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Transcriber's Office

Revenue Committee
February 02, 2012

[LB731 LB980 LB1080 LB1118]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 2, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB980, LB731, LB1080, and LB1118. 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. I am Senator Abbie Cornett from Bellevue. To my left, Senator LeRoy Louden from Ellsworth, Vice Chair of the committee, will be joining us later; he has a couple bills in another committee. To his left is Deb Fischer from Valentine and Greg Adams from York. To my far right will be Senator Schumacher from Columbus, Senator Lydia Brasch from Bancroft, Senator Pete Pirsch from Omaha, and Senator Galen Hadley from Kearney. The research analyst today is Steve Moore. On my right, committee clerk is Matt Rathje. Our pages today are Michael Killingsworth and Matt McNally. Before we begin today, please turn your cell phones to the either off or vibrate position. The sign-in sheets for testifiers are by both back doors and need to be completed prior to coming up to testify. Please print and complete the form prior to coming up. When you come up to testify, please hand the form to committee clerk. There are clipboards by both back doors also for sign-in sheets if you do not wish to testify but wish to indicate either your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door. Introducer or a representative will present the bill, followed by proponents, opponents, and neutral testimony. Only the introducer of the bill will be allowed the opportunity for closing remarks. As you begin your testimony, please state and spell your name for the record. If you have handouts, please bring ten copies for committee and staff. If you do not have copies, we will make them for you. When you come up to testify, please hand the copies to the pages. With that, Senator Ashford, you are recognized to open on LB980.

SENATOR ASHFORD: Thank you, Madam Chair and members of the Revenue Committee. My name is Brad Ashford; I represent District 20 in Omaha. And I am here today to introduce LB980. There are at least, I know, two people who have...more expert than I who have come to talk about the bill after I introduce it. I will be brief, just a little background as to why I was interested in this bill. I happen to have been one of the, I guess, 13 original cosponsors of LB775 when Kay was Governor, and we were faced with a--as we all remember, maybe Senator Cornett doesn't exactly remember--but we were faced with a--or Senator Pirsch--but we were faced with a massive crisis. We were losing...had lost some businesses, and obviously, as we all recall, there were threats of other significant businesses leaving Nebraska, Omaha and Nebraska. And LB775 was...and Kay Orr and Vard Johnson--this committee, when Vard was Chair, and the Governor--worked out LB775. Part of LB775, in addition to the credits for corporations who remained in the state and hired a certain threshold number of employees, provided

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a--as part of the incentive for businesses to remain in Nebraska--an incentive which involved the exemption of capital gains tax for the transfer of stock or sale of stock by employees of Nebraska corporations. And this would be companies that had five or more stockholders located in the state. The idea, of course, was to...it was part of the package. There were other parts that included even, as some may recall, even credits for purchasing and maintaining jet aircraft in the state of Nebraska. It was part of...a very controversial part of LB775. This was not as controversial, but it was certainly part of the package. The issue that this bill deals with is the issue of changes in the treatment of stockholders since the passage of LB775. The amendment to 77-2715.08 involves...in this case involves employee stock ownership trusts qualified under Section 401(a) of the Internal Revenue Code. And a number of companies in Nebraska after the passage of LB775...when LB775 passed, the ESOP option, which was used in many cases to allow employees to buy a company from the founder, in many cases, or the owner of the company, became in vogue, really, as a mechanism to do that after the mid-'80s and into the late '80s and '90s. And the individuals here today are from...happen to be from HDR. There are other companies that have elected this option. The issue is the five-stockholder issue. When an employee stock ownership trust is created, many times--and you'll hear in this case--the trust holds the stock of the company. And it does so in conformity with federal law or tax law. And...however, as I think you will hear--I believe you'll hear--that the individual stockholders have retained their identity as stockholders; their names are registered on the stock registry; and they have the indicia of stockholders. The concern is, is that an interpretation by the department, in good faith, interpreting the existing law to say that--or it's unclear, or they can speak for themselves, obviously--but is that an employee stock ownership trust owner of the stock is a single stockholder. And therefore the company does not qualify for LB775 tax-exempt treatment. So we're asking that that be clarified and that we go back to what I believe the original intent of LB775 was, was to encourage these companies to remain, including HDR, which was one that did. At that time--I don't know if these gentlemen remember that--maybe Geoff does--but at that time HDR was going to move to Dallas, and everybody was going hither and yon at that time. So with that, I would defer to the experts, Madam Chair. [LB980]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you, Senator Ashford. First proponent. [LB980]

GEOFFREY LIEBEN: Good afternoon. My name is Geoffrey Lieben, which is G-e-o-f-f-r-e-y Lieben, L-i-e-b-e-n. I'm a lawyer with the Lieben Whitted law firm in Omaha. Primarily my practice is a tax practice centered specifically on retirement plans, and I do a lot of work with employee stock ownership plans, or ESOPs. I'm here representing many of the employees of HDR, Inc. I have three other clients that have an identical issue and identical plans. They'd be DLR Group Inc. from Omaha, Farmers National Company from Omaha, and Farris Engineering. ESOPs are very popular in the architectural engineering industry. The...we are here...Senator Ashford spelled out the

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issue well. The...basically, the five-shareholder rule becomes a problem if we treat the ESOP trust as the only shareholder of a corporation. I'm here with Chad Hartnett, who's the comptroller and treasurer of HDR, and he's going to spell out all of the specifics in terms of all of the controls that all of the participants in these plans have that show they have all of the indicia of shareholders in any event. But I think one of the main things that we should be looking at here is the intent of the statute to retain employees, to grow companies. ESOPs are tremendous incentives for growth, both in terms of the benefits that they provide to employees and also the financial growth that is attendant with respect to ESOPs. The five-shareholder rule...if you look at the legislative history, Senator Vard Johnson spelled out very specifically why that was there. And it's there because it was an anti-abuse rule. The idea was that we wanted to give this benefit to corporations and their shareholders, who were employees, but not to farmers and ranchers who were just selling land. And the way he explained it was that we don't want a farmer to--who's going to sell his land--to incorporate and give shares out to his family members and then turn around and sell it and not pay any capital gains. The idea was--the idea behind LB775--to attract corporate businesses into the state, and it wasn't dealing with farmers and ranchers and the small, closely held family corporations, which is a far cry from HDR, Inc., who has 7,000 employees and 1,000 in Nebraska. And another purpose of the statute was to avoid executive flight from the state. Lots of individuals, when they get to retirement, they'll want to go to a nontax state. And this was a way to keep them in the state. It's a good benefit for employees; it's a good benefit for participants in employee stock ownership plans. And we think that the statute should be clarified to provide that the employees in an ESOP are considered shareholders for purposes of the statute. You know, it is possible to probably have a lot of different trusts underneath an employee stock ownership plan so you'd meet the five-shareholder rule, but that's kind of an administratively difficult way to accomplish the result that the statute intended that companies have. In HDR's case as well as the other companies I mentioned, the plans are set up whereby individuals use their own funds, their own 401(k) funds, to purchase company stock in the ESOP and therefore providing exactly the kind of incentive that the state was trying to provide in LB775. Senator Ashford referred to changes in the law. There is a...the law changed in 1996, the Internal Revenue Code, about nine years after LB775 was adopted, to provide that S corporations could have employee stock ownership plans. And that's what all of the companies that I've mentioned have done. And we believe that we should clarify the statute to make the amendment that's been proposed. Thank you. Any questions?
[LB980]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you.
[LB980]

GEOFFREY LIEBEN: Thank you. [LB980]

SENATOR CORNETT: Next proponent. [LB980]

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CHAD HARTNETT: Hi. Good afternoon. My name is Chad Hartnett, spelled C-h-a-d H-a-r-t-n-e-t-t, and I'm the treasurer and director of accounting at HDR, Inc., and subsidiaries. I'm here to do two things: describe HDR and then also describe how our employee-owners are truly shareholders of a company, despite what the IRS may interpret that with respect to ESOP law. HDR, Inc., is headquartered in Omaha, Nebraska. We have over \$1.6 billion in revenue. We have more than 850 employees in the state of Nebraska, more than 7,800 worldwide. And 6,900 of those 7,800 employees are employee-shareholders. We feel at HDR that employees are truly our greatest asset. We don't own a lot of assets. We employ a lot of people, because architects and engineers are our number 1 asset. We've been employee owned since 1996, when we bought ourselves from a French construction company. And at that time we became an ESOP. In 2002 we elected S corp status, as many companies have done. And I guess lastly, with respect to the company specifically, we've been in Nebraska since 1917. We were originally incorporated and started out in Nebraska. Our employee-owners, despite what the IRS interprets, a shareholder in an ESOP is truly a legal shareholder of HDR. They are required to vote on any tender offers that the company may receive, on purchase of the company. We're required to vote and approve on the board of directors, just like any company would have to. Our shareholders have an individual value, per share of their stock. We have an internal market for our employees to buy and sell their shares within their 401(k) plan. Our employees' money within the 401(k) plan are at risk. Just like any other shareholder of a company that owns a company, we enjoy benefits when the company does good, and we could, you know, our value of our shares could go down if the company were to do poorly. And I guess, you know, lastly, you know, if we were to pay out dividends or distributions from the company, the shareholders would participate just like any other shareholder of a company publicly or privately held and receive their proportionate share. [LB980]

SENATOR CORNETT: Questions from the committee? Senator Schumacher. [LB980]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Thank you for your testimony today. I'm just trying to get the picture of...in your particular company, you say you're Sub S. Do you have any shareholders who are not ESOP shareholders, just out-and-out shareholders? [LB980]

CHAD HARTNETT: No, 100 percent of the shares of the stock are held within the ESOP. And as employees leave during the year, we as a company purchase their shares and either hold them in treasury or sell them to current employees. So there are no outside shareholders outside the ESOP. [LB980]

SENATOR SCHUMACHER: So 100 percent of your stock is in the ESOP. And then that's the...when somebody leaves your company, they give up their interest in the ESOP even though...because all the shares are there, or does the company buy them

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back from the ESOP? [LB980]

CHAD HARTNETT: The company transacts with the employee. The ESOP, actually, buys the shares back from the employee. So and then we either hold them in treasury or sell them to other employees. [LB980]

SENATOR SCHUMACHER: I think I understand. Thank you. [LB980]

SENATOR FISCHER: Thank you, Senator Schumacher. Senator Pirsch. [LB980]

SENATOR PIRSCH: And I think we had an issue...a bill that came through the Legislature a couple, three, maybe four years ago or whatnot dealing with this special and unique situation we're in with respect to dividends. Is that...and I'm trying to rack my brain and recollect. Was that a related...anything that was in relation to...that three- or four-year-old bill that we passed? Or was that a unique situation? Somewhere in the back of my mind, I'm... [LB980]

CHAD HARTNETT: I'm not familiar with that bill, so I can't speak specifically about that. But, you know, with respect to HDR, we, you know, much like Berkshire Hathaway, we don't pay out any dividends; we maintain the cash within the company, to grow it. And so dividends haven't been a major priority for us. [LB980]

SENATOR PIRSCH: I think it was...if my memory is correct, maybe it was not related, but I do appreciate it. So is this a matter, in your estimation, of form over substance? [LB980]

CHAD HARTNETT: Absolutely. Absolutely. It's, you know, how the IRS views the, you know, an ESOP trust, as compared to true legal ownership. [LB980]

SENATOR PIRSCH: And Senator Vard Johnson was the architect of this scheme then, back in '87 I suppose. Is that when this original paradigm was created? [LB980]

CHAD HARTNETT: That is correct. I'm not familiar with the senator specifically, but, yes, that's my understanding of the legislative bill. [LB980]

SENATOR PIRSCH: And the only concept...the only reason, I guess, as you understand it, that it was constructed with this five-shareholder rule was to ensure that type of targeted business is not, I guess, shenanigans can't...but that you're after the more...larger kind of corporate type of entity rather than just farmer/ranchers was put forward. Is that your understanding as... [LB980]

CHAD HARTNETT: That's my understanding. [LB980]

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SENATOR PIRSCH: And do other states have, to your knowledge, any sort of similar type of rules or regulation of companies similarly situated as yours? [LB980]

CHAD HARTNETT: There are various...the state of California has an exemption, and there are some various states that tax the capital gains at lower rates. But I'm not familiar with any one just like the state of Nebraska's. [LB980]

SENATOR PIRSCH: Some others...and so this is... [LB980]

CHAD HARTNETT: Yeah. [LB980]

SENATOR PIRSCH: ...kind of unique. Thank you very much, appreciate it. [LB980]

SENATOR CORNETT: Senator Fischer. [LB980]

SENATOR FISCHER: Thank you, Senator Cornett. When did you say that HDR became the employee-owned company that it is today? What year? [LB980]

CHAD HARTNETT: That was in September of 1996. HDR formed an ESOP, a leveraged ESOP, to purchase itself from a French construction company named Bouygues. They were going to sell the company to one of our competitors. [LB980]

SENATOR FISCHER: When you formed, then, in 1996, you were aware of the laws here in Nebraska dealing with how you would be treated under LB775? [LB980]

CHAD HARTNETT: I believe...I was not employed with HDR at the time, but I believe the understanding was that since we had multiple shareholders, that we qualified. And, you know, the concept of the one shareholder was not, you know, considered at the time, I guess. [LB980]

SENATOR FISCHER: That it was considered or was not? [LB980]

CHAD HARTNETT: It was...I think it was considered. I wasn't employed by the company...but that we felt we met the spirit of the law and weren't familiar with the interpretation that the state would take. [LB980]

SENATOR FISCHER: But since that time, then, you've dealt with this yearly. [LB980]

CHAD HARTNETT: No, actually, this just came to light with HDR because one of our former employees who had retired was being audited by the Department of Revenue and brought this to our attention. Really, HDR, Inc., as a company doesn't, you know, benefit from this exemption directly. It's our former owners and our current owners that will leave the company someday. So they came to us with the, you know, what the

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Department of Revenue was saying. And that's when we conferred with our counsel, Geoff Lieben, who you just spoke with, and thought...and then we had a meeting with the Department of Revenue discussing their position. And then we kind of...that's how we kind of got here. [LB980]

SENATOR FISCHER: Okay. Thank you. [LB980]

CHAD HARTNETT: Thanks. [LB980]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB980]

CHAD HARTNETT: Thank you. [LB980]

SENATOR CORNETT: Are there any further proponents? Are there any opponents? Is there anyone in a neutral capacity? Senator Ashford. [LB980]

SENATOR ASHFORD: Waive. [LB980]

SENATOR CORNETT: Waive. Okey-dokey. We are trying to locate Senator Mello, so we're going to stand at ease for a moment. [LB980]

SENATOR ASHFORD: I can introduce it; what is it? (Laughter)

SENATOR CORNETT: Recycling, if I remember correctly.

SENATOR ASHFORD: (Laugh) Okay, well, maybe not recycling.

BREAK

SENATOR CORNETT: Could you get the other people on LB1080 for me? We're going to move to that. [LB1080]

_____ : Sure. [LB1080]

SENATOR FISCHER: Do you want me to start, then, Senator Cornett? [LB1080]

SENATOR CORNETT: Yes, please. [LB1080]

SENATOR FISCHER: Okay. Thank you. With that I will open the hearing on LB1080 and welcome Senator Cornett to open, please. [LB1080]

SENATOR CORNETT: (Exhibit 8) Thank you, Senator Fischer. And I thank the

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committee for their indulgence on having to switch the schedule around. My name is Abbie Cornett, C-o-r-n-e-t-t, and I represent the 45th Legislative District. I am pleased today to introduce today LB1080. This legislation was brought to me by the Greater Omaha Chamber of Commerce. LB1080 relates to data centers and exempt sales and use tax on tangible personal property--components and parts--that is shipped to and assembled in Nebraska but, following assembly, is shipped outside the state to be placed in service at a physical location outside of Nebraska. The bill also clarifies that such temporary property is exempt from personal property tax. I would offer an amendment for the committee's consideration that would become the bill. The amendment tightens up the language. It updates the current definitions by defining "data centers" and adds an E clause. As this committee knows, we have many proposals before us dealing with changes in tax policy. We rightfully are concerned about the cost of all of these proposals and how we balance it against the needs before us. What we sometimes forget is how fortunate we are. Many states would love to have the problem that Nebraska is facing right now, a stable economy and companies looking to expand and bring their operations here. These opportunities will help us maintain a stable economy and provide us the growth in our base for long term so we can fund important priorities including roads, education, child welfare reform, and tax relief. Today one such opportunity is here. In 2009, after an exhaustive and thorough search, Yahoo, one of the most trusted technology companies in the world, selected La Vista, Nebraska, as its site for its largest data center. Yahoo is pleased with the Nebraska facility and would like to bring Yahoo factory to our state. LB1080 would ensure this happens. In addition to the investment, jobs, and new tax revenue as a result of that decision, Nebraska is in the spotlight and on the radar for other companies looking to locate large data centers. The economic impact of Yahoo's selection of Nebraska has a ripple effect across the globe. Before I turn it over to those who are here to testify, let me clarify. This legislation involves data centers. The fiscal note is not truly a fiscal note until the project is here. The project you will hear about today is not here currently. So, as we've heard a number of times, we can't lose something we don't already have. This would be money that we are not currently collecting. And I could go into more detail on the project itself, but there are also people here that could follow me to testify. But I'd be happy to answer any of your questions. I've been working with the company and the Chamber for a while on this bill. [LB1080]

SENATOR FISCHER: Okay, thank you, Senator Cornett. Are there questions? I see none. Thank you very much. [LB1080]

SENATOR CORNETT: All right. [LB1080]

SENATOR FISCHER: First proponent, please. Good afternoon. [LB1080]

JOSEPH YOUNG: (Exhibits 1, 2, 3, and 4) Good afternoon, Senator Fischer and members of the committee. For the record, my name is Joseph Young, spelled

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J-o-s-e-p-h Y-o-u-n-g. I'm the director of public policy for the Greater Omaha Chamber, and I'm here testifying on behalf of the Greater Omaha Chamber as well as the Lincoln Chamber of Commerce and the state Chamber of Commerce and Industry in support of LB1080. And I'd like to thank, of course, Senator Cornett for introducing this legislation for us. The page is handing out some goodies for you there, one of which is a recent article that ran in the Omaha World-Herald. The others are letters of support from the Mayor of La Vista and the Waldinger Corporation. In recent years Nebraska has become one of the most favorable states in which to locate a data center. This is due in large part to our low power costs and lack of natural disasters such as hurricanes and earthquakes. But it's not all by chance. The Legislature has made strides in helping to make our tax structure in this state more competitive with other states in the country. The Nebraska Advantage Act was amended to include data centers as eligible activities some years ago, and Senator Hadley also introduced legislation, and the Legislature passed the bill that would also allow cloud computing, for example, as an eligible activity. All of those pieces of legislation help make Nebraska more competitive. So it's safe to say we are on the forefront of one of the most promising industrial trends that we've seen in decades. As the world becomes more dependent on electronic information and technology, data centers will be in high demand. And today we have another opportunity, as Senator Cornett said, to advance Nebraska's position to gain market share in this industry. It should be noted as well that one of the reasons Nebraska is on the map is because in 2009 Yahoo, as one of the largest and most respected tech companies in the world, located their largest data center here, globally, in Nebraska. It is a little like Tom Brady playing for the New England Patriots in this Sunday's Super Bowl. If he's not on the Patriots' team, they probably aren't playing for the world championship. We kind of equate that with Yahoo and data centers. As Yahoo would tell you in a couple minutes, they love Nebraska. They are impressed by the people here that they hire, almost all of whom are Nebraskans. But they also appreciate the business climate and location, among other things. So as they were looking to further consolidate their operations in Nebraska, they hit a snag while reviewing our tax code. And in this case, the statute makes us far less competitive with the state that they are currently conducting this business in that they'd rather be doing here in Nebraska. The updates found in LB1080 would in many ways clarify the statute and allow for more jobs and investment to flow into Nebraska within months. Another key component to this legislation, at least from a Chamber's perspective, is our relationship with Yahoo. When Yahoo signed on the dotted line, so to speak, they committed to bringing about 175 jobs to the state. They're now up to 250 jobs. Had you not made the changes to Nebraska Advantage Act in 2008, Yahoo wouldn't have had the chance to bring 75 additional jobs here on top of the ones that they committed to creating. It's, then, not a stretch to say that this legislation will give companies the chance to far exceed their own plans. We at the Chamber want to give our state the chance to further our relationship with Yahoo and other companies so that these types of situations occur more often than not. Another reason to look favorably upon LB1080 is the motto that business begets business. One of the industries that would benefit from this new factory that Yahoo

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wants to locate here is trucking, for example. Yahoo would be shipping hundreds of millions of dollars' worth of product in and out of the factory. And whenever you move that much product, our trucking industry benefits; sales of diesel goes up around the state; and secondary jobs are created. We're growing the base; homes are being bought; money is being spent; and taxes are coming in. At the end of the day, though--and Senator Cornett said this as well--zero times any number is zero. With the Yahoo factory, obviously we'll...we stand to gain much more than zero, which is what we don't have now. So with that, I'll take any questions. [LB1080]

SENATOR FISCHER: Thank you, Mr. Young. Are there questions? I see none. Thank you very much. [LB1080]

JOSEPH YOUNG: Thank you. [LB1080]

SENATOR FISCHER: Next proponent, please. Good afternoon and welcome. [LB1080]

CHUCK WHITNEY: (Exhibits 5, 6, and 7.) Good afternoon, Senator Fischer, members of the committee. My name is Chuck Whitney. I'm the facilities manager for the Yahoo data center in Nebraska. I'd like to thank Senator Cornett for introducing this important legislative proposal and to offer our appreciation to the Greater Omaha Chamber of Commerce and others for their support today. [LB1080]

SENATOR FISCHER: Could you please spell your name for the record. [LB1080]

CHUCK WHITNEY: I'm sorry, ma'am. Chuck Whitney, C-h-u-c-k W-h-i-t-n-e-y. [LB1080]

SENATOR FISCHER: Thank you. [LB1080]

CHUCK WHITNEY: LB1080 presents an important tax code update that will enable Yahoo to continue growing our business operations in Nebraska, and I'm excited for the opportunity to share our plans with you. With its headquarters located in Sunnyvale, California, Yahoo employs more than 13,000 people. As one of the largest Web sites in the United States, it attracts more than 700 million unique users worldwide in over 30 languages, reaching approximately half of total Internet population. We are truly a global company, yet for many of us Nebraska is our home. In 2008, Yahoo site selectors chose to open a data center in La Vista. We're approximately three years into our operations, and despite a difficult economic climate the data center has made amazing progress and surpassed our expectations. In 2009 Yahoo committed to invest \$100 million in Nebraska and to create 175 jobs. Since then, we have doubled our data center operations in La Vista and now employ more than 250 people in our data center and corporate office in various positions, including finance, customer support, sales, and marketing. Yahoo has been so pleased with our operations in Nebraska that we're interested in bringing more of our company here. Present plans would include moving

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the current Yahoo factory to Nebraska in order to centralize our operations and serve as a distribution center and delivery hub for the IT needs of our facilities in the United States. And that's one of the handouts I included, with some pictures of our server installations and, kind of, the components that we'd be bringing to the factory and installing. The Yahoo factory is currently responsible for taking various equipment components and building them into a usable system for ultimate shipment to various Yahoo data centers. Unfortunately, Nebraska's current tax code is a disincentive for this move, as it does not allow for a transitory exemption for certain activities. LB1080 updates the tax code as it applies to data centers and the process of assembling, engineering, and processing large volumes of fabricated manufacturing computer equipment. These changes include a clarification that components used solely outside the state shall be exempt from personal property tax. LB1080 further clarifies that sales and use taxes shall not be imposed on personal property for use solely outside Nebraska. For Yahoo, this change will provide us an opportunity to quickly and efficiently service our data centers both domestically and internationally. Currently Yahoo does not pay these taxes at our current location in Oregon. I do want to reiterate Senator Cornett's comment regarding the fiscal note for this proposal, by saying that the cost of LB1080 represents business that is currently not here today. In addition to a new data center facility, the economic impact of the new jobs Yahoo will bring to Nebraska with this change will be reflected in our communities through new property, income, payroll, and sales taxes. Yahoo's decision to open the largest data center in Nebraska has sent a strong message to other companies that Nebraska is truly open for business and should no longer be considered a flyover state for data center site selectors. As more technology companies follow Yahoo's lead and recognize the benefits of locating in Nebraska, the state will continue to create new jobs and to retain our best and brightest. As a native Nebraskan, I appreciate the opportunities that Yahoo has provided me to have an impact globally while allowing my wife and I to raise our three boys locally. I'm proud to call Nebraska my home and hope that proposals like LB1080 will enable others to do so as well. I thank you for your time this afternoon and your continued service to our state, and I'll be happy to answer any questions. [LB1080]

SENATOR FISCHER: Thank you, Mr. Whitney. Are there questions? Senator Brasch. [LB1080]

SENATOR BRASCH: Thank you, Senator Fischer. And, Mr. Whitney, I want to thank you for your willingness to come here today and also thank Yahoo for their investment in Nebraska. I do have a couple questions for you. You said the factory is not in Nebraska, correct? [LB1080]

CHUCK WHITNEY: Currently, yes, ma'am, it's not. [LB1080]

SENATOR BRASCH: Is there any cost, then, for not having a factory in...yeah, I see the note. Is there a cost for not having the factory here? [LB1080]

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CHUCK WHITNEY: And I don't pretend to understand how the fiscal note policy works. No, and, in fact, by bringing the factory here, Yahoo will actually create revenue. We're going to create jobs. I don't think the fiscal note adequately portrays the impact that Yahoo bringing the factory here will bring. And also it doesn't take into account the number of other companies that are also looking at coming to Nebraska because of Yahoo's involvement in the state. [LB1080]

SENATOR BRASCH: Thank you. We face a number of proposals asking for changes to our tax code. And if you were in our shoes, asking for tax cuts, for business incentives, funding for various areas, private school incentives, dollars for child welfare, what are your thoughts? [LB1080]

CHUCK WHITNEY: First of all, I have a great respect for the challenges that you all face. I think that the primary goal is to create a tax policy that creates job growth and brings in additional revenue to the state. And that's what we hope to do with bringing the factory here. We want to create more jobs. We want to continue to grow our operations in Nebraska, continue to employ the best and brightest that we have in this state, to keep people from leaving, and to continue to make an impact in Nebraska. [LB1080]

SENATOR BRASCH: Very good. Is Yahoo considering other states as well? [LB1080]

CHUCK WHITNEY: With any operations, we're always going to be looking at all 50 states for opportunities that are there. But make no mistake that Yahoo wants to come to Nebraska. Yahoo loves Nebraska. Like I said in our testimony, original commitment was \$100 million and 175 jobs. Once we got here, we made the commitment, and we created the jobs, it only made sense to us, from a business standpoint, to continue to bring more employment here because of the relationships that we have with our state and local government, the partnerships that we've created. We want to be here; we want to be in Nebraska. [LB1080]

SENATOR BRASCH: Wonderful. Thank you. I have no other questions. [LB1080]

CHUCK WHITNEY: Thank you, ma'am. [LB1080]

SENATOR FISCHER: Thank you, Senator Brasch. Senator Schumacher. [LB1080]

SENATOR SCHUMACHER: Thank you, Senator Fischer. I've got a few questions here. First of all, if...these computers you put together to store data on, I take it that if I had a subscription or paid a fee or whatever, I could back up my computer at home to these things. Is that correct? Or my business computers to these things? [LB1080]

CHUCK WHITNEY: I don't pretend to understand how the entire IT side of that would all

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work. I could find you the answer, sir. I'm the facilities manager; I'm a nuts-and-bolts kind of guy. [LB1080]

SENATOR SCHUMACHER: Right, but you used the words, "used solely out of state." So to the extent a resident of the state of Nebraska could get into these computers to do with them whatever they can--and we know that the Internet makes the world a single place--doesn't the fact that a Nebraskan sitting in Nebraska could use these contraptions sitting in another state...do you see that as a problem at all for this legislation? [LB1080]

CHUCK WHITNEY: If by meaning that if you log on to a Yahoo Web site you will have access to those servers... [LB1080]

SENATOR SCHUMACHER: Yes. [LB1080]

CHUCK WHITNEY: No, you won't. I mean, that's our information. You're not...you don't have...you won't... [LB1080]

SENATOR SCHUMACHER: But to the extent I'm able to address any information on those... [LB1080]

CHUCK WHITNEY: You would be able to access any Yahoo property that we service on those servers... [LB1080]

SENATOR SCHUMACHER: Right. [LB1080]

CHUCK WHITNEY: ...by going through our Web portal. [LB1080]

SENATOR SCHUMACHER: And so I would be using those servers to get whatever I wanted. [LB1080]

CHUCK WHITNEY: Through...well, you would be using those servers to access Yahoo. [LB1080]

SENATOR SCHUMACHER: Right. And because a signal would be coming from those servers, I, in fact, would be using it. [LB1080]

CHUCK WHITNEY: Correct. And I may be misunderstanding the question, sir. [LB1080]

SENATOR SCHUMACHER: Okay, but the word "solely"...I just pointed out to you that I could see somebody arguing that it was being used by somebody in Nebraska. [LB1080]

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CHUCK WHITNEY: Well, we actually did make a change to the amendment based on some of the input that you had given us. So I do need to thank you for that. [LB1080]

SENATOR SCHUMACHER: The...now you build these things here, you load them on a truck, load all of the parts. And then you go off to, say, New York, where you install them in a data center in New York. [LB1080]

CHUCK WHITNEY: Correct. [LB1080]

SENATOR SCHUMACHER: Do you pay sales tax or use tax in New York then? [LB1080]

CHUCK WHITNEY: We are subject to the taxes of the state of New York, yes, sir. [LB1080]

SENATOR SCHUMACHER: So you would pay, then New York would get the sales tax off this. [LB1080]

CHUCK WHITNEY: Correct. [LB1080]

SENATOR SCHUMACHER: Otherwise, would you get double taxed? [LB1080]

CHUCK WHITNEY: Under the current tax code, we would be taxed for bringing in the equipment to Nebraska. And we would be taxed again by having the equipment sent to the state of New York and being put in use there, yes, sir. [LB1080]

SENATOR SCHUMACHER: And this way, New York gets a tax. [LB1080]

CHUCK WHITNEY: This way, we're not being taxed on equipment that is not for use in Nebraska. [LB1080]

SENATOR SCHUMACHER: And New York doesn't give you credit for any tax that you paid in Nebraska? [LB1080]

CHUCK WHITNEY: Again I'd have to defer to somebody that knows the tax code a lot better than I do, sir. But I can get you an answer. [LB1080]

SENATOR SCHUMACHER: You see what I'm saying. I mean, if you're going to end up paying...if you get a credit in New York for the tax you paid us, then why would we send the tax money to New York if it was the other way around? [LB1080]

CHUCK WHITNEY: I don't believe we get a tax credit, sir, from New York. [LB1080]

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SENATOR SCHUMACHER: So you pay two sales taxes? [LB1080]

CHUCK WHITNEY: Under the current tax code, that would be the way that it would be set up, is my understanding, yes. But like I said, I will definitely get with our tax department, and we will definitely get you an answer. [LB1080]

SENATOR SCHUMACHER: That seems to be a fundamental kind of question that we would address. If you're going to pay tax...if you're going to get credit in New York for tax you pay here, then we'd like to keep the money here. [LB1080]

CHUCK WHITNEY: Again... [LB1080]

SENATOR SCHUMACHER: What taxes does Yahoo pay to the state of Nebraska? Pays some property tax, I suppose, to the county. [LB1080]

CHUCK WHITNEY: Real property. And then we are a participant in the Nebraska tax initiative. [LB1080]

SENATOR SCHUMACHER: So you can get a refund of a lot of that. Once you get beyond the age of eligibility for the Advantage program things, where would your income taxes be paid? [LB1080]

CHUCK WHITNEY: Again I couldn't tell you, sir. I can get all these answers for you most definitely. I'm the facilities manager. I hate to... [LB1080]

SENATOR SCHUMACHER: What percentage of Yahoo's employees are in Nebraska? [LB1080]

CHUCK WHITNEY: We have 13,000 employees globally; we've got 250 employees currently in Nebraska, with plans to increase that, obviously, with our factory. [LB1080]

SENATOR SCHUMACHER: And that factory will employ about how many? [LB1080]

CHUCK WHITNEY: 15 to 20. [LB1080]

SENATOR SCHUMACHER: And the average wage of your employees in Nebraska? [LB1080]

CHUCK WHITNEY: Average wage meets or exceeds the Nebraska median wage for the state. [LB1080]

SENATOR SCHUMACHER: And that is? [LB1080]

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CHUCK WHITNEY: Approximately \$50,000, I believe. [LB1080]

SENATOR SCHUMACHER: I have no further questions. [LB1080]

SENATOR FISCHER: Thank you, Senator Schumacher. Senator Hadley. [LB1080]

SENATOR HADLEY: Senator Fischer, thank you. And I apologize for being late. And maybe you went all over this earlier. But it is my understanding that there potentially could be a double taxation in this, because you're paying taxes in Nebraska when you're bringing them in, and then when you ship them it's considered a purchase in another state. [LB1080]

CHUCK WHITNEY: Correct. [LB1080]

SENATOR HADLEY: And I, you know, we have other situations of double taxation, because you, you know, you buy something personally and pay tax on it, and, technically, if you sell it, you charge the next person tax. So I think we want to make sure that from an equity issue...I think that's my biggest concern in this issue, that we're not...we don't have a quirk in our tax law that forces a company that is basically passing goods through Nebraska and... [LB1080]

CHUCK WHITNEY: And that is essentially what, yes, what would be happening. [LB1080]

SENATOR HADLEY: Yeah. Because if I am correct, if these servers and the things you're putting together are going to be used in Nebraska, you will pay sales and use tax... [LB1080]

CHUCK WHITNEY: Happily, yes, sir. [LB1080]

SENATOR HADLEY: ...on those items that are being used in Nebraska. [LB1080]

CHUCK WHITNEY: Correct. [LB1080]

SENATOR HADLEY: It's just the ones that you're constructing here and effectively shipping to another state. And I could see another state saying, you know: We'd like to collect that, so. [LB1080]

CHUCK WHITNEY: Correct, yes, sir. [LB1080]

SENATOR HADLEY: Thank you, Senator Fischer. [LB1080]

SENATOR FISCHER: Thank you, Senator Hadley. Other questions? I have a couple for

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you, Mr. Whitney. Following up on Senator Hadley's comment about the possibility in Nebraska we have a little quirk in our tax law, are there any other states that Yahoo is involved in and they're looking to make changes in those states with their tax law? [LB1080]

CHUCK WHITNEY: I wouldn't be privy to any type of that kind of information, I'm sorry. [LB1080]

SENATOR FISCHER: Do you know if there are any other states where this so-called double taxation is happening to Yahoo, if they're looking into taking action in those states? [LB1080]

CHUCK WHITNEY: Currently the factory is in Oregon, and we're not subject to those taxes in Oregon currently. [LB1080]

SENATOR FISCHER: Okay. You had mentioned the fiscal note--and perhaps Senator Cornett can address this later--but you did mention it in your statement when you opened about possibly it's not necessarily correct, because it's not revenue that we are receiving now in this state. Am I saying that... [LB1080]

CHUCK WHITNEY: Correct. [LB1080]

SENATOR FISCHER: Okay. [LB1080]

CHUCK WHITNEY: We currently don't have the factory in Nebraska. [LB1080]

SENATOR FISCHER: Okay. But we have also received a letter from the director of the Department of Economic Development, Catherine Lang, and it raised a question in my mind, because I think we do already have that in Nebraska. In her letter, the second paragraph, for the committee members that have it, she states that in addition to attracting new companies to the state, these incentives would also encourage companies that already exist in the state to remain here and expand. While I realize that revenue is not currently here because those companies haven't expanded, those companies are here in this state. Do you know if any consideration is made for that and the numbers on this fiscal note? [LB1080]

CHUCK WHITNEY: Again I don't pretend to know... [LB1080]

SENATOR FISCHER: Okay. [LB1080]

CHUCK WHITNEY: ...how the fiscal note policy... [LB1080]

SENATOR FISCHER: We're putting you on the spot. Do you... [LB1080]

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CHUCK WHITNEY: No, that's fine. That's fine. And I...and as far as clarification, Yahoo does currently not have this function going on in the state. As far as what other businesses are doing, I know that the...we're writing it to affect data centers. And that's about all I can speak to, I apologize. [LB1080]

SENATOR FISCHER: No, I appreciate your comments. Do you have anyone here from Yahoo, a tax attorney or accountant, that's going to be testifying? Do you have them present today? [LB1080]

CHUCK WHITNEY: No, Senator, we don't. But I have all these questions, and we will get answers to the committee. [LB1080]

SENATOR FISCHER: Okay. [LB1080]

CHUCK WHITNEY: Definitely. [LB1080]

SENATOR FISCHER: Okay. Well, thank you very much. [LB1080]

CHUCK WHITNEY: Thank you. [LB1080]

SENATOR FISCHER: Appreciate it. Other questions? Senator Hadley. [LB1080]

SENATOR HADLEY: Thank you, Senator Fischer. I guess I'm trying to get my hands around this, so to speak. And I'm thinking that if General Motors had a plant in Nebraska and it shipped in engines from its plant in Fort Wayne, Indiana, to put in a vehicle here, would it be similar if we charged them sales tax on that item that was brought into Nebraska and then turned around, when they sold the car, charged sales tax too? Or if they sent it to another state that charged sales tax? I'm trying to figure out how this is different from a company that buys parts all over the country and brings them into Nebraska to manufacture a product that they turn around and sell in, you know, or use in another state. [LB1080]

CHUCK WHITNEY: Right. Because we won't be selling them. We've bought... [LB1080]

SENATOR HADLEY: Sure. [LB1080]

CHUCK WHITNEY: ...all the components for our own use and we're shipping them to our own data centers. [LB1080]

SENATOR HADLEY: Okay. But the key is, to your knowledge, you're paying taxes in the states that you have those data centers. [LB1080]

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CHUCK WHITNEY: Yes, sir. [LB1080]

SENATOR HADLEY: You're paying sales and use tax on that... [LB1080]

CHUCK WHITNEY: Yes, sir. [LB1080]

SENATOR HADLEY: ...those items. Okay. Thank you, Senator Fischer. [LB1080]

SENATOR FISCHER: Thank you, Senator Hadley. Senator Schumacher. [LB1080]

SENATOR SCHUMACHER: On the machines that you're using now in Nebraska, they were constructed out in Oregon? [LB1080]

CHUCK WHITNEY: Correct. All of our manufacturing is currently done in our Oregon factory. [LB1080]

SENATOR SCHUMACHER: And then when you brought them into Nebraska, did you pay use tax? [LB1080]

CHUCK WHITNEY: Yes, sir. [LB1080]

SENATOR SCHUMACHER: Okay. Thank you. [LB1080]

SENATOR FISCHER: Thank you, Senator Schumacher. Other questions? I see none. Thank you, Mr. Whitney... [LB1080]

CHUCK WHITNEY: Thank you. [LB1080]

SENATOR FISCHER: ...for coming in today. Next proponent, please. Are there other proponents to the bill? Seeing none, are there any opponents to the bill? Anyone wishing to testify in the neutral capacity? I see none. Senator Cornett, would you like to close, please. [LB1080]

SENATOR CORNETT: This is somewhat of a confusing concept. And I can tell by some of the questions. Let me explain. I'll start with Senator Hadley's last question. Senator Hadley, if you bring parts into Nebraska to assemble to make into a car for sale, that is not subject to tax. What Yahoo is talking about is they have a plant in Oregon. They constructed the facility here in Nebraska. They really like Nebraska. They have an additional 70,000 square feet of unused space that they would like to transfer their facility from Oregon to Nebraska. The advantage Oregon currently has over Nebraska that is halting that transfer of business to Nebraska is Oregon exempts these items; it is pass-through, basically. They are taking the parts in Oregon, assembling the server in Oregon, and transmitting it to their other states that use the servers. They have that tax

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advantage in Oregon. If they assemble a server in Oregon currently and they ship it to Nebraska for use, Senator Schumacher, that is: pay sales and use tax; they're using it. What they want to do is move their construction facility to that 70,000 square feet of unused space, have the components come in, build the server, and transmit those servers to other parts of the country within the same company. They're not selling the servers. If they were selling them, that would be a different issue. Then they would be subject to sales tax. When you talk about when you log on to your computer and you use Yahoo, you pay Internet services and fees on that, there. It doesn't matter where the server happens to be. You're already being taxed for Internet service. You had one other question, and I can't remember what it was. Oh, and the amendment, if you look at it, when it says "solely," that has been changed in the amendment. [LB1080]

SENATOR SCHUMACHER: Okay. I must have missed the amendment change in language. [LB1080]

SENATOR CORNETT: Okay. Senator Hadley. [LB1080]

SENATOR HADLEY: No, I was waving... [LB1080]

SENATOR CORNETT: Oh, you want a page. (Laugh) [LB1080]

SENATOR HADLEY: ...at the page to get a glass of water. Sorry. [LB1080]

SENATOR FISCHER: Did you have other comments? [LB1080]

SENATOR CORNETT: No, but I'd be happy to get him coffee. [LB1080]

SENATOR HADLEY: (Laugh) [LB1080]

SENATOR FISCHER: Thank you, Senator Cornett. Are there questions? [LB1080]

SENATOR CORNETT: And I apologize, I...oh, with the shuffling of our schedule, I did not have the amendment to hand out. If the page could hand the amendment out on this bill. But I'd be happy to discuss this further. Yahoo has already located here and would like to expand what they're already doing. It's not that Yahoo is going to leave if they don't get this. But they have a facility in Oregon that they'd like to move to Nebraska, and they have the space available. Thank you. [LB1080]

SENATOR FISCHER: Thank you, Senator Cornett. With that, I will close the hearing on LB1080. Senator Cornett, were you going to open the hearing, then, on LB731? [LB1080 LB731]

SENATOR CORNETT: The prodigal son returns. [LB731]

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SENATOR MELLO: (Exhibits 9, 10) Good afternoon, Chairwoman Cornett and thank you again for allowing the flexibility of your own legislation this afternoon to accommodate the Government, Military and Veterans Affairs Committee. Good afternoon, members of the Revenue Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. Currently the state of Nebraska operates three separate cash funds whose statutory purposes include the promotion of recycling. LB731, which would adopt the Remanufacturing Pilot Project Act, would utilize 10 percent of two of these funds, the Nebraska Litter Reduction and Recycling Fund and the Waste Reduction Recycling Incentive Fund, to provide tax credits for increased recycling or composting. I introduced a similar bill last session, LB627, which was not advanced by this committee. Under LB731, a taxpayer, nonprofit organization, or governmental unit could apply for tax credits that are refundable and transferable if they can demonstrate a reduction in their waste through recycling or composting. Applicants can demonstrate waste reduction by showing either an increase in their recycling or composting or by demonstrating waste reduction based on the amount of waste disposed during the year prior to applying for the tax credit. The amount of the credit would be based on the statewide average tipping fee, which means that the tax credit is tied to the cost of disposing of that same waste in a landfill. Unlike other tax credits the state of Nebraska provides taxpayers, LB731 contains built-in mechanisms to ensure the tax credits are accomplishing the intended goals. Under the bill, the applicant would first apply to the Department of Environmental Quality for tax credits providing base year tonnage information after which DEQ would certify a tentative tax credit amount. If the applicant failed to meet the amount of waste reduction certified in the application, then no tax credit would be received. Applications received by DEQ can only be approved up to the total dollar amount available that tax year and would be approved in the order received. LB731 also calls for the Remanufacturing Pilot Project Act to sunset in the year 2022. As is current practice with both the Litter Reduction and Recycling Act and the Waste Reduction and Recycling Act, LB731 provides for DEQ's administrative expenses to be paid through cash funds; also provides language allowing DEQ to accept grants, contributions, or other funds to support the program. For example, this would allow DEQ to apply for a grant through the Nebraska Environmental Trust if this incentive program was successful. The bill also allows for the Department of Revenue to withhold additional cash funds to pay for the necessary one-time expenditures to update their income tax tracking system which ensures that all costs of this pilot project would be cash funded and would not require the use of any General Funds. LB731 is an innovative, market-based approach to incentivize recycling in our state, represents a more efficient use of cash funds than the current grant application process, and has the significant potential to create private sector jobs. A report issued last year by the Tellus Institute, copies of which were distributed to the committee, found that if national recycling and composting rates were increased to 75 percent by the year 2030 there would be more than 1.5 million jobs created in the recycling industry alone. In addition to recycling jobs, LB731 will help fuel

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the availability of recyclable materials for manufacturing, making our state an attractive option for manufacturers who utilize recycled goods as part of their business model. The committee should have received a letter of support today from the Greater Omaha Chamber of Commerce among others, and there are a number of testifiers behind me who can speak greater in detail about the benefits of this economic bill. Thank you for your time, and I would be happy to answer any questions you may have. [LB731]

SENATOR CORNETT: Questions from the committee? Senator Adams. [LB731]

SENATOR ADAMS: Thank you, Senator. Senator Mello, can I assume then that there are companies awaiting that are already in this business? [LB731]

SENATOR MELLO: That's a good question, Senator Adams. You will hear from a couple companies today, one who is representing the Nebraska Recycling Association as well as a manufacturer out of Missouri who will be testifying, giving information about their usage of recyclable and compost materials and how we would be developing essentially a new market through the adoption of this income tax credit. [LB731]

SENATOR ADAMS: Okay. Thank you. [LB731]

SENATOR CORNETT: Senator Hadley. [LB731]

SENATOR HADLEY: Senator Cornett. Thank you, Senator Mello. Just so I understand it, the funds to fund the income tax credit are they...where are they going to come from? [LB731]

SENATOR MELLO: They come from two grant program funds in the Department of Environmental Quality that uses these grant funds to give out grants for recycling. So it's utilizing funds that are going towards the same concept but instead it's using a more market-based incentive approach that allows a business, for example, to partner with a city or a public-private partnership with multiple entities to reduce waste in the landfill or compost so to speak and then be able to apply for a tax credit in return. [LB731]

SENATOR HADLEY: And if I remember your statement in reading it, these are transferable tax credits so they're effectively the same as money, right, because I can sell it for 80 cents on the dollar or whatever to another company. Is that correct? [LB731]

SENATOR MELLO: Correct. And the reason why they're transferable, and you'll hear from supporters of this legislation, last year the League of Municipalities explained that the purpose is a city could apply for this incentive with two businesses in mind. And one of the testifiers, a manufacturer from Missouri, will be able to provide a more...an explanation of the model that would currently work that other cities who do this, what

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model they use. But essentially a city could apply for the incentive or the income tax credit, work with a company or two to meet the goals that they set forth to apply for the credit and then transfer the credit to help pay the costs associated with the actual program to the business. [LB731]

SENATOR HADLEY: Okay. Thank you, Senator Mello. [LB731]

SENATOR CORNETT: Further questions? Senator Fischer. [LB731]

SENATOR FISCHER: Thank you, Senator Cornett. Senator Mello, I apologize for not clicking on this a little earlier when I was looking at your bill. But was it two, three years ago, did you have a bill before the Natural Resources Committee on a...was it for a grant for recycling? [LB731]

SENATOR MELLO: No. That was...you might be thinking of...I brought this legislation in a different form last year. It was...we had...we reintroduced the bill to provide a hearing for the committee to provide a little bit more information to this committee who members had some questions about how the process may work, how the businesses, what businesses in the industry could benefit from it. So it's a similar bill, as I mentioned LB627, that's currently in the committee that we reintroduced it in an updated format. [LB731]

SENATOR FISCHER: But you didn't have one before the Natural Resources Committee. [LB731]

SENATOR MELLO: Electronics recycling I did a bill but that was not...that was a different format, different focus, and it was not an income tax credit. [LB731]

SENATOR FISCHER: Okay. Can you tell me how many people are receiving the or associations receiving the grant now that you're looking at transferring money from? [LB731]

SENATOR MELLO: There's roughly...I'd have to get that information back to you from the department. Every year there's give or take about \$2.5 million to \$3 million in each fund that gets distributed out for grants. So some years they give out big grants to a few people; some years they give out small grants to a lot of individuals. The underlying portion of the bill is taking 10 percent of that total amount over a ten-year period to create these income tax credits so that people could apply for it in a more incentive-based, performance-based approach. Right now you apply for a grant, you get the grant money, and then have to provide information back. This actually requires the applicants to do what they want to do in advance for them to qualify for the tax credit. So it's a different approach. It's similar to other tax incentive packages we've passed in the Legislature before. [LB731]

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SENATOR FISCHER: It looks like a small amount of money. Do you think it's even reasonable that businesses would apply for that? [LB731]

SENATOR MELLO: I think you'll hear from a few businesses today who will probably say any amount of money that would incentivize the development of the recycling industry or recycling market in the state for remanufactured products will put businesses on the alert to apply for these income tax credits. The likelihood, though, is that municipalities would be their natural partner or larger businesses that can just do the recycling or composting on their own would apply for it. So I think while we take a pilot approach, we're not asking for all of the grant funds, we're asking for 10 percent out of two. It's a reasonable approach to demonstrate the need to help grow this untapped market. [LB731]

SENATOR FISCHER: And you'd leave it up to DEQ to determine who would then qualify? [LB731]

SENATOR MELLO: Well, it's laid out in the bill who would qualify. Ultimately they have to... [LB731]

SENATOR FISCHER: But who would receive the tax credit since it's only 10 percent? [LB731]

SENATOR MELLO: It comes on a first-come, first serve basis but ultimately the department administers those. The Department of Environmental Quality administers the program. Department of Revenue simply has to make some changes to their income tax filings. [LB731]

SENATOR FISCHER: Okay. Thank you. [LB731]

SENATOR CORNETT: Further questions from the committee? Senator Adams. [LB731]

SENATOR ADAMS: Senator, is this the same fund, do you know, the same cash fund that cities make application to for grants for tire recycling? It just seems to me and I can't be very definitive... [LB731]

SENATOR MELLO: I think that may be a different fund. There's multiple recycling funds... [LB731]

SENATOR ADAMS: All right. It seems to me that years ago when I was first here we had I think Senator Preister made a lengthy debate about how that was...there wasn't enough money for that, but it's not the same... [LB731]

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SENATOR MELLO: It's not the same fund, no. [LB731]

SENATOR ADAMS: Okay. Thank you. [LB731]

SENATOR CORNETT: I'd look into that before you unequivocally say that. [LB731]

SENATOR MELLO: We'll check into it. Okay. [LB731]

SENATOR CORNETT: Okay. Further questions from the committee? Seeing none, thank you, Senator Mello. [LB731]

SENATOR MELLO: Thank you. [LB731]

SENATOR CORNETT: First proponent. How many proponents are there? Okay. [LB731]

DALE GUBBELS: (Exhibit 11) Good afternoon, Madam Chairman and Senators. My name is Dale Gubbels, that's spelled G-u-b-b-e-l-s, and I'm the CEO of First Star Recycling. We're based in Omaha. I'm also on the board of directors of the Nebraska State Recycling Association, which has asked me to testify on its behalf in support of LB731. The Nebraska State Recycling Association is a 30-year-old organization of almost 100 members who are involved in recycling in some way. The coalition includes municipalities, nonprofit community groups, conservationists, and businesses involved in hauling, processing, and manufacturing recyclables. And even some businesses who are members simply because they generate recyclables and are looking for support to lower their landfill costs. The association is diverse makeup is no coincidence. It's a strong indication of a basic truth about recycling, which is for recycling to work well it requires involvement and cooperation of all these players. LB731 not only recognizes that reality, it goes the extra mile to help ensure such cooperation will occur. How does it achieve this goal? Well, the answer lies in four unique aspects of the bill which I've highlighted in the handout that has been provided to you. Again as Senator Mello pointed out, it works on a tax incentive program. But one of the chief things I think to recognize about this it...the money actually is already made available to folks in the form of grant money from the two funds that the senator mentioned: the Litter Reduction Recycling Fund and the Waste Recycling...the waste fund, which the litter reduction comes from a tax on litter-prone goods that has been around since the early 1980s. And the waste reduction and recycling comes from \$1.50 I believe per ton that goes into the landfill. Those funds, as the senator pointed out, generate about between the two of them about \$5 million a year. And so there's no additional money...need for additional taxation to create this bill. The other...and I think this is really important to remember, the payouts are entirely contingent on results. That's how, you know, much of what the state has wisely done with other tax credits: If you don't achieve what you set out to do, you don't get the money on this. So the major distinction there that you have to keep in

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mind is the grant programs get the money out. The state has to determine will this proposal actually achieve what they say, and they have to make a determination on it before they can give the money out with the grant. They give the money out, there's no guarantee that the program will succeed, but the state has already spent the money. Under this approach, the money won't be given out to anyone other than it goes back to the state in the form it will go back to our General Fund. But it's only going to go there after the applicant has determined that or can come in and prove that they actually achieved what they set out to do. It also says that if someone were to say, well, I know that my program, be it a municipality which can apply for these funds, or a business, whomever comes in and says, well, I can do 10,000 tons a year and they don't achieve that, they don't get the tax credit because they have to fulfill exactly what they said they were going to do. I think one of the other real critical points about it is it really acts as an incentive to encourage public and private partnerships, and we were very adamant about that. As I said, the Nebraska Recycling Association, which was formed in 1980, has always had municipalities, the city of Omaha has been a member for a long time, and businesses that are involved in recycling. The idea behind this is to get that partnership going more because municipalities and their citizens generate a lot of the waste and they control waste. You know, they can control where it goes. Recyclers, however, control how to turn that resource into something that's beneficial for everyone. And as the senator said, recycling creates jobs; burying material does not. Last but not least, it's an opportunity for a lot of creative ways and means to achieve the results. One of the ideas that came out after we sent this out to our members, Cass County, which actually got a grant a few years ago to buy a trailer to haul recyclables, have struggled. In fact, this past summer some of the small municipalities that had bought similar trailers over the years with grant money actually are parking their trailers because they couldn't afford to run them anymore. With this approach, and Cass County felt that they would apply for the tax credit and then use the tax credit to provide to people in their community with pickups who would take that trailer and bring it to the place where it can be recycled. We saw at least two municipal programs this last summer that shut down because no one was volunteering to take that trailer to the recycling center anymore. So those four points are the ones that I think really stress the fact that this approach, LB731, has the best chance for really promoting recycling in the state. And with that, I'd be more than happy to answer any questions you might have. [LB731]

SENATOR CORNETT: Senator Hadley. [LB731]

SENATOR HADLEY: Senator Cornett, thank you. Whose...will anybody come in and say their office is being gored because we're using one of those or two of those three funds and, you know, they depended on those funds and now we're going to set up a different program where they're not going to have access to those funds? [LB731]

DALE GUBBELS: Actually Nebraska Recycling Association is a nonprofit which has used these funds in the past. They actually see this as an opportunity for them because

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they also can apply for the tax credit and then turn around and leverage that tax credit to get some of their members to do some of the things that they are working to get them to do. [LB731]

SENATOR HADLEY: And I did notice the little one and it talked about the NET funds for grants. Are the other two, the Litter Reduction and Recycling Fund, the Waste Reduction and Recycling Incentive grants program are they both grant type of programs now? [LB731]

DALE GUBBELS: Yes. [LB731]

SENATOR HADLEY: They're both grant-type programs now. [LB731]

DALE GUBBELS: Yes. [LB731]

SENATOR HADLEY: Okay. So effectively we're just taking a portion of what they are now giving out in grants and dedicating it for this purpose, and it's a test program to find out whether or not it really works better than the existing program. [LB731]

DALE GUBBELS: Right, exactly, Senator. [LB731]

SENATOR HADLEY: Okay. Thank you. [LB731]

SENATOR CORNETT: Senator Pirsch. [LB731]

SENATOR PIRSCH: Welcome and thank you. Do you know is somebody going to be testifying here today from, you know, anybody who has knowledge with respect to existing grant funded type of projects under the Litter Reduction and Recycling Fund or Waste Reduction and Recycling Incentive program? Do you know if somebody is going to be testifying? Because if so, I'll address those questions to that individual. If not... [LB731]

DALE GUBBELS: I don't know of anyone other than years ago I used to actually run the Nebraska Recycling Association and lived off of the grant funds for about ten years. I might be able to answer your question, Senator. [LB731]

SENATOR PIRSCH: Do the type of grants change, I mean the recipients change from year to year greatly or does there seem to be repeat type of grants handed out, main type of recipients who are kind of receiving a large chunk of the grants year after year? [LB731]

DALE GUBBELS: The latter. Especially in the Litter Reduction and Recycling Fund which was created as an alternative to the bottle bill back in the late '70s I believe or

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early '80s. That industry that was opposed to the bottle bill, the soft drink and the beer and the grocers, actually came in as almost a voluntary tax that went in place based on the amount of sales that they have. That has created communities like Keep Omaha Beautiful or community organizations like Keep Omaha Beautiful, the Lincoln one. There's probably about 15 clean community systems around the state. They rely heavily on that. Now that Litter Reduction and Recycling Fund also specifies that each year the Environmental Quality Council sets the percentages whether or not it goes into education, which is where those folks get a lot of their funding from, or in recycling or in litter cleanup. But those groups are heavily into using that fund as a basis for their... [LB731]

SENATOR PIRSCH: Well, you've been helpful. So the idea here is just to allow to the list of permitted uses under this act yet another potential use so that increased competition can be had so that the highest use of those dollars can be effectuated. Is that basically the idea? [LB731]

DALE GUBBELS: That's exactly right, Senator. And I've talked to Keep Nebraska Beautiful, I've talked to WasteCap, which is another of the organizations that uses a lot of these funds. There's a lot of creative ways for them to use these funds to leverage additional funds that they otherwise aren't able to tap. And the former chairman of the WasteCap actually shared with me that he sees some advantage in this because one of the challenges that these organizations have had to do over the years, they have to come back and write their grant every year to get their base funding. And they've tried to come up with creative ways and say the same thing year after year, which gets to be quite a challenge for them. [LB731]

SENATOR PIRSCH: Well, the concept here sounds quite promising, I mean, so far as you're just adding additional opportunities, so thank you. [LB731]

DALE GUBBELS: You're welcome. [LB731]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB731]

DALE GUBBELS: Thank you. [LB731]

SENATOR CORNETT: Are there further proponents? [LB731]

STEVE WENDLING: (Exhibit 12) Good afternoon, Madam Chair, Senators. My name is Steve Wendling. I'm the president of EcoPave LLC and we are a porous paving installer out of Columbia, Missouri, and I thank you for the opportunity to speak on behalf of LB731 today. I'll just keep it brief, just to let you know we do support this as a vehicle to create a sustainable market for the 60,000-plus tons of glass each year that currently goes into the Nebraska landfills. There's a...the information that I'm giving you briefly is

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in the folders that I've passed out along with some detailed information about what FilterPave does, the porosity rates, the chemical rates, and things that it's done in the past. This is a very unique approach that I see that we would like to get involved in because it's going to create a sustainable market which would be an end use product for getting something out of the landfill which answers one of the questions, I believe Senator Pirsch, is it, had asked regarding the same people getting the grants over and over. We tend to see that a lot. But with this being an end use product, anyone or any municipality or entity that would use it, it would be an end product for them. So hopefully the next year it would go to other people that would start instigating a use for it. Phase two of the Clean Water Act has put municipalities, counties, states, and the development community as a whole on notice that they will be dealing with stormwater and quality of water runoff issues. And using the FilterPave porous pavement is a way to deal with that. It settles a lot of issues and answers a lot of questions regarding that. The big hurdle to overcome is in any new technology a lot of times the cost to enter that market is a little bit unbearable. And so by offering the tax incentives we're hoping that that will encourage people to go ahead and get on the bandwagon. By allowing these entities affected by the regulations to ease the burden, we hope that not only will the municipalities and people that typically can afford to do it, there will be the tax credits, from my understanding is a one-on-one tax credit for using the porous pavement. And our project brings together the means as a unique, innovative paving product, that would be the FilterPave porous pavement, and the partners, suppliers, processors, and recyclers that will be working with to establish the most viable and sustainable market for glass that Nebraska has ever had to date. One of the things I'd like to point out is that we are currently the only distributor that has been approved by Presto GeoSystems, which is backed by Reynolds and by Rand Corporation and the installer. And what we plan on doing is training installers, people that would be somewhat a lot in the use of decorative-type concrete, those are the same kind of installers that would be able to put this down, so it's also going to be creating a job market for Texas. And what we'll be doing is bringing in a portable processing plant to go to the pickup stations to be able to crush the glass, process the glass, and be able to use it right here in state. So that's it briefly. I'd be happy to answer any questions. [LB731]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you.
[LB731]

STEVE WENDLING: Thank you. [LB731]

SENATOR CORNETT: Are there any further proponents? Are there any opponents? Anyone in a neutral capacity? Senator Mello, you're welcome...whichever you'd prefer.
[LB731]

SENATOR MELLO: I'll answer...I guess I'll close and see if there's any further questions from the committee. [LB731]

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SENATOR CORNETT: Questions from the committee? Seeing none...oh, no, okay. [LB731]

SENATOR HADLEY: Well, I just...I might need a new driveway, and so if they need a test (laugh). [LB731]

SENATOR CORNETT: I was going to say you're better at waving for coffee (laugh). [LB731]

SENATOR MELLO: Thank you, Senator Cornett. [LB731]

SENATOR CORNETT: Thank you. [LB731]

SENATOR FISCHER: With that, we close the hearing on LB731 and open the hearing on LB1118. Senator Cornett, would you like to open, please. [LB731]

SENATOR CORNETT: Thank you, Senator Fischer. Good afternoon, Senator Fischer and members of the Revenue Committee. For the record, my name is Abbie Cornett, C-o-r-n-e-t-t, and I represent the 45th Legislative District. I am appearing today as introducer of LB1118, a bill to update the Nebraska Advantage legislation to attract large data center projects. In 2010 Nebraska commissioned the Battelle Technology Partnership to look at how to grow the state of Nebraska. The study conducted on behalf of the Nebraska Department of Economic Development and the Nebraska Department of Labor outlined key strategies for growing jobs, industries, and talent. One of these areas identified as a growth center for Nebraska was the area of technology and, in particular, data centers. LB1118 is aimed at making the state more attractive to companies looking to locate data centers. Nebraska has spent the past several years investing in sites to attract data centers and technology businesses. And the cities of Aurora, Kearney, Fremont, North Platte, and Sioux City have developed and built industrial power park sites. The idea is that they create shovel-ready sites that could be marketed as potential locations for data centers and other high-tech companies. Since that time, Nebraska has spent several million dollars in Community Development Block Grant funds to develop these sites. We have been somewhat successful, but what we have found is surrounding states have incentives that are more attractive. And other states that don't have personal property tax at all are better able to compete for these projects. LB1118 is the next important step to update our Nebraska Advantage incentives in order to attract large data center projects and to build on the infrastructure that cities like Fremont, Sioux City, and Aurora have already established. LB1118 sets up a new category for large data centers. It creates a tier 2 category for a large company that invests \$300 million in a large data center project as defined in the bill, creates a minimum of 30 new jobs associated with the data center, says that real and personal property incentives apply when the property is acquired, gives the same real

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and personal property tax rebates available under tier 6, adjusts the investment requirements for the inflation for later projects, and sets a statutory rate of interest in event that property tax needs to be recaptured if the project does not meet investment requirements. And, finally, the bill has an E clause to allow Nebraska to move quickly to compete with Iowa and other states to secure data center projects. You will hear from the Department of Economic Development why these projects are so important to the state, from the State Chamber as to how they can act as catalysts and magnets for more projects over time, and from the community of Aurora on why the community is interested in attracting these types of data centers. You have heard bill after bill over the past few days that have been the goal of building the state or keeping young people here or attracting businesses. I believe LB1118 is absolutely essential to building Nebraska and providing good-paying technology jobs in this state. I urge you to listen very carefully to the testimony and ask questions. And I am also asking you to support LB1118. This bill is paramount for this industry in this state. Thank you. [LB1118]

SENATOR FISCHER: Thank you, Senator Cornett. Are there questions? Seeing none, thank you very much. First proponent, please. Good afternoon and welcome. [LB1118]

GARY HAMER: Good afternoon, Senator Fischer and committee members. I'm Gary Hamer, deputy director of the Department of Economic Development. Cathy Lang, who is our director, is tied up in another hearing, so I'm going to give the testimony on LB1118. [LB1118]

SENATOR FISCHER: Could you spell your name, please. [LB1118]

GARY HAMER: Spell my name? Gary, G-a-r-y Hamer, H-a-m-e-r. [LB1118]

SENATOR FISCHER: Thank you. [LB1118]

GARY HAMER: And some of the things that Senator Cornett covered I'll cover in my testimony, and I'll be welcome to answer any questions when I get done. So... [LB1118]

SENATOR FISCHER: Thank you. [LB1118]

GARY HAMER: ...thank you. I appear today before you to support LB1118. Growing investment and quality jobs are priorities of the Nebraska Department of Economic Development, an intrinsic value which will continue the success of our state. Nebraska is an attractive location for data center projects, due in large part to the availability of reliable, low-cost power, readily available sites insulated from natural and man-made disasters, abundant and easily accessible telecommunication, and a high-quality technical work force and modern tax policy. Data center opportunities currently exist throughout Nebraska, with communities including Kearney, Aurora, North Platte, South Sioux City, Fremont, Omaha, and Lincoln aggressively campaigning to attract them.

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These are communities that recognize the value of choosing to invest in preparing data center sites. Additionally, Aurora, Kearney, and South Sioux City and Fremont have received funds from our department, Department of Economic Development, to help with their site development to be ready for data centers. The Nebraska Advantage Act, which was enacted in 2005 through LB312, has previously been amended to provide incentives for data centers. Those changes have created a substantial amount of investment, surpassing \$100 million and adding several new high-tech jobs to Nebraska. Companies such as Yahoo, Cabela's, First Data, and many others have established large data center facilities in Nebraska. However, Nebraska communities continue to compete with many states for data center projects, including Iowa, Oklahoma, Kansas, Illinois, Wyoming, and Texas and ones on the West Coast, Oregon and Washington, all of which have created or continued to enhance aggressive incentives for data centers and invest into their economy. Consequently, you can see how important it is for Nebraska to continue modernizing our incentives to remain competitive for attracting this industry niche. LB1118 helps us do that. Thank you for your time today, and I'd be happy to answer any questions. [LB1118]

SENATOR FISCHER: Thank you, Mr. Hamer. Are there questions? I see none. Thank you very much. [LB1118]

GARY HAMER: Thank you. [LB1118]

SENATOR FISCHER: Next proponent, please. Good afternoon. [LB1118]

RON SEDLACEK: Good afternoon, Senator Fischer and members of the Revenue Committee. For the record, my name is Ron Sedlacek, and that's spelled S-e-d-l-a-c-e-k. And I'm here on behalf of the Nebraska Chamber of Commerce as well as the Omaha Chamber, who asked me to include them in the testimony as supporters of the legislation. Our board of directors met this morning and, among other bills, did discuss LB1118 and asked me to appear here and to provide support for the advancement of this legislation to the full Legislature for debate. We believe that the bill brings Nebraska into alignment with surrounding states when it comes to attracting data project centers. What I'd like to do is just spend a little bit of time and just talk about the growing demand for data centers. If you have a bank account or an insurance policy or get medical treatment, you probably have become aware that all of these areas have now just been inundated with federal laws that require the collection or retention of data. And if you use the Internet for your Facebook account or send an e-mail over your Yahoo account, you know how much data is stored when everybody is using this and how much bandwidth is used every minute. And the world is storing more and more data every day. According to the Gartner Group, it's estimated that, worldwide, businesses and companies spend \$100 billion, \$100 billion, to equip data centers--and that was in 2011 alone--and that much and probably more this year. According to a study of 300 IT decision makers in North America, 80 percent of those companies are

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planning data centers...or data center projects in the very near future. So overall it's estimated that there will be 1,000 new data centers in the next decade. Now, looking at Nebraska, if we just landed a mere 1 percent, which is about reflective of our share of the national population, that would be 10 projects. Nebraska is poised to be part of that explosion of new investment. As mentioned before, we do have five communities in greater Nebraska that are ready to go with pad sites built specifically for high-tech projects. And they mentioned the communities, Aurora, Kearney, North Platte, South Sioux City, and Fremont. And they've all invested substantial local and state dollars through the Community Development Block Grant program to create these power park sites. And today we have, I believe, 861 acres available specifically for data center and other high-tech projects of that nature. Now, professional economic developers are telling us that when high-tech companies do look...do begin site selection, do their due diligence, they look for certain things. And one is low-cost reliable energy. Secondly is a climate free from what I'd call it more widespread disasters like major nature, like hurricanes and earthquakes. They like open spaces, often away from major population centers, and that's generally for security purposes. And they need access to solid fiber networks. And they also look for a friendly tax climate. And I guess that's why we're here today. So to level the playing field and compete with our neighboring states, LB1118 does provide for that new sub-tier for large data center projects. And it has to be a minimum investment of \$300 (sic), as the bill is written, and 30 new jobs. And that will make Nebraska more attractive in this arena. And the benefit of the new tier is that it helps us reap the investment that Nebraska has made in technology sites that are ready and waiting across the state and...as well as in the metro area. And it puts us in a position to attract and incent hundreds of high-technology and high-paying jobs. If we can attract a large data center project to Nebraska, I believe others will follow, because it's happened elsewhere. Give you some examples. In Iowa, Google came first, followed by Microsoft. In North Carolina, they had Google and then Facebook, Apple, Disney, and Wipro. In Washington, Yahoo, Microsoft, Intuit, Dell, (inaudible), and s.com. So if we want to be in the game to attract our share of those potentially 1,000 data centers that are going to be built, we believe that LB1118 is a step in the right direction, and it's important that we move this year, because many of these companies have money that they need to invest immediately. This bill helps them to look at and to decide to make that investment in Nebraska. And that's the reason why we are going on record in support of LB1118. [LB1118]

SENATOR FISCHER: Thank you, Mr. Sedlacek. Are there questions? Senator Schumacher. [LB1118]

SENATOR SCHUMACHER: Thank you, Senator Fischer. You mentioned two particular things that they look at as part of their site selection process. One was cheap power. So let's address the cheap power issue. Are we...how many of...considering our electric power generation capacity to generate power at a cheap enough rate to interest them, how many of these data centers could we accommodate in the state? Any estimate?

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[LB1118]

RON SEDLACEK: Oh, wow. That would be beyond my knowledge to answer. I would have to speculate only, Senator, and I wouldn't do that. But we can discuss that with our public power... [LB1118]

SENATOR SCHUMACHER: Well, the reason for that is if they're requiring some special tier of pricing and there's only so much juice available for that special tier of pricing without some major upgrades to generation facilities or something like that, then we need to be choosy on who we let have access to that tier of power. And that was the reason for the question. [LB1118]

RON SEDLACEK: Okay. [LB1118]

SENATOR SCHUMACHER: And maybe set some criteria on that. And the other...along the stretch that you describe, on the interstate, the fiber optic capacity, any study as to how many of these things that could handle? [LB1118]

RON SEDLACEK: I don't have any background information in that regard to supplement. This is generally what the site selection people will do, as they say, for due diligence purposes to make their decision. It's not all exclusively dependent upon one, obviously, but, you know, it's part of the entire process. But to answer your specific question, I don't have the data. [LB1118]

SENATOR SCHUMACHER: And again the reason is, if you assume that either of those two things are finite--that they're not just an infinite asset that we have--and we can only provide them for three data centers, then it becomes the corporate culture, the nature of these data centers that are brought in. And we have to allocate...you know, it may not be first-come, first served is the brightest move. [LB1118]

RON SEDLACEK: Um-hum. And I don't know the capacity of the pie, so to speak... [LB1118]

SENATOR SCHUMACHER: Okay. [LB1118]

RON SEDLACEK: ...as to whether it's limited or it continues to grow. [LB1118]

SENATOR SCHUMACHER: Thank you. [LB1118]

SENATOR FISCHER: Thank you, Senator Schumacher. Senator Brasch. [LB1118]

SENATOR BRASCH: Thank you. And thank you for your testimony. I think it's very exciting that we are being looked at, watched, for opportunities like these. And I believe

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some of the questions asked are valid, by Senator Schumacher. But I do believe even more that those companies, they have a very stringent vetting process that they follow before they would even consider Nebraska. So knowing Nebraska is being considered is wonderful. And as far as a data center, they are typically, you know, opportunities that bring population to communities. Our, say, greater Nebraska, you know, it would help to repopulate. [LB1118]

RON SEDLACEK: And to continue to diversify our economy so that we have... [LB1118]

SENATOR BRASCH: Yes. [LB1118]

RON SEDLACEK: ...when we are faced with economic issues over time in one sector or another, we, you know, to have that diversification is so important. [LB1118]

SENATOR BRASCH: And it does concern me that, you know, if Nebraska hesitates or is--I don't know the word--choosy, that we could quickly lose opportunities like this, that there's a line of people I think across the Midwest that would welcome a data center with open arms. [LB1118]

RON SEDLACEK: That's correct. [LB1118]

SENATOR BRASCH: So thank you for supporting this. [LB1118]

SENATOR FISCHER: Thank you for your comments, Senator Brasch. Senator Pirsch, question? [LB1118]

SENATOR PIRSCH: Not at this time, Chairman. [LB1118]

SENATOR FISCHER: Okay, thank you. Other questions? [LB1118]

RON SEDLACEK: One piece of information for the committee. [LB1118]

SENATOR FISCHER: Were you...oh, I was going to say, were you going to ask yourself a question? [LB1118]

RON SEDLACEK: No. I did want to just inform the committee that the city of Aurora was not able to show up, and so I think there are letters that are being produced by a number of communities. But I just wanted to inform you of that. [LB1118]

SENATOR FISCHER: (Exhibit 13) Okay. Thank you, Mr. Sedlacek. Are there other proponents for the bill? Other proponents? We do have a letter from South Sioux City in support of the bill, from the mayor, William McLarty. Are there opponents to the bill? Any opponents? I see none. Anyone in the neutral capacity? I see none. Senator Cornett,

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would you like to close, please. [LB1118]

SENATOR CORNETT: Thank you, Senator Fischer. Senator Schumacher, just to answer partially one of your questions in regard to power and surplus power in the state of Nebraska, currently we have an excess of power, to the point that we're selling it below cost. Part of what we've been doing over the past few years--and I'm sure Senator Fischer can tell you, with her experiences on Natural Resources--has been to develop our energy sources, and we are now at the point where we are easily eligible or able to export that. The second half of this bill that you have not heard was in the Natural Resources Committee and has already been passed out and has to do exactly with that power question that your asked. With that, I'd be happy to answer any questions that I can. [LB1118]

SENATOR FISCHER: Thank you, Senator Cornett. Questions? Senator Pirsch, question? [LB1118]

SENATOR PIRSCH: How about the concept of fiber? How are we situated in terms of being relatively able to handle things? [LB1118]

SENATOR CORNETT: That was the question that I asked one of the companies that is interested, and they said that we need that. And my direct question was, who's going to pay for it? And the one company that is looking at locating here said they would cover all of those costs. [LB1118]

SENATOR PIRSCH: Okay. [LB1118]

SENATOR FISCHER: Other questions? I see none. Thank you, Senator Cornett. With that, I will close the hearing on LB1118. And that closes the hearings for the day. [LB1118]