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Revenue Committee
February 09, 2012

[LB902 LB1050 LB1085 LB1097 LB1108]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 9, 2012, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1050, LB902, LB1085, LB1097, and LB1108. Senators present: Abbie Cornett, Chairperson; LeRoy Loudon, Vice Chairperson; Greg Adams; Lydia Brasch; Deb Fischer; Galen Hadley; Pete Pirsch; and Paul Schumacher. Senators absent: None.

SENATOR CORNETT: Good afternoon. My name is Senator Abbie Cornett, from Bellevue. To my left, Senator Loudon will be joining us shortly. He's in a press conference. Senator Deb Fischer will be to his immediate left, as will Senator Greg Adams from York. To my far right is Senator Schumacher from Columbus; Senator Brasch from Bancroft; Senator Pirsch from Omaha; and Senator Galen Hadley will be joining us from Kearney. Committee clerk today is Matt Rathje; the research analyst is Stephen Moore. Pages are Michael Killingsworth and Matt McNally. Before we begin the hearing, could I advise everyone please to turn your cell phones to silent or off. There are testifier sheets by the tables by both back doors and they need to be filled out prior to coming up to testify. When you come up to testify, please submit that form to the committee clerk. If you do not wish to testify but wish to indicate either your support or opposition to a bill, there are sign-in sheets also by the back doors. That will be included in the official record. We will follow the agenda posted on the door. The introducer, followed by proponents, opponents, and neutral testimony. Only the introducer will have 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. If you do not have ten copies, we will make copies for you. When you come up to testify, hand the copies to the pages. With that, I'm going to turn it over to Senator Pirsch.

SENATOR PIRSCH: Thank you, Chairman Cornett. Our first bill for consideration today is LB1050, of which, Chairman Cornett, you are the sponsor and whenever you're ready.

SENATOR CORNETT: Good afternoon, Revenue Committee. My name is Abbie Cornett, C-o-r-n-e-t-t. I represent the 45th Legislative District. LB1050 presents a way for Nebraska to increase state sales tax revenues through the recruitment to the state of procurement companies that will consummate their purchases of good in this state. These companies typically are organized as subsidiaries or affiliates of other corporations and they purchase goods for resale to the affiliated corporation which then consumes the goods in the operation of its business. Purchases of those goods currently are being consummated elsewhere. Here is how this bill would work. The bill grants authority to the Department of Revenue to contract with firms that will recruit companies to locate in Nebraska, their subsidiaries, or affiliates responsible for purchasing goods or for use in the operation of the company's business. This is purely

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discretionary. The department is not required to do this. In fact, it may elect not to enter into such contracts if the Governor determines the...or to enter into a contract if the Governor determines the contract is in the best interest of the state based on the amount of new sales tax revenue it would generate for Nebraska. The contract may include a rebate as an incentive to the firm paid from a portion of the state sales tax generated on new sales that result from this effort. This only applies to state sales tax. There would be no impact on local taxes. I'm also preparing an amendment that will address the impact on the Highway Capital Improvement Fund and the Highway Allocation Fund. We noticed yesterday when we were going over the bill that that was an issue that needed to be addressed. New sellers would be subject to all of the reporting, auditing, enforcement, and confidentiality provisions that apply to other sellers in the state. The state cannot contractually waive any of these requirements. The department will be required to report annually to the Legislature on the success of this program providing information on the number of contracts entered into, the total taxable sales generated by the contract, and the total tax dollars generated for the state. This bill incorporates that major component of this arrangement would be set forth in the contract, but it does set certain parameters for the contract. If you remember, last year we had LB642 which also allowed the state to enter into contingency agreements. The bill defines new taxable sales. This is done to assure that we are incentivizing only new sales. Sales already occurring in Nebraska could not be swept into the incentive. I've received a couple of questions in this section of the bill and will be looking at that a little bit further. It provides for an initial term not to exceed 20 years. That assures this is truly a long-term arrangement for the state so the state has greater certainty about this revenue source. It also protects the state against companies that might attempt to cross shop by coming to Nebraska initially but then looking for another state that might provide a higher incentive. The bill provides that the state law barring the state from entering into percentage or contingency fee contracts do not apply here. The intent is that the cost of this program come out of the new tax dollars generated by it. That is inherently different. It makes it a contingency fee arrangement and this waiver is then needed. The bill provides that there are no need for a public bid. Public bids are not needed because this is an exclusive one service provider. I'm currently working on an amendment to clarify the application of the bill to the current Nebraska companies, building an additional provision to allow for escrow of certain amounts to make sure the state is in a position to be made whole on payments that might be made in error, also to work on these and other issues which were raised in the current fiscal note. If you look at the fiscal note, it raises some concerns and those are the amendments that we are working on. I am always willing to work with the committee on any issues that they may foresee with this bill. There are people here to testify after me that can explain exactly how this mechanism works. The one thing I want to stress is this is a little bit different than the other incentive programs that we're talking about. We do not turn anything back until we actually have the revenue and we've actually generated the revenue and have that. And then we turn a percentage of that sales tax revenue back. With that, I'd be happy to answer any questions that I can. [LB1050]

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SENATOR PIRSCH: Wonderful. Are there any questions? Senator Schumacher.
[LB1050]

SENATOR SCHUMACHER: Thank you, Senator Pirsch. Senator Cornett, why does this have to be an exclusive contract? [LB1050]

SENATOR CORNETT: Well, the state could enter into more than...with contracts with more than one company. But this would be a contract with the company to...for these sales tax benefits so, I mean, if there was another company that came in and could provide the same service. [LB1050]

SENATOR SCHUMACHER: Let's say as things evolve over time there's a half a dozen of these companies that want to compete and make different deals. Why are we looking at one...an exclusive contract? [LB1050]

SENATOR CORNETT: I may be incorrect on just the exclusive for this. But the contract that the state would enter into would be for one company providing services to the set businesses. And I don't see that there would be any reason why another company couldn't come in and offer the same. It would just be for different businesses. [LB1050]

SENATOR SCHUMACHER: And this is not to buy state stuff. This is for public companies to buy. [LB1050]

SENATOR CORNETT: Correct. [LB1050]

SENATOR SCHUMACHER: Thank you, Senator Cornett. [LB1050]

SENATOR PIRSCH: Are there any other questions? Seeing none, we'll move to...we'll start with proponents. Can I get an understanding of how many proponents? Can you raise your hand if you're a proponent on this bill? Okay, three of you. Very good. We'll start with our first proponent at this point in time if you'd like to come up and... [LB1050]

WALT RADCLIFFE: Mr. Chairman, members of the committee, my name is Walter Radcliffe, and I'm appearing before you...R-a-d-c-l-i-f-f-e. I'm appearing before you today as a registered lobbyist on behalf of Ryan LLC, which is an international tax consulting firm offering tax advice to large businesses and corporations. It does not perform services that a CPA firm would perform as far as attestation and auditing. It's a tax advisory company. Let me start out and address Senator Schumacher's question. I think we're dropping syllables. Any contracts would be nonexclusive in nature. Okay? And the reason they'd be nonexclusive is because there would be multiple companies that could provide the same service and benefit to the state. Okay, now I can circle back around to that. But, you know, let me start with a very fundamental thing about LB1050.

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You have listened to bills for as long as you've been in the Legislature, and I've listened to them as well ever since LB775 in 1987 that was premised upon businesses coming to the state, coming to the Legislature and saying, if you give us X, we will do Y; we will build a headquarters, we will create X number of jobs. And there were always these thresholds, if you will, for companies to meet to receive those benefits. The state, I guess for lack of a better way to put it, is the at-risk party. They are putting something out in hopes of performance by another party, another business. Well, quite frankly, LB1050 really reverses that paradigm, and it does it in the area of sales tax. Now, yes, sales tax and sales tax is also included, I realize as far as rebates go in that plethora of other incentive bills that we have. But what this bill is doing is it is taking Nebraska law, if you will; it is using the law that we have in the state of Nebraska with regards to sales tax. And there are less...there's probably about six other states that have a law similar to this, and it relates to the situs of the sale. In other words, if the transaction occurs in Nebraska, if payment occurs in Nebraska on a sale, you pay tax on it in Nebraska. Okay? And as I say, Nebraska is one of a few states that has this. And that's why there's no change at all required or being asked for in the tax law to do this. It simply allows the state of Nebraska to enter into a contract to take advantage, if you will, of that sales tax provision, which I'll come back to and explain in just a moment. Presently most of the incentives we have are designed to get corporate headquarters, distribution centers, manufacturing plants, in some instances, you know, the telephone exchanges, in other words, pretty much on the corporate side, the production side. What LB1050 is designed to do is to go after an entirely different segment of American business, and that segment is the procurement segment, the entities within Fortune 1000 companies or major companies that actually procure goods for that company and use them then around...distribute them around the United States. So what a company like my client would do, and there's somebody here that is going to get up and talk specifically about it, but it's easier to illustrate it on this basis than it is to talk theoretically. They would come to the state of Nebraska and they would say to the Revenue Department and to the Governor: Look, we believe that we can generate X amount of sales, X amount of procurements in Nebraska from the following companies, and that's going to result in sales tax being paid at the rate of 5.5 percent. Now in all reality they're going to locate themselves outside of the incorporated confines of a city so that you don't have the half-cent to 1.5-cent and hopefully 2-cent sales tax. But nonetheless, they'll be there with the 5.5-cent sales tax. Okay. So they're going to say to the state, hey, we can get X sales here through our situs law; and what we are asking you, the state of Nebraska, to do is to enter into a contract with us. And, Senator Schumacher, this is why it would be a nonexclusive contract because there could be multiple companies, multiple companies that would come in. The reason you don't have an RFP is because, quite frankly, the state isn't asking for it. It's something that someone is going to come in and say this is what we will do; and furthermore, through that contract, this is what we will pay you. This is what we will pay you, the state of Nebraska, in return...or this is what...let me say it that way: this is what the state of Nebraska will get. So Ryan comes in, let's just take...they've got the ABC Telephone Company. There's not an ABC

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Telephone Company, I hope. But anyway, and they come in and they say, you know, they're going to buy however many, \$50 million worth of switches, and they're going to use them in all their exchanges around the United States. So Nebraska is going to collect that 5.5 percent on those \$50 million worth of switches. And then whatever the contract provides...and this is going to be negotiated between the Revenue Department, obviously with the oversight of the Governor, and the procurement company. Whatever that contract provides, the state is going to pay the procurement company. They're going to pay Ryan that amount of dollars. And it's going to come out of that 5.5 percent sales tax. Now quite honestly what Ryan is going to do is they're going to have an agreement with the company that they are representing and working for, which will have a physical presence in Nebraska, and they are going to refund to them a portion of that sales tax that they got paid as a fee. So what it does, what the bill does in that regard is it does reduce the amount, if you will, at the end of the day. It doesn't reduce the amount of sales tax Nebraska gets, but the net result back to the company is they're paying less sales tax. Now Ryan, they'll come up and they will explain to you really what their business model is. You all know me. You know I am no tax expert, and I'm not going to hold myself out to be one. But I do understand the bill, and it really is a new way to do things. If you take a look at the fiscal note, I'm not going to walk you through it, but at the bottom of the first page there's about four, five graphs there that the Revenue Department has offered some suggestions on. The amendments that Senator Cornett was speaking about go to those paragraphs. And, Senator Fischer, you and I both have, and others do too, an abiding interest in the quarter-cent earmarked sales tax. The only thing I can tell you is that this will only get more money for that rather than less. In fact, one of the provisions in the bill and perhaps it's in the amendment that Senator Cornett is going to offer, is that the state can only enter into these contracts if there is a net gain to the state as a result of it. I've just about exhausted my knowledge so I'm going to quit in hopes that if you have any questions it covers that little bit that I haven't already said. [LB1050]

SENATOR PIRSCH: Are there any questions? Seeing none... [LB1050]

WALT RADCLIFFE: I'd like to introduce Gerry Ridgely, who is a principal with Ryan LLC. Thank you very much. [LB1050]

SENATOR PIRSCH: Mr. Ridgely, if you could just start out by stating your name and spelling it for the record. [LB1050]

GERRY RIDGELY: Sure. Mr. Chairman, members of the committee, thank you very much for allowing me to be here. My name is Gerry Ridgely, R-i-d-g-e-l-y. I am a principal and the chief operating officer of Ryan LLC. We're headquartered in Dallas, Texas. We represent about 6,500 clients worldwide in about 40 different countries with over 900 employees. Here in the U.S., our primary focus is Fortune 500, Fortune 1000 companies. We represent them in all facets of what they do from procurement to tax

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compliance to representation and assistance on tax audits to fraud and forensic reviews. One of our service offerings could benefit from this bill and that is our procurement processing service offering. What we do with that service offering is we basically for multinational companies operate as their purchasing company. So they outsource their purchasing company activities, their procurement company activities to us, trying to streamline that process. And the best way that I can put it is, it is in today's economic environment very difficult for companies to hire the true subject matter experts in every aspect of a business. So what they had Ryan do is we have hired the subject matter experts and we leverage those subject matter experts across the dozens of clients that we represent in this service offering. So now that, you know, those ten companies that maybe couldn't hire that one person to handle a certain piece of their pricing of the purchase of office equipment, now they have a true subject matter expert in office equipment and they're sharing that cost with other clients. I think that the bill has been covered quite well with the last two testimonies. But I would say that this bill allows Nebraska to compete with the other jurisdictions out there that have these types of incentives for procurement companies, allows them to compete to attract those companies to the state of Nebraska. And I think that once the bill has been passed, if we get that far, I think that we would be able to work with the Governor's Office and the commissioner to develop a plan to attract some very, very substantial companies to the state of Nebraska, which will generate significant tax dollars. We've run estimates based on our experience in some of the...just the procurement that we're handling, and based on those numbers, we think the numbers could be in excess of \$50 million a year of benefit to the state of Nebraska. So Walt being the true educator he is, educated me that he's a golfer and he told me you always sandbag the numbers, so the numbers could be bigger. But basically I'm happy to answer any questions. I think this is a great bill. It's a great bill for the state of Nebraska. When we were approached a little over a year ago by Senator Cornett with the initiative for the state of Nebraska to raise revenue, to generate revenue, to come up with new ideas, we were excited about it. We're still excited about it today and hopefully we'll be able to form a partnership that will last us several decades, so. [LB1050]

SENATOR PIRSCH: Wonderful. Are there any questions? Senator Brasch. [LB1050]

SENATOR BRASCH: Thank you, Senator Pirsch, and thank you, Mr. Ryan (sic), for your testimony and being with us here today. Do you have...your corporate headquarters is in Texas. Do you have any existing procurement processing companies elsewhere in the country? [LB1050]

GERRY RIDGELY: We have operations elsewhere in the country in several other states. We do not have operations in Nebraska yet. [LB1050]

SENATOR BRASCH: How many other states are you located in currently? [LB1050]

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GERRY RIDGELY: We have currently three other states where we have locations and two other states that we have been looking at. [LB1050]

SENATOR BRASCH: Can you give us a ballpark range what those states see in raised revenues from their procurement processing company? [LB1050]

GERRY RIDGELY: Senator, because of the contract, and I'm always a little bit hesitant to share numbers, but I will tell you those numbers are significant. The estimates that we've used have been on the activities in some of those other jurisdictions is how we came up with the estimates that I've shared with you today so. [LB1050]

SENATOR BRASCH: Is every one over \$1 million? [LB1050]

GERRY RIDGELY: Oh, yes, ma'am. [LB1050]

SENATOR BRASCH: Over \$10 million? [LB1050]

GERRY RIDGELY: Yes, ma'am. [LB1050]

SENATOR BRASCH: Very good. Thank you. I have no other questions. [LB1050]

GERRY RIDGELY: Okay. [LB1050]

SENATOR PIRSCH: Are there any other questions? Senator Louden. [LB1050]

SENATOR LOUDEN: Yes. Thank you, Senator Pirsch. Just so I kind of get this straight, as a procurement company, you'd be something like a headhunter on the local level, I mean or for finding people to work? I mean you're going out here and finding companies that will come into Nebraska and locate here. Is that what you do? [LB1050]

GERRY RIDGELY: Senator, most of the clients we represent are already looking for places to go. So we're always discussing our service offerings with every new client we talk to. We've got about, as I said, 900 folks that are with the firm, probably about 50 of those are actively seeking new accounts on a daily basis. And this is a service offering that we would be excited to share with all new companies that we talk to as well as the existing client base that we have. [LB1050]

SENATOR LOUDEN: Okay, yeah. In other words you got a list of these companies and your job is to try and find them a new nest. [LB1050]

GERRY RIDGELY: Find them a new nest and then once we find them the new nest we build the nest for them, we make sure the nest has food, we make sure that the nest is well kept, we basically operate the nest for them. [LB1050]

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SENATOR LOUDEN: Now what do you get out of that? [LB1050]

GERRY RIDGELY: Our fees are paid from the various companies that we represent. Normally there's an arrangement with them to pay us out of the net proceeds so we're taking risk with them that this is going to benefit them. [LB1050]

SENATOR LOUDEN: Now where does this bill come in then? We're supposed to, what would you say, have a handful of feathers here is what we're trying to come up with for that nest? Is that what we're supposed to do with this bill when you want tax incentives and that sort of thing? [LB1050]

GERRY RIDGELY: The tax incentives will help us recruit those purchasing companies to the state, correct. [LB1050]

SENATOR LOUDEN: But then what's the...I guess what's the purpose of this bill then, LB1050? [LB1050]

GERRY RIDGELY: This is...my understanding, and again, I'm not an attorney, but this bill allows the Governor and the commissioner of revenue to have the authority to enter into a contract with us that will provide for the incentive benefits. Without the incentive benefits, I mean without this authority, they can't enter into that contract. [LB1050]

SENATOR LOUDEN: Okay. Then that's all this bill is about is to give the Governor and the Tax Commissioner authority to enter into a contract. [LB1050]

GERRY RIDGELY: Correct. [LB1050]

SENATOR LOUDEN: Okay. Thank you. [LB1050]

GERRY RIDGELY: Yes, sir. [LB1050]

SENATOR PIRSCH: Very good. Any other questions? Senator Schumacher. [LB1050]

SENATOR SCHUMACHER: Thank you, Senator Pirsch. Just one quick question on the items procured by your company for another company. When they use those products in another state, do they pay use tax on them in another state? [LB1050]

GERRY RIDGELY: They will pay use tax to the extent that additional tax is due. To give you an example, there are certain states that have a much higher rate than the state of Nebraska. So when we procure, let's say it's a piece of equipment for the ABC Company that Mr. Radcliffe referred to earlier, they will more than likely have to pay the additional tax. So if there's a 5.5 percent tax here in the state of Nebraska, let's say they

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go into a state where it's a 9 percent tax, they're going to have to pay that delta in additional use tax. [LB1050]

SENATOR SCHUMACHER: If they pay more here, then they would not pay use tax there. [LB1050]

GERRY RIDGELY: Correct. [LB1050]

SENATOR SCHUMACHER: Thank you. [LB1050]

SENATOR PIRSCH: Are there any other questions? Seeing none, I thank you for testifying here today and we'll move on to the next proponent. [LB1050]

GERRY RIDGELY: Thank you very much. [LB1050]

RON SEDLACEK: Good afternoon, Senator Pirsch and members of the Revenue Committee. My name is Ron Sedlacek, spelled S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce and I also signed in on behalf of the Omaha Chamber of Commerce in support of LB1050. As has been explained before, this is a new type of incentive, and it attracts a new market to Nebraska as explained to us. And with the amendments as they were explained to us, we would certainly support this legislative bill. We see this as the state incurring minimal, probably no risk in the sense that no contract is going to be entered into unless there's a net gain for the state of Nebraska. It's with the discretion of the Governor and the Tax Commissioner. And we'd just like to reiterate our support for the legislation. [LB1050]

SENATOR PIRSCH: Wonderful. Are there any questions for Mr. Sedlacek? Oh, Senator Brasch. [LB1050]

SENATOR BRASCH: Just one. Do I understand that should this get passed and approved beside the millions of dollars that we could gain in revenues that there will also be a physical presence of additional companies, that there will be an office of some type with some employees and multiple corporations possibly being housed in a business collaborative of some type? [LB1050]

RON SEDLACEK: That's what my understanding is. I just wanted to get affirmation in that regard, but that's how we understand it. [LB1050]

SENATOR BRASCH: And then more than likely...thank you...these businesses will probably be businesses that may not have existed in Nebraska before. They're new business to... [LB1050]

RON SEDLACEK: That's exactly what we understand. That's correct. [LB1050]

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SENATOR BRASCH: Very good. I have no other questions. [LB1050]

SENATOR PIRSCH: Wonderful. Any other questions? Seeing none, I thank you for coming down here today and testifying. [LB1050]

RON SEDLACEK: Thank you. [LB1050]

SENATOR PIRSCH: We will...are there any other proponents? Seeing none, could you raise your hand if you are an opponent of this, here to testify as an opponent? Seeing none, is there anyone here to testify in a neutral capacity on LB1050? Seeing none, Senator Cornett to close. [LB1050]

SENATOR CORNETT: Last year when we were looking at budget cutting and we had the process where all the committees who were assigned the task of going through and looking where to cut money, besides looking at where to cut money I looked at where to generate money. And this was one of the ways that we could guarantee the state increased revenue without risk in regards to the guarantee of no net loss. On top of that, when you talked about the number of employees, I believe Ryan told me that there would be around 60 employees to start with and their average salary is over \$80,000 a year per employee. They will locate outside the municipal boundaries of a city because they do want the 5.5 percent sales tax so there is no reason that you would not see them locating outside of the metro area. It is a unique idea. I brought it to the committee last year. It needed some further vetting and further explanation, and we've spent quite a few months now working on that and working on the bill. And I hope the Revenue Committee sees fit to send it out. With that, I'd be happy to answer any questions. [LB1050]

SENATOR PIRSCH: Any questions? Thank you very much, Chairman Cornett, and I'll turn the mike back over to you. [LB1050]

SENATOR CORNETT: Senator Harr. [LB902]

SENATOR HARR: Senator Cornett and members of the Revenue Committee. [LB902]

SENATOR CORNETT: I didn't even hear you sneak in then. [LB902]

SENATOR HARR: I apologize for being late. I had a riveting...Senator Hadley had one on parental rights, always exciting and noncontroversial. [LB902]

SENATOR CORNETT: I've brought a couple of those myself, so yeah, I understand completely. [LB902]

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SENATOR HARR: Yes. Which one are we starting on? I don't even know. [LB902]

SENATOR CORNETT: LB902. [LB902]

SENATOR HARR: LB902. I apologize. Okay. [LB902]

SENATOR CORNETT: Whichever one you'd like; how's that? [LB902]

SENATOR HARR: (Exhibits 1 and 2) Senator Cornett and members of the Revenue Committee, my name is Senator Burke Harr, H-a-r-r, and I am from Legislative District 8 in Omaha, representing the areas of Benson, Dundee, Keystone, and other parts. I come before you with LB902. This is a bill that has to do with sales and property tax. Earlier this year, the Property Assessment Division of the Nebraska Department of Revenue revised existing law regarding exemption from sales and property taxes for certain nonprofit corporations. The department determined that these nonprofit corporations, also known as 63-20 corporations, are not property of the government nor its governmental subdivision, and therefore not entitled to an exemption from sales and property tax exemptions. A quick little history: I'll start by explaining what these nonprofit corporations are, and then...well, a 63-20 corporation is a private nonstock corporation formed under the Nebraska Nonprofit Corporation Act. A nonprofit corporation must be for a lawful purpose other than for pecuniary profit, including, without limitation, any charitable, benevolent, educational, civic, or scientific purpose. Charitable purposes include lessening the burden of government, which can be accomplished when a nonprofit corporation provides a benefit or service traditionally offered by the state or its government unit. Like other nonprofit corporations, no dividends are paid and no part of the income or profit of a 63-20 corporation may be distributed to its members, trustees, or officers. A 63-20 corporation is regulated by the state Attorney General for compliance with the Nonprofit Act, by state tax authorities--as we have seen--for compliance with the requirements relating to their state income tax exemption, and by the Internal Revenue Service on the federal level for compliance with the requirements relating to their federal income tax exemption and the issuance of tax-exempt debt. A 63-20 corporation issues bonds to generate money to acquire, construct, or equip public buildings, which are then leased back to the sponsoring governmental unit in exchange for a lease payment sufficient in amount to pay the debt on the bonds. When the bonds are paid at maturity, which coincides with the expiration of the lease, title to the building must be transferred back to the governmental unit. Recently, the department determined, after looking at case law, interpreted 63-20 corporations as being nonexempt for sales and property tax reasons. These are used for...well, I can tell you in Omaha it's been used on the TD Ameritrade Park recently, but it's very commonly used when I was in private practice in a law firm, they were done quite often. It's used by school districts. It's used by community colleges. It's used by municipalities. The list goes on and on. We have a fiscal note I'd like to address quickly. Well, let me just...on property...well, on taxes. And there will be those following behind me who can talk a

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little bit better about it. But to give you an example, in Omaha, the fiscal note is actually--and I hate to say it--too low. The costs are actually going to be greater than what we have in the fiscal note. Now as Senator Hadley, who is not here, said so wisely earlier this week when you were talking about Yahoo, this is money you never had so you're not going to miss it. And we still have the private...we still have the investments. But in Omaha, for instance, the new TD Ameritrade Park, there will probably be \$2.68 million in sales tax that the city would owe...excuse me, property tax. Sales tax would be \$3.5 million. And then the expanded city-owned hotel would be an additional \$980,000, or approximately another million dollars. That's just Omaha. This is done all throughout the state. Now you're going to hear very few specifics because wisely a lot of people don't want to flush themselves out and make themselves available to the Department of Revenue. But you will hear from some organizations that do represent these entities. I also have some letters. I have a resolution from the city council of Plattsmouth expressing support for LB902. I have a letter from the Nebraska Council of School Administrators and the Nebraska Association of School Boards showing support. There will be others coming behind me who can give more in-depth analysis. But I am more than willing to try to answer any and all questions you may have. [LB902]

SENATOR LOUDEN: Questions for Senator Harr? Seeing none, thank you for your testimony. [LB902]

SENATOR HARR: Well, thank you for being gentle. [LB902]

SENATOR LOUDEN: The first proponent for LB902. [LB902]

PAUL KRATZ: Hello. My name is Paul Kratz, K-r-a-t-z. I'm the city attorney in Omaha, Nebraska. Senator Harr has done a nice job of explaining what a 63-20 corporation is. It gets its number or name from the IRS Code. In order to issue tax-exempt bonds, we need to set up corporations, these nonprofit corporations, in a particular manner. This manner ties a corporation very tightly to the government. In fact, it is essentially part of the government. Over 30 years ago, we set up what we call the City of Omaha Facilities Corporation. It's a not-for-profit corporation. It does issue bonds. It holds title to the property that is then constructed until the bonds are paid off and then the title goes back to the city. In fact, it must go back to the city under the IRS regulations. The board of directors are set up so that they are appointed by the mayor. They can be removed by the mayor. The city council approves these corporations; the city council approves the capital expenditures for the corporations. So they are...so they are essentially...these nonprofit corporations are essentially part of the government. As I mentioned earlier, we've been doing this for 30 years up in Omaha. We have built eight parking garages; we've built a library; we've expanded Rosenblatt. We have built, as Senator Harr mentioned, the new TD Ameritrade Park. We've built the city-owned hotel and expanded it recently. The Revenue Department just recently, just this last summer, decided that those items should be taxable. This will cost the city as following: With the

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parking garages, we figure we'll be paying a \$1.3 million a year in property taxes; the new ball field will be \$2.7 million a year in property taxes; sales tax on the ball field is \$3.5 million, as Senator Harr mentioned; and the hotel is almost \$1 million. This money is money that will come out of the taxpayer's pocket. It will come from the city of Omaha and go to another governmental entity. It was kind of bridging back to I think the reason behind these exemptions for governmental entities is that it makes no sense to move money from one entity to another entity when they're both government's. This new ruling has been a change in that regard. Finally, I just want to mention there's been some indication that perhaps we ought to do either property tax or sales tax. And I suggest that that's an inappropriate analysis in this case because the real issue here is whether or not these 63-20 corporations are a part of the government. And I suggest that they are part of that government, and if so, then both property and sales tax should be exempt as opposed to simply one or the other. With that, I'm available for any questions. [LB902]

SENATOR CORNETT: Questions? Senator Adams. [LB902]

SENATOR ADAMS: Thank you, Senator Cornett. A couple of questions for you. How does this...? You know, I understand the theory behind it. How does this mesh with Supreme Court decisions on property tax on...well, coming from York, I remember we had airport property and we had landfill property. Is this the same legal relationship as was carved out in that court ruling? [LB902]

PAUL KRATZ: And I've got to admit I'm not sure what court ruling you're talking about. This is a relationship set forth by the IRS regulations many years ago and that we follow in order to issue tax-exempt bonds. [LB902]

SENATOR ADAMS: Okay. Well, in that case the county was taxing the city on land around the airport that FAA demanded that we have, but it was being leased for farm purposes though the money was going back into the airport. The list goes on. And you're probably familiar with that. [LB902]

PAUL KRATZ: Yeah, and that...I remember that case now. The difference with that, as I recall, was the lease of the property to an individual. In other words, it was a proprietary operation of the airport, and that is what was taxable. [LB902]

SENATOR ADAMS: Good point. Thank you. One other question if I may. In the list of things that you put down, the Qwest Center, the ball park, did I hear you say hotel also? [LB902]

PAUL KRATZ: We didn't do the Qwest Center. We did general obligation bonds with the Qwest Center. Yes, the hotel, we did do that with the hotel. We have again the facilities corporation that owns the hotel. Same setup. That hotel is connected to what is now the

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CenturyLink Center. It was built specifically to take care of, to serve the CenturyLink Center's part of the entire operation in that area. [LB902]

SENATOR ADAMS: So to be the devil's advocate for a moment, then if I can understand the ball park and I can understand the Qwest Center... [LB902]

PAUL KRATZ: Why the hotel? [LB902]

SENATOR ADAMS: Well, I know why the hotel. But why the hotel? [LB902]

PAUL KRATZ: (Laugh) Again because of the connection with the Qwest Center. [LB902]

SENATOR ADAMS: But where do we draw the line? [LB902]

PAUL KRATZ: And that's maybe where you get into, you know, what's proprietary, what isn't. Again, under the state statutes...well, we get turnback from the hotel, I should mention. That was required that we be connected to the hotel--I mean connected to the Qwest Center--again to help feed, to help get people into the CenturyLink Center. I think, you know, that is kind of line where...of what I see in the statutes. [LB902]

SENATOR ADAMS: Okay. Thank you. [LB902]

PAUL KRATZ: Um-hum. [LB902]

SENATOR CORNETT: Further questions? Senator Schumacher. [LB902]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Thank you for your testimony today. How does the fairness issue come into play here with essentially the city operating a hotel and private parties operating a hotel? Why should one be treated differently than the other? [LB902]

PAUL KRATZ: Because a hotel would not have been built at the CenturyLink Center but for the city building that hotel. There are very few, if any, private hotels being financed. And at the time we did it, which is in 2004, there weren't any privately financed hotels. The cost of a hotel is too expensive. The operations are too expensive. So the city decided that in order to make the CenturyLink Center work, we had to step up and build a hotel to connect with it and to work with it. [LB902]

SENATOR SCHUMACHER: Couldn't any private party make the same argument and say that, you know, this wouldn't have been built except that I built it? [LB902]

PAUL KRATZ: A private party would not have built the hotel there. We wish they would

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have. [LB902]

SENATOR SCHUMACHER: I'm going to build a new hotel in Omaha tomorrow and say, hey, I should be tax-exempt because I wouldn't...unless I build it, it's not going to be built there. [LB902]

PAUL KRATZ: Again, this was done in connection with the CenturyLink Center for the purpose of feeding off onto that to bring in corporations so there would be places to stay. There's no place to stay in that part of town. There are two limited-service hotels several blocks away. There were no full-service hotels probably within half a mile of the CenturyLink Center. [LB902]

SENATOR SCHUMACHER: Well, why wouldn't we have created a fund to subsidize a private developer to do it, just like we do with the phone companies? [LB902]

PAUL KRATZ: That would have been fine. It was done at the time. [LB902]

SENATOR SCHUMACHER: Thank you. [LB902]

PAUL KRATZ: Um-hum. [LB902]

SENATOR CORNETT: Further questions? Seeing none, thank you, Mr. Kratz. [LB902]

PAUL KRATZ: Thank you. [LB902]

RANDY GATES: (Exhibit 3) Good afternoon. I'm Randy Gates, finance officer for the city of Norfolk. And I think I'm the person that started this whole issue on taxation of public facilities corporations. The city of Norfolk has had as a priority for a long time getting a new city hall, kind of a plain vanilla-type public purpose building. And we had a good opportunity fall out of the sky for us. Supertel corporation was downsizing. They changed the way their operations were, and were decentralizing some of their operations, and their headquarters was in Norfolk. They had a nice, fairly new building that was just ideal for our needs. And they wanted to sell that building and they had several interested parties, and we were one. And we needed to move fairly quickly on that. They wanted to know they had the building sold. They needed to do a build-out on their new property in town. And if we would have had a geo bond election, I think we would have lost out on this opportunity. It would have simply taken too long to have that election. So we decided to at least purchase...we haven't done very many of these in the past. The only one I can think of for real estate was when a...we were buying land for a water tank or a water tower and the individual we were buying it from wanted it structured for tax purposes as an installment sale. And the easiest way for us to do that was through the lease-purchase statutes. We expected this to be tax-exempt. There was widespread public support for the building. I had made a call to the Madison County

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Assessor primarily to find out when we needed to close this sale in order to qualify for exemption in 2011. He questioned whether it was tax-exempt to begin with, and said he was going to kick this upstairs, talk to the Department of Revenue about it, and get back to me. And I expected that answer to be that it's tax-exempt because as the previous testifiers have indicated, this is done all over the state and it's been done for a long time. In the handouts I gave you, there's I believe it's item 4 in the handouts, which is 19-2421 of statutes. That comes from 1969 laws that specifically authorizes lease-purchases for municipal governments in the state. So this isn't a new thing. It's been around for a long time. I don't think anybody has paid property tax on these types of things. So I expected the answer to come back: this is tax-exempt. We were quite surprised when the opposite answer came back that it was taxable. And we had quite a few discussions with the Department of Revenue about why this was considered to be taxable. And my understanding is that...and there's a handout in here that they gave with the meeting they had with Senator Flood, and I believe that handout is item 2.c., outlining why they thought this was taxable. It basically goes back to LB271, passed in 1999. It was enabling legislation for Amendment 2C. And Amendment 2C was the constitutional amendment approved by the voters in November 1998 to allow the state to tax...or allow the state to pass legislation. It will create taxability of publicly owned property that was privately used. I think Senator Adams addressed some of that when he talked about the airport authority and how their property was being taxed. This came about because of Amendment 2C, I believe, which the enabling legislation was LB271. And since that land was probably being leased to someone to farm it, it was being considered privately used, publicly owned property, and therefore, subject to tax. There was nothing in Amendment 2C to tax publicly used property. It was all to tax privately used property. However, when the implementing legislation, LB271, which was passed in 1999, took effect, in order to get...it was related I believe primarily to property held by nonprofits that were acting as foundations for the university, say. These nonprofit corporations, a university foundation, have money to invest. They may put it in stocks; they may put it in office buildings or farmland. They're going to expect a return from that money. And, say, the University Foundation owned an office building; they're going to get profits from that privately...that office building that's leased to a private entity. That's going to go back into the foundation and be used for the benefit of the university. Section 21-1927 of statutes clearly provided for that type of an arrangement, but it had a sentence in there that said that a nonprofit automatically got the tax status of the entity it was benefited to create. So if the university is tax-exempt, any property that that nonprofit foundation owned was tax-exempt. So the office building in this example would be tax-exempt. It's a privately used office building basically held for the benefit of the university, and it's tax-exempt. If that would not have...if that sentence wouldn't have been taken out of 21-1927 with LB271, the will of the voters for privately used property to be taxed, as they expressed it when they approved Amendment 2C, would have been thwarted. That's why that one sentence was taken out of there. The Department of Revenue is pointing to that one sentence that was taken out in LB271, and they're saying because that automatic exemption was removed, we think that this makes the publicly used

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property, that's owned by nonprofits, taxable. I think that's clearly wrong. We believe that publicly used property held by nonprofits, the 63-20 corporations that Senator Harr referred to, clearly they are tax-exempt. I believe that's the case under current law. We filed a tax-exempt request with Madison County for the building we purchased from Supertel. Based on current law, the Department of Revenue's interpretation is that it is taxable. I don't know how Madison County will rule on that, but if they rule it's tax-exempt, the Department of Revenue could appeal that. I think we need LB902 to clarify what I believe existing law already says, that those types of transactions are truly tax-exempt. They are simply financing transactions. And the Department of Revenue has that regulation, 21.006 (sic--20.006), I believe it is, and I included several copies of that in the handouts. Item 3 is how it currently exists, and then I also included as it existed in 2000 when LB271 went into effect. And that regulation applies to personal property, but it says it's really...a lease-purchase is really simply a financing transaction. The government is really the owner of that property and we're going to tax it like they're the owner, and they do that on personal property but they don't do that on real property. There is no reason for the distinction in statutes or the constitution. If the personal property should be taxed because of what happened with LB271, so should the real property. Or vice versa, I guess, would be the appropriate analogy here. And there was a letter that I've included in here that came from Baird Holm that was sent to the Douglas County Assessor back on December 19, 2000--that's 2.a. in the handout--asking about, okay, now that we've got this in place, is that going to make the property that the school district is lease-purchasing taxable? And they refer to conversations that they had with the Property Tax Administrator who referred back to 21-006.03 (sic--20.006.03), that personal property tax reg, where he said that the reasoning is the same; this remains a tax-exempt transaction. So this is a new position from the Department of Revenue. It wasn't a position the Department of Revenue held back at the time LB271 is passed. So, like I say, we were very surprised. We think LB902 is necessary simply to clarify what existing law is and to save everybody a lot of arguing with the Department of Revenue about whether their property should be taxable or tax-exempt. And this is done all over the state; it's done all over the country. That's why the IRS has a 63-20 corporation. I did include what I think is a pretty nice little summary of how 63-20 corporations work, as item 8 in the handout, which is the last item, that does a real good job of explaining how these things are put together and how they work. I would welcome questions from the committee. This is something I feel strongly about and I think the Department of Revenue has taken a wrong position here and I hope the Legislature will pass LB902 to clarify this. [LB902]

SENATOR CORNETT: Senator Adams. [LB902]

SENATOR ADAMS: Thank you. You know, I realize Norfolk doesn't have a hotel, but could you give me your opinion, where do we draw the line on this kind of thing? [LB902]

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RANDY GATES: I'm not sure where you draw it where the hotel is concerned. But city hall is about as plain vanilla as you can get, and I think we're on the tax-exempt side of that line. I'll let the city of Omaha argue about whether the hotel is on the tax-exempt or taxable side of that line. I'm not going to argue that one. [LB902]

SENATOR ADAMS: Okay. [LB902]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB902]

ROD CONFER: (Exhibit 4) Good afternoon. I'm Rod Confer, C-o-n-f-e-r, and I'm the city attorney for the city of Lincoln. And in that position I'm also legal counsel for the West Haymarket Joint Public Agency, which is what we refer to as the JPA, which is building the West Haymarket arena on the west side of town that you may have been aware of. The city of Lincoln and the West Haymarket Joint Public Agency are in favor of LB902, and we also want to urge your support for an amendment to LB902 that I'll be speaking about a little more extensively; and I've attached a copy of our proposed amendment to my testimony that the page has distributed to you. The city of Lincoln does not have any projects that fit within the description of the nonprofit financing vehicles that you've been talking about so far. However, we do support this legislation on the basis that it does give needed flexibility to communities to build various types of public projects; and for that reason we think it is a useful entity even though, as I say, we have not taken advantage of it to date. We may at some time in the future. My primary reason for being here however is to talk about this amendment. And the reason that I'm bringing it up now and we thought that it was a useful thing to talk about in conjunction with LB902 is that LB902 amends a section of the statutes which we are urging be amended in the amendment to LB902 that we're proposing, and that is Section 77-2704.15. As I say, LB902 is proposing to amend that statute anyway, and so this is an opportune time to take care of an additional problem. That problem is this: The Department of Revenue has contacted the city of Lincoln recently, and stated that they believe that Section 77-2704.15 can be read to provide that joint public agencies' purchases are not exempt from sales tax unless the joint public agency is made up of a city and a county. The West Haymarket Joint Public Agency is not made up of a city and a county; it's made up of the city of Lincoln and the University of Nebraska-Lincoln. And therefore, the Department of Revenue says since it's not a city and a county, it's a city and a university, we believe that there's a question about whether its purchases should be tax-exempt. We think that that would achieve an absolutely absurd result; that a joint public agency made up of a city and a county would have exemptions for its purchases from sales tax, but a joint public agency that's made up of two other governmental entities would not be entitled to an exemption for purchases of its sales tax. In this instance, the city is clearly entitled to an exemption from sales tax for its purchases, counties also; the University of Nebraska is entitled to an exemption for purchases from sales tax, but when for some reason when those two entities that are both entitled to exemptions join together in another governmental entity, they may not be, according to

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the Department of Revenue's ruling. A joint public agency under the Joint Public Agency Act can only be made up of governmental subdivisions, and in this case, subdivisions are the city and the university. By definition, under the Joint Public Agency Act, a joint public agency is itself a governmental subdivision and a political subdivision, so it's a governmental body itself. It would make...it makes no sense that some of those governmental bodies would be entitled to the exemption and others wouldn't, and the reason that the confusion arises is because of the confusing nature of the way that 77-2704.15 is written. We therefore think that it should be amended to get rid of that confusion. We believe that even without the amendment, under the Joint Public Agency Act the JPA is entitled to the same tax exemptions that either the university or the city has. That's quite clear that it's entitled to the benefits of any exemptions that those entities would have, but nevertheless, while we have this confusion in 77-2704, we have this situation arise where some mistakes can be made in that interpretation. And in the defense of the Department of Revenue, in this case, I think that they're to be forgiven because the problem is with the statute; it's not with the Department of Revenue. Specifically, we think that when the statute makes it clear that purchases by either the city or the university are exempt from the application of sales tax, then a combination of those entities working together for a governmental purpose to achieve something that's of benefit to them both, that JPA clearly ought to receive the same benefits. We are therefore proposing this amendment which would treat all JPAs the same and all governmental subdivisions the same by making it clear that any governmental subdivision in any joint public agency, their purchases should be exempt from the application of sales tax. It's of a benefit to the taxpayers of Nebraska to not impose sales taxes on purchases that are made by governments for governmental purposes. If all of the needed public projects that are constructed by cities, counties, and joint public agencies are subject to sales tax, that just raises the cost of those public projects, and those costs, additional costs, are going to be added on to the tax burden by new taxes that have to be raised to pay those sales taxes. So we think that it's...this is an opportune time, as I say, to amend Section 77-2704.15 at the same time that these other corrections are being made under LB902. And I'd be glad to answer any questions. [LB902]

SENATOR CORNETT: No, go ahead. Senator Brasch. Currently, cities are exempt from sales tax, correct? [LB902]

ROD CONFER: That's correct. [LB902]

SENATOR CORNETT: What the bill is talking about is exempting the nonprofit corporations that they set up for construction...for projects to be sales tax-exempt. That is where we have generated a fairly large fiscal note, is the exemption of those nonprofit corporations. Correct? [LB902]

ROD CONFER: That is correct. [LB902]

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SENATOR CORNETT: Okay, for the state side of it for the sale tax. Property tax is not reflected on our side because that goes to the county. How much has the Department of Revenue said your tax liability will be for this joint project? [LB902]

ROD CONFER: Well, let me clarify one thing. A joint public agency is a different animal than we're talking about under LB902. [LB902]

SENATOR CORNETT: Correct. I understand that. What has...if you were talking about us amending this onto this bill, how much are you going to increase the fiscal note by; and how many of these joint agencies are in existence? [LB902]

ROD CONFER: I'm only aware of two joint public agencies in the state. [LB902]

SENATOR CORNETT: And those... [LB902]

ROD CONFER: One is the joint public agency between the city of Lincoln and Lancaster County for the construction of the new jail--correctional facility. [LB902]

SENATOR CORNETT: And the Department of Revenue has determined that that is not sales taxable, correct? [LB902]

ROD CONFER: That's... [LB902]

SENATOR CORNETT: Because it is an agreement between a city and a county. [LB902]

ROD CONFER: I presume that would be their interpretation. The other one is the joint public agency for the... [LB902]

SENATOR CORNETT: Correct. Between you and the university. [LB902]

ROD CONFER: ...for the arena. That's a \$340 million project. [LB902]

SENATOR CORNETT: I understand the amount. What I'm asking you is two questions: Has the Department of Revenue given you a final determination that you are subject to sales tax? [LB902]

ROD CONFER: No. [LB902]

SENATOR CORNETT: So we might be fixing something that's not broken? [LB902]

ROD CONFER: We may be... [LB902]

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SENATOR CORNETT: Clarifying. [LB902]

ROD CONFER: We're clarifying something in order to avoid a situation which is going to result in long and expensive litigation in the event that we're not able to convince the Department of Revenue that a joint public agency that is... [LB902]

SENATOR CORNETT: So there has been no ruling in regards to sales tax owed. Am I correct? [LB902]

ROD CONFER: No, that is correct. They've only asked for our position. [LB902]

SENATOR CORNETT: So it would not increase the fiscal note because there is no sales tax assessed at this point. Correct? [LB902]

ROD CONFER: That's correct. [LB902]

SENATOR CORNETT: That was what I was trying to get to. [LB902]

ROD CONFER: I'm sorry. [LB902]

SENATOR CORNETT: Senator Schumacher. [LB902]

SENATOR SCHUMACHER: Thank you, Senator Cornett. And thank you for your testimony today. While you can only think of a couple of these under the Joint Agency Act, there are a lot of joint entities created pursuant to the Interlocal Cooperation Act in this state, aren't there? [LB902]

ROD CONFER: Yes, there are, and I...I believe that the language of 77-2704.15 could create some problems in that area as well. [LB902]

SENATOR SCHUMACHER: Is that why that language is included in your proposal then? [LB902]

ROD CONFER: We didn't propose to amend that. We have only proposed to amend our particular difficulty. [LB902]

SENATOR SCHUMACHER: Well, I guess in this motion to amend LB902, it says on page 7, line 2, insert the following words, "any joint entity created by agreement pursuant to the Interlocal Cooperation Act or any joint public agency created...pursuant to the Joint Public Agency Act." [LB902]

ROD CONFER: You're correct. That's right. This would solve that problem. [LB902]

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SENATOR SCHUMACHER: So there's a lot of those animals out there. [LB902]

ROD CONFER: That's true. Any interlocal that wouldn't be made up of a city and a county would have the same problem that the West Haymarket Joint Public Agency has. [LB902]

SENATOR SCHUMACHER: And then couldn't you simply get around the whole problem by asking the county to join in your club? [LB902]

ROD CONFER: We could, and that's a solution that we talked about. But I'm not sure that that would necessarily solve it because then the Department of Revenue could say, well, but the statute says JPAs consisting of cities and counties, and yours consists of a city, a county, and the university. [LB902]

SENATOR SCHUMACHER: But it doesn't say only cities and counties. [LB902]

ROD CONFER: No, that's true. [LB902]

SENATOR SCHUMACHER: Okay. Thank you for your testimony. [LB902]

SENATOR CORNETT: Senator Pirsch. [LB902]

SENATOR PIRSCH: And from your prepared remarks...written testimony here, you mention there's a facet involving the Integrated Solid Waste Management Act that may come in play as well. [LB902]

ROD CONFER: That's correct. You could read 2704.15 to provide that only these cooperative agreements between entities...cities and counties that are created for purposes of the Solid Waste Management Act are entitled to exemption from sales tax. [LB902]

SENATOR PIRSCH: So it may not be enough even if everyone agreed that it was a city and county compact. It would have to touch upon aspects of the Integrated...it was for the purpose of the Integrated Solid Waste Management Act, right? [LB902]

ROD CONFER: If that construction of the statute was excepted. [LB902]

SENATOR PIRSCH: Is that clear from the way the department is interpreting statute now, or you don't know? [LB902]

ROD CONFER: I don't know. I think that from my understanding the department was interpreting the statute to say that any entity made up of a city and a county whether it

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be under the JPA Act or the Interlocal Cooperation Act or under the Integrated Solid Waste Management Act, any of those would be entitled to exemption from property taxes. But if you try to parse through the terms of the statute, it looks to me like a more accurate reading is that it also has to be for purposes of the Integrated Solid Waste Management Act if you're going to take that position. [LB902]

SENATOR PIRSCH: Well, if true, and that is an element of that, I guess, it would require us to go back and look at what the purpose of the...what the passage and the intent behind the Integrated Solid Waste Management Act was, right? So thank you. [LB902]

ROD CONFER: We're currently involved in that, as you might imagine. However, it would seem as though there would not be any reasonable rationale for saying if you've got a governmental agency that's, you know, created for purposes of that act, that should be entitled...their purchases should be entitled to an exemption, but if they're engaged in this governmental activity over here, they're not. What is it about solid waste that would make it be treated any differently? And I can't come up with a rationale. [LB902]

SENATOR PIRSCH: Was the statute created all at once, that this type of language that deals with cities and counties and the Integrated Solid Waste Management Act, did that stem from one particular bill that was passed, or did it evolve piecemeal over years? [LB902]

ROD CONFER: It evolved piecemeal over time, and I think that that is the problem, that there have been additions made piecemeal; and at some point we lost sight of the purpose of the statute in the first place, which is to provide that governmental entities that are involved in governmental functions shouldn't be paying sales tax to increase the costs of those functions. [LB902]

SENATOR PIRSCH: Thank you. [LB902]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB902]

ROD CONFER: Thank you. [LB902]

SENATOR CORNETT: Next proponent. May I see a show of hands for the number of proponents left to testify? [LB902]

LYNN REX: Senator Cornett, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. We are here today in strong support of this measure. We initially got involved in this when Speaker Flood's office contacted us, along with the city of Norfolk, to talk about what could be done on this. We

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did some research on it and my understanding from Matt in Speaker Flood's office was that basically the Department of Revenue felt that clarification by the Legislature was necessary. We think it is too. I can tell you that the League does an accounting and finance conference every year. We do actually five conferences annually, and that's one of them, and we've had speakers over the years from the Department of Revenue telling our folks that attend those conferences, of which there are usually somewhere between 200 or 225 from all across the state, that these types of entities are tax exempt when asked the questions. I would submit to you that throughout the state of Nebraska every state senator has got several of these types of projects that have happened in the past that are on a lease-purchase basis. And that's how the financing industry, if you will--and I think they are an industry--the investment bankers and the attorneys and the bond councils working with cities, counties, schools and others, that's what they've been advising cities and others to do, and that's what's been done. With respect to LB1257, I've been around long enough that I was actually there when Senator Spence Morrissey did LB1257, which was the bill that enacted the Integrated Solid Waste Management Act, and I can remember the discussions relative to that. It was put in simply because it was stating the obvious. And you can look at it in terms of being something piecemeal, but it was also just stating the obvious. So with that, I would be happy to respond to any questions you have. We think this is extremely important for the state of Nebraska as well as its political subdivisions, because again it is throughout the state. I think--and I'm not casting any stones at the Department of Revenue--I think it's a very difficult situation to have them in, but they have given opinions over the years that basically it was tax-exempt, and we were absolutely shocked to find out this summer that in the Norfolk situation they were holding that it would not be. I'd be happy to respond to any questions. [LB902]

SENATOR CORNETT: Seeing none, thank you, Lynn. [LB902]

LYNN REX: Thank you very much. [LB902]

SENATOR CORNETT: Next proponent. [LB902]

JOSEPH YOUNG: (Exhibit 5) Good afternoon, Chairwoman Cornett and members of the committee. For the record, my name is Joseph Young, J-o-s-e-p-h Y-o-u-n-g. I'm the director of public policy for the Greater Omaha Chamber here testifying in support of LB902. I'm handing out a letter, and I know I'll keep my comments short but I did want to come up here and emphasize a couple things. It's my understanding, of course, that the fiscal note--and this has been addressed already--the fiscal note reflects the funds of the state would go ahead and recapture if this bill was passed and approved and signed by the Governor. So again it's kind of a confusing process that you all understand that we go through with fiscal notes with respect to what will actually be lost, a loss to the state, and what could potentially be lost to the state and what won't be. I'd also like to emphasize quickly that it seems redundant, to us, at least, that the taxpayers are

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ultimately responsible or on the hook for these projects most of the time, and it makes little sense to also tax them to pay the property taxes and sales taxes. It's not too far of a stretch probably to think of a scenario where a mayor would have to raise property taxes to pay property taxes. If Mr. Kratz is right that this could cost the city of Omaha, for example, \$8.5 million, I can tell you I bet Mayor Suttle would say we don't have \$8.5 million sitting around to pay for this. So some creative tactics would have to be used to pay for that. So with that I'd take any questions. [LB902]

SENATOR CORNETT: Senator Adams. [LB902]

SENATOR ADAMS: Thank you, Senator. Joe, as a representative of the Omaha Chamber, does the Omaha Chamber feel any angst about this hotel situation given that there are privately owned hotels all around the Qwest Center that are making a go of it via their own volition or TIF or whatever else? [LB902]

JOSEPH YOUNG: Yeah. I had the luxury of not being around when these policies were being passed, and I actually haven't spoken to our guys about this necessarily, but I would venture to guess there might be some members that would. And ideally all of these projects would be privately owned, of course. But at the time, we supported this I think because we didn't want to stand in the way of progress, partly. [LB902]

SENATOR ADAMS: Thank you. [LB902]

SENATOR CORNETT: Seeing no further questions, thank you. [LB902]

JOSEPH YOUNG: Thank you. [LB902]

TIM KEIGHER: (Exhibit 6) Good afternoon, Senator Cornett and members of the committee. My name is Tim Keigher; that is K-e-i-g-h-e-r. I appear before you today as the registered lobbyist for the Nebraska Community College Association in support of LB902, and just ask that we submit this letter from Executive Director Dennis Baack, who had a personal issue come up and had to attend to that. So with that, that concludes my testimony. [LB902]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent? Opponents? Neutral? [LB902]

SENATOR HARR: Thank you, Senator Cornett and members of the Revenue Committee. Well, we had an interesting conversation today. In summary, I would just...I want to thank all the people who came and testified. I think we all are a little smarter because of that. The 63-20 bonds are done all over the country. My research has indicated no other state that treats these bonds as the state of Nebraska possibly could. It is a financing tool. It is a sale lease-back purchase. It is...or a sale purchase

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agreement. All LB902 does is clarify that a nonexempt entity, this nonprofit, is exempt and it returns to how things have been, and it provides the Department of Revenue with guidance on how they should make a position on this stand. This is obviously not just an Omaha issue. If we don't do LB902, though, we are going to possibly as a state face litigation, and it's going to be government against government, and that's never pretty and the taxpayer always come out behind. As to Lincoln's amendment, I think it's a good amendment. Again, an ounce of prevention is worth a pound of cure. That being said, I sure as heck don't want it to hijack LB902. So while I endorse it--a qualified endorsement (laugh)--at the end of the day it doesn't make sense, as we've all said, to put taxpayers on the hook for taxes, on property taxes that they own that is used for a state purpose, a governmental purpose. The taxpayer is on the hook. If that nonprofit entity does for some reason default, taxpayers are on the hook. When that is paid for, that automatically goes to that government entity and is theirs. It is that government entity's at the end when it is paid off. I'm going to go and try to address Senator Adams' issue with a bit of trepidation. The answer to your question is if you look at legislative findings in Nebraska Statute 13-2602, it explains why the Legislature found this development of convention centers to be beneficial to the economic well-being of the people of this state, and it describes...and then it goes on to describe how and why. A hotel in this situation is connected to the convention center, so it is technically part of the convention center. It was meant to...back then, originally, no hotel would go in there. And if we wanted to be able to make that convention center run and hum, it had to have a hotel connected to it. So it served a governmental purpose. Has that time come and gone? Maybe. I have LB1085 up after this, and I think you'll enjoy what I have to say in that. So with that, I would welcome any and all questions regarding LB902. [LB902]

SENATOR CORNETT: Burke, you bring up an interesting point and it's one that I've wrestled back and forth with on this bill. These nonprofit organizations or entities are set up to finance these projects. Correct? [LB902]

SENATOR HARR: That is correct. [LB902]

SENATOR CORNETT: If they are not set up through the nonprofit, you have to go to a bond issue, am I correct? [LB902]

SENATOR HARR: That is...well, that is one option. There's more than one way to skin a cat. But yes. [LB902]

SENATOR CORNETT: Sure. But with the nonprofits, we are obligating taxpayers as you have just stated that they will be on the hook if a nonprofit fails. [LB902]

SENATOR HARR: Fair. I would agree with you. [LB902]

SENATOR CORNETT: And we are obligating the taxpayers through a nonprofit

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organization to an increase in taxes that they may not or they have not had the opportunity to vote on like they would on a bond issue. Am I correct? [LB902]

SENATOR HARR: Yes. Do you want me to address that issue then and why I think it's a... [LB902]

SENATOR CORNETT: You are more than welcome to. [LB902]

SENATOR HARR: Okay. Thank you. Again this is a financing tool. It is one of many different ways we can go at it. Oklahoma City, instead of doing it this way, they do a half-cent sales tax. There are many different ways to finance. No one denies that. This is just...and I'm going to use, since I love to throw out cliches, another tool in the toolbox, another quiver in the whatever we say. [LB902]

SENATOR CORNETT: Arrow in the quiver. [LB902]

SENATOR HARR: Arrow in the quiver, that's right. So you're right, it isn't. But, you know, the question is, do we punish those that have gone ahead and relied upon the law as we all believed it to be? If we want to question whether 63-20 bonds... [LB902]

SENATOR CORNETT: Should we allow these nonprofits... [LB902]

SENATOR HARR: Should we allow them? That's a great question and it's a great policy question, but I think it's a policy question for another day and it should be addressed on its own, and not punish those who relied upon this financial tool who did it based upon previous rulings by the Department of Revenue and by the IRS. It's 1963...I mean it's a 63-20 ruling, I mean so it was done in 1963. This has been relied on for a long time. LB271, which is what Senator Adams was talking about...and Senator Wickersham was a great senator and...but I don't think he understood what the ramifications of when he made those changes in it. And the emphasis was on...if you read the legislative history which I have right here, the emphasis was on airports and airport authorities and what is a public purpose and what is a private purpose. So as long as it's hay, it's a public purpose; but if you lease it and you put corn and you make money on it, it's a private purpose and it can be taxed. But that was the emphasis of that bill and I don't think it was maybe properly vetted, and so it created some uncertainty within the law. All we're doing is saying, let's clarify it and let's make sure everyone is on the same page. [LB902]

SENATOR CORNETT: You see my point though. [LB902]

SENATOR HARR: I see your point exactly, and there are...the attorney general of Washington would have stronger words to say about it than what you've just said. And so there is definitely disagreement on whether 63-20 bonds are good or bad, but that's

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not... [LB902]

SENATOR CORNETT: That's not the question here. [LB902]

SENATOR HARR: ...before us. Exactly. [LB902]

SENATOR CORNETT: Okay. Thank you for that clarification. Further questions from the committee? Seeing none, thank you. (See also Exhibits 31 and 32) Do you just want to leave your stuff there and open on the next one? [LB902]

SENATOR HARR: (Exhibits 7-18) Thank you, Senator Cornett, Chair Cornett and members of the Revenue Committee. I have another bill--and another fiscal note problem, but we'll get to that. And I don't know if I should say this or not, but I'm going to go ahead and start with it. This was started by a conversation I had with Senator Ashford, so as we all know it usually has a pretty good idea, a pretty good intent, and the details have been left to me. (Laughter) [LB1085]

SENATOR CORNETT: (Laugh) I think we all know that. [LB1085]

SENATOR HARR: But it's a great idea. He's a former member of MECA and a great thinker. And we were talking about how great the convention center is, what an asset it is to the community, what an asset the events MECA is that it brings to the community. We're talking about it, and then I hear an NPR interview with the mayor of Oklahoma City who is, his last name is Cornett as well, and he is also the chair of the Republican Mayors Association, and he talks about the importance of having a strong entertainment district and downtown, and that the suburbs rely on a strong core of an urban area, and that's really what helps bring in the creative class. And their...actually Oklahoma City was just voted by Forbes, since we all love to quote Forbes, the most entrepreneurial city in the country. And he credited it to the money they spent on bringing in special events and their convention center, their arena down there. And so we said, how can we make it better? And let's be honest, our small towns aren't doing as well. I argue they're consolidating, some would disagree with me on that. But we need to find different ways to fund these small towns because agriculture is not going to do it anymore. So we thought about it, and we said here's a great way to do it, it's an entertainment, is to increase tourism. And we all know Florida, Vegas, Nevada, they don't pay as many taxes as we do. Why? Because they have people come and visit their state and pay their taxes for them, which is awfully generous of them. So the question is, how can we get other people to come to Nebraska to pay our taxes? So I started with the...we started with the turnback idea. It's worked out very well for every entity that's tried it. It's worked out well for the city of Omaha, and with the 70/30 split it's worked well for the rest of the state as well, and we've been able to develop and help out a lot of the small towns. So we started with that premise that turnbacks were good. Then we looked at what other...well, Omaha was the first. So then we saw Ralston did

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turnbacks next, and they got 600 yards, all retail; Omaha, 200 yards. [LB1085]

SENATOR CORNETT: Ralston's, though, is just local option sales tax. [LB1085]

SENATOR HARR: They what? [LB1085]

SENATOR CORNETT: Isn't that just the local option sales tax? [LB1085]

SENATOR HARR: Well, they have a 600-yard radius for... [LB1085]

SENATOR CORNETT: Of local option... [LB1085]

SENATOR HARR: Yes. Yeah. [LB1085]

SENATOR CORNETT: ...and not state. [LB1085]

SENATOR HARR: Correct. So, but they have 600 yards is the basis of where I came up with some of the rationale for this. Lincoln has 450. So I said, you know, that seems like a good place to start; let's see what that gets you in Omaha. And I happened to...I didn't go out and count it; I used a computer. And I found that it gets you a large area around the convention center. Now the convention center in Omaha was originally a rail yard. So a lot of open space. And pretty much anything within this zone is developed around the...and comes around the convention center. So we came up with that idea. And I have a map I can show you of the zones that we have in the statute--I'll let you pass that around--and I guess I can also probably give you all kinds of stats on how great tourism is for the state. But I think everybody knows how great tourism...that is our third-largest economy. So now the fiscal note--and I'm also open to questions afterwards. But the fiscal note, if you read it, it said that they have no basis to disagree. You know what the problem is? No basis to agree. We have a number, and the way we do things here is we give 24-hour notice, which probably is something we need to evaluate, but that's a side note. So yesterday I called...I talked to Doug and then I called over to the Department of Revenue and talked to Doug Ewald, and he said there were a bunch of assumptions made. I would argue that those assumptions...I don't know if he knew how many...he said it was based on hotel rooms, times price, times what he thought would be there. Well, I was told there would be no math when I went to law school, but every so often we have to do math. And when I looked at it I said, I looked at what the Hilton charges for conventions, and generally it's around \$120 a night. I took that times the occupancy rate. Now, mind you, the Hilton is right next door, a competitor, and I'll show you on the map...well, on the...and, yeah, I'll show you. So the occupancy rates will probably go down, but I did it based on the occupancy rate of 72 percent, which is the national norm, times that, times 365. And I came up with only...times 0.055, and I came up with \$670,000. I don't know where this large number came from. The retail has yet to be determined what's in there, but the retail is going to related to the hotel. The retail in that

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area are bars. The Capitol District is bars. So we're not looking at a Menards, we're not looking at Tiffany's to come in here, so I don't know where these numbers came from. What I can tell you is fact and reality, how much Hilton pulls in. The new hotel, there is a new hotel going in and it's going to be privately owned, so I'm sorry Senator Adams wasn't here to hear that. We do know that. And that hotel is going to have 350 rooms. The Hilton currently has 400 rooms. It's going to be increased. But it has turnback is less than a million a year. So again, I don't know where this large fiscal note came from. I have somewhat of an idea and I have an amendment to fix that, is my idea is that it's anything that...any new structure that is built in the next two years, or more specifically, from January 1, 2013, to December 31, 2014--so during that two years. There was a concern that if there was, for instance, an MJ Java and it became a Starbucks, would that sales tax then go into the turnback fund? That was not my intent. It was supposed to be new construction. So I addressed that issue with, on line 1, "completed new structural construction," and that is meant to clarify so that it's not just if there is a change in management or a change in lease. That is the goal. There are...and I'm willing to talk about this map. There are things going in this summer around the College World Series that this bill will not capture, and I know that and I understand that. But I don't want the fiscal note to be too large, and that's why I acted responsibly and not made it three years. I made it for anything over two years. We know as a general rule it takes, to tear something down and rebuild it, especially in this area you aren't doing it overnight and you're not doing it without thinking ahead of time. We basically know what's coming in the next three years. And what it is, is a parking lot on the map right here, right next to where the Hilton is, and there's going to be a new parking...or there's going to be a new hotel in there with, hopefully, knock on wood, if we can get all the financing, 350 rooms, and then retail related to it. But I've talked to a number of people. No one knows of any other development plan for the area. So I don't know where the fiscal note came from. I strongly disagree with it. But worked hard on this bill and I've received letters of support. I have a letter of support from MECA, from the Omaha Sports Commission. They have the swim trials. It is amazing how much money that raises for the state. Ernie Goss, who is not whom I would describe as a liberal, talked about how this event raised over a million dollars for the state in revenue and over \$500,000 in sales tax. But then we didn't stop there with Omaha because we know the state doesn't stop in Omaha. So I have something...I have a letter of support from the North Platte Convention and Visitors Bureau. We have one from the Grand Island Visitors Bureau; the Norfolk Area Visitors Bureau; for Senator Louden and Senator Fischer, we have the Gering Convention and Visitors Bureau. I have one from Alliance as well. Is that your district? No? [LB1085]

SENATOR FISCHER: No, that would be Senator Harms. [LB1085]

SENATOR HARR: Oh, that's right. I should know that. [LB1085]

SENATOR FISCHER: You have to get out of Omaha. [LB1085]

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SENATOR HARR: But...at least I'm not in Sarpy. I do have for you Alliance. I know. [LB1085]

SENATOR CORNETT: I was going to say, at least your bill isn't coming out of committee. [LB1085]

SENATOR HARR: Well, he's not here. I know you are but it was aimed at him. I do have one also from the Adams County Convention and Visitors Bureau. I have one from the Seward Area Chamber of Commerce, and then I also have one from the Great Platte River Road Memorial Foundation, which is out of Kearney. The fact is this bill is supported around the state. Everyone knows how important tourism is to this great state of Nebraska. And I think everyone should know how great the state is. So part of my other amendment says that of the money...well, I...if you'll read the letters you'll actually see of them push for a 70/30 which is similar to the convention turnback instead of a 50/50 which I have set up. I won't disagree with that. I always like to get a little more. But what I have done is also said, of the portion going to the Department of Economic Development, half goes to grants to support those events, those events around the state, tourist events: NEBRASKAland Days, Kool-Aid Days, if you will. And the other 50 percent will be used for marketing to encourage tourism from outside but for the state of Nebraska. It can be inside or outside. But that's the idea. It is...well, that's it in a nutshell. If there are any questions...oh, one more important issue. We do not touch the original turnback money the city of Omaha got. That's left alone to pay for the convention...or for the Omaha Convention Center and for the CenturyLink Center. With that, I am open, and welcome any and all questions. [LB1085]

SENATOR CORNETT: Senator Hadley. [LB1085]

SENATOR HADLEY: Senator Cornett. And, Senator Harr, thank you for coming. It's interesting I think this the first one we've heard this year. We've...this has been a common type of bill that we've had over the last three years. [LB1085]

SENATOR HARR: Yes. [LB1085]

SENATOR HADLEY: The question I have: Would the city of Omaha be willing to give up their local sales tax also and share with the rest of the state then also, and put half of their local sales tax into tourism and then share the rest, the other half in the other fund? [LB1085]

SENATOR HARR: Well, first of all, thank you. Welcome back from Judiciary. I see you're very big into halving today. The answer is, I do not speak for the city of Omaha. I am a state senator from LD8. I'm sure they would be more than willing to entertain that option if you wanted to talk to them, but I unfortunately do not speak for the city of

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Omaha. [LB1085]

SENATOR CORNETT: Senator Harr, I worked on the Ralston arena bill that you referred to in your opening. [LB1085]

SENATOR HARR: Thank you. [LB1085]

SENATOR CORNETT: They originally started out with a much smaller zone, but because they are not as highly developed, densitywise, we went to 600, which you have listed here. And at that...600 yards. And unlike you, I didn't use a computer. I've actually driven the entire 600 yards and identified each of the businesses. [LB1085]

SENATOR HARR: Okay. [LB1085]

SENATOR CORNETT: But at the time we were discussing the Ralston bill, and Lincoln's turnback of 450 versus Omaha's, there were some assurances made to me at that time that Omaha and Lincoln would not come back and look at 600 yards, because the nature of the development is different from Ralston to Omaha to Lincoln. You've got single-level...single-story buildings spread across wide areas in Ralston, where in downtown Omaha you have a much higher-density development. I was just curious if you remember any of those discussions I had with Senator Ashford and Senator Lathrop regarding that 600 yards. [LB1085]

SENATOR HARR: Interestingly, no, because I was in the private practice of law at the time. Let me just say that, and this is a beautiful concept and it's part of another reason I have an amendment, is I change, in lines 3-5, I add the legislation...I change it from, "The Legislature shall," to "It is the intent of the Legislature to." And the reason I did that is because one Legislature can't bind future Legislatures. [LB1085]

SENATOR CORNETT: True. [LB1085]

SENATOR HARR: So let me explain to you, though, the 600 yards. If you look at it, there is...the density works both ways, to be honest. It is so dense...well, first of all, you're looking most of anything new in this area, if there is anything new, is based on the convention center. This is new structures only. And because it is so dense, there isn't a lot of room for new development. This is limited to any new development structural completion and going on the sales tax roll during this two-year period. So if we look around, there it looks like there are some empty fields. So if you look at the TD Ameritrade ball park which we just talked about in LB920, it is a mud hole in this picture, and there is a little triangle that's empty right there already developed. Can't do anything there. To the north there, there is a grass field. It is now called "the lot." There is no issue. There is no plans to develop it. To the, that would be south, is the Union Pacific childcare center. No plans to move that, tear it down, rebuild. South of there, parking.

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That's for First National Bank. Again, no plans to develop. To the east of there is a sitting business that has been there since before that area was developed. Going again, further east, you have...well, you have the Mattress Factory--absolutely no plans of moving. And then you have, next to it, what was a UP building that is being redone and will be completed before my bill would take effect. And then on the other side, right there, is Mr. Kelley's future Clancy's, or Zestos, I think. Again, that will be completed before the College World Series; it does not apply to me. MECA parking. You go over, I think that's World-Herald, nothing there. There is a small sliver, the city owns it; again no plans to sell and develop it in two years--pretty hard to do. World-Herald Freedom Park, World-Herald printing press--well, that's not going anywhere; they got a new owner. Now you get this parking lot and that's where all the development is, so it's just south of the interstate and so it would be south and west of the convention center. That parking lot...this parking lot is the only development we know of. It's the only development that logically could go on scale in the next two years. Holland Center, that's not going anywhere. They have a park next to it. There's just...you look, and then to the east you run into the river. And as much as I would love to be able to tax Iowa or at least ask them to give us taxpayer dollars, Senator Schumacher, we can't do it, so. And then to the north you're running into UP land; again, no development plans there. So it really is limited to one area, but I wanted to do it in a way that was fair to all. So that's how I came up with it. It's maybe not the most perfect; few things are. And so that is why 600 yards. And again, the difference is, those others are to pay back for a building. This is for the greater good. This is to promote an industry. It's not for a single building. It is to promote the industry of tourism within this great state of Nebraska, a.k.a. the good life that I would like the rest of the country to learn about. And I would be open to any other questions. [LB1085]

SENATOR CORNETT: Senator Schumacher. [LB1085]

SENATOR SCHUMACHER: Thank you, Senator Cornett. We sure would like to tax Iowa, but have to work on that. [LB1085]

SENATOR HARR: I would too. [LB1085]

SENATOR SCHUMACHER: Okay. The...thank you, Senator Harr. Again, this is one of these particular bills that says it's restricted to the city of the metropolitan class. [LB1085]

SENATOR HARR: The original...well, yes. The turnback area would be for this area, yes. [LB1085]

SENATOR SCHUMACHER: So basically the state is giving up its revenue and...or taking the revenue and giving half of it back to subsidize this particular operation, and the other half into the fund. Or have those numbers changed with your amendments?

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[LB1085]

SENATOR HARR: The other half would still go to the Department of Economic Development assuming it still exists as well, but yes. So your question is why. [LB1085]

SENATOR SCHUMACHER: Why don't we have a similar principle for, say, cities of 10,000 to 50,000 population? [LB1085]

SENATOR HARR: Very good question. And the real reason...there are a couple reasons, and there would be nothing to prevent that in the future. But what it is, is it's based around the Omaha Convention Center and the original convention center bill, which is where the language and the idea came from. Because it's what I talked about earlier. If you build...if there's more money for tourism, and I didn't do a very good job of saying this: We do not properly fund our tourism department in this state. It's our third-largest industry. My God, have you seen how many subsidies we give to our other two that we don't give to tourism? So we need to really invest in ourselves and invest in an industry that has a large potential to grow. For every dollar we spend on tourism promotion, we get multiple dollars back. And when it gets on the floor and I'm a little better organized, I can give you those numbers. Let's see: Each dollar spent by a tourist in Nebraska is re-spent in the state to produce an additional \$1.70 in business and income creating an overall economic impact of \$2.70. That's better odds than Vegas, so. And the average nonresident traveling party visiting Nebraska by a highway during the summer consists of 2.4 people who stay 2.2 nights in the state and spend \$435. So what we're doing is we're reinvesting in the state. You need a strong core to help the suburbs. Now the answer to your question is why don't we do this for small towns? There's nothing that would prevent us from doing that. Bring your...but if you want, we can bring legislation. What we want to do is this is intended to help a certain...10th Street in Omaha has the number one tourist destination, the number two tourist destination, the zoo. I think it is the zoo, number one; convention center is two, I believe; and then Old Market is number four or five. But we don't ever advertise 10th Street. We need to do a better job. There was a...we gave money to the swim trials. And again, Ernie Goss said, here's the summary of the monetary impacts of the Omaha swim trials in Omaha and the state economy from...and this report was done March 17, 2009. Total sales output for the city of Omaha was \$22 million...over \$22 million. The state of Nebraska: over \$23 million. State tax collection: \$908,000. Local tax collection: \$400,000. Total state and local tax collection: \$1.3 million. Total impact to the area, to Omaha, was \$46,693,000. To the state of Nebraska, it was \$47 million--\$47,319,000. Large numbers. We have an incentive to help the state of Nebraska. This is found money. This is money coming from outside the state. And again, it's what I said earlier: Let's let Iowa pay our taxes. (Laugh) [LB1085]

SENATOR SCHUMACHER: Well, to use somebody's favorite phrase: what's good for the goose is good for the gander. Would you have any problems if we tweaked this to

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add in some of the first-class and primary-class cities? [LB1085]

SENATOR HARR: You know, to be honest with you, I haven't contemplated it; I have not contemplated that. You know, it would be...I would be amazed to see what the fiscal note is, given what they did on this one. I don't know how you would do it and what you would base it around. Would you do it...for instance, let's pull a city out of the air: Columbus. They have a wonderful swimming pool attraction center there. Would you do it on revenue raised around that to reinvest into the swimming pool? I'm not quite...I'm not averse to it. I'm just asking. I'm not sure how it would be done. I think this is a vehicle for the future. I definitely do and I hope it is used that way. The State Fair would be a great example. We could do something there to really help promote the State Fair. We could do more with private hunting places. We could do more with...there's nothing to do in west Omaha. We could do more with the Archway. We could do more with Fontanelle. We can do more in western Sarpy County; you have Werner Park. You also have things out in western Nebraska where we could do Carhenge; you go down the line. Fourth of July, they could do...the great Seward has. You can pull people off the interstate on I-80. I mean where this ends, I mean nobody knows. By the way, there are things to do in west Omaha. I grew up in west Omaha, that's why I can say that. But yeah, it's endless what we could do with this. It's exciting. I agree it's a new tool. How we use it and where it ends, that's for us as a body to determine. [LB1085]

SENATOR SCHUMACHER: Thank you, Senator Harr. [LB1085]

SENATOR CORNETT: Senator Hadley. [LB1085]

SENATOR HADLEY: I guess, Senator Harr, I'm going to be honest and say I have trouble that we're giving up state funds for the city of Omaha. I guess I just...give me a rationale that we're going to have less in the General Fund that might fund Medicaid recipients, might fund TEEOSA, because we want to help Omaha with tourism. [LB1085]

SENATOR HARR: Well, I would disagree with that underlying assumption we want to help Omaha. We want to help the state with tourism. Now, 50... [LB1085]

SENATOR HADLEY: But isn't half of it going back to the city of the first class? [LB1085]

SENATOR HARR: Well, metropolitan class. [LB1085]

SENATOR HADLEY: Or metropolitan class? [LB1085]

SENATOR HARR: Yes, it is. And the answer is, if we invest this money wisely and we plant a seed, it will grow. I think another senator said earlier this week in here when there was talk of other bills: This is money we wouldn't have had anyway so it's not a

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net loss. By every dollar we spend, we get more tourism in here. We get a return on that investment, and that return on investment is what I've talked about earlier. It helps the whole state. It encourages people to come from out of state and from greater Nebraska to travel within and stay within the state of Nebraska so we can keep our own money and we can also bring money from outside. We need to find a way to pull people off the interstate. [LB1085]

SENATOR HADLEY: So, Senator Harr, so what you're saying, the city of Omaha will take their half and use it to promote tourism in Omaha, which brings more money to the city of Omaha. [LB1085]

SENATOR HARR: To the state as well. [LB1085]

SENATOR HADLEY: How...isn't that a jump? Why would, if we're promoting tourism in Omaha, help me understand how that helps Kearney or Columbus or... [LB1085]

SENATOR HARR: Anywhere else? [LB1085]

SENATOR HADLEY: ...Elwood or whatever town Senator Louden is in. [LB1085]

SENATOR CORNETT: Ellsworth. [LB1085]

SENATOR HADLEY: Ellsworth. [LB1085]

SENATOR HARR: Yeah. Great question. [LB1085]

SENATOR HADLEY: I guess I'm trying to figure out how spending the money in Omaha moves... [LB1085]

SENATOR HARR: Great question. No, I...moves...how does that create it? Well, let's draw the example...Omaha...you look at how much other states, cities, pay, spend in tourism. And there will be some coming up after me who will be able to answer this question better than I--experts in this field. But what I will do is again I'll refer back to Ernie Goss's report, the economic impact of the 2008 Olympic swim trials on the city of Omaha and the state of Nebraska. And the total impact on the state of Nebraska from that event that we brought to Omaha: \$47 million. That's real money. That starts adding up. You get more events like that...we got it coming again this year. If we can get more events, we have ice skating coming up. If we can find a way to woo more of these type of conventions to Omaha, soon we'll be like Las Vegas; we'll be the Las Vegas of the Midwest. They can go over to Iowa to gamble and they can come spend their money here on a hotel and restaurants. [LB1085]

SENATOR HADLEY: But we're going to give up the money to Omaha. I mean, you have

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new events, but according to this bill half of it is going to...every new event you have that the person spends a dollar, the sales tax from the state of Nebraska, half is going go out and half is going to go to Omaha. So it's a great deal for Omaha. I'm sure Omaha is going to come up and say this is super. [LB1085]

SENATOR HARR: Yeah. And the answer is, not quite, because you have to remember it's limited to new structures built over two years, and it's limited to the sales tax, so. And, you know, it's like we talk about a rising tide raises all ships. So Omaha economy does well, the state does well. Let's...we have to look...no different than the nineties and the aughts when Omaha was flying high and growing. We had...and ag was not doing nearly as well as it is today. We had huge budget surpluses. Now Omaha unfortunately ran into some tough times, 2008 and beyond there, and, coincidentally, the state has not done as well even though ag has done more than its fair share to carry its weight in the last couple years. So when Omaha does well, the whole state does well, just like when ag does well, the whole state does well. So that would be...this is a reinvestment. And again, you also have to remember this is a way...if we have more creative events down here, this is a way to get that creative class to Omaha that we've talked about so much that's so important to the state of Nebraska, to get our young entrepreneurs here. They want civic activities, and this will help encourage outside civic activities to come to Omaha so that we can be a first-class state. [LB1085]

SENATOR HADLEY: Okay. Thank you. [LB1085]

SENATOR CORNETT: Why did you not draft it that any facility that is eligible for state sales tax, which would include the Lincoln arena, expand that out to 600 yards for tourism, and then have all of the money go to the Tourism Department? Why are you setting aside Omaha tourism from tourism as a whole in the state? I mean, the Tourism Bureau currently does tourism for Omaha. [LB1085]

SENATOR HARR: Um-hum. [LB1085]

SENATOR CORNETT: Why are we creating another entity? Why couldn't all of the money just flow, since it is state dollars, back to the state to determine what is the best allocation of that? [LB1085]

SENATOR HARR: And I enjoy it. Thank you very much. That's a great question as well. I think there has to be some turnback to the area that creates that money so that it can be reinvested back into that area. [LB1085]

SENATOR CORNETT: But you're talking about tourism. [LB1085]

SENATOR HARR: Tourism, yeah, to an industry. So this becomes a tourism area. It already is but I would bet very few people know or think of 10th Street as an

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entertainment corridor, and yet here we have three of the largest four or five tourist attractions in the state right there. So they need to be able to...and there will be others who will come up and probably explain it better than I can, or am, that will be able to explain why. But I think it's important that the area that produces that gets some of that to reinvest. [LB1085]

SENATOR CORNETT: Senator Louden, I believe you had a question. [LB1085]

SENATOR LOUDEN: Yes. Six hundred yards. Now that's the radius and so that's about a quarter of a mile, and that would be close to 40 acres in downtown Omaha that you're setting aside for this. How much tourism tax comes out of that area now? Do you have any numbers on that or anything? [LB1085]

SENATOR HARR: Currently? [LB1085]

SENATOR LOUDEN: Yeah. [LB1085]

SENATOR HARR: I don't think there is a tourism tax in that area. [LB1085]

SENATOR LOUDEN: Well, the occupation tax on all the hotels and everything all pay occupation tax of 5 percent. [LB1085]

SENATOR HARR: Yeah. That...okay, so you're asking what percentage of occupation tax. [LB1085]

SENATOR LOUDEN: Yeah. And 4 percent of that goes to Douglas County or whoever, their tourism committee, and 1 percent goes to the state. Do you have any idea on the numbers that would be? [LB1085]

SENATOR HARR: No. [LB1085]

SENATOR LOUDEN: Okay. [LB1085]

SENATOR HARR: But there are those coming after me. But again you have to...what you have to remember is those are two different bureaus. One is that goes to the county. You're exactly right. This would go to the city of Omaha to go to tourism to promote with the presumption that it would be in this area. [LB1085]

SENATOR LOUDEN: Okay. Now you're talking about Omaha tourism and then you're talking about Douglas County tourism and then you're talking about state tourism when you're talking about the way you want the bill set up. You're not putting it into the Douglas County tourism bureau or you're setting up a different tourism bureau? [LB1085]

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SENATOR HARR: Well, it already does exist. The Omaha Convention and Visitors Bureau, it already does exist. [LB1085]

SENATOR LOUDEN: Yeah. And that's who would receive the money? [LB1085]

SENATOR HARR: Yeah. What we're trying to do is to take an industry that is vastly underfunded and find a way to properly fund it, maybe not to the 100 percent, but to improve its funding so that we can again realize outside dollars that don't exist right now. This is to promote an industry and not necessarily a location. [LB1085]

SENATOR LOUDEN: Yeah. Well, see, what there is, a \$426,000 fiscal note in it, so I presume that's what they figure they would lose in state taxes. Now at the present time, statewide, the 1 percent that goes into the Nebraska tourism is about \$3.6 million. Why not just raise the occupation tax up 1 percent or put another 1 percent on there that would go to the state? That would double that \$3.6 million right there, and that would be statewide and then all of your hotels or anybody, I mean, everybody would be paying the same. Would that come to this...would that achieve the same ends as what you're trying to do? [LB1085]

SENATOR HARR: Well, I guess I would start by saying there's more than one way to skin a cat. That's definitely a possibility. It's a way to do it, you're 100 percent correct. But the question is, are occupation taxes very popular? And the answer is a resounding no. We actually have legislation before this body to determine if it needs to go to a vote of the people. So what you have to look for is a way that is palatable to increase an industry to turnback...again, you look at... [LB1085]

SENATOR LOUDEN: Now this is an occupation tax that's on just hotels and motels. And now, yeah, I introduced LB726, well, ten years ago, and everybody thought nobody would ever stay in Nebraska again. And most people don't even notice they paid it because it increased it 2 percent, and the cost of motels and hotels in Nebraska are so much cheaper than other states that nobody even noticed it. And that's the reason they went right on through; and counties, some of them made out quite well with it. And that's the reason I'm wondering, does that need to be...if we want to fund tourism, should we go that route some more rather than try and get some of this turnback here that had been taken? And actually we're just taking money out of General Funds and putting it into tourism; that's what we're actually doing, right? [LB1085]

SENATOR HARR: Well, here's the problem with increasing the occupation tax even more, is you're right, hotels are cheaper in Nebraska. But there is nowhere else I believe, and people coming after me will clarify this, in the country that taxes hotel rooms as high as we do. We're higher than New York City, we're higher than Chicago, we're higher than Las Vegas, Honolulu, Anchorage. You name it, we beat them. So I

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think we've gotten about as much juice out of that tax option as we can, so. But we still do not tax...or excuse me, we still do not encourage tourism to the level that other states do. And as a result, we're losing money. And, you know, again people who will come after me that can better explain this, but this is found money. This is a way. We have to find a way to pull people off the interstate. [LB1085]

SENATOR LOUDEN: Well, I agree with you that we need to fund tourism in whatever way we can do it to make it work so that somebody isn't paying more. But I would beg to differ with you. I stayed in Phoenix last summer and it was 18 percent is what I paid on my rooms for the occupation tax and stuff. And I never have had to pay... [LB1085]

SENATOR HARR: Total tax though; total tax on a room. [LB1085]

SENATOR LOUDEN: ...18 percent. I've stayed in Kearney a lot of times and it isn't 18 percent, and around, so. [LB1085]

SENATOR HADLEY: We're going to raise that, Leroy. [LB1085]

SENATOR LOUDEN: I suppose you will, beings you found out I'm staying there. [LB1085]

SENATOR HARR: And again there are those coming after who can better explain that. I will also say again, this is an area that feeds...the sale tax is coming from tourism. If we do not encourage tourism, not only...we talk about we want...we just talked about we want private hotels versus public hotels. Well, guess what? You want a private hotel, you've got to fill those rooms. You want a private hotel, you've got to find a way to fill up the convention center to pay for those private rooms so that we avoid the situation we just had on the previous bill. And these...again, this will go to fill those rooms. It turns around, it pays for it so that we aren't doing state subsidies on hotels. [LB1085]

SENATOR LOUDEN: Very good. I thank you, and I agree that we need to promote tourism. [LB1085]

SENATOR HARR: Thank you. Yes, Madam Chair. [LB1085]

SENATOR CORNETT: You said that the 50 percent going back to Omaha was going where? [LB1085]

SENATOR HARR: In the bill it says it goes to the city of Omaha to promote tourism. [LB1085]

SENATOR CORNETT: But you said there was already an entity in place. [LB1085]

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SENATOR HARR: Well, there is the Omaha Convention and Visitors Bureau. [LB1085]

SENATOR CORNETT: But why is it going to the city of Omaha and not the convention bureau? [LB1085]

SENATOR HARR: As I understood it was because we can't specifically earmark it to them. If you...if I am incorrect... [LB1085]

SENATOR CORNETT: But how do you...then how is the city of Omaha going to specifically earmark this money; and what belt and suspenders are in there to show that the city of Omaha will use whatever is turned back specifically for tourism? Is it going into a separate account? [LB1085]

SENATOR HARR: Yeah. I guess what we could do is...and I can work with you on that. [LB1085]

SENATOR CORNETT: Do you see what I am saying? [LB1085]

SENATOR HARR: And I agree... [LB1085]

SENATOR CORNETT: Right. Because right now it would go into the General Fund, am I correct? [LB1085]

SENATOR HARR: Well, and that's exactly right. Well, that's exactly right, and that's part of why I did my amendment on the DED that it had to go to certain things, because otherwise it would just go to general affairs...or they would take out...General Funds and take it out. So you're exactly right, if there is a way to better draft that so that it does happen, that's exactly what I want. This is... [LB1085]

SENATOR CORNETT: Because I can't turn...I can't support turning money back without it specifically going to that with all of the parameters built in that it can't be used for anything else. [LB1085]

SENATOR HARR: Concur completely. And we can look at the language of the convention bureau to see how they did that to ensure it. I couldn't agree with you more. This is not model legislation; this is Burke Harr legislation. So it can always use improvement. [LB1085]

SENATOR CORNETT: Okay. Further questions? Now that you've...oh, Senator Adams. [LB1085]

SENATOR ADAMS: Just quickly, and I apologize for having to leave. And so if this question has already been asked and answered, just tell me to shut up. [LB1085]

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SENATOR HARR: Never. [LB1085]

SENATOR ADAMS: How much of this is currently under TIF, do you know? [LB1085]

SENATOR HARR: Ooh. [LB1085]

SENATOR ADAMS: Have any idea? [LB1085]

SENATOR HARR: Ah. I do not, but I would... [LB1085]

SENATOR ADAMS: Okay. Maybe somebody does. [LB1085]

SENATOR HARR: But I would tell you this: a lot of that dirt probably is. We can walk around and look at it. Let's see. So on the northwest corner you have some hotels there. I believe those are TIF. You have the Film Streams and the indie bar and Red Mango. I'm going to bet those are TIF. I would shocked if they weren't. Next to it you can see the, to the south you have the two big air conditioners on top. I highly doubt those are. To the north of that you have again UP. I doubt that is. Going...now I'm going to the other way east, we could ask Mr. Kelley if that's TIF-ed. But some of it is. [LB1085]

SENATOR ADAMS: Okay, that's...fair enough. [LB1085]

SENATOR HARR: Some of it. That was...that would be. And then maybe...I don't know about the printing presses, if that was TIF-ed. But that would be about the extent of it. The Holland Center is not. None of this...I don't think anything else...well, except the new development might be TIF-ed. [LB1085]

SENATOR ADAMS: Okay. [LB1085]

SENATOR CORNETT: Further questions after you've been grilled? [LB1085]

SENATOR HARR: I appreciate it. It's been fun. I will be back for closing. Thank you. [LB1085]

DANA MARKEL: (Exhibit 19) Good afternoon. I'm Dana Markel, M-a-r-k-e-l. I am the director of Omaha's Convention and Visitors Bureau. And I had some bullet points, but after hearing Senator Harr and the questions, I have just scribbles all over here to respond to. For this legislative bill to have any kind of effect it really depends on this private development which Senator Harr referred to, which includes--and it is a private development, Senator Adams--of a 350-room Marriott Hotel and 40,000 square feet of retail space. That's really what we are talking about. An RFP has been sent out. A developer has been selected in Omaha. And I've submitted for the record a letter from a

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hotel management firm out of Springfield, Illinois, that wants to build the 350-room Marriott. In this letter they state that they will not build in Omaha if there is not more money put into the marketing of the destination. It's our job at the Convention and Visitors Bureau to basically sell what you have on that map, and we sell that nationally. So if you look at that, we're competing against Des Moines, Milwaukee, Kansas City, Albuquerque. Those are the types of cities that we compete with. We need this 350-room hotel. We built the convention center. The convention center can accommodate about 2,000 people. The Hilton is now up to 600 people, and that helps. But the 350 rooms will put us in a completely different category. It makes us more marketable. So it's something that we certainly support, and I failed to say that I'm also here on behalf of...MECA sent their letter of testimony, but Lynn Rex had to leave and she wanted to mention that the League of Municipalities is in support of this also. But the emphasis of this bill, it's about marketing. We've talked about the various turnback financing legislation we've had throughout the years to build tourism-friendly facilities. We have convention centers and we have arenas all over the place but we've never talked about marketing. We tend--and I include myself, but I'm changing that opinion--but we get enamored with building and seeing the cranes and the constructions and the jobs that this represents, but we don't really embrace the fact that we have to tell people about this. When you think about convention centers and you think about hotels, the market does not live within our boundaries. The market that makes these facilities successful is outside of our municipalities and our state, and we have to tell people. As we sell that land that you have in your map nationally, we bring convention planners. We fly them into Omaha. And, quite honestly, most people are surprised. They'll say, "This is unbelievable. Your airport is five minutes from your convention center; you have a hotel that is connecting to the convention center. That's great, wish you had more rooms, but it connects. This is great. I know we would be the only convention; I know we'd get exceptional service, but I can't book my convention here." And, of course, we'll ask, "Well, all of these things; we sold the site inspection." But the planner will say, "My membership doesn't know about Omaha. I could book you and I know it's logistically easy, but if I book Omaha my job just became three times more difficult, because for me to have a successful convention I need members here." So when you think about South Dakota, how often we see them--or Kansas City--in the press. That's what we need to do. It's not just bringing in a CEO that is looking to relocate his company. It's not that easy when you're talking about convention or tourism development, because our CEO, the meeting planner, is dependent upon the voluntary registration from people all over the country to come in and experience what Omaha and the state of Nebraska has to offer them. You asked, how is the wealth spread across the state? And we talked about some taxes. Omaha has their own occupation taxes on hotels but there is--and Senator Loudon, you represented this well--the Nebraska Tourism Development Act which puts...it's not a...I don't think it's an occupation tax. Maybe it is called...but it's 2 percent goes to a promotion fund; 2 percent goes to an improvement fund; and 1 percent of every hotel room occupied in the counties that have this Legislature, and maybe Deb may speak to that, 1 percent of

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every attendee gives money to the state. So that is how the wealth that comes into Omaha tourism is spread throughout the state, and it's given directly to state tourism. As for how...and I appreciate you asking, Senator Cornett, about how we protect this for the Convention and Visitors Bureau. Just as precedent, in the stadium tax in Omaha, .5 percent...the hotels lobby for .5 percent occupation tax to go towards marketing; and the city has defined that .5 percent as a dedicated revenue source to the Convention and Visitors Bureau. So there is some kind of mechanism to separate that money from the General Fund. I'm looking at...and the fiscal note, I would agree it's high. And with all due respect to Senator Harr on his...his forecast might be a little high, because 72 percent is a very high occupancy. [LB1085]

SENATOR CORNETT: That was a question I'm going to have for you. [LB1085]

DANA MARKEL: Yeah. But how...I'd be very curious to know how they arrived at that number, because it does seem a bit steep. What separates this legislation though from all the others is it talks about marketing. It's the first time outside of the Tourism Development Act that we've talked about leveraging what we have built, and we've built a lot. It's not just in Omaha. Our state has tremendous attractions that are unique that no one can find anyplace other than in the state of Nebraska. We just are not doing a very good job of telling people. Our Omaha promotion budget is around \$3.1 million. That will sound like a lot to you but you'll see in the letter which I've submitted in there market research. This Marriott is saying it would not be competitive and prudent for them to build unless we had a competitive budget in Omaha of \$8 million-plus. Not looking to gain that money from the state, just to share with you how underfunded we are compared to our competitive set. And we start looking at trying to encourage private development to build hotels. So government is not subsidizing them. Private development is going to ask, what are you doing to help us be successful? What are you doing to help us bring in these visitors? And it is all through promotion and marketing. I thank Senator Harr for bringing this legislation forward, and I want to especially thank him for seeking statewide tourism input. He went to great efforts, he and his staff, to question officials across the state to see what they thought. The reason you have as many letters of support as you do across the state is we see this as groundbreaking legislation which finally puts some emphasis on getting the word out and bringing in this new revenue. I'm happy to answer any questions you may have. [LB1085]

SENATOR CORNETT: It looks like you're going to have a whole bunch. We'll start in order, down with Senator Schumacher and to...he had his hand up. [LB1085]

SENATOR SCHUMACHER: Just one brief question. How much is your marketing impaired by a lack of direct flights and larger-size aircraft into Omaha? [LB1085]

DANA MARKEL: If we were to compete against Chicago and L.A. or Atlanta, it would be

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severely impaired. But I'll tell you, we stack up pretty well to Milwaukee. The fact that we have Southwest gave us a tremendous boost. We pull from four states so that helps with our lift. It's a factor, but for the types of conventions we're going after it's a common occurrence in the cities that we compete with. [LB1085]

SENATOR SCHUMACHER: Thank you. [LB1085]

SENATOR CORNETT: Senator Brasch. [LB1085]

SENATOR BRASCH: Thank you for your testimony here today. I'm very curious here, what I'm hearing is advertise, a.k.a. marketing, and they will come. I've talked with, over the last I'd say two years, but various people who are looking for properties and venues to hold national conferences. And what I'm hearing is pricing, pricing, pricing, because of the economy that people are being very competitive. For example, just this December, this national venue went to the Broadmoor in Colorado Springs for less than \$200 a night. That's what attracted them there. I'm not...I think it goes a lot beyond, in today's economy, beyond the advertising factor; that we have to compete and we're able to...is that a frequently asked question for you when people are looking for a property and a venue to...? [LB1085]

DANA MARKEL: Yes, it's dog-eat-dog out there with pricing. And you're absolutely correct, and you are the first person that says advertise and they will come, which I appreciate that, because usually we tend to rely on build it and they will come. And, you know, I've said that really only works in the movies. But advertising is important, and for this specific piece of legislation I believe the funds are dedicated for promotion, because we have a tremendous need in that. I have my own efforts within the city of Omaha to seek more funds for bid fees for convention subsidy. I'm not looking towards the state for that. It's strictly promotion. But you are right, and that's something that we're looking to fuel our funds in that capacity. [LB1085]

SENATOR BRASCH: Besides the hotel, they look at the costs of the food for the catering, you know. It's an extremely tight dog-eat-dog market from what I've understood from fellow business associates who are in the field of taking... [LB1085]

DANA MARKEL: And it is true. And to win you have to subsidize in some manner. And unfortunately, because of that, it takes from our promotion dollars. [LB1085]

SENATOR BRASCH: Very good. Thank you so much. [LB1085]

SENATOR CORNETT: Senator Hadley. [LB1085]

SENATOR HADLEY: Thank you. I appreciate you coming here. My back of the envelope calculations of 350 bedrooms, what is the total taxes on a \$100 room in

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Omaha? [LB1085]

DANA MARKEL: Eighteen dollars and 16 cents. [LB1085]

SENATOR HADLEY: Okay. If that hotel would be filled 50 percent of the time at \$100 a night, that would be about \$18 million a year in revenue. Would the city of Omaha be willing to put all of its 18 percent into this fund? Would they give up all of their funding? [LB1085]

DANA MARKEL: Well, all of that 18 percent does not go to the city. [LB1085]

SENATOR HADLEY: Okay. How much of it goes to the city? [LB1085]

DANA MARKEL: Oh, 6.5 percent, 7 percent...I don't know. There are about seven different revenue flows through that 18.16 percent. [LB1085]

SENATOR HADLEY: Well, I guess my question is, is that Omaha is coming to the state and saying help us, and I haven't heard a word about what Omaha is willing to put into this. [LB1085]

DANA MARKEL: Right. Do you not...I mean I'm just...is...help me to understand is the value of contributing 50 percent back to the state, is that a value? I believe it's the only legislation statewide that where you take money derived in Omaha and contribute it back to the state. [LB1085]

SENATOR HADLEY: Well, but isn't money from North Platte contributed back to the state also? [LB1085]

DANA MARKEL: I don't...no, it's not. Not in this capacity it's not. [LB1085]

SENATOR HADLEY: Okay. [LB1085]

DANA MARKEL: No. No, there's no other city currently that is contributing sales tax back to a state. Omaha is the only city that is contributing money... [LB1085]

SENATOR HADLEY: I just can't understand that so I'll have to look into that. [LB1085]

DANA MARKEL: But I will say, you know, something to consider. But once again, the reason you have such strong statewide support, and I was included in these discussions, is because our state...and by the way, I serve as cochair of the state Tourism Advisory Committee and sometimes I am accused of putting the state before the city, which quite honestly I'm very proud of. But we see this as legislation that we would like to grow throughout the state, not just in Omaha. So we have to be careful. I

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mean if...we could certainly talk about this in Omaha, giving part of our money back to the state, but then the same would be expected if we were to pattern other legislation in other cities. And I'm not sure that other cities would want to do the same. [LB1085]

SENATOR HADLEY: We used to hear from Lincoln shortly after something happens in Omaha, just as a general rule. [LB1085]

DANA MARKEL: Good. Well, I mean that's fine. But this is not just Lincoln. I mean you'll see you have Alliance, you have Columbus, you have North Platte that are interested in this type of legislation for their own community. [LB1085]

SENATOR HADLEY: Okay. Then where does it end if we give away the state's tax base? How do we fund education, how do we fund other things when we give away the state's...when we're giving away the state sales tax dollars, how do we fund the basic core services that we have to do as a state? [LB1085]

DANA MARKEL: Right. The beauty with tourism money is it's new money. It's almost like importing cash. It is. There are people who do not live here who give us money, so this is newfound money and it brings in the economy...one overnight visitor in Omaha...and this is...spends \$119. Just one person. And that is dispersed throughout not just Omaha, it's in the state. And we want to grow our occupancies, not just in Omaha but throughout the state, and once again the benefit of that is it's new money. [LB1085]

SENATOR HADLEY: Okay. Thank you, Senator Cornett. [LB1085]

DANA MARKEL: It's a very clean economy. [LB1085]

SENATOR CORNETT: Mine doesn't necessarily have to deal directly--it does but it doesn't--with this. How...and this is a very dated aerial map. This area is completely developed from what... [LB1085]

DANA MARKEL: Is this it? [LB1085]

SENATOR CORNETT: Yeah. [LB1085]

DANA MARKEL: Okay. [LB1085]

SENATOR CORNETT: How many hotels are there currently in this, let's say the 200, the 450, and the 600? Because I know that there's a lot of hotels already...and it's going more to the question of what is the occupancy rate in the hotels we currently have? Because there seems to be...and I've heard from a number of these hotels that they're having trouble staying afloat, and we're talking about bringing another hotel in?

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[LB1085]

DANA MARKEL: It's the type of hotel, and it's...once again, it's about our marketability. The new hotels...and my sales staff would have a number. I'm going to guess it's around 800 additional rooms that were added along Cuming Street, and they're limited service hotels. Convention delegates...think of yourself when you go to a convention...I mean, once again, to be competitive with the cities I spoke of, most likely you have a restaurant, room service, a lounge. So that's what they're looking for. We go to a convention planner and say we have 900 hotel rooms and 400 of them are full service. They'll go: No, no, no; how many full service? [LB1085]

SENATOR CORNETT: Not just Cuming Street though. But when you go south of the convention center you have full service hotels. [LB1085]

DANA MARKEL: And Embassy Suites does not want convention delegates. That's not their market mix. [LB1085]

SENATOR CORNETT: What about the other hotels? [LB1085]

DANA MARKEL: The Doubletree is eight blocks away from door to door, and that is too far. There are too many cities that have rooms right next to their convention center. This is...you know, and it's...that's how it is. And especially with our weather, walking on foot eight blocks. When you're talking downtown... [LB1085]

SENATOR CORNETT: I was going to say, what is the hotel on the corner of 10th and Dodge then? [LB1085]

DANA MARKEL: Oh, that's the Hilton Garden Inn and that's limited service. [LB1085]

SENATOR CORNETT: Okay. [LB1085]

DANA MARKEL: Yeah, Hilton Garden Inn, the Fairfield Inn, the Homewood Suites, the Hampton Inn, they're all limited service. And I have had discussions with the city of Omaha on how we need to discuss our planning and development so that we plan and develop in the most competitive way. [LB1085]

SENATOR CORNETT: Well, I think that that would be a good discussion to have, because you have a lot of...given limited service hotels, but you have a lot of them in this area, and I know that their occupancy rates are not anywhere near that national average. [LB1085]

DANA MARKEL: Um-hum. Well, they're doing better, you know, than I'd say west Omaha, but yes. And that's the thing, we've added...we're adding to our inventory.

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There are hotels going up, I hear about them. It seems like every couple of months you hear about a new hotel going up. And this is happening across our state, and those of us who are responsible for filling those hotels are really harnessed if we don't have dollars to tell the market, come in and visit. It's not something we can have a reception and invite the community in, after hours, and build business. We have to reach people who live outside. [LB1085]

SENATOR CORNETT: Okay. Further questions from the committee? Senator Hadley, then Senator Pirsch. [LB1085]

SENATOR HADLEY: Just one quick one. This new Marriott, would that be a TIF project? [LB1085]

DANA MARKEL: I don't know. I don't know. I know it's private investors. I don't know what the city's contribution will be. I'm sure they'll want TIF. I would guess... [LB1085]

SENATOR HADLEY: But I would guess the city of Omaha probably is giving up its property taxes on that. [LB1085]

DANA MARKEL: I would guess, but none of those TIF...I'm here emphasizing the importance of telling people about what we have. I mean if we invest to build and if we're committed to development, let's commit to growing a market to support this development. [LB1085]

SENATOR PIRSCH: Just briefly, if you can just briefly speak to...I know that the funds of this proposal would be split 50/50, one for the city of Omaha used to encourage tourism, the other for DED to encourage tourism. But...and if I've missed this while I was out presenting the other and you've already presented on that, just let me know. But can you speak to the relative amounts of money that the city of Omaha and the state of Nebraska, in general, are spending to promote tourism, in general, compared to other, you know, competitors; and then just briefly as to what you think the relative payoff with going with tourism as opposed to competing types of economic development, why tourism should we invest in that, so to speak? [LB1085]

DANA MARKEL: Okay. To answer your first question, and this is submitted for the record, and it's based upon the research gained...and I have similar research by this hospitality company. In comparison, our budget, as I mentioned, is publicly we stay at 3.4...it's about \$3.1 million. Austin has \$8 million; Fort Worth has \$7.7 million; Memphis, \$8.3 million; Little Rock, \$6 million; Kansas City, \$10.6 million. These are our competitors. We're about 50 percent. And that money is used not only for advertising and promotion, but also in subsidy for conventions; and we do fall short of that capacity. So that's how we compare to our competing cities. Your second question: Why tourism versus other industries? I mentioned tourism is a very clean economy. It is...honestly, it

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can provide tax relief. It represents...we hired an economic study, national firm that does tourism studies across the country. And tourism and indirect...and direct, indirect, and induced revenues represents over \$1 billion for Douglas County. It's significant but it's not well understood because you can't see tourists. Tourists look like all of us. So when you're in a restaurant, you may be surrounded by tourists, but no one...it's not tangible. You can't really see it. But in that study of every dollar that is spent, 28 cents of a dollar is in restaurants. So I say it is a clean economy. It is bringing people in by the thousands, tens of thousands, that don't have a kitchen, that don't...that need gas, that need to buy groceries. And that's the beauty of this. They come in and basically spend their money and then leave. It's economic development and it's economic development that we want to capitalize on throughout the state, not just Omaha. Our industry, our tourism industry--and Senator Loudon knows this and you've been a great supporter--has become much closer in the last few years. I have a great friend in Crawford, and he and I talk, and we have similar issues even though our population is quite different, and it's because we know the opportunity that this has for our economy. It's new money. [LB1085]

SENATOR PIRSCH: Thank you. [LB1085]

SENATOR CORNETT: Further questions? Seeing none, thank you, Dana. [LB1085]

DANA MARKEL: Thank you. [LB1085]

SENATOR CORNETT: Next proponent. [LB1085]

DEB LOSEKE: Good afternoon. Members of the Revenue Committee, I am Deb Loseke, D-e-b L-o-s-e-k-e, and I am the current president of Nebraska Travel Association, also known as NETA, and the director of the Columbus/Platte County Convention and Visitors Bureau. Nebraska Travel Association's membership is combined of small mom-and-pop tourism operations, all sizes of tourism attractions, hotels, bed and breakfasts, small and large convention and visitors bureaus, in rural, small community, and large metropolitan areas throughout the entire state of Nebraska. A bill like LB1085 is a step forward to help this entire tourism industry succeed in growing our state tourism budget. LB1085 is a great mechanism to help grow our tourism budget to allow increased national and international marketing to promote all of these attractions and encourage tourists to experience Nebraska. Nebraska has excellent tourism entities that we need to encourage and invite visitors to experience. Nebraska tourism has a lot to share, and LB1085 will help us as a tourism industry to do this. As the third-largest industry in Nebraska, we are greatly underfunded as an industry. LB1085 helps us gain some of this additional funding so we can do more. When we increase tourism, other entities win also: hotels, restaurants, gas stations, retail, cities, and counties, and the list goes on. Tourism creates a trickle effect in tax revenue, consumer spending, and helps raise the profile of Nebraska communities. And

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also I wanted to add, after listening to the testimony today, we are especially appreciative of Senator Harr for this bill because it helps us all work together for tourism. We can't do it alone. Columbus can't do it without Omaha; Omaha can't do it without the smaller communities, which is why we have the Department of Tourism. They represent us all. So when their budget is increased, that benefits the entire state; we all benefit from that. So we would ask, as the Nebraska Travel Association, that you support LB1085. And I'll entertain any questions. [LB1085]

SENATOR CORNETT: Senator Adams. [LB1085]

SENATOR ADAMS: Thank you. How much does the city of Columbus contribute to your tourism effort? [LB1085]

DEB LOSEKE: We do not have any taxes that go to our tourism department from the city. It is all from the state tourism...from the tax that's...the tourism tax at the hotels. So we currently get 2 percent from the state tax. [LB1085]

SENATOR ADAMS: Does the city of Columbus through its economic development efforts do any marketing on behalf of Columbus? [LB1085]

DEB LOSEKE: They do to encourage the job creation, bringing workers. And we kind of work together, because currently we're looking at increasing the tourism entities in Columbus. I can't speak of any certain one project, but we are starting to concentrate more on that. So we will see economic development...the city helping us grow those efforts. [LB1085]

SENATOR ADAMS: Thank you. [LB1085]

SENATOR CORNETT: Senator Hadley, then Senator Schumacher. [LB1085]

SENATOR HADLEY: I guess it's more of a comment than it is a question. I know Kearney has a 2 percent occupation tax on hotel rooms and that is dedicated back 100 percent to tourism in Kearney. And I just...if somebody is going to come up from Omaha, I'd like to know what...is Omaha dedicating any part of their occupation tax back to tourism? Because that's basically how Kearney is funding a very vibrant tourism activity. It's through an occupation tax on hotel rooms that is 100 percent dedicated back. [LB1085]

DEB LOSEKE: Yeah, and I'll refer that question to someone from Omaha. [LB1085]

SENATOR CORNETT: Senator Schumacher. [LB1085]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Thank you, Deb, for coming

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down today. We've heard a couple times today that tourism is the third-largest industry in Nebraska. Do you or do you think there is somebody here today who could say what the amount of the largest, the second largest, what the third is, and then what the fourth is, in dollar terms, so we can get a scale? [LB1085]

DEB LOSEKE: That's a good question. Agriculture is number one. Agriculture and industry are number one and number two, and the dollar amounts I do not have those. [LB1085]

SENATOR SCHUMACHER: And do you happen to know four? [LB1085]

DEB LOSEKE: No, I do not. [LB1085]

SENATOR SCHUMACHER: Thank you. [LB1085]

SENATOR CORNETT: Senator Louden. [LB1085]

SENATOR LOUDEN: Yes. And thank you, Senator Cornett. Columbus--that's in Platte County? [LB1085]

DEB LOSEKE: Yes. [LB1085]

SENATOR LOUDEN: Well, has Platte County implemented their 2 percent occupation tax to go back to promoting tourism facilities? [LB1085]

DEB LOSEKE: The improvement tax? No, we have not. [LB1085]

SENATOR LOUDEN: How come you haven't done that? [LB1085]

DEB LOSEKE: Well, at one point we did, when I began my position at the Convention and Visitors Bureau. Prior to that they had increased on the 2 percent improvement tax, because at that time there was a project to build a war memorabilia museum. We currently have the Higgins Memorial in Pawnee Park. So this war memorial museum was going to go across the street. They were going to complement each other. So they enacted the 2 percent improvement tax to help build that museum. In working with the gentleman who was going to bring the museum to town, things just didn't click. Deadlines weren't met. So the project pretty much got put on a shelf. So at that time they went to the county and asked that that improvement tax be stopped because it was...they built it for a specific purpose so they didn't feel comfortable in continuing that, and so we have not enacted that 2 percent since then. [LB1085]

SENATOR LOUDEN: Okay. Then you do have some wiggle room there that if you had some interesting places there in Platte County or some type of lakes that could be

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fished or whatever, then that tax could be implemented and that money could be used for that. [LB1085]

DEB LOSEKE: Um-hum. Yes. [LB1085]

SENATOR LOUDEN: But Platte County hasn't implemented that. [LB1085]

DEB LOSEKE: No, they haven't, and I... [LB1085]

SENATOR LOUDEN: Now, and I think when Senator Hadley said I don't think Buffalo County has implemented that. So there are counties out there that have some wiggle room to help do something for tourism that they haven't went ahead and done that. Now as you go out west, Scotts Bluff County and most of the counties that have I guess destination points of some type out there have implemented that, and that's what they do with it. They improve museums, they improve facilities to visit these sites and whether they're old forts or whatever they are, historical places or something like that, and that would free up other money then to promote those areas. And then the 1 percent that goes into the state could be used to promote statewide stuff. And one thing I would make a comment, that as I've traveled around the United States and stuff, I've seldom ever seen anything on any of my cable channels that told about Nebraska and what you could come and see in Nebraska. You'll see it about Wyoming, you'll see it about Dakota. And I mean Las Vegas, you've got to leave everything in Las Vegas and the whole bit. (Laughter). But there's never coming to Nebraska and staying or whatever. So I do think that we can do better on a state level for promoting tourism. But go back and get after your county board and tell them to implement that if you want some more money. [LB1085]

DEB LOSEKE: I will. And I have told the boss, "If I had been here then I would never let you take it away," so. [LB1085]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB1085]

DEB LOSEKE: Okay. Thank you. [LB1085]

SENATOR CORNETT: Next proponent. May I see a show of hands for the remaining proponents. [LB1085]

ANDY LICHT: (Exhibit 20) Good afternoon, Chairman Cornett and members of the Revenue Committee. My name is Andy Licht, spelled L-i-c-h-t, and I appear before you today on behalf of the Nebraska Hotel and Motel Association in support of LB1085. We were unaware of Senator Harr's additional amendments to the bill so my testimony reflects our board of directors' support on the bill as it was originally introduced. The association is a statewide organization representing approximately 75 percent of the

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hotel and motel rooms in the state. Over the past several years, the tourism industry has been working hard to achieve more dollars for tourism promotion for Nebraska. We have been pleased that there have been some General Fund expenditures, but Nebraska still ranks near the bottom of expenditures by the state for tourism promotion. In addition, hotel and motel taxes continue to be the main source of revenue for tourism promotion. LB1085 offers a unique opportunity to provide new funding for the state tourism department based on the throwback tax approach offered in this bill. It also would allow an enhancement for tourism development in the city of Omaha where this revenue would be generated. With the passage of LB684 in the 2011 session, the Nebraska Division of Travel and Tourism within the Nebraska Department of Economic Development is currently conducting a massive marketing study of all facets of tourism promotion and finance in the state. This study is taking into account local and state revenues for tourism marketing. We believe with the additional enhancement dollars available in LB1085, Nebraska can continue to grow its third-largest industry by broadening the source of revenue from the current hotel and motel room tax. Thank you for allowing us to testify today. [LB1085]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. [LB1085]

ANDY LICHT: Thank you. [LB1085]

SENATOR CORNETT: Next proponent. We'll move to opponents. Neutral? [LB1085]

SENATOR HARR: Madam Chair and members of the Revenue Committee, it's been fun. Thank you. I hope to put a nice little bow on this bill for you and to address some of the issues that have been brought up. I want to thank everyone who came and testified, first of all. I see why they are in marketing and I am where I am. They did a great job. Senator Hadley, to answer your question, where is the state, where is their...where is Omaha's skin in the game and where does the state come out ahead by doing this? And the answer is pretty simple. We limited this to a very small area and I did it not so the hotel would come in, although that is a bonus; the reason I did it was because I wanted to keep the fiscal note low. Now that got blown out of the water. (Laugh) But I think reasonable minds will come to a different conclusion than a number thrown in the air with no basis in fact that we were made aware of in the Legislature. But I wanted to keep the fiscal note low. I think it's important we support tourism. It's not as sexy, it's not a database and it's not a data center, but it is exciting and it brings people from outside, and it brings Omaha to Omaha and it brings outstate to Omaha, and it again improves our economy. It brings a creative class in. But I limited it to right there. So if there is a tourist at this--and I now believe it's a Marriott hotel--and they wander, bloop, across the street, they're spending money at a bar. They spend money at a bar and they're paying sales tax on it. The only sales tax we're turning back is that little bit spent right there at that hotel. Anywhere else they spend it in, I mean they can spend it across...that's within

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the range but it wasn't completed and on the tax rolls within the last two years, or of the two years we're contemplating. So this is a small circle--and I'll circle it--within a larger amount. The city is going to come out...the state is going to come out ahead. That...if we bring one person into that hotel room, I can guarantee you the state is going to make money off of that. So we lose a little, we gain a little. It's somewhat like the idea of TIF, only better, because the returns are higher and immediate. So that's where we get that. The TIF issue, somewhat of a loss leader, and I will be willing to talk about that off mike as to why I think this is important. Again we're promoting an industry; we're not promoting a specific development. This hotel will help bring other conventions to Omaha. On an aside, and I know it's getting late and I don't want to be too late, but, you know, it would have been neat if they would have done the convention center and flip-flopped it so that the arena were closer to the parking--as a guy who goes to the arena quite a bit--and the convention center were closer to the Old Market, but it wasn't built that way. So that's just an aside. And maybe when we destruct it and rebuild it, we can do that. This is about expanding the economy of Nebraska. It's about getting people off the interstate. It's about bringing people into Nebraska. It's about finding money that we are leaving on the table right now. And it's about promoting Nebraska. Now I think, I hope, we've worn you down and there aren't a lot of...well, I assume there won't be a lot of questions but I will open to any questions you may still have. [LB1085]

SENATOR CORNETT: Senator Adams. [LB1085]

SENATOR ADAMS: Thank you. One of the gnawing questions I have, because I know how we do this in York County, Seward County, and maybe in a lot of other counties, what does Douglas County or the city of Omaha in terms of their budget do for tourism that might offset the city of Omaha having to be here asking for us to help them with marketing, and in a plan, admittedly, that also could contribute to other cities doing the same? But my direct question is, does Douglas County, when they put their budget together, set aside dollars for marketing; does the city of Omaha set aside dollars for marketing? [LB1085]

SENATOR HARR: And I don't know the exact numbers and I will work to get those for you. But that's...again, the key here is, how can we get more revenue for the state? That's why we're all here. That's why I introduced this bill. And the answer is: by giving up a little bit and gaining a heck of a lot more. We're looking at return on a dollar. And so, yeah, we are giving up a little. Could Omaha do more? Sure. Could Douglas County do more? I'm not going to say they can't. I don't disagree with that. But I'm not looking out for Omaha or Douglas County. I'm looking out for the state and how can I improve the state dollars and how can I get more state tourism money. So while, yeah, they could do more, could Platte County do more? Sure. Could out in Gering do more? Possibly. But that's not the issue. The issue is what can we do as state senators to increase the payroll and the General Funds for Nebraskans. And that's what this bill does, is it helps the whole state. [LB1085]

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SENATOR CORNETT: Senator Schumacher. [LB1085]

SENATOR SCHUMACHER: Thank you, Senator Cornett. In many respects this bill asks us to spend our state sales or our property sales tax money to bring people into Omaha. Now, instead of wandering across the street to the bar, they wandered across the river to the...where? [LB1085]

SENATOR HARR: The strip joints? [LB1085]

SENATOR SCHUMACHER: You're getting warm. (Laughter) [LB1085]

SENATOR HARR: Ummm, casinos? [LB1085]

SENATOR SCHUMACHER: Oh, yes. [LB1085]

SENATOR HARR: Oh, okay. [LB1085]

SENATOR SCHUMACHER: Thank you, Senator Harr. [LB1085]

SENATOR HARR: Yes. As I like to say, it's a wholly-owned subsidiary of where we go to sin. [LB1085]

SENATOR SCHUMACHER: (Laugh) [LB1085]

SENATOR CORNETT: I was going to say I think that may have been possibly the first time "strip joint" has been used in Revenue, but that's okay. (Laughter) [LB1085]

SENATOR HARR: Well, it's been a long day. [LB1085]

SENATOR CORNETT: It has been. Senator Louden. [LB1085]

SENATOR LOUDEN: Yes. Thank you, Senator Cornett. One of the testifiers earlier said that your tax on motels or hotels there is 18 percent. You know, there's 5 percent of that goes to tourism now, 2 percent to the local...well, 4 percent to the local, 1 percent to the state, and I suppose 7 percent is the state sales tax and the city sales tax. So there's 12 percent. Well, what's the other 6 percent used for? [LB1085]

SENATOR HARR: That is a very good question, and I think it's 18.16, so there's even more out there that we don't know. And I don't know the answer to that. But, by Monday, I will have an answer for you. [LB1085]

SENATOR LOUDEN: Okay. Here's what I have a problem with on some of this when

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we start talking about tourism, because I've been promoting this for ten years and there's still times that I don't like the way it's done. The city of Alliance out there, all of sudden Box Butte County rescinded their occupation tax; they didn't want to fool with it. So the city of Alliance picked it up, that 2 percent. So what did they do with it? They used it to fund their museum. In other words, the town has picked it up and used it as a cash cow. So I'm wondering, when we talk about this and we know there's a sale tax involved and we know there's an occupation tax on those rooms, anything above that is somebody is using that for some other purposes. And I don't know if it's always to promote tourism, or are they just using it to...for their general fund? [LB1085]

SENATOR HARR: And that's the beauty of this bill is that it's the state is in control of that money. It says, hey Omaha, you have to do it for this, and it goes through the Department of Economic Development so we are in control of it. And guess what? If that bill...there is a sunset on this, by the way, and I never brought that up, and it's only for the length of the bond. So if we decide, hey, turnbacks are bad--guess what? They're going to end automatically, so we'll have to renew it at that time. But there's nothing that stops us from saying two years from now, you know what, it's being abused; let's stop it. We can do that. But we have to remember in the back of our minds constantly remember what is our vision, mission, goal. And the ultimate vision is to increase tourism in this state, and the mission is to increase revenue in this state, and this is the goal, this is what gets us across the line to increase funding in this state. It's a small investment but it is an investment and it is money up-front. But the numbers are there. It pays off. We at the end of the day increase our economy. This is why we do any tax break that we do, and the numbers support what this bill wants to do. It doesn't matter... [LB1085]

SENATOR LOUDEN: Okay. [LB1085]

SENATOR HARR: Yeah. [LB1085]

SENATOR LOUDEN: Yeah, thank you. [LB1085]

SENATOR HADLEY: Senator Harr, just so I heard Senator Louden right, would you get us the information? Is it 18.16 percent? Is that what you said is Omaha? [LB1085]

SENATOR HARR: That was the testimony I heard. [LB1085]

SENATOR HADLEY: Could we get the breakdown of exactly where that's going and the dollar amount for the city of Omaha, you know, and the breakdown of where it goes and the dollar amount of where the 18.16...? [LB1085]

SENATOR HARR: And I'll show you mine if you show me yours, if you can get it for Kearney. [LB1085]

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SENATOR HADLEY: I'm sorry, Kearney is not asking for this. I think the city of Omaha is asking for it, so. [LB1085]

SENATOR HARR: (Laugh) No, and it's not...and again, but let's remember... [LB1085]

SENATOR HADLEY: I mean if you don't want to do that, Senator Harr, that's fine. [LB1085]

SENATOR HARR: No, no, no, I'll definitely...no, no, no, I have no problem doing that. I'm just teasing. [LB1085]

SENATOR HADLEY: This committee is the one that has to decide whether or not we're going to vote this bill out. [LB1085]

SENATOR HARR: No, but...and again. Yeah, and I have absolutely no problem doing that. In fact, I can probably get it to you before the end of the day. And I think that's fair. But again we have to remember this isn't an Omaha bill. And I think sometimes in this Legislature we get a little myopic and think urban versus rural or Omaha versus outstate. And what we are doing is making an investment in tourism to increase funding across the state. Now the question is, does the majority of it go to Omaha? No. Fifty percent does--not quite a majority. But yes, a large portion of it does go to Omaha but it's also where the largest turnaround will come and it will make money,... [LB1085]

SENATOR HADLEY: Okay. Thank you, Senator. [LB1085]

SENATOR HARR: ...and that's what I'm in the business of doing for government. [LB1085]

SENATOR HADLEY: Okay. [LB1085]

SENATOR CORNETT: Somewhere I'm missing some numbers. [LB1085]

SENATOR HARR: Okay. [LB1085]

SENATOR CORNETT: Eighteen percent occupation tax on hotel rooms, correct? Approximately. [LB1085]

SENATOR HARR: I'm not on the Revenue. Honestly, I don't know. [LB1085]

SENATOR CORNETT: Well, you know what? We don't control occupation taxes, as we found out. [LB1085]

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SENATOR HARR: What's that? I'm sorry. [LB1085]

SENATOR CORNETT: We don't control occupation taxes as we found out--the rate. [LB1085]

SENATOR HARR: (Laugh) Fair. [LB1085]

SENATOR CORNETT: That may change though. [LB1085]

SENATOR HARR: Yeah. A good point. [LB1085]

SENATOR CORNETT: The occupation tax on motel and hotels, isn't that supposed to be going for tourism? [LB1085]

SENATOR HARR: You raise a very good question, and again I will find that out for you, what it goes to pay. [LB1085]

SENATOR CORNETT: Because I remember you said that .5 was...or I believe it was Ms. Markel that said the .5 was dedicated to her bureau in the city. [LB1085]

SENATOR HARR: Let me turn around and confirm. [LB1085]

_____: (Inaudible). [LB1085]

SENATOR HARR: 5.5 percent on hotels; .5 does go to tourism. [LB1085]

SENATOR CORNETT: So the 5 percent other than that is going back to the General Fund? [LB1085]

SENATOR HARR: May I turn around and look again? [LB1085]

SENATOR CORNETT: But it's not going back to tourism. [LB1085]

_____: Correct. [LB1085]

SENATOR CORNETT: Okay. Good enough. Thank you. [LB1085]

SENATOR HARR: But again I think we have to emphasize what this is going for. This isn't about Omaha. This is about tourism and promoting an industry across the state to bring new tax dollars into the state. And we can sit there and we can argue and nitpick numbers, and all we end up doing is...well, we don't get anywhere. What we have to do is look at what is in the best interests, not how we can control other agencies. If I could, HHS would be run a heck of a lot different. But what we do is set policy, and that's what

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I'm looking to do here is set policy, not control how HHS is run and not control how the city of Omaha uses its taxpayer dollars. What I'm trying to do is to create and grow General Funds for the state of Nebraska. [LB1085]

SENATOR CORNETT: Thank you. (See also Exhibit 33) [LB1085]

SENATOR HARR: Thank you very much. I had a great time. I will introduce a lot more bills next year so I can be in front of Revenue. [LB1085]

SENATOR CORNETT: It's a fun committee, isn't it? [LB1085]

SENATOR HARR: It is. It's a great one. Thank you. [LB1085]

SENATOR CORNETT: Sorry, Senator Pirsch. I apologize. You're recognized to open. [LB1097]

SENATOR PIRSCH: No, that's quite okay. I know Senator Harr, the lingering effects of the profound statements that he's made is reverberating; but thank you. I am state Senator Pete Pirsch, P-e-t-e P-i-r-s-c-h, Legislative District 4, for the record, the sponsor of LB1097. The purpose of LB1097 is to amend certain revised statutes to provide the sales and use tax exemption for purchases by nonprofit mental health centers. It's been said that within the overall tax policy of Nebraska it's never been the intent of the Legislature to tax nonprofit healthcare. These nonprofit mental health centers continually face increased costs and lower reimbursement rates from both the state and the federal level. The majority of patients receiving care are Medicaid patients; and recently the Department of Revenue has determined that they should be paying sales and use tax on purchases. It does not make sound tax policy that we would expect these providers to pay sales and use tax and then turn around and pay those taxes as part of a Medicaid reimbursement. LB1097 would clarify that it is not the intent of the Nebraska Legislature to tax nonprofit healthcare. And there will be those who follow me who will be testifying, but I would be open to questions if you have any. [LB1097]

SENATOR CORNETT: Seeing none, thank you, Senator Pirsch. [LB1097]

SENATOR PIRSCH: Wonderful. [LB1097]

SENATOR CORNETT: First proponent. May I see a show of hands of proponents. I'm not going to limit testimony but I would appreciate the consideration of the time of day. [LB1097]

KORBY GILBERTSON: (Exhibits 21, 22, 23, 24) I very much understand that. Madam Chair, members of the committee, for the record my name is Korby Gilbertson. It's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on

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behalf of Boys Town National Research Hospital in support of LB1097. I'd first like to thank Senator Pirsch for introducing this legislation. This bill came about because there were a number of agencies that received notice, actually after the session even started, notifying them that they were supposed to be paying sales and use taxes on purchases. This came as quite a surprise as a number of these entities are part of another tax-exempt entity; and so it caused some confusion. And in our attempt to find out what was really going on, we still are quite confused and there's still some confusion, because it seems as though the Department of Revenue is basing things on an actual license rather than who owns the entity, and so it's caused some confusion. Being passed out to you I have letters, in an effort to not have a parade of testimony for you this afternoon...this evening almost. You should have a letter from Boys Town, Alegent Health, and Nebraska Child Healthcare Alliance, all in support of the bill. LB1097 would provide the Department of Revenue clarification that it is not Nebraska's intention to tax nonprofit healthcare. This probably sounds somewhat familiar because it is somewhat familiar to LB40 that you've heard and advanced to Final Reading yesterday. Nonprofit mental health centers recently began receiving audits by the Department of Revenue and notices that through the strict interpretation these providers were supposed to be paying sales and use taxes on their purchases. The list you should have in front of you, yours is in yellow, shows those that...we went through the list of mental health centers through the Department of Health and Human Services to find all the licensed health centers. These are all the nonprofit mental health centers. This list would have been approximately 25 more providers long three years ago. But due to cutbacks and things that are going on in the state, we have had a number of providers leave our state. And I think that a lot of us have become aware of that now with the issues we have in the child welfare system. These facilities are obviously already facing a number of cuts, both in state and federal levels. They're facing increased costs, lower reimbursement rates, lower provider rates, and we're turning around and now asking them to pay sales tax. To top it off, as Senator Pirsch said, many, if not all, of these facilities provide the majority of their services to Medicaid patients. And so they are based on Medicaid reimbursement rates. This just adds insult to injury for those entities who are already struggling to stay open and stay in the state and provide very special...very important services to some of the most at-need citizens of our state. I believe Senator Hadley when he was talking about LB40 gave you a good example of what goes on and talked about how in LB40 you have a hospital that buys ten boxes of Band-aids and seven of them stay at the main hospital and three go off to the clinic. Well, in our case you could have a case of paper, 23 of the reams stay at the main building, 1 of them then goes to the mental health center that can be across town, across the parking lot, or even in the same building in some instances, and those are now asking to have sales and use tax paid on them. Now there are a small number of nonprofit mental health centers that are not affiliated or owned by other tax-exempt entities, but the policy arguments remain the same. Why would the state of Nebraska want to impose sales and use taxes on a facility that is providing services that are an integral part of the Legislature's decision to focus on community-based mental healthcare rather than an institutional model

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previously used by the state? Currently government-owned, nonprofit mental health clinics are exempt from sales and use tax. We ask that the Legislature eliminate the current confusion and mandate that a uniform tax policy concerning the nonprofit health centers. I wanted to add a little editorial, and this isn't from the Boys Town side, but I sit on a board of one of the other mental health centers in the state, and I was...really had my eyes opened in the last few years or last year and a half that I've been on the board of the number of costs that don't get reimbursed and how these agencies really do scrape. And but for the generosity of different organizations that give grants and personal donations, they would not be able to keep their doors open. For that reason, I think this type of legislation is very important and does follow. I know I've listened to other hearings during the session from the committee, and the first question is usually, how does this fit into our overall tax policy and does this make sense? I think this obviously makes sense. And when we are asking these facilities to do a lot more with a lot less, adding in the extra taxes does not help these entities stay open. I'd be happy to try to answer any questions. [LB1097]

SENATOR LOUDEN: Questions for Korby? Senator Hadley. [LB1097]

SENATOR HADLEY: Thank you, Senator Louden. Korby, thank you for coming. I guess, and I'll start with the very top one. [LB1097]

KORBY GILBERTSON: Um-hum. [LB1097]

SENATOR HADLEY: I guess I have trouble with the rationale that the Revenue Department would be wanting to tax the Alegent Health Immanuel Medical Center because that is a hospital, right? [LB1097]

KORBY GILBERTSON: That's where the confusion arises, that's where the confusion is. The majority of these, and you'll see Boys Town also, they're a tax-exempt entity. [LB1097]

SENATOR HADLEY: Well, I guess, yeah, I guess...I don't know if anybody is going to be here from the Revenue Department. But, you know, I... [LB1097]

KORBY GILBERTSON: There are... [LB1097]

SENATOR HADLEY: I memorized this green sheet, all 14 of them. [LB1097]

KORBY GILBERTSON: Yeah (laugh). [LB1097]

SENATOR HADLEY: And, you know, number one is a hospital. And if they're operating under the hospital auspices, I have trouble understanding the rationale of why we're taxing them. [LB1097]

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KORBY GILBERTSON: Right. The Department of Revenue's interpretation is that if you're not specifically enumerated in this section of law as being tax-exempt, you're not. So because they have an additional license to license these mental health centers, even though they're part of their larger operation, that part of that operation is now supposed to pay sales and use tax, which we believe should not be a policy of the state. [LB1097]

SENATOR LOUDEN: Other questions? I have one. They're not paying sales tax now? [LB1097]

KORBY GILBERTSON: I will tell you it was hard to find out who was and who wasn't, but from what we can tell there might be one or two who are. The rest are not. So once again, talking about fiscal notes, the fiscal note would be the outside. [LB1097]

SENATOR LOUDEN: But this has come from the interpretation of the Department of Revenue here in the last, when, six months, eight months, a year? [LB1097]

KORBY GILBERTSON: Right, just recently. Some of the letters were just received by these agencies in January. [LB1097]

SENATOR LOUDEN: Okay. And this is something that's a new development. [LB1097]

KORBY GILBERTSON: Yes. [LB1097]

SENATOR LOUDEN: Any other questions? Seeing none, thank you for your testimony, Korby. [LB1097]

KORBY GILBERTSON: Thank you. [LB1097]

SENATOR LOUDEN: Next proponent, please. [LB1097]

JOHN SYNOWIECKI: Senator Louden. [LB1097]

SENATOR LOUDEN: Yeah, Senator Synowiecki, nice to meet you again here for a while. [LB1097]

JOHN SYNOWIECKI: (Exhibit 25) Nice to see you guys all again from the Revenue Committee. I sat on the other side of the table a few times so I know the time on the wall is getting late so I'll kind of summarize here. I'm John Synowiecki, J-o-h-n, Synowiecki, S-y-n-o-w-i-e-c-k-i. I'm here on behalf of Catholic Charities, the Archdiocese of Omaha this afternoon. I want to thank Senator Pirsch for attempting to clarify this public policy issue here for the nonprofit mental health centers. We are organized and operated

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exclusively for exempt purposes as set forth in Section 501(c)(3) of the Internal Revenue Code. We serve anyone in need within the archdiocese of Omaha. We have food pantries, a full continuum of behavioral health services, microbusiness training. We are the only provider of domestic shelter services for women in Douglas County. So we have an array of services, all of them human service focused within the archdiocese of Omaha, and we serve anyone. Kind of what Senator Hadley was hitting on earlier, we also operate three venues that are licensed as mental health centers. The Omaha Campus for Hope and the Columbus treatment center in Columbus, Nebraska, serve mostly homeless and near homeless individuals that are in need of residential care. Our Journeys program serves teens struggling with addictions and substance abuse. Consistent with our mission, we serve virtually no one that is private pay. Most of our pay is derived from what was said earlier, Medicaid and Program 38 through the regional behavioral health authorities. The entirety, the entirety of our Columbus treatment center residential services and 16 beds of our Omaha Campus for Hope program is directly responsive to this state's behavioral health reform efforts relative to decreasing our reliance on very expensive institutional care at our regional centers. So they truly play a very inherent state interest relative to the services we provide to the citizens of Nebraska. Our state's network of nonprofit mental health centers truly represent a public/private partnership in our mutual endeavor of meeting the needs of vulnerable citizens. This model has proven to be cost-effective for the state and helps to assure access to nationally accredited behavioral health interventions to anyone in need in our communities throughout Nebraska without regard to income. So I would encourage the Revenue Committee to make this clarification in statute. And I want to once again thank Senator Pirsch. Thank you, Madam Chair. [LB1097]

SENATOR CORNETT: It's good to see you again. [LB1097]

JOHN SYNOWIECKI: Nice to see you. [LB1097]

SENATOR CORNETT: Senator Hadley. [LB1097]

SENATOR HADLEY: More of a statement than a question. I guess I'm just amazed at our Revenue Department taking this interpretation. I guess I'm just going to make a flat statement: Where does it end? Maybe we should start taxing churches or, you know, I just...I look at the statute and that's...I guess I've said enough. [LB1097]

SENATOR CORNETT: Further? Seeing none, thank you. [LB1097]

JOHN SYNOWIECKI: Thank you. [LB1097]

PATRICK CONNELL: (Exhibits 26, 27) Good afternoon. My name is Patrick Connell, P-a-t-r-i-c-k, Connell, C-o-n-n-e-l-l. I'm here this afternoon on behalf of the Nebraska Association of Behavioral Healthcare Organizations and I'm also submitting a letter from

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Mid-Plains Center also on this bill supporting this bill. I will not repeat what's been said. I want to be very respectful of your time and your consideration of this. I just want to add two things to this. One is we went out and did a survey of what other states are doing, and what we found was about 11 states are taxing some parts of mental health centers, and what...but there's a lot of other exemptions that they're given and etcetera. So there's a very few states that are doing this. The second thing is that our mental health system in this state is extremely brittle financially. To now start taxing losses, I mean it will cause further programs to close or services to be reduced. We've had 25 organizations that have either closed programs or services within the last four years. I thank you very much for your time and your consideration of this. I am here to answer any questions. Thank you. [LB1097]

SENATOR CORNETT: Senator Hadley. [LB1097]

SENATOR HADLEY: I just want to clarify, I don't want to read it in the paper that Galen Hadley says we should tax churches. (Laughter) Okay, I just want to clarify that comment so it doesn't end up in the paper. Okay? [LB1097]

PATRICK CONNELL: Duly noted. [LB1097]

SENATOR CORNETT: I heard you want to tax everyone. [LB1097]

PATRICK CONNELL: Thank you, Senator Pirsch, for introducing this. [LB1097]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you very much. [LB1097]

PATRICK CONNELL: Thank you. [LB1097]

SENATOR CORNETT: Next proponent. [LB1097]

TOM McBRIDE: (Exhibits 28, 29) Good afternoon. My name is Tom McBride, T-o-m M-c-B-r-i-d-e, and I'm here to testify in support of LB1097 on behalf of Epworth Village, Incorporated, and the Children and Family Coalition of Nebraska, all of which are 501(c)(3), not-for-profit, public benefit agencies. Senator Adams is acutely aware of the programs we provide, residential services, psychiatric services to children and youth, in-home safety services, foster care education programs. I tell you what. This caught me by surprise. I have never been in front of the Revenue Committee before. This isn't my bailiwick. You know, it is providing services to those in need. We realize that if a not-for-profit agency owns property and that property is not being used for the purpose of the program, that it's taxable. This one, though, you know, we have mental health licenses because we're required to have mental health center licenses as a part of the ability to then bill for Medicaid services. The example in the Department of Revenue's

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notice about electricity, I don't know how to separate out how much I would pay for taxes in electricity for use in a psychiatric residential treatment facility living unit that is providing programs, treatment programs 24 hours a day, 7 days a week, but yet still holds a behavioral health center license. I don't know how I would bring that out. Additionally, we operate on contracts from Medicaid and contracts from the state Department of Health and Human Services, none of which pay the entire cost of care. And according to the Department of Revenue, the notice to us, we are now because we're required to provide appropriate clothing, hygiene items to the youth in our care, that now the money that I receive on the contract from the department I'm also going to have to turn around and pay taxes because we buy clothing for the kids that we're serving. It's confusing to me. It, you know, it goes against where we have been. I think Senator Louden asked who was paying taxes. If I can get an amnesty, I'll say, you know, we have not paid sales and use taxes before until this notice. We didn't know that it was a requirement. So I would ask that you move LB1097 forward and grant an exception to the mental health center having to pay sales and use taxes. [LB1097]

SENATOR CORNETT: Senator Louden. [LB1097]

SENATOR LOUDEN: Yes. Thank you for your testimony. Do you...you buy fuel and that. Do you pay your sales tax on your electricity and on your fuel? [LB1097]

TOM McBRIDE: Our fuel is purchased at the pump and... [LB1097]

SENATOR LOUDEN: No, I mean your fuel to heat your place like your natural gas or whatever you use to heat with and your electricity to run your business. [LB1097]

TOM McBRIDE: No, we don't. That's exempt. [LB1097]

SENATOR LOUDEN: That's tax-exempt and it has been tax-exempt. [LB1097]

TOM McBRIDE: Yes, sir. [LB1097]

SENATOR LOUDEN: And this is what they're discussing. This is where they think you need to start paying sales tax then? [LB1097]

TOM McBRIDE: That is my understanding in the notice. [LB1097]

SENATOR LOUDEN: Okay. Thank you. [LB1097]

SENATOR CORNETT: What...you're going to have to be a little bit more clear. What are they asking you to pay sales and use tax on besides your fuel? [LB1097]

TOM McBRIDE: The example in the... [LB1097]

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SENATOR CORNETT: I looked at it. It was... [LB1097]

TOM McBRIDE: Yeah. It's not a good example in there, from the Department of Revenue, the statement that we received? [LB1097]

SENATOR CORNETT: Um-hum. [LB1097]

TOM McBRIDE: You know, it talks about a facility that houses both a taxable mental health center and an exempt assisted-living facility, the usage of the entire building is not sales- and tax-exempt. Only the portion of electric usage which can be shown as used by the assisted-living facility is tax-exempt. Our programs are intertwined and combined. I can't separate out the...you know, because we have child caring licenses, we have child placing licenses, we have Medicaid contracts and stuff. I don't know how we would separate out, you know. Because we're required to have that behavioral health center license...or that mental health center license, you know, what we do 24 hours a day is associated to that treatment facility. I don't know if I explained that because I don't really understand it that well myself. [LB1097]

SENATOR CORNETT: Senator Hadley. [LB1097]

SENATOR HADLEY: Just as a point of clarification, I remember from LB40 that I believe it was Chadron that did some remodeling and building, and that really starts stinging. You go out and build a new facility; you're going to pay sales tax on the materials that you use for the facility. So if you were to go...you know, if someone were to give you a half a million dollars to go out and build a new facility, you're liable to pay \$35,000, you know, \$25,000 to \$35,000 on sales tax because you're no longer tax-exempt. So it's just not the utilities and such as that. It's the other things that you would be... [LB1097]

TOM McBRIDE: It's all purchases and, yeah. [LB1097]

SENATOR HADLEY: ...the purchases that you were doing. And I remember, and I think it was Chadron that, I believe it was Chadron, they got hit...a big-time item. And it's hard because they get...like in your case, when you get Medicaid, you know, your dollars are limited. And so you're going to be paying the state back... [LB1097]

TOM McBRIDE: For the money they paid in. [LB1097]

SENATOR HADLEY: ...some of the dollars they give you to do it. [LB1097]

TOM McBRIDE: Exactly. [LB1097]

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SENATOR HADLEY: So with that, thank you. [LB1097]

SENATOR CORNETT: Further questions? Seeing none, thank you. [LB1097]

TOM McBRIDE: Thank you. [LB1097]

SENATOR CORNETT: Next proponent? Opponents? Neutral? Senator Pirsch.
[LB1097]

SENATOR PIRSCH: Thank you. And I've been told by the senator who proposed taxing the churches that I'd better keep this short (laughter); so I will try to do so. And with that, I think you've heard, you know, it seems as though this tax policy, which is a change from that which is actually going on, so really you're not...it seems as though we've never been deriving these revenues, so they're kind of phantom revenues that have never been collected. We'd be collecting them essentially for the first time. Once these mental health centers, and they are in many of our communities, South Sioux City, Columbus, York, Hastings, Seward, once they're gone they may be gone. They talked about the, you know, many of them are struggling within the last...within recent times. Twenty-five I think they said had disappeared or reduced services. And that really goes against what the vital state interest is, is building out more and increasing in this area. So let's not defeat compelling state interest through our misguided tax policy. And with that, I will close. Thank you. [LB1097]

SENATOR CORNETT: And you have one more bill. (See also Exhibit 34) [LB1097]

SENATOR PIRSCH: And on that I will open. [LB1108]

SENATOR CORNETT: I was going to say don't get up (laugh). [LB1108]

SENATOR PIRSCH: (Exhibit 30) Yeah, let me grab my folder on that. And I do have an amendment if I can have the page distribute this. There's AM1923 I'm handing out. Again, State Senator, for the record, Pete Pirsch, P-e-t-e P-i-r-s-c-h, Legislative District 4, the sponsor of LB1108. For the record, there's an amendment that I'm circulating to LB1108. The Fiscal Office, in looking at our intent, had called to our attention there's some clarifying language, and so that amendment would meet the intent of our...well, LB1108 relates to the sales and use tax exemption on manufacturing machinery equipment. The bill attempts to clarify the intent of the statute by expressly stating that the exemption should be allowed on all manufacturing machinery equipment, no matter the percentage of gross receipts a company derives from the use of such equipment. And there will be testifiers after me who will clarify that. So unless there's any questions, I'll defer to them. [LB1108]

SENATOR CORNETT: Seeing none. [LB1108]

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SENATOR PIRSCH: Thank you. [LB1108]

SENATOR CORNETT: First proponent. [LB1108]

JOSEPH YOUNG: Good evening almost, Senator Cornett and members of the committee. For the record, my name is Joseph Young, last name Y-o-u-n-g. I'm the director of public policy for the Greater Omaha Chamber, testifying today on behalf of the Chamber and the State Chamber of Commerce and Industry in support of LB1108. First, let me thank Senator Pirsch for introducing this bill. It's kind of a tough issue. It's a little bit of a confusing issue and it's certainly one that we brought to him and said that, you know, at the very least we want to have a discussion about this, this year. And I'm actually glad that you have both the green copy of the bill and the amendment hopefully in front of you as well because they coincide and they're one in the same. And just to clarify, too, when we brought this bill it was getting late during bill introductions and we essentially put in a placeholder to get the bill in there so we could have a discussion here in committee. When the Legislature provided a sales tax exemption for manufacturing equipment and machinery in 2005, this was seen as a major improvement to the tax climate in Nebraska. And this has been especially timely as the manufacturing sector strives to rebound from tough times recently as well. But this has been of great assistance to a number of employers, allowing them to expand and modernize. This has also proven to be a disappointment to those who have been deemed by the Department of Revenue to be ineligible for the exemption. But now we have a policy that...or now we have a policy that declares businesses ineligible based on the amount of income essentially that a business can attribute to nonmanufacturing activities such as retail. And I'll explain that in a little bit. Traditionally Nebraska's economic development programs have been tailored to be exclusive of retail development. But is tradition, of course, something that we should overly rely on in an economy that has changed so much over the years? And does it make sense that a business that makes a product and sells it to a retailer as a manufacturer, but one that sells directly is not? If we encourage more development of manufacturing in Nebraska, we have to consider these factors. At the very least, we need some flexibility. Optimally, though, we should go with the simple meaning of the sales and use tax exemption found in 77-2704.22 where it says "Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental and on the storage, use, or other consumption in this state of manufacturing machinery and equipment." As the Legislature looks to revenue and economic development policy in the years to come, how that should look as the economy grows and changes, this is the time to discuss the best ways we can attract and retain investment and jobs, especially in manufacturing. And I would be happy to answer any questions. I just wanted to clarify, too, one thing because, like I said, this is a little confusing with not a whole lot of background. The sales tax exemption was passed in 2005 as part of the Nebraska Advantage Act, LB312. And there's two separate issues here: one is the green copy and one is the

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amendment. They're two separate statutes. But right now if a company that gets over 50 percent of its income from nonmanufacturing sources, we'll say retail, they do not get the exemption for any of its activities. For example, a company that manufactures and installs structural steel may be declared a nonmanufacturer if its revenue for the manufactured product is less than the revenue for installing the product. Somewhere in there, there's a happy median. Is it 50.1 percent of someone's income that we should be relying on? We're not sure if that's the right policy for the state. So with that, I'll take any questions. [LB1108]

SENATOR CORNETT: So just a quick question. The amendment is different than the bill. [LB1108]

JOSEPH YOUNG: It is. [LB1108]

SENATOR CORNETT: What do you project the fiscal impact of the amendment will be? [LB1108]

JOSEPH YOUNG: That's a good question and that's why when we brought this to Senator Pirsch during bill introductions we said it's likely that this bill may be just be introduced for discussion because the fiscal note would be significant, in the millions of dollars. I don't know what that would be. [LB1108]

SENATOR CORNETT: Thank you. Senator Hadley. [LB1108]

SENATOR HADLEY: Thank you, Mr. Young, for coming. Does this impact a lot of companies in Nebraska? [LB1108]

JOSEPH YOUNG: That's a good question, too, and I know that it affects some. [LB1108]

SENATOR HADLEY: Is this targeted at a specific company in Nebraska? [LB1108]

JOSEPH YOUNG: It's not. No, this would affect...if drafted correctly, this would affect several companies and that's why the fiscal note would be significant because several companies have been denied Nebraska Advantage incentives or the sales and use tax exemption on manufacturing machinery and equipment because they were deemed to have more of their income come from somewhere else. I'm not sure, though, that if the amendment was passed that might be a little too broad. We're kind of trying to make a statement with just nixing retail in the amendment. And so that might not be...it might need to be nuanced a little better than that. But certainly a retailer like Target, for example, is not going to buy manufacturing machinery and equipment. So it doesn't open it up to all...every company under the sun. [LB1108]

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SENATOR CORNETT: What type of industry are you talking about? [LB1108]

JOSEPH YOUNG: That this should apply to? [LB1108]

SENATOR CORNETT: Um-hum. [LB1108]

JOSEPH YOUNG: Like a steel, somebody who manufactures steel. Essentially a good way to look at it is if someone is manufacturing widgets in the back of their facility, and then instead of selling them to Target to sell they just sell them in the front of their shop, in their storefront, and they make more money off of the retail than they do the actual manufacturing of this, then they don't qualify. Some aren't qualifying. [LB1108]

SENATOR CORNETT: Senator Brasch. [LB1108]

SENATOR BRASCH: Thank you, Chairman. And perhaps it was said earlier but is this legislation unique to Nebraska or are other states offering this to their manufacturers? Do we know? Is there precedence or history on this type of an exemption? [LB1108]

JOSEPH YOUNG: This is...I don't know the number but this is going on in several states. The sales and use tax exemption on manufacturing... [LB1108]

SENATOR BRASCH: Equipment. [LB1108]

JOSEPH YOUNG: Yes. [LB1108]

SENATOR BRASCH: That's my question. And I didn't know if that was stated. [LB1108]

JOSEPH YOUNG: I have not... [LB1108]

SENATOR BRASCH: How about Iowa? Do you...what about our surrounding states? [LB1108]

JOSEPH YOUNG: I know that Kansas does. I don't know. I can get those for the committee. And I can get the states that do that around us as well. [LB1108]

SENATOR CORNETT: Just for a point of clarification, when you say there are other states doing this, when you get that clarification that Senator Brasch has asked for and then in which states, also find out what percentage they exempt at or if they exempt wholly. [LB1108]

JOSEPH YOUNG: Sure. [LB1108]

SENATOR CORNETT: Because like you said, the bill is one way, the amendment is

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another; it may be too broad. I'm sorry. Senator Schumacher. [LB1108]

SENATOR SCHUMACHER: Thank you, Senator Cornett. Just briefly, if I'm understanding this right, if there's a company that buys equipment and whatnot to manufacture widgets and it sells it to Target, then it's got no problem--or any other retailer. If, on the other hand, it manufactures the widgets, has a Web page, puts them on a Web page and sells them to the customer directly, that...they'd be taxed. [LB1108]

JOSEPH YOUNG: I'd have to go back and ask for an expert opinion on that, but that's what we're trying to tackle, yes. If they make more money from selling them, yes. [LB1108]

SENATOR SCHUMACHER: They would be... [LB1108]

JOSEPH YOUNG: I mean they would have to be in both I guess. [LB1108]

SENATOR SCHUMACHER: They would be making all their money because they would be selling everything over the Internet. [LB1108]

JOSEPH YOUNG: That's correct, unless they sell also a portion to Target to sell. [LB1108]

SENATOR SCHUMACHER: Okay. Thank you. [LB1108]

SENATOR CORNETT: Senator Hadley. Oh, I thought you... [LB1108]

SENATOR HADLEY: I'm kind of foggy now. I think I'll pass. [LB1108]

JOSEPH YOUNG: I'll get some clarification on some of these questions. [LB1108]

SENATOR CORNETT: That would be good. Further questions? Seeing none, thank you, Joseph. [LB1108]

JOSEPH YOUNG: Thanks a lot. [LB1108]

SENATOR CORNETT: Next proponent. Opponents. Neutral. Pete. [LB1108]

SENATOR PIRSCH: I'm going to waive my closing. [LB1108]

SENATOR CORNETT: (See also Exhibit 35) That closes the hearings for today. [LB1108]