaker from Home Instead talked, it really hit home, because they're based in Omaha with approximately 150 employees. They're paying on 100 percent of their income in Nebraska plus the other states that use market-based...market sourcing. If they move across the river to Council Bluffs and take 150 jobs across the river, it makes a tremendous difference in their state income tax burden. So that's one of the things we're looking at here. I didn't say that for them to do that, but I'm just telling you that's one of the things we look at. With that, I'm sure that I could talk for another hour on this, but thank you. [LB872]

SENATOR CORNETT: I move...we have to do a couple quick things in Exec Session. I move for a very quick Exec Session. I know it's late on a Friday. [LB872]