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Revenue Committee  
January 25, 2008

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[LB718 LB754 LB890 LB949 LB979 LB1004]

The Committee on Revenue met at 1:30 p.m. on Friday, January 25, 2008, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB890, LB754, LB979, LB1004, LB718, and LB949. Senators present: Ray Janssen, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Carroll Burling; Chris Langemeier; Don Preister; and Ron Raikes. Senators absent: Senator Cornett and Senator White. [LB890]

SENATOR JANSSEN: Good afternoon, Ladies and Gentlemen. Welcome to the Committee on Revenue. For the record, my name is Ray Janssen, I'm from Nickerson, Nebraska, and happen to be the ramrod of this committee...for how long, I'm not sure. But anyway, with us today is Senator Don Preister to my far left; Senator Carroll Burling; to his right and to my far right is Chris Langemeier; Ron Raikes; and George Kilpatrick, legal counsel; Erma James, committee clerk. And our pages are Sarah and Tim; they're over there by the coffee pots. A few things I want to go over with you...we do this at every hearing, so. If you have cell phones, for goodness' sakes, please turn them off while you're in the hearing room. Sign-in sheets for the testifiers are on the table and by both doors and you need to complete them if you're wishing to testify. If you're testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to your coming up to testify. When you come up to testify, hand your testifier sheet to the committee clerk, Erma James. There are also clipboards in the back of the room to sign in if you do not wish to testify, but would like to indicate your support or opposition to that particular bill. These sheets will be included in the official record if you so like. We will follow the agenda posted on the door. The introducer or the representative will present the bill followed by the proponents, and then the opponents, and then those in a neutral capacity. Only the introducer will have the opportunity for closing remarks. As you begin your testimony, state your name and spell it for the record. If you have handouts, please bring ten copies to the committee and the staff; if you only have the original, we will make copies for you. Give the handout to the pages so they can circulate them. We will follow the agenda, as I said before, and Senator Flood is with us to tell us all about LB890. Senator Flood. []

SENATOR FLOOD: Thank you very much, good afternoon, Chairman Janssen, members of the Revenue Committee. My name is Mike Flood, F-l-o-o-d, and I represent the 19th Legislative District which includes all of Madison County. As written, this bill would do two things: Number one, it would exempt postage from sales tax; and secondly, it would reinstate a sales tax exemption for magazines that are published monthly or less frequently. I should note up front that the Department of Revenue brought it to our attention that because of Nebraska's streamlined sales tax and use tax agreement, the appropriate way to accomplish the intent of this bill is to insert language to exempt, "delivery charges for direct mail." This would put LB890 in line with the streamlined sales tax agreement. So again, instead of striking the word "postage,"

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LB890 should be amended to exempt "delivery charges for direct mail." With that clarification, the purpose of this bill is straightforward: It will put some Nebraska businesses on a more level playing field with out-of-state businesses who are avoiding sales taxes. For example, this bill would allow a Nebraska-based magazine publisher, such as Nebraska Life, which I'm proud to say is headquartered in Norfolk, Madison County, Nebraska, to compete with out-of-state publishers that don't pay the sales tax on subscriptions. LB890 would also allow a Nebraska company like Affiliated Foods, which is also headquartered in Norfolk, Madison County, Nebraska, a grocer cooperative, to compete better with the Wal-Marts of the world. Affiliated mails its ads to potential customers across the state. Right now it pays the state sales tax on bulk postage for these ads. By eliminating the sales tax on the postage, Affiliated could be even more competitive. The bottom line is that our tax code places a burden on these two Nebraska businesses, which puts them at a competitive disadvantage. With that, I'd just like to thank you for your consideration and for accommodating me today by allowing me to go first and I would waive closing. And thank you for your consideration in advance. [LB890]

SENATOR JANSSEN: Any questions? Seeing none. [LB890]

SENATOR FLOOD: Thank you very much. [LB890]

SENATOR JANSSEN: You did say you waive closing, Senator? [LB890]

SENATOR FLOOD: Yes, I did. [LB890]

SENATOR JANSSEN: Okay, all right. [LB890]

SENATOR FLOOD: Good day. [LB890]

SENATOR JANSSEN: We take proponents first, those in favor of the legislation. [LB890]

CHRISTOPHER AMUNDSON: (Exhibits 1, 2) Hello. My name is Christopher Amundson, A-m-u-n-d-s-o-n. I am the owner and publisher of Nebraska Life magazine. I come here in support of Senator Flood's LB890. Nebraska Life magazine is a 25,000 circulation bimonthly magazine about life in Nebraska. We're based in Norfolk and we have employees throughout Nebraska. In 2002, LB1085 repealed the sales tax exemption on magazine and other bimonthly and biweekly periodicals. The subsequent change in tax code has created a significant burden and an auditing nightmare for Nebraska Life magazine and other magazine publishers. It is impossible to accurately calculate city sales tax on subscriptions and it is even more impossible to accurately collect a tax on magazine subscriptions. The documentation you have in front of you will illustrate some points that I'd like to bring up in just a moment. Furthermore, the sales

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tax on magazine subscriptions has given an unfair advantage to out-of-state magazine publishers. Time, Newsweek, Totem Press, Better Homes and Gardens, Oprah, even Midwest Living across the river in Iowa are not required to collect tax on subscriptions that they sell within the borders of Nebraska. I ask you, why penalize a few of us who have chosen to love Nebraska and call this place home and publish our products from this location and sell it to residents of Nebraska? Senators, the current tax, I feel, is not a tax on magazine subscriptions sold in Nebraska; it is a tax on magazine publishers based in Nebraska. The state has seen fit to exempt weekly and daily newspapers from subscription sales tax. I ask that you advance Senator Flood's LB890 and exempt magazine subscriptions also. With that, Senators, I ask for your questions and then if it's your choosing, I'd like to provide some supporting documentation to what I just said here. [LB890]

SENATOR JANSSEN: Any questions? Are you through? [LB890]

CHRISTOPHER AMUNDSON: Yes, yes, sir. [LB890]

SENATOR JANSSEN: Oh, I thought you were. [LB890]

CHRISTOPHER AMUNDSON: Yeah. [LB890]

SENATOR JANSSEN: Don. [LB890]

SENATOR PREISTER: I think I understand your example... [LB890]

CHRISTOPHER AMUNDSON: Um-hum. [LB890]

SENATOR PREISTER: ...but would you explain to me what I think this says about what you have to do, where all your subscriptions are, and how you have to administer this? [LB890]

CHRISTOPHER AMUNDSON: You bet, you bet. What this example is is a...let me start first with, everyone knows a simple bind-in card, this is a core backbone of our business, these little cards that are mailed in. This particular card came from John E. Price Sr. (phonetic) at 2251 220 Road in Mankato, Kansas, okay, sent it to us with a 1-year, \$21 subscription going to Doris Lowery (phonetic) at 907 North Dakota in Superior, Nebraska. So my question would be, would John Price from out of state know that he should put a state and city sales tax on Doris Lowery's subscription that he's sending? Of course he would not know that, so therefore what we've done is we try to the best of our ability to determine if Doris Lowery's address...obviously we know she's in Nebraska, but is she within the borders of Superior or is she outside of the borders of Superior? We err on the side of caution and to the favor of the state and go ahead and pay the Superior city sales tax. So it is a...if we were able to comply with this completely

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with the current law, what we would have to do is we would publish the sales tax rates for every city in Nebraska and ask our customers to calculate those and send that little...that addition in to us and then we would remit that on. Of course, it's not feasible and would delay the whole process of ordering. Other examples, this subscription is going to a purchase from a Kathy Peters (phonetic) from Henderson going to Leon Petes (phonetic) at 2970 'U' Road in Brainard, Nebraska. Now, with the old rural route addresses, we could look at that and say, yeah, we know that that's outside of the city limits. Nowadays, we don't know if that's in or outside of the city limits. Again, we err on the side of being safe and pay that city sales tax. Does that make sense? [LB890]

SENATOR PREISTER: Yes. [LB890]

CHRISTOPHER AMUNDSON: Okay. [LB890]

SENATOR PREISTER: Thank you. [LB890]

SENATOR JANSSEN: Any other questions? Senator Langemeier. [LB890]

SENATOR LANGEMEIER: I'm going to ask one just for the point of this handout you gave us. Is there...and I don't see it yet, but is there a significance to the colors that are on this, or does it just happen to be that way? [LB890]

CHRISTOPHER AMUNDSON: It's something that we use to try to make sense of the system and I don't know the significance of those. It was something that our accountant, you know... [LB890]

SENATOR LANGEMEIER: Just checking. [LB890]

CHRISTOPHER AMUNDSON: Yep. So I...okay. [LB890]

SENATOR JANSSEN: Any other questions? I don't see any. [LB890]

CHRISTOPHER AMUNDSON: Okay. Could I make one final statement here? [LB890]

SENATOR JANSSEN: Yes, you can. [LB890]

CHRISTOPHER AMUNDSON: We all want to pay our fair share of taxes. As citizens, it's something that we are obliged to do and we do that. But I believe that this tax is an overwhelming burden to businesses such as ours. Instead of allowing us to spend our time promoting Nebraska or writing stories, shooting photographs, working with advertisers or selling subscriptions, it forces us to try to make sense of an extremely complicated and unfair system. And I simply ask that you bring that system back into a fair and balanced state, so. Okay, thank you. [LB890]

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SENATOR JANSSEN: All right. Thank you. We will have proponents first, those wishing to testify in favor of the legislation. Senator, go right ahead. [LB890]

DOUG CUNNINGHAM: (Exhibits 3, 4, 5) Well, thank you, Senator Janssen and members of the Revenue Committee. My name is Doug Cunningham, C-u-n-n-i-n-g-h-a-m, government relations director and registered lobbyist for Affiliated Foods Midwest of Norfolk, Nebraska. I would like to thank Senator Flood for introducing LB890 and for the committee for taking the testimony on this bill. In my opinion, LB890 fixes what we perceive to be a tax inequity in the law that has been in place for the last several years, and I'm referring in this case to the portion of the bill dealing with the direct mail. I'm not going to go into great length or detail, but I'm going to try to show you, I hope simply, why we believe current law to be inequitable. Affiliated Foods is a grocery wholesaler servicing approximately 850 stores in 12 states. About 300 of those stores are here in Nebraska. We are a cooperative and we are totally owned by the members that we serve. We not only sell groceries, but we provide other services to our stores where it makes better financial sense for us to do the service in house rather than each individual store sourcing for those services. This bill details one of those services. Now, as you're aware, most stores run weekly grocery ads, I'm going to hand a couple of those out, and they're both a little bit different. The ad itself is the same weight and all of that, but I'll show you something later on there. Most stores do run a weekly grocery ad and we have a printing facility at our warehouse to print those ads for those stores who choose to participate in the service. Because of our cooperative nature, the price we charge for the service is only enough to cover the cost of labor and overhead. Providing services such as these in the warehouse saves money for our member stores that we service. Now, the problem doesn't come from the printing, but the problem arises when it comes time to distribute those ads to the customers of our stores. Now our (coughs)...excuse me. Our stores have actually three ways that they can distribute those ads to the store. The first one is we print the ads and then ship the ads on our truck directly to the store and then they insert them in a local newspaper or a paper of some sort. The next chance would be for us to ship the ads directly to the store and they take them to the post office and mail them through their own bulk mail permit. Now, the last choice is for us to print the ads and mail them directly out of Norfolk with Affiliated Foods bulk mail permit. Now, the last two options both have the same outcomes, they were both mailed through a post office directly to the consumer. The only difference is that on the second option that goes through Affiliated's postage meter, we have to charge sales tax on that. Now, a majority of our stores who send their ads through the post office choose to use Affiliated Foods' bulk mail permit. This option is the most advantageous because when mailing a weekly ad, time is of the essence. It is faster mailing the ads from Affiliated as compared to shipping them first to the stores and then mailing them. This option also save the stores from buying their own bulk mailing permit at \$175 per year plus the associated paperwork that goes along with that. Now again, both options have the same final result: The consumer receives the ad at

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their home through the mail. Now, I've handed out two different ads, but the only way anybody could tell the difference between these ads is if you look down at the bottom right-hand corner. The post office and the little permit number is down on the bottom right-hand corner. The one that says "Affiliated Foods" on it, number...or it doesn't say "Affiliated Foods," it says "No. 176." Those are the ones that come mailed directly out of Affiliated Foods. The other one, I believe...I have written "No. 4," but I believe it actually says, "No. 3." That goes to a store that has chosen to send it from their own bulk mail permit in their own community. Now, we believe this to be an inequitable tax. In both options again, the same result...the end result was the same. The only difference is that when we at Affiliated use our bulk mail permit, we pay the postage up front and then we charge the store for the postage for the exact amount of the postage, but we're charging the store. Now, please understand that what I'm talking about here is sales tax on postage only. In both options, we pay the sales tax on the ad. We're talking about the postage only. Now, most of the stores that are affected by this are the smaller rural stores throughout Nebraska. All of the chain stores that our stores compete with, such as Wal-Mart, are not affected because they are big enough, they do have their own bulk mail permits. And it would seem to me that current law penalizes one nonprofit cooperative in this state, which is Affiliated Foods, and its member stores throughout the state who have banded together to try to find ways to compete and survive in a very competitive marketplace. Now, we...or you, as a legislative body and the bodies before you, we've found ways to do things, to help business, to help business grow, we've done tax incentives. But in this case it almost seems to me that we're hindering some of the businesses that need it the most and the reality is those businesses come from, many of them from many small towns. They're the vitality and the heartbeat of rural communities and in this day and age when we're losing, basically losing our rural communities, it would seem to me we could find a way to do better. And I think we should and I would appreciate your consideration and I would answer any questions. [LB890]

SENATOR JANSSEN: Any questions? Ron. Chris? Whichever one wants to go first. [LB890]

SENATOR RAIKES: Doug, so you can avoid paying the sales tax on postage by buying your own bulk mail permit? [LB890]

DOUG CUNNINGHAM: That would be correct. [LB890]

SENATOR RAIKES: If you use Affiliated's, then you pay sales tax on that service. [LB890]

DOUG CUNNINGHAM: Correct. [LB890]

SENATOR RAIKES: Can you...and the bulk mail permit is \$175 regardless of how many

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mailers? [LB890]

DOUG CUNNINGHAM: I believe so. I called the post office yesterday and I found the post office doesn't always know. I had trouble getting an answer, but I was able...the person that told me said \$175. So I believe that to be the case. I used to hear there was \$175 plus an initial fee up front, but I was not told that yesterday. [LB890]

SENATOR RAIKES: Does the \$175 buy any postage or does it just buy you... [LB890]

DOUG CUNNINGHAM: No, the permit. Just the meter or whatever you would... [LB890]

SENATOR RAIKES: And is that once a year? [LB890]

DOUG CUNNINGHAM: Once a year. Plus there's some amount of paperwork and I'm not real familiar with what that is. I don't think it's onerous, but there is some paperwork yearly. [LB890]

SENATOR RAIKES: One other quick...can you and I go together and buy a bulk permit? [LB890]

DOUG CUNNINGHAM: George maybe can answer that. I'm not sure. [LB890]

GEORGE KILPATRICK: I don't see why you couldn't, but... [LB890]

DOUG CUNNINGHAM: I would assume you could. But by the same token, here's where the problem comes: When you're doing these weekly ads, time is of the essence, so by the time they get the information in for us to print it and we get it printed and some of those stores...some of the stores only get, the tiniest ones only get a delivery every two weeks. But most of them at least get once a week. I mean, if that deliver day is not coinciding with the day it needs to get there to go to the post office, it's a problem. It's just much, much easier and more beneficial to the store, the consumers, everyone, to mail it directly out of Affiliated instead of putting it on that grocery truck, shipping it to a store, and then have them haul it down to the post office and accomplish the same thing we would have accomplished if we had just mailed it from Affiliated. [LB890]

SENATOR RAIKES: Maybe I misunderstood. You cannot mail it from Affiliated using somebody else's bulk mail permit? [LB890]

DOUG CUNNINGHAM: I believe it has to go through their post office. I'm not sure of that, come to think of it. Do you...Senator Burling, maybe. [LB890]

SENATOR BURLING: Well, that's my experience with bulk mail permits. You have to go through the post office where you got the permit. [LB890]

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DOUG CUNNINGHAM: That's what I would have understood, but I didn't want to answer that as a fact because I did not know that as a fact. [LB890]

SENATOR RAIKES: One final question. So I could buy, living wherever I do or having a store wherever I do, I could buy a bulk mail permit in the Norfolk post office that you as Affiliated could use on my behalf? [LB890]

DOUG CUNNINGHAM: Again, I don't know that for a fact, but I would not think so because the stores that we're dealing with, the ones that do opt to go through their bulk mail permit, are going to the community they live in. So I don't believe so, but I do not know that for a fact and I will get that information for the committee. [LB890]

SENATOR RAIKES: Okay. Thank you. [LB890]

SENATOR JANSSEN: Senator Langemeier, you had a question? [LB890]

SENATOR LANGEMEIER: I think Ron asked my question. My question is obviously you print, like these two flyers you've shown us here, one with the Valparaiso tag and a permit number and a Norfolk permit. My first question was going to be, why couldn't these all be dropped in Norfolk at the post office to be sent, and you've kind of answered that, you think it's got to be where the permit was. And then my follow-up question was going to be is why don't they all just get permits out of Norfolk, Nebraska? But he kind of asked my question, so. [LB890]

DOUG CUNNINGHAM: I believe it has to be in the community. [LB890]

SENATOR LANGEMEIER: Thank you. [LB890]

DOUG CUNNINGHAM: And there may be somebody following me that may know that for sure. [LB890]

SENATOR JANSSEN: Anyone else have any questions? I have one, Doug. The least you could have done was brought one of my ads. (Laughter) [LB890]

DOUG CUNNINGHAM: Would you want to know something funny, Senator Janssen? The very...when I went down to the mailing room, the very first ad they pulled out was from my old store, just by coincidence. (Laughter) So I said, no, I don't want to take that one. The very next ad they pulled out was from your store and I said, oh, maybe I better not take that one. So I could have brought yours, but I had them search, and they had to search a little bit, and found somebody else's. [LB890]

SENATOR JANSSEN: Thank you, Doug, for being here. [LB890]



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DOUG CUNNINGHAM: Thank you. [LB890]

SENATOR JANSSEN: Any other proponents? [LB890]

KATHY SIEFKEN: (Exhibit 6) Senator Janssen and members of the committee, my name is Kathy Siefken, S-i-e-f-k-e-n, and I'm here today representing the Nebraska Grocery Industry Association. And the prior two testifiers, we are in complete agreement with them and would hope that you would support this bill and send it on to the floor. What I have handed to the aide here is a letter from the United States Postal Service that says...and if anyone has dealt with trying to get a statement from anyone in the United States government, you know how difficult it is to get something like this. So it is dated 2006, but in the highlighted area they have stated that delivery charges should not include postage. And in the state of Nebraska, our statutes, and it is interpreted by the Department of Revenue, that when Affiliated, for example, delivers the flyers the way they do, that postage is considered as part of a service and therefore it is taxed. And the postal service, United States Postal Service is saying that it really shouldn't be taxed. Postage is postage, it's not service. One of the reasons we are in strong support of this bill and have been for a long time is simply because it is the smaller stores that have a tendency to get hit by the current statute. The small stores are the ones that some of them are just barely hanging on. And you may think that \$175 fee isn't a big deal; it is a big deal. In those small towns where they have a grocery store that may be 10,000 square foot, it is in many cases the last retail place within the community. And \$175 is too much of a cost to bear. Those people are cutting corners every place they can because they are trying to survive in an environment where we're losing populations and we're losing people. And so I would urge you to pass this on to the floor to help those small communities in Nebraska. If you have any questions, I'd be happy to try to answer them. [LB890]

SENATOR JANSSEN: Cap. [LB890]

SENATOR DIERKS: Kathy, I feel like I'm going through deja vu all over. I think I introduced this legislation on behalf of Nebraska Life when I was in the Legislature the last time, didn't I? Do you remember that? [LB890]

KATHY SIEFKEN: I know it's been...since I've been here hanging around the halls, this is the fourth time it's been introduced. And understand that many of those years we were in budget shortfall years, and so you do what you can to try to advance this kind of an issue, but we're finally in a financial position in the state of Nebraska where we could correct some of these inequities. [LB890]

SENATOR DIERKS: Uh-huh. [LB890]

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KATHY SIEFKEN: And you very well may have been one of those introducers years in the past. This issue has been around for a while. [LB890]

SENATOR DIERKS: Thank you. [LB890]

SENATOR JANSSEN: Any other questions? Chris. [LB890]

SENATOR LANGEMEIER: Thank you, Kathy, for testifying. And just doing a little math that the \$175 is a breaking fee, that roughly is \$61 a week in postage, in tax, to recoup that or...do they not spend more than \$61 a week in postage for these, even those little stores? [LB890]

KATHY SIEFKEN: I don't know how...some of that information I don't have with details on. All I...the information that was shared with me is that overall the Affiliated stores of Nebraska, it costs \$26,000. Now, also keep in mind that those stores don't have the labor or the knowledge to be able to do their own bulk permit, and I do believe that you are not allowed to share a bulk permit. When we were running things by a bulk, we were the only person that was allowed to use that bulk permit. Now, we don't have our own bulk permit anymore. So I'm not sure that I answered your question, but I gave you as much information as I had. [LB890]

SENATOR LANGEMEIER: I have a bulk permit and if I can handle it I think anybody can handle it, so I wouldn't cut them short on that, so thank you. [LB890]

SENATOR JANSSEN: Any other questions? I don't see any. Thank you, Kathy. [LB890]

KATHY SIEFKEN: Thank you. [LB890]

SENATOR JANSSEN: Any other proponents? Proponents? Any opponents? Anyone in a neutral capacity? We got neutral? Okay. Ms. Lang. [LB890]

CATHERINE LANG: (Exhibit 7) Good afternoon, Chairman Janssen and members of the Revenue Committee. I am Catherine Lang, L-a-n-g, Deputy Tax Commissioner for the Department of Revenue. I appear before you today in a neutral position on LB890. The purpose of my testimony is to provide clarification regarding the exemption proposed in LB890 and its relationship to the streamlined sales tax agreement. As you already know, the state of Nebraska has been a member of the streamlined sales tax agreement since its inception in 1999. There are 42 states involved in the agreement and numerous business interests across the country. The purpose of the agreement is to develop more uniform and simplified sales and use tax systems among states. LB890 does concern itself with the streamlined sales tax agreement in the following way: Within the agreement, there are standard definitions for delivery charges that include postage. A member state is required to use the standard definitions within its sales tax.

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A state can determine whether or not a category is taxed or not, but a state must tax or exempt a whole category unless the agreement provides a different alternative, which is the case with delivery charges. A state is allowed to either tax or exempt delivery charges for direct mail regardless of how the state taxes delivery charges for other items. Direct mail means printed material delivered or distributed by United States Mail or other delivery service to a mass audience, or to addressees on a mailing list provided by the purchaser, or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. If the intent of LB890 is to exempt delivery charges on direct mail from sales tax, the bill should be amended to meet the requirements of the streamlined agreement. And we have been visiting with George Kilpatrick, counsel for Revenue Committee, on this matter and also with Senator Flood's office. And I'd be happy to try and answer any questions. [LB890]

SENATOR JANSSEN: Questions? Carroll. [LB890]

SENATOR BURLING: Thank you, Cathy, for your testimony. This schedule here that was put out by Nebraska Life, I don't know if you saw it or not, but apparently the tax is based on the tax rate at the destination. Would it be legal to tax it at its point of origin, one tax rate? [LB890]

CATHERINE LANG: One tax rate for the point of origin? [LB890]

SENATOR BURLING: For the whole...yeah. [LB890]

CATHERINE LANG: That currently isn't our methodology in state law and so we have a tax at destination because that's when you receive it. So in our opinion, I don't believe so. [LB890]

SENATOR BURLING: So state law would have to be changed to legalize a tax at the point of origin? [LB890]

CATHERINE LANG: And that would be a significant change in sales tax policy if you were to do that. [LB890]

SENATOR BURLING: But that would comply with the streamlined? [LB890]

CATHERINE LANG: No. [LB890]

SENATOR BURLING: No. Okay. Okay, thank you. [LB890]

CATHERINE LANG: You bet. [LB890]

SENATOR JANSSEN: Any other questions? Thank you, Cathy. [LB890]

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CATHERINE LANG: Thank you. [LB890]

SENATOR JANSSEN: Anyone else in a neutral capacity? [LB890]

SAM SIDNER: (Exhibits 8, 9) Thank you, Senator Janssen and members of the committee. My name is Sam Sidner, it's S-i-d-n-e-r. I am an assistant director with the Nebraska Game and Parks Commission and I'm here to present neutral testimony for LB890, not with regard to the tax itself, but with regard to some of the issues associated with collecting that tax. NEBRASKAland magazine, which you're probably all familiar with, which is published by the Game and Parks Commission, has slightly upwards of 27,000 subscribers and it's circulated 10 times a year. We, due to being a state agency and having slightly different requirements as far as our recordkeeping practices, we actually use a different process than what Mr. Amundson had described for how we administer this tax. We actually do...and I will give these to your page to hand them around, I don't have copies of them...but our business reply card does actually direct people to add appropriate state and local sales tax for Nebraska addresses and included with that is this table that explains basically what those taxes are and what they should submit dependent upon where they live. If someone places an order for NEBRASKAland magazine via the internet, this is not so much of an issue because the back end of the process will calculate their tax appropriately for them. If they place an order via telephone, our personnel can handle it for them, but obviously there's a lot of staff time involved with that. And approximately a third out of the 27,000 that I mentioned, about 12,600 of our subscriptions, come through the mail; those people have to calculate that tax on their own. And you can kind of see from the results of that, the degree of difficulty in doing it. We had actually initially had a policy that if an order was less than \$1 off one way or the other that we would simply fulfill the order and pay the tax and proceed accordingly. Not this past holiday season, but the 2006 holiday season we increased that allowance to \$1.26 because under an offer that we had there were a lot of subscriptions that were coming through that were short by \$1.18, \$1.22, in that range depending on their community. In spite of doing that, we still had 654 orders over the course of...well, let's see, October 10 of 2006 through January 22 of this year, so two holiday seasons and the year in between we had to return 654 orders because they were off by more than \$1.26. And the total value associated with those orders was \$15,101, so obviously it's a...was a complication to us in terms of trying to fulfil orders that people wanted to place and a complication to the 654 people who placed those orders. In the course of fulfilling orders that were short but short by less than \$1.26, we had a shortfall in the tax that we collected relative to what we had to pay of \$2,773.55, and with the tax collected through the publication for the course of a year...in the ballpark of \$24,000, \$25,000...obviously upwards of 10 percent of that total tax we weren't able to collect without inconveniencing subscribers. Again, the point on this is not to discuss the tax itself but simply to demonstrate that regardless of which way a person goes about collecting that tax, it does...it represents, I think, an inconvenience in

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the way of staff time and it seems to represent a barrier for people to subscribe to the magazine. That's all I have. I'll take any questions. [LB890]

SENATOR JANSSEN: Any questions? I don't see any. Thank you for being here today. [LB890]

SAM SIDNER: Okay, thank you. [LB890]

SENATOR RAIKES: One... [LB890]

SENATOR JANSSEN: Oh, oh, I'm sorry. [LB890]

SENATOR RAIKES: Would it be legal or consistent with law for you to simply say, well, I'm going to sell you this subscription tax paid, so up front you pay me \$27 a year or whatever the subscription rate is, and I will cover that. I can, you know, once I get your address, I'll figure out what the tax rate is and I will submit that and be done with it? [LB890]

SAM SIDNER: I believe that it would be legal. As I understand it...and maybe Mr. Amundson could comment on that or the representative from Affiliated...I believe that's how they approach it. My understanding, and this predates my coming to the commission, but my understanding of this is that as a state agency the auditor has directed us that that's a little too slipshod, so to speak, for us on the front end. Now, obviously nonetheless we have still had that flexibility on the back end or that, you know, slop factor for lack of a better term on the back end of what we've collected versus what we need to pay. But my understanding has been that as a state agency we have been instructed that we should not on the front end just create a flat rate and say, we'll calculate the tax later. [LB890]

SENATOR RAIKES: Okay. Thank you. [LB890]

SENATOR JANSSEN: Any other questions? Thank you for being here. [LB890]

SAM SIDNER: Thank you. [LB890]

MATT BOEVER: Senator Janssen, I'm Matt Boever in Senator Mike Flood's office. And I think in lieu of, or Mike said he didn't want to close, but I think I can clarify that, I was talking with Chris Amundson, just clarify that issue of whether these individual grocery stores could set up accounts to send mail from like Norfolk, for example. And I think it was \$175 per post office and there was an additional \$250 fee to set up the paperwork to do business with the post office, I guess. So I just wanted to add that. [LB890]

SENATOR JANSSEN: (Inaudible) that's your closing? [LB890]

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MATT BOEVER: That's right. [LB890]

SENATOR JANSSEN: Okay, I'm sorry, but was there anyone else in a neutral capacity? I don't see any, so your timing was right, there is no one else wanting to testify. (Laughter) [LB890]

MATT BOEVER: Sorry to jump in, I just wanted to get that in because I know he waived closing. [LB890]

SENATOR JANSSEN: All right, okay. That ends the hearing on LB890. What's the next one here... [LB890]

GEORGE KILPATRICK: We're going to skip...Synowiecki can't be here. [LB890]

SENATOR JANSSEN: Going to skip Synowiecki? All right, we're going to go on to Karpisek's then? [LB890]

GEORGE KILPATRICK: I guess. He just called, so. [LB890]

SENATOR JANSSEN: We...Senator Synowiecki wanted us to skip over his bill, so we'll go to Senator Karpisek's LB979. Is Senator Karpisek here? [LB890]

GEORGE KILPATRICK: He's just being called. [LB890]

SENATOR JANSSEN: We'll stand at ease just for a moment until he arrives. [LB890]

RECESS []

SENATOR JANSSEN: Okay, Senator Karpisek is here to introduce LB979. [LB979]

SENATOR KARPISEK: Thank you, Chairman Janssen, members of the Revenue Committee. I am here to introduce LB979. My name is Russ Karpisek, R-u-s-s K-a-r-p-i-s-e-k, representing the 32nd District. LB979 is to revise statutes, to change provisions relating to county building levies, and to repeal the original section. Section 23-120 currently authorizes counties to levy property taxes to support capital improvement projects and establish a limit of 10 years as the maximum term over which taxes may be levied. LB979 increases that to 20 years, which would be in accordance or equal to city government and with the cost of labor, materials, everything else going up, I feel that instead of trying to raise the levy for the 10-year period to try to stretch it out to a 20- or even a 15-year period could build something more for the counties and not raise the taxes, but try to stretch it out longer. And with that, I would be glad to take any questions. [LB979]

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SENATOR JANSSEN: Any questions? Carroll. [LB979]

SENATOR BURLING: Thank you, Senator. I didn't have a chance to look at this closely. This is just for construction of county buildings to be used by county government? [LB979]

SENATOR KARPISEK: As I understand it, yes, Senator. [LB979]

SENATOR BURLING: No other entity could use these buildings? [LB979]

SENATOR KARPISEK: Not as I understand it. We will have testifiers after me that could make certain of that. [LB979]

SENATOR BURLING: Okay. Well, they couldn't build them and then sell them after a year? [LB979]

SENATOR KARPISEK: I wouldn't assume so. [LB979]

SENATOR BURLING: Yeah, okay. Okay. [LB979]

SENATOR JANSSEN: Any other questions? I believe you find that in the first section, 23-120. I believe that's where it's at, so. Any other questions? I don't see any, Russ. Thank you. Are you going to stick around and close? [LB979]

SENATOR KARPISEK: I think I will. [LB979]

SENATOR JANSSEN: Okay. [LB979]

SENATOR KARPISEK: Thank you. Thank you. [LB979]

SENATOR JANSSEN: We'll take proponents, those in favor of this legislation. [LB979]

DENNIS MEYER: Good afternoon, Senator Janssen and members of the Revenue Committee. My name is Dennis Meyer, M-e-y-e-r, and I am the budget and fiscal director for Lancaster County. Today I'm here representing Lancaster County in favor of LB979. As was mentioned a little bit, and maybe I'll just answer Senator Burling's question about the ability to sell buildings and stuff like that. You know, for the most part when I take a look at 23-120, I'm not for sure what kind of buildings we would get into building that we would then look to sell. I think when you start looking at the bill, 23-120, it really starts getting into, you know, the county board shall purchase, construct, remodel, you know, such items as a suitable courthouse, jail, or other county buildings. I think where this starts coming into play a little bit the difference between a 10-year and

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a 20-year is when you start talking about a courthouse these days or you start talking about a jail, you're talking about a pretty good-sized project. And you know, when you start looking at 5.2 cents for a 10-year period, that can become a major factor in the decision-making on what type of courthouse or what type of jail that you might want to look at. You know, when I take a look at...I just quick looked at some valuation basis for some smaller counties out there this morning and did a quick 5.2 cents on those valuations. You'd actually be surprised what size a courthouse that those counties would have to build these days. You know, with construction costs going up and stuff like that, I just think the 10 years, you know...my example, I think I looked at Arthur County real quick and they'd be lucky to generate even a \$1 million over 10 years. That's not going to build a whole lot at this point in time. You know, we have lived within that 5.2 cents over, you know, over the last number of years. The major reason behind this change for us is because the size of project we're looking at doing. At this point in time, we've done a study and the numbers that have come back to the county have really come into play that we can't even afford what that study has brought to us. You know, even going out to a 20-year period, you know, we don't even know for sure if that's something, either. But the construction costs at this point in time in the game limits us and so we kind of took a look at municipalities and when you look at municipality bonds they're looking at a 20-year or some of you even are set up for a 25-year period. The other thing that we also take a look at is just the philosophy on who should pay for those buildings. You know, if your useful life of your building is a 25-, 30-year building, should the taxpayers that are here for those first 10 years be the ones that cover that whole cost for that building that's going to be there and utilized for a 25-, 30-year period? The other thing that I would throw out to you is, you know, when you think about going from 10 years to 20 years, I would also just remind the committee also that, you know, as a county we are still dealing with other limits that are out there. You know, we're still dealing with the constitutional limit of \$0.50, we're still dealing with the levy limits that have been established in statute 77-3442, you know, where we still have the ability to allocate monies out to what I call the miscellaneous subdivisions, your fire districts, your ag societies, so we're still dealing with that, and then we're also still dealing with the lid on restricted funds. So even by making any type of change, we're still going to have to go through the planning and developing process of staying within the constitution and the other remaining statutes. So I just think it would be a, you know, I think it's a good bill, it would put us on the same playing field as municipalities. And with that I'd be happy to answer any type of questions you might have. [LB979]

SENATOR JANSSEN: Questions? Chris. [LB979]

SENATOR LANGEMEIER: Mr. Meyer, thank you for your testimony. So, is this 5.5 cents, is that what I just call discretionary spending by the county board, and so if you would need to go to a bigger \$20 million, \$30 million, \$40 million project, they would have to bond that through a vote? [LB979]



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DENNIS MEYER: Well, right now this 5.2 cents really would really be what we could use to pay off bonds. So we would have the ability to bond the project, but we would be limited to 5.2 cents levied on a 10-year basis to pay those bonds off. [LB979]

SENATOR LANGEMEIER: Okay. [LB979]

DENNIS MEYER: Is what that would mean. [LB979]

SENATOR LANGEMEIER: That was my question, thank you. [LB979]

SENATOR JANSSEN: Ron. [LB979]

SENATOR RAIKES: Levied within the lid? [LB979]

DENNIS MEYER: Yes. [LB979]

SENATOR RAIKES: Yes. [LB979]

DENNIS MEYER: Within the lid, within the levy limits. [LB979]

SENATOR RAIKES: So this is not a...none of these bonds would be voter-approved, generally speaking? [LB979]

DENNIS MEYER: Right. [LB979]

SENATOR RAIKES: Right. [LB979]

DENNIS MEYER: Right, but it's still going to be within the constitutional limit and the levy limits and all of that. So it wouldn't be anything that said we could do, we could be at 50 cents plus 5.2. [LB979]

SENATOR RAIKES: Okay. And so, for example, Lancaster County now is contemplating or decided to build a jail. How is that going to be done? How is that going to be financed? [LB979]

DENNIS MEYER: At this point in time, we're still looking into that. You know, the one that would float to the top would be bond issuance. [LB979]

SENATOR RAIKES: Okay. Would that be voter-approved or not? [LB979]

DENNIS MEYER: And with...at this point in time, it would not be. [LB979]

SENATOR RAIKES: So that would mean that you would have to do it within the 5.2...if...

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[LB979]

DENNIS MEYER: I think if we voter-approve that thing, we'd still be dealing with that 5.2 cents. Or we could, depending, we could, you know, we would still be able to go over the constitutional limit of 50 cents because the only way we can go over the 50 cents is by a voter-approved. So that's why I said, even if it's not voter-approved, we still got to live within all those limits. [LB979]

SENATOR RAIKES: But if it is voter-approved... [LB979]

DENNIS MEYER: Then if it's voter-approved, then it's over and above the 50 cents. [LB979]

SENATOR RAIKES: And I would think you could do a voter-approved bond over and above the 50 cents and still do 5.2 cents within the levy cap if that's what you decided to do. Or am I wrong? [LB979]

DENNIS MEYER: Could Lancaster County still get the 5.2 cents within the 50 cents? Yes and possibly no. We allocate the whole 15 cents out to our fire districts, our ag societies, so when you take our 50 cents... [LB979]

SENATOR RAIKES: 5.2 cents has to be a part of the miscellaneous 15 cents? [LB979]

DENNIS MEYER: Yes. I mean, to me it's got to be within that whole 50 cents, so we allocate out 15 cents, so that drops it to 35 cents, so within that 35 cents we would be dealing with the 5.2 cents. So that's why I say, yes or no, because depending on where we are at, do you get into looking at those other subdivisions and saying, maybe we don't have room for everything you're asking for? So it's kind of a yes or no type of answer. [LB979]

SENATOR RAIKES: Okay. [LB979]

SENATOR JANSSEN: Has it ever been less than 10 years? [LB979]

DENNIS MEYER: I don't know if it has been less than 10 years or not. I don't know that answer. [LB979]

SENATOR JANSSEN: Okay. Any other questions? [LB979]

SENATOR RAIKES: One more, Ray, I'm sorry. [LB979]

SENATOR JANSSEN: Sure, Ron. [LB979]

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SENATOR RAIKES: The ag society is, I think, undertaking a project to expand their facility out there. How is that being financed? [LB979]

DENNIS MEYER: That is being financed through issuance of bonds. [LB979]

SENATOR RAIKES: But they're not voter-approved. [LB979]

DENNIS MEYER: No, those are issued through a JPA, joint public agency. [LB979]

SENATOR RAIKES: And how does that work? [LB979]

DENNIS MEYER: Well, the way it's set up is that two governmental entities can enter into, it's almost kind of like an interlocal, but it...you form a joint public agency where it's, so it becomes another taxing district and so it's set up through that. [LB979]

SENATOR RAIKES: So this JPA has its own taxing authority? [LB979]

DENNIS MEYER: Yes. [LB979]

SENATOR RAIKES: So the citizens of the county, then, by the creation of this entity will be paying a levy possibly over and above anything they otherwise would pay, or what...outside the limits that are in place? [LB979]

DENNIS MEYER: The joint public agency that has...if you're asking, Senator Raikes, if that bond levy is over and above, I would say that it is. That... [LB979]

SENATOR RAIKES: So this is a way to issue bonds outside of any limit without...or cap...without voter approval. [LB979]

DENNIS MEYER: The joint public agency? [LB979]

SENATOR RAIKES: Yes. [LB979]

DENNIS MEYER: I would say yes. [LB979]

SENATOR RAIKES: Is there a limit on the amount of levy authority you can have in a joint public... [LB979]

DENNIS MEYER: In the joint public agency. George, I don't think there has been anything established for those. [LB979]

GEORGE KILPATRICK: No. [LB979]

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SENATOR LANGEMEIER: Okay, now I have a question. [LB979]

SENATOR JANSSEN: Chris. [LB979]

SENATOR LANGEMEIER: Thank you, Chairman Janssen. Give me an example of where this current 10-year financing time frame has hindered a project. [LB979]

DENNIS MEYER: Well, it hasn't hindered a project yet. I mean, you know, for example, the Lincoln/Lancaster County Health Department. That has recently had some changes done over there, there were some bonds issued. With it being a Lincoln/Lancaster County, Lancaster County is paying half, the city of Lincoln is paying half. We are paying on a 10-year schedule, they're paying on a 20-year schedule. It's a small enough project where it's, you know, of our 5.2 cents, we are probably...we've got two bonds issued including that one and we're using probably three-quarters of a cent. So of the 5.2 cents, we're using three-quarters of it. So we haven't had any type of issue. Now, we've got a jail staring us in the face that we've had estimates coming back to us where it could go all the way up to \$90 million. If you take a look at what 5.2 cents can generate for a 10-year period, we cannot get to that point to pay off \$94 million in bonds. Not saying that that's what the county board has decided on for price wise, but if you took a look at what the study showed and what we could generate, we can't get there. We haven't had that type of project. You know, to me your big projects are going to be a jail or it's going to be a courthouse and those aren't going to come around that often. So that's why it has kind of come up at this point in time. [LB979]

SENATOR LANGEMEIER: Could you form one of these JPAs with the county and the city and have its own authority to pay this \$90 million for your jail? [LB979]

DENNIS MEYER: Could we? We probably could. Would the city be willing to do that? That's a whole nother question. [LB979]

SENATOR LANGEMEIER: Okay. Thank you very much, very interesting. [LB979]

SENATOR JANSSEN: Any other questions? I don't see any. [LB979]

DENNIS MEYER: Okay. [LB979]

SENATOR JANSSEN: Thank you for being here. [LB979]

DENNIS MEYER: You bet. [LB979]

SENATOR JANSSEN: Next proponent? [LB979]

JON EDWARDS: Good afternoon, Senator Janssen and members. My name is Jon

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Edwards, J-o-n E-d-w-a-r-d-s. I am with the Nebraska Association of County Officials and we are here today in support of LB979. I think as basic principle, this will harmonize the authority with what the cities currently have to extend it to 20 years, and you just heard testimony about some of the issues that may start to crop up regarding this authority. So with that I just state that we are in support of this proposed change. [LB979]

SENATOR JANSSEN: Any questions? Chris. [LB979]

SENATOR LANGEMEIER: One quick question. Thank you for your testimony. Is the 5.2 cents the same for the cities as it is the counties? It's just a year difference? [LB979]

JON EDWARDS: You know, I don't...yeah, I think it's just the year and I can't speak specifically about the amount, but it's the year that I know is the difference. [LB979]

SENATOR LANGEMEIER: Okay. Thank you. [LB979]

SENATOR JANSSEN: Any other questions? I don't see any. Thank you, Jon, for being here today. [LB979]

JON EDWARDS: Thanks. [LB979]

SENATOR JANSSEN: Always good to see you. [LB979]

JON EDWARDS: Good to see you. [LB979]

SENATOR JANSSEN: Any other proponents? Any opponents? Anyone in a neutral capacity? Senator Karpisek waives closing. That ends the hearing on LB979. Okay, is Senator Synoweicki here yet? I'll move on as...Abbie's not here. [LB979]

GEORGE KILPATRICK: Brenda does Abbie's bill. [LB979]

SENATOR JANSSEN: Okay. All right. Senator Cornett...or Abbie, are you here? There she is. Brenda. I was close, A, B. Brenda, go right ahead. [LB979]

BRENDA MURABITO: Good afternoon, Chairman Janssen, members of the Revenue Committee. My name is Brenda Murabito, for the record that's M-u-r-a-b-i-t-o, and I'm the legislative aide to Senator Cornett who represents the 45th District who unfortunately couldn't be here this afternoon. I'm here this afternoon to introduce LB1004, which is a technical change to statute 77-2753 and 77-2790 in regards to withholding. LB1004 will reduce the withholding from 3 percent, which was passed last year in LB223, to 1.5 percent. This change has been sought after talking with the business community and the Department of Revenue. And I believe the Department of

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Revenue has someone here who may be able to answer the more technical questions you may have as far as the administration of the bill. And thank you for your time and consideration on LB1004. [LB1004]

SENATOR JANSSEN: Okay. That was short and sweet. Any questions? Thank you. [LB1004]

BRENDA MURABITO: Thank you. [LB1004]

SENATOR JANSSEN: Proponents? [LB1004]

CATHERINE LANG: (Exhibit 10) Good afternoon, Chairman Janssen and members of the Revenue Committee. I'm Catherine Lang, L-a-n-g, Deputy Tax Commissioner for the Nebraska Department of Revenue. I appear before you today in support of LB1004, which amends the special withholding procedures first adopted last year in LB223. I do want to give you a little background on the special withholding procedures. These procedures set a required minimum amount that must be held from the wages of an employee by an employer at a rate of 3 percent. Remember, we are talking about an employer who employs 25 or more employees a year. This is about 10 percent of Nebraska employers, representing about 70 percent of Nebraska wage earners. An employee who is subject to the special withholding requirements may provide proof that a lesser amount of withholding is allowable and is not an attempt to evade applicable taxes. However, each employer may or may not accept the documentation provided and may still withhold at a 3 percent level. In developing the Circular EN, the Nebraska withholding manual, the department had to make a decision about the calculation of withholding, set all withholding at a minimum of 3 percent, or set withholding at a level that closely approximates the estimated income tax liability of an employee at a given filing status, wage, or allowances, meaning which represent exemptions and deductions. The department chose the latter to allow employees due process to provide documentation to their employers as allowed by LB223. Many employers wanted to know at what level evasion occurred so that they could protect themselves from the penalty that is imposed in LB223. That threshold for each filing status, wage amount, and allowances was set at approximately 50 percent of single filing status with one allowance or married filing status with two allowances. This threshold is based upon our review of statewide W-2 data, which demonstrated that this amount of withholding adequately represented a level that was not an attempt to evade applicable state income taxes. The department also prepared a special notice regarding the procedures and a question and answer section on our web site. We also developed a letter and a form that employers could provide to their employees to demonstrate the procedures and solicit documentation. The special notice, the letter, and the form is attached to my testimony today so that you can see the kind of effort that needs to be implemented by an employer who wants to work with their employees. The current average income tax liability approximates just over 3 percent of wages. Therefore, the current requirement

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of a minimum of 3 percent withholding is a close to that average effective tax rate and will impact significantly more than half of our Nebraska employees. It is our opinion that this casts too broad a net if what we're attempting to do is target those employees who are attempting to substantially underwithhold. To reduce the threshold from 3 percent to 1.5 percent will significantly reduce the burden on our employees and employers and yet still assure that adequate withholding is met. The procedures will still impact many Nebraskans who legally and justifiably have no withholding because they have no income tax liability at their given income, filing status, and allowable exemptions and deductions. For example, low wage earners; earned income tax credit eligible taxpayers; refundable child care credit taxpayers; part time employees; married couples with two wages; and wage earners with small businesses or other significant impacts that can reduce tax liability. There are approximately 1.2 million W-2's issued in Nebraska...and this is for tax year 2005...of those, filed with the department electronically there are approximately 969,000. Our analysis indicates that of this total, there are approximately 485,500 W-2's withheld at less than 3 percent and 230,500 W-2's withheld at less than 1.5 percent. We support the change made by LB1004 to the special withholding procedures because it will lessen the administrative burden on our employers and impact less employees who must prove that a lesser amount of withholding is allowable. Additionally, we recommend the level at 1.5 percent because this is approximately the point at which the department starts to require withholding in its tables. We urge the committee's advancement of LB1004. Thank you and I'd be happy to answer any questions you may have. [LB1004]

SENATOR JANSSEN: I have one statement, I guess, Cathy. That will actually put a little more spendable income into the economy also. [LB1004]

CATHERINE LANG: That would be correct. [LB1004]

SENATOR JANSSEN: With a lesser withholding, what, 50 percent less. [LB1004]

CATHERINE LANG: Right. What we don't know at this time and won't know for a little while is how many employees are now maybe being withheld at 3 percent that could be withheld at something less than that that didn't go through the process with their employer to have a lesser withholding in place. And we will be watching our withholding receipts to see if we see anything that would indicate that. But you're right, by allowing the withholding to more closely approximate your tax liability, that will leave more income in the hands of our citizens. [LB1004]

SENATOR JANSSEN: Okay. Any other questions? Chris. [LB1004]

SENATOR LANGEMEIER: Thank you, thank you, Chairman Janssen. You said that went from approximately 400,000 to 230,000. If we wanted that down to 100,000, do you have any idea how low that 1.5 would have to go? [LB1004]

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CATHERINE LANG: No, but we could do an analysis for you on that. We do have those numbers. [LB1004]

SENATOR LANGEMEIER: Okay, it was kind of half and half. [LB1004]

CATHERINE LANG: Um-hum. [LB1004]

SENATOR LANGEMEIER: I mean, we could cut it in half again. [LB1004]

CATHERINE LANG: Then probably half again, right? Yes. [LB1004]

SENATOR LANGEMEIER: Okay. Thank you. [LB1004]

SENATOR JANSSEN: Ron. [LB1004]

SENATOR RAIKES: So depending on what you want to get done, if you, you know, cut it down to 1 percent or .5 percent or whatever, there would come a point where motive might be to just let it go. And as I remember, the idea here was that, I think as you referred to, you've got people that avoid paying Nebraska income tax by overstating dependents or whatever. And...so is there a way you can do that also by reporting contractor labor, 1099 labor or something like that so that you don't...I guess my question is, of these 1.2 million or however many W-2's, how many tax returns, how many of those are covered by tax returns at some point? [LB1004]

CATHERINE LANG: We can get that information for you. We do have that information. Off the top of my head, I do not know that. One of the things...you will see a bill later on, it was introduced on the last day, that does address the issue of 1099's and contractor and subcontractor payments and so...Senator White has introduced that bill. [LB1004]

SENATOR RAIKES: Would this mechanism address 1099 or contractor-type labor, would someone who was paying people through that sort of a mechanism be required to withhold the 1.5 percent? [LB1004]

CATHERINE LANG: No, they are not. [LB1004]

SENATOR RAIKES: I see. So that would still be a... [LB1004]

CATHERINE LANG: Because it's only related to wages. The other thing that I wanted to just address because you had commented on if we slide it, if we have a lesser percent. One of the things...because withholding is an attempt for me to approximate my tax liability, anyone at any income level could be significantly underwithheld because even I could try to do that and withholding me, I could still be withholding at 2 percent or 3



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percent and perhaps still be substantially underwithheld. So we've got an awful broad brush stroke by trying to attack it through the withholding mechanism. [LB1004]

SENATOR RAIKES: But the idea is that you're basically trying to get people to file income tax returns so we find out, right? [LB1004]

CATHERINE LANG: Yes, and we would be happy to get that information for you, Senator Raikes. We do have that kind, or can put that kind of information together. [LB1004]

SENATOR RAIKES: Okay, thank you. [LB1004]

CATHERINE LANG: You bet. [LB1004]

SENATOR JANSSEN: Any other questions? Thank you, Ms. Lang. [LB1004]

CATHERINE LANG: Thank you. [LB1004]

SENATOR JANSSEN: Any other proponents? Okay. [LB1004]

GREG LEMON: (Exhibit 11) Thank you, Chairman Janssen and members of the Committee on Revenue. For the record, my name is Greg Lemon, L-e-m-o-n, I am the president of the Nebraska Tax Research Council appearing on behalf of the Tax Research Council and also a registered lobbyist in favor of LB1004. The Tax Research Council generally does not take positions on bills, they're generally happy to have me monitor and report what you guys are doing and give that to my members. My members are usually very happy with that, but in the instance of the 3 percent withholding provision which was passed last year in LB223, they were not happy with that. The membership is very diverse, but it's made up primarily of, I guess, what you would call tax compliance people or tax technicians. And I think the reason that they didn't like that 3 percent withholding provision were three things: One, uncertainty as to what they needed to have in their documentation if somebody was, in fact, withheld at less than 3 percent; second, just the red tape burden on the business to gather that information; and third, the burden on the employees as well to get that information to the business. Even at the 1.5 percent, I think as Cathy Lang testified, there's still going to be a significant number of people that this affects and the concern is is that you're going after obviously the people that are evading the taxes and you're hitting a lot of the people that are paying their taxes legitimately and filing the things that they need to file. I think even at the 1.5 percent, you know, the typical taxpayer that that's going to affect is the guy or the gal who has got six kids and a big mortgage and if they've got six kids and a big mortgage, they're probably thinking about paying that big mortgage and taking care of their kids more than they're thinking about getting a birth certificate to their employer so they can be withheld at the proper level, or part-time employees that make very little

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income and so at the end of the year owe little or no taxes even at the 1.5 percent level. We would advocate repealing the minimum withholding provision completely, relying on existing laws which provide for the prosecution of people that don't pay their proper taxes. And we would certainly be glad to look at what would need to be done to beef up the enforcement of those existing laws so that we could go after the tax evaders and not put that additional burden. And I realize it's not a huge burden, but nevertheless, not put that additional burden on the businesses and the taxpayers that are doing the things that they are supposed to do. But I do want to thank Senator Cornett for bringing this bill and giving us an opportunity to address this issue, which I don't think was really talked about at public hearing last year. And if the committee chooses to put it forward in its current form, we'd still much rather see that than nothing at all, but our preference would be just for that minimum withholding provision to go away. And we would be glad to work on a better solution to this issue. With that, I would be glad to answer any questions the committee may have. [LB1004]

SENATOR JANSSEN: Questions of Mr. Lemon? Seeing none, thank you. [LB1004]

GREG LEMON: Thank you. [LB754]

SENATOR JANSSEN: Any other proponents? Any opponents? Anyone in a neutral capacity? Seeing none. Any closing? Waives closing. All right. That ends the hearing on LB1004. We'll go on to, go back to Senator Synowiecki. There he is. I didn't see you come in, John. Here to tell us about LB754. [LB754]

SENATOR SYNOWIECKI: (Exhibit 12) Senator Janssen, Mr. Chairman, members of the committee, first of all I want to apologize, I had to slip out and had a bill introduction in Health and Human Services Committee. [LB754]

SENATOR JANSSEN: That...it worked out just fine, John. [LB754]

SENATOR SYNOWIECKI: Good. Members, I'm John Synowiecki, I represent District 7 in Omaha. And LB754 is a bill to change and correct provisions of the Convention Center Facility Financing Assistance Act. Just last year, LB551, the Qwest Center financing bill, was amended by Senator Ashford's AM1472. The original intent of the amendment was to distribute 10 percent of turn-back sales tax to areas with a high concentration of poverty to showcase important historical aspect of such areas. Very specifically, the floor debate from AM1472 intended these funds for high poverty areas in both north and south Omaha. And I might just very quickly read a couple sentences from the floor testimony from AM1472. This is a quote taken from Senator Ashford's opening, "The amendment sets aside two areas of the city, high-poverty areas of the city both, one...in north Omaha, and one in south Omaha, for these funds." And Senator Ashford went on to explain what the amendment did. Later on during the testimony on the amendment, Senator Chambers' testimony on the floor of the Legislature, and I'll

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quote, "Mr. President, just so that we have something in the record about this amendment, as Senator Ashford pointed out, there is a definition of what constitutes a high concentration of poverty. That area will be found in south Omaha, and it will be found in north Omaha." From Senator Chambers' testimony on the floor of the Legislature. Unfortunately, as the amendment was drafted, the bill would exclude south Omaha from these important community development funds, which is clearly against the intent of the amendment. LB754 changes one word in Senator Ashford's amendment to the former bill in order to reflect the original intent as amended. LB754 would include north and south Omaha by distributing the funds to areas that contain a percentage of persons rather than families below the poverty line of greater than 30 percent. So essentially the bill changes one word in the act. [LB754]

SENATOR JANSSEN: Any questions? Ron. [LB754]

SENATOR RAIKES: John, why is that one word, why is "person"...I'm not getting, I guess, why that makes the difference. [LB754]

SENATOR SYNOWIECKI: South Omaha doesn't meet the criteria for families but it does for persons, individual persons. [LB754]

SENATOR RAIKES: So if you were to describe the neighborhood, you have more people residing in south Omaha as individual persons as compared to members of families, or does this have something to do with the way statistics are collected in the two parts of the cities or what? [LB754]

SENATOR SYNOWIECKI: It...Senator Raikes, I'm not trying to be not responsive, but it goes on the Census Bureau from the last census, which would have been the 2000 census track, you have a track for persons and a track for families. South Omaha would not meet the 30 percent threshold for families, but it does for persons. I wish I can explain it better, but that's the best I can do. [LB754]

SENATOR RAIKES: Okay. [LB754]

SENATOR JANSSEN: Any other questions? I think what Senator Synowiecki, what you're getting at, if the average family is say four or five people and you're counting families, that counts as one family, but if you take persons, in that one family there are five people, so naturally you'd have more people. Correct? [LB754]

SENATOR SYNOWIECKI: Correct. Right. [LB754]

SENATOR JANSSEN: Yeah. Okay. I don't have Ph.D., but I figured that out. (Laughs) [LB754]

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SENATOR RAIKES: (Inaudible) you're ahead of me, Ray. [LB754]

SENATOR JANSSEN: Any other questions? Thank you, John. [LB754]

SENATOR SYNOWIECKI: Thanks. [LB754]

SENATOR JANSSEN: Are you going to stick around and close? [LB754]

SENATOR SYNOWIECKI: I doubt if I'll close, but I'll stick around. [LB754]

SENATOR JANSSEN: You'll waive closing if you leave? [LB754]

SENATOR SYNOWIECKI: Yeah. [LB754]

SENATOR JANSSEN: Okay. Proponents, please? Those in favor of the legislation? [LB754]

GARRY GERNANDT: Good afternoon, Mr. Chairman, members of the committee. My name is Garry Gernandt, G-e-r-n-a-n-d-t. I'm the city council member representing south Omaha. My personal thanks to the Revenue Committee for advancing LB551 last year, which ultimately became law. You recall that this helps Omaha in paying off the Qwest Center bonds. It was my understanding that the 10 percent holdback of funds was to be used to help impoverished areas in our city. Both north and south Omaha have areas of highly concentrated levels of poverty. Both north and south Omaha were to benefit from LB551 and the amendment offered by Senator Brad Ashford. An unintentional error was made during drafting; instead of using the term "persons below the poverty line," the term "families below the poverty line" was used, and this was because the art of definition of the art of census. Based on these terms, south Omaha did not qualify. I think we missed it by 2 percent or less; therefore, the city of Omaha respectfully requests your help in fixing this error by advancing LB754. Thank you. [LB754]

SENATOR JANSSEN: Any questions? I have one. So anyway, it worked in north Omaha but not in south Omaha, is that correct? [LB754]

GARRY GERNANDT: That's correct, sir. [LB754]

SENATOR JANSSEN: Um-hum. [LB754]

GARRY GERNANDT: Without changing this word, south Omaha would be left out based upon the calculation. [LB754]

SENATOR JANSSEN: Okay. All right, Chris. [LB754]

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SENATOR LANGEMEIER: Do you know by chance what it's going to do to north Omaha with the change? [LB754]

GARRY GERNANDT: With this change? [LB754]

SENATOR LANGEMEIER: With this change. [LB754]

GARRY GERNANDT: Absolutely nothing, I think it would affect both equally depending upon... [LB754]

SENATOR LANGEMEIER: Okay. Okay. [LB754]

GARRY GERNANDT: ...how much money is going to be raised; 10 percent of that would be divided equally based upon the structure of the committee that is established via the bill. [LB754]

SENATOR LANGEMEIER: I guess my concern was is we don't...they qualified under families and we put it to persons, we don't kick them out for some reason of... [LB754]

GARRY GERNANDT: No, there would not be any adverse affect to north Omaha. [LB754]

SENATOR LANGEMEIER: Okay. [LB754]

SENATOR JANSSEN: Ron, did you have a... [LB754]

SENATOR RAIKES: Well, I...in response to that, I mean, the only way to change it would to make it either/or. So it either...and it's a percentage, it's not individual numbers. [LB754]

SENATOR JANSSEN: Right. [LB754]

SENATOR RAIKES: So the argument that you've got more people in the family means...I don't know why the percentage was changed when you count people as families rather than persons, I don't understand that. So, I mean, why wouldn't you say, well either 30 percent of families or 30 percent of persons? [LB754]

GARRY GERNANDT: Um-hum. It's my understanding that that it all revolves around what they call the "art of the census," and not having the full definition of that, I'm at the wall, so to speak, of answering your question. [LB754]

SENATOR RAIKES: Okay. Thanks. [LB754]

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SENATOR JANSSEN: Any other questions? I don't see any more, Garry. [LB754]

GARRY GERNANDT: Um-hum. [LB754]

SENATOR JANSSEN: Thank you for being here. [LB754]

GARRY GERNANDT: Thank you. [LB754]

SENATOR JANSSEN: Any other proponents? Any other proponents? Any opponents? Anyone not in favor of this legislation? Anyone in a neutral capacity? Seeing none. Senator Synowiecki waived closing, or if he is still here, do you want to close, John? Okay. He waives closing. That ends the hearing on LB754. Let's see, we're going to go...Senator Schimek is here to tell us about LB718. [LB754]

SENATOR SCHIMEK: I'd be happy to, Mr. Chairman. And if I might, may I have the page bring me a glass of water? [LB718]

SENATOR JANSSEN: Yes. [LB718]

SENATOR SCHIMEK: Thank you. [LB718]

SENATOR JANSSEN: Would you bring the senator from Lincoln a glass of water? [LB718]

SENATOR RAIKES: There is a charge for that. [LB718]

SENATOR SCHIMEK: I'll pay it. [LB718]

SENATOR RAIKES: This is the Revenue Committee. [LB718]

SENATOR SCHIMEK: I'll pay it. Mr. Chairman and members of the Revenue Committee, thank you for allowing me to be with you today, I don't get that pleasure very often. [LB718]

SENATOR JANSSEN: It's our pleasure. [LB718]

SENATOR SCHIMEK: For the record, my name is DiAnna Schimek, I reside in the 27th Legislative District and represent that district. Before I begin today, I should probably offer a little disclaimer about my involvement with this bill. I happen to be on the local Habitat for Humanity board here in Lincoln, Nebraska, and am of course a strong believer in the organization. But I'm here this afternoon to introduce LB718, a bill that was designed to exempt purchases made by nonprofits involved in the promotion of construction, remodeling, or rehabilitation of family dwellings from the state sales and

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use tax. I know about the Revenue Committee's reputation on matters like this, but I believe that this type of nonprofit that is targeted by the bill is so beneficial to our communities in so many ways that it does warrant discussion. One such nonprofit, Habitat for Humanity, which I've already referenced, increases sales tax revenue by increasing the money that homeowners have to spend on taxable items. According to Dr. Eric Thompson of the Bureau of Business Research at the University of Nebraska-Lincoln, Habitat for Humanity housing increases sales tax revenue by increasing the money that homeowners have to spend on taxable items. Dr. Thompson finds that for Habitat for Humanity homeowners in Lincoln, monthly mortgage payments are on the average \$150 less than rent payments before purchasing a Habitat home. Given 91 Habitat for Humanity homes built in Lancaster County over a period of years, this suggests an annual savings of \$164,000 in a 12-month period. This income is available to spend on taxable sales rather than going to rent payments, which are not subject to sales tax. The marginal income would likely be used for purchases of furniture, home electronics, home and garden supplies, apparel, and other retail items. The University of Nebraska-Lincoln Bureau of Business Research estimated the total economic impact and state sales tax revenue impact associated with this additional \$164,000 in taxable spending. The finding was that this \$164,000 would lead to an annual economic impact of \$198,000 in Lancaster County. Of this \$198,000...and I'll try not to do too many more figures here...\$36,000 in labor income would be generated each year, supporting 1.5 jobs, providing enough spending to support one job and providing half of the spending needed to support a second job. In summary, the UNL Bureau of Business Research finds that the annual impact on state sales tax revenue would be \$9,000 per year. Now, I've given you a lot of statistics and perhaps even some economic reasons why this could work, but I think even more important than the monetary value of this organization and this sales tax exemption is the fact that we get families in homes and we get families that probably could not have homes otherwise. And we, in doing that, help to stabilize a lot of families, and in doing that also help with the educational possibilities for the children that are involved. A lot of these families are immigrated to this country from places where they never had hopes of owning their own homes; so from a very human standpoint, I think that Habitat does great work. There probably aren't too many nonprofit organizations that have such huge expenditures for their program, I mean, these are huge expenditures for the homes that are built. I have behind me a group of Habitat for Humanity directors from across the state, I'm not sure how many, but they can certainly elaborate a little bit on how much these homes cost, on the sweat equity that goes into these homes, and anything else that you would like to know about the program. With that, Mr. Chairman, I thank you very much. [LB718]

SENATOR JANSSEN: Are there any questions of Senator Schimek? I see none, Senator. Are you going to stick around and close? [LB718]

SENATOR SCHIMEK: Probably not, but I will stay a little while to listen to some of the testimony. [LB718]

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SENATOR JANSSEN: All right. All right. [LB718]

SENATOR SCHIMEK: And that will probably be adequate. Thank you. [LB718]

SENATOR JANSSEN: All right. Thank you very much. We take proponents first. [LB718]

KAREN MELANG: (Exhibit 13) Good afternoon, Mr. Janssen and the rest of the committee. My name is Karen Melang, my last name is spelled M-e-l-a-n-g. I am one of five executive directors of Habitat for Humanity who are here this afternoon and I believe a president of Habitat Affiliate. I have been the executive director of Fremont Area Habitat for Humanity since 1999, and Fremont Habitat has build 41 homes since 1993. There are 18 Habitat affiliates, which is our word for chapter, in the state of Nebraska. These affiliates have built 400 homes in Nebraska in the last 20 years. In 2007 alone, 47 Habitat homes were built in Nebraska, 47 families became homeowners and property tax payers. Every one of these families gained safety, security, and stability. No more having to fear that the roof will fall in, no more having to move next month, no more having to move the kids from one school to another. These families now have enough room for everyone in the family, a mold-free environment, a home to be proud of, and a mortgage that they can afford. All Habitat homeowners everywhere must meet these three basic criteria: They must be living in inadequate housing now; their income must be between 25 and 50 percent of the median income of their county; and all of them must be willing to do many hours of sweat equity. Families are chosen through a demanding application process. Family selection committees study applications and review supporting documents such as credit reports, employment verifications, tax returns, personal references. Committees conduct family interviews and they make home visits on applicants. On home visits, I have seen with my own eyes some of the inadequate housing in which too many of our neighbors live. Families in my own community of Fremont often do not have enough space for beds for every member of the community. I have seen two growing girls, a 7- and an 8-year-old, so not so little, sleeping toe to toe in a single bed in their parents' bedroom. Some of our neighbors live in trailers where they go for days without heat or water in the dead of winter. A two-bedroom apartment is not enough space for a family of seven. Applicants tell us that they fear that animals will get into their homes. Flea infestations, gas smells, molds, all these are part of what makes for inadequate housing in Nebraska communities. Habitat provides simple, decent, affordable housing for our hardworking, low-income neighbors now stuck in inadequate housing. A three-bedroom Habitat house designed to national standards is just over 1,000 square feet. These are basic homes without bells and whistles. Our homes in Fremont have only one bathroom. I describe our home as a basic, 50's-style ranch. Not even garages are provided unless covenants demand it. Still, I have heard more than one partner family say, this is the most beautiful home I have ever seen. Perhaps two little boys in their own way said it



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best. This little set of brothers arrived at their new home right after the closing where their parents had signed papers to buy the home. Both little guys promptly got down on the living room carpet and they swung their arms and legs, making carpet angels like they would make snow angels in the winter. They just lay there making carpet angels, too happy to speak, their mom told me. The most widespread myth about Habitat for Humanity is that Habitat gives homes away. Please listen to this: This is not true. It is not true that Habitat gives away homes. Habitat families buy their homes at the cost of construction, affiliates do not profit from the sale, and homeowners pay no interest on their loans. In Nebraska, most Habitat homes sell for between \$50,000 and \$70,000, though it may be more depending on the locale. In Fremont this year we sold our four-bedroom home for \$65,800. We're trying mightily to keep our mortgage payments under \$475 a month, an amount which covers the loan principle, the insurance, and the property taxes. Remember, Habitat families do not pay interest on their loans; you can't get a better interest rate than zero. Most Habitat homeowners make their payments regularly and 94 percent of our families are either current or ahead on their mortgage payments. I suspect that this is true in communities across Nebraska. And do remember that all of our Habitat homeowners, every one of them, is a subprime borrower. None of them can procure a conventional loan. People's lives change in substantive ways when they live in a Habitat house. A few years ago, a Habitat family visited my church at my invitation. I asked the oldest children what they liked best about their Habitat homes. The little boy said, it's warm in the winter and cool in the summer, and the little girl said, there are no snakes in the basement. I got three new volunteers that day. People don't always realize how basic our neighbors' needs are. Dana Jelinek, who is here, Grand Island's executive director, describes this scene of a family who just found out they would become Habitat home owners: I screeched with joy, the mom said on the phone that day. My seven kids were with me, all standing around our four-seat dining room, anxiously awaiting to hear what was so wonderful. I remember my second child and seeing the sheer joy in his eyes when I announced to them that we were going to have a home of our own. As we laughed and jumped around our small house, I explained, we're going to have closets. What's a closet, my second child asked. We danced with hope and joy that day. On Christmas Eve this year, this last year, I was in the grocery checkout line when Fremont's very first homeowner family pulled their cart in behind mine. The dad, who is usually not very demonstrative, put his arms around me and said, thank you for changing our lives. They have been in a Habitat house for 13 years. The oldest son now attends Midland Lutheran College on a scholarship. The next son has received several full-ride scholarship offers from colleges around the country. If it weren't for Habitat, we would have never dreamed of college, thank you for all you've done, this dad said. I think his hug was my best Christmas present. Thank you for considering this sales tax exemption. The exemption would provide us with yet another way to make simple, decent, affordable housing a reality for more of our neighbors in need. I might take some of your questions, though there are three others, I believe, who are going to testify, at least that many. So if you have anything right now, but some specifics may be available later. Does anybody have any questions generally about

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Habitat? [LB718]

SENATOR JANSSEN: Any questions? I see none. I just have one. [LB718]

KAREN MELANG: Yes? [LB718]

SENATOR JANSSEN: If...now, are all of these homes been built in Fremont or have there been any built within Dodge County outside of Fremont? [LB718]

KAREN MELANG: Yes, we have built a home in Hooper... [LB718]

SENATOR JANSSEN: Um-hum. [LB718]

KAREN MELANG: ...and we have built a home in North Bend. [LB718]

SENATOR JANSSEN: Okay. [LB718]

KAREN MELANG: It's difficult to build homes outside of Fremont, even though Dodge County is our area, but we do...the need to move our work crews and so forth, but we have absolutely done it. We did it in Hooper two years ago and North Bend maybe eight...eight, nine years ago. Um-hum. And we'd do it again. [LB718]

SENATOR JANSSEN: All right, okay. Thank you very much for your testimony. [LB718]

KAREN MELANG: You're welcome. [LB718]

SENATOR JANSSEN: Next testifier? And if you...I see we have quite a few testifiers, so tell us something we haven't heard. That was a good testimony, the last one, so if you have something that we haven't heard, you do that. [LB718]

AMANDA JEDLICKA: Exactly, thank you. [LB718]

SENATOR JANSSEN: Can you do that? [LB718]

AMANDA JEDLICKA: I sure can, yeah. [LB718]

SENATOR JANSSEN: All right, thank you. [LB718]

AMANDA JEDLICKA: My name is Amanda Jedlicka, A-m-a-n-d-a J-e-d-l-i-c-k-a, and I am here representing Habitat for Humanity of Omaha. I'm the executive director there and we serve both Douglas County and Washington County. I've been with Habitat for 11 years and have seen many miracles. We've built or renovated over 220 houses in Omaha, primarily in north Omaha, a few in south Omaha. I want to tell you some

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misconceptions about the families that we serve, and I think it's important and applicable today. Habitat for Humanity serves families throughout the entire state of Nebraska in almost every county in the state. Families must be at 25 to 50 percent of median income. Though it varies by county, the Nebraska average for a family of four would be a gross annual income between \$15,000 and \$30,000 a year. It's hard to imagine living on \$15,000 with three kids. Habitat for Humanity serves the working poor. Minimum wage pays a little over \$12,000 annually, so you can see that our families have to be working in order to qualify for the homes. We do not serve welfare recipients, we serve people who are working hard, trying to make ends meet. Even then, by HUD guidelines, our families are considered very low income. Fifty years ago, a hardworking family could afford the American dream; today they cannot, especially we see that in this time of the subprime lending how low-income families have been taken advantage of. We serve families that seek a hand up, not a hand out. A Habitat homeowner would never have been able to purchase a house without our organization. No other program or traditional financial institution serves these families who are less than 50 percent of median income. I'd like to quickly draw your attention to the photographs that I've included. The top one is our first home that we built in Blair, Nebraska. And at the bottom, and I think this is important, and it ties to what we're talking about today, is that we're not just a charity giving somebody something. We're changing their life. We see this woman who is helping build her house and in 1999 she was a crack-cocaine addict, single mom with two kids; basically, you know, a drain on society. She kicked the crack habit, she did that on her own, but in 2001 she built and purchased a Habitat house and she credits Habitat as being the stable force that has changed her life and really permanently took her away from her old life. Since then, she has gotten her degree and she has a full-time job, and you can see her next to Senator Hagel at a presentation she made for us where he was present. The point is, it really changes the dynamics of a family that helps all of society. Elimination of sales tax to build Habitat homes would allow us to serve more families and enable us to continue to keep the cost of our houses affordable. Thank you for your consideration. Do you have any questions?  
[LB718]

SENATOR JANSSEN: Amanda, that was very good testimony. [LB718]

AMANDA JEDLICKA: Thank you. [LB718]

SENATOR JANSSEN: And are there any questions? Seeing none, thank you. [LB718]

AMANDA JEDLICKA: Thank you. [LB718]

MARGARET STAMP: Hello, my name is Margaret Stamp, it's spelled just like the postage stamp, S-t-a-m-p. I'm the executive director of Habitat for Humanity of Sarpy County, we're located in Bellevue, Nebraska. We've been there since 1994, and we've built 21 Habitat homes, a few of those were rehabs. I'm...want to talk to you about how

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Habitat for Humanity Affiliates apply for government funds and the type of government funds we're already receiving. Habitat for Humanity Affiliates do not normally solicit for government funds. Our main donors are individuals, businesses, and grants from the communities in which we live. Our communities support us because we rebuild their communities by providing simple, decent housing that low-income families are able to afford. Many times, our affiliates cannot qualify for affordable housing programs through the government such as NAHFT because our partner families do not make enough income. Habitat for Humanity International does apply for some funding through HUD, but affiliates, which is what each of us are, must then apply from Habitat International for these funds, which are then funneled to just select affiliates. In fact, the only government funds that Habitat for Humanity Affiliates apply for on our own are acquisition infrastructures. These funds provide necessary money to purchase land on which the affordable housing is built. Only one Nebraska affiliate received these funds this year and that was for only 10 percent of their land costs. We hope that you follow the lead of your legislative neighbors in 30 states, including Iowa, that have already passed laws to make Habitat Affiliates tax-exempt for building materials. These building materials provide housing that gets low-income families out of poverty and away from government housing assistance. Any questions? [LB718]

SENATOR JANSSEN: Thank you. Any question? Chris. [LB718]

SENATOR LANGEMEIER: Yeah, I'm going to ask you this one. Thank you for your testimony, it was very good, by the way. Has Habitat in the past asked the local jurisdictions where they're building these homes, where they're planning to site a new location, have they asked the local taxing authority to remove the local sales tax? Have they ever done that before? [LB718]

MARGARET STAMP: No. [LB718]

SENATOR LANGEMEIER: I know, like, we're getting a home built in Schuyler from NeighborWorks, which is similar to Habitat for Humanity out of Norfolk and Schuyler, and they asked the city council to waive the local sales tax on their purchases for that dwelling. I was just curious if you had ever tried that. [LB718]

MARGARET STAMP: None of us here have... [LB718]

SENATOR LANGEMEIER: Okay. [LB718]

MARGARET STAMP: ...and we've got the main affiliates in the state here. [LB718]

SENATOR LANGEMEIER: Okay. [LB718]

MARGARET STAMP: We have in Bellevue asked the city to waive permit fees and we

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have been successful in doing that. But like I said, most of the times in the past we...Habitat International hasn't really encouraged us to apply for government assistance. We mostly just work with donors. So this is...some of these programs we're just now starting to apply for are brand new and again, a lot of times we can't qualify for those programs because those programs are either for the very lowest of the poor, which would be like housing authorities, or above the income of what our families make, so we're reaching out to those families that make too much money to be under housing authorities, but don't make enough money to either get a loan through conventional methods, going to a bank, or through programs like NAHFT or other programs like NeighborWorks, things like that. We're reaching out to those families that are in between those two, the working poor. [LB718]

SENATOR LANGEMEIER: Thank you. [LB718]

MARGARET STAMP: Thank you, sir. Thank you everyone. [LB718]

SENATOR JANSSEN: Thank you. Next proponent, please. [LB718]

NANCY MUEHLING: My name is Nancy Muehling, M-u-e-h-l-i-n-g, and I'm the director of Lincoln-Lancaster County Habitat for Humanity and we reside here in Lincoln. I would like to thank each of you who extended such courtesies to me the last few weeks, I really do appreciate your time ahead of time. My job here today is to try to pull together what we feel are the main economic impacts on the state. And we did receive something just several hours ago from the fiscal active...or the legislative fiscal analysis. [LB718]

SENATOR JANSSEN: Fiscal Office, um-hum. [LB718]

NANCY MUEHLING: Okay. And I'm sure you have that. We feel we haven't had a chance to visit with them, but here is a misconception here with the first number of \$116,000. We have verified our figures of homes built in the state and believe that our revenue, that would have been \$100,000. Thus, that makes all of the next numbers that they have projected pretty much out of whack with what we think reality is, all right. Affiliates pay between \$2,000 and \$2,400 in sales tax for building materials per house. Local construction, of course, you know, the heating and air conditioning and the electrical and plumbing and concrete is supported by Habitat builds. And most of our builds are built with products and services other than our volunteer labor right from the communities in which we live. The cost to build a Habitat house is from \$50,000 to \$70,000, and that does not include the cost of the lot. Habitat families are more often than not already living in some sort of tax-supported housing. Once they have a home of their own, they're paying property taxes. These homes are built on property that previously produced very little tax revenue. In April of this year, Lincoln-Lancaster County Habitat families will have paid over \$1 million in real estate tax in this

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community. Habitat housing also increases the sales tax by increasing money that homeowners have to spend on taxable items, and Senator Schimek already gave you the report that we received from Dr. Thompson at the University Bureau of Business Research, but the fact of the matter is is that these folks are coming from \$600, \$700, \$800 a month rental units inadequate for them and moving into house payments that we all try to keep around \$450 to \$500 a month. So on an average, we figure that most of our families going way back to the time we started have about \$150 extra a month. And you know, we know from experience that they aren't saving that money, you know, they're buying furniture, they're buying a few more clothes, they're doing some things like that, they're spending that money here and you've seen the result of that from DiAnna's report and it is in your packet. Something else I think is very important is that Habitat receives grants from corporations out of state and those grants...we can only accept those grants if we earn some matching funds. That's another reason why we're trying very hard to save some of our dollars. I'll give you an example of that: Thrivent Financial Services, which is a Wisconsin-based corporation, granted \$1 million to Habitat affiliates in 2006, \$1.3 million in 2007, and nearly \$1 million is committed for this next year, but we have to match some of those funds. Some state aid is based on population and stable homes and our mission is to get people in stable homes and to keep them there. And I'd like to just tell you about an example that we had here in Lincoln that was so heartwarming. This is an excerpt from the letter of thanks that I received there from a homeowner, and she says, "Thank you for providing my children and I with an opportunity to own our own home. When I first moved into the little blue house I was a single mother and had only my Associates Degree at SE Community College. During the 10 years we have lived in my little home, my children grew up and have moved into homes of their own and I have earned by Bachelors Degree." I think that's a very important key that that cycle of poverty has been broken for that family, which very likely carried on for generations previously. I will say that we thought it would be very impressive to you if we could have a homeowner or two here today to tell you what it means to them to have this stable home; unfortunately, they're all out working trying to make that mortgage payment, so we couldn't find a single family that wasn't involved today. I'd like to thank you very much for the opportunity to testify before you and just remind you that the idea behind Habitat is not to provide charity for the poor but to help provide the capital and the experience needed to effect long-term change in our community. And we feel the real effect of our Habitat programs in this state probably will not be fully realized until the next generation when we see some of these cycles that have been interrupted and improved. So thank you so much for your time and attention. Are there any questions? [LB718]

SENATOR JANSSEN: Thank you. Are there any questions? I don't see any. Thank you for your testimony. Anyone else? Any opponents? Anyone in a neutral capacity? Senator Schimek to close. [LB718]

SENATOR SCHIMEK: Yes, thank you, Mr. Chairman and members. I do want to thank

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the people who came today to testify. I don't believe any of them has ever been before a legislative committee before, so... [LB718]

SENATOR JANSSEN: They did a fine job. [LB718]

SENATOR SCHIMEK: They did, they did wonderfully well. I just wanted to offer that my staff would be willing to work with your staff on that fiscal note because we do feel that it's pretty high. [LB718]

SENATOR JANSSEN: Okay. [LB718]

SENATOR SCHIMEK: And maybe we can't document, but we think we can, so we'd like to be given that opportunity anyway. And we thank you all very much for your time. [LB718]

SENATOR JANSSEN: Thank you, Senator. That ends the hearing, LB718, and I believe Senator Christensen is here to open on LB949. Senator Christensen, welcome to the Revenue Committee. [LB718]

SENATOR CHRISTENSEN: Thank you, Mr. Chairman and members of the Revenue Committee. I'm Senator Mark Christensen, M-a-r-k C-h-r-i-s-t-e-n-s-e-n. I represent the 44th Legislative District. I'm here to introduce LB949. LB949 would exempt nonprofit, licensed health clinics owned by nonprofit hospitals from paying sales tax on their purchases. As of December 2007, there were 122 Medicare-certified rural health clinics in Nebraska. Of those, 46 are owned by nonprofit hospitals and 43 are controlled by political subdivisions such as counties, cities, hospital districts; the remaining 33 are freestanding clinics. The 43 that are publicly controlled are already exempt from paying sales tax because of governmental subdivision exemption. The intent of this bill is to make those 46 owned by nonprofit hospitals exempt from paying sales tax. Currently, these clinics are exempt only if they are owned by two or more hospitals. The requirement of the ownership by two or more hospitals was created in 1980, when Nebraska had certificate of need statutes, statutes that have been since repealed. Very few of these clinics, if any, are owned by two or more hospitals. The 46 clinics owned by nonprofit hospitals are licensed under their own respective hospital license. As a matter of consistency, it would appear that the nonprofit, licensed health clinic should be tax-exempt, just as in the case of nonprofit, licensed hospitals that own it. The mission of nonprofit health clinics is to provide more access and care in Nebraska's more sparsely populated areas at lower prices. To require them to be owned by two or more hospitals in order to be tax-exempt is contrary to the mission and problematic in most situations. Thank you for your consideration of LB949, and I would urge your advancement to General File. Is there any questions? [LB949]

SENATOR DIERKS: Thank you, Senator Christensen. Any questions for Senator

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Christensen? [LB949]

SENATOR LANGEMEIER: I'll ask one. I got to keep up tradition, here. [LB949]

SENATOR DIERKS: Senator Langemeier. [LB949]

SENATOR LANGEMEIER: I better ask one. Of these hospitals, do you know the dispersement across the state? Are they pretty much to the east and the west end? [LB949]

SENATOR CHRISTENSEN: Well, I know there's one up in Chadron, there's some in Imperial, there's over by McCook. I think they're widely spread. [LB949]

SENATOR LANGEMEIER: Okay. Thank you. [LB949]

SENATOR DIERKS: Other questions? I think you got off pretty scot-free. [LB949]

SENATOR CHRISTENSEN: (Exhibits 14, 15) Okay. I would also like to... [LB949]

SENATOR LANGEMEIER: I have to ask you a question. [LB949]

SENATOR CHRISTENSEN: ...offer an amendment... [LB949]

SENATOR DIERKS: Okay. [LB949]

SENATOR CHRISTENSEN: ...to LB949, and I'd also like to introduce a letter for the record. [LB949]

SENATOR DIERKS: Okay. [LB949]

SENATOR LANGEMEIER: Can you tell us... [LB949]

SENATOR DIERKS: Senator Christensen... [LB949]

SENATOR LANGEMEIER: Can I ask one more question? [LB949]

SENATOR DIERKS: Senator Langemeier. [LB949]

SENATOR LANGEMEIER: Thank you, Chairman Dierks. Can you tell us a little bit about your amendment and why you'd offer it when your bill... [LB949]

SENATOR CHRISTENSEN: Sure. [LB949]



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SENATOR LANGEMEIER: ...only, it scratches one word and adds a new word. How could you offer an amendment? [LB949]

SENATOR CHRISTENSEN: (Laughs) Well, basically it just puts in the word, "health care practitioner facility as defined in section 71-414," which is just consistent with the language used previously. [LB949]

SENATOR LANGEMEIER: So you think that is a must over just "health care clinic," that's in the green copy? [LB949]

SENATOR CHRISTENSEN: Well, I guess I don't know if it's a must, but I guess I'm offering it to you guys to decide and I got people behind me there to further explain that. [LB949]

SENATOR LANGEMEIER: I guess, going back to my question, would that extend this exemption to a whole nother group... [LB949]

SENATOR CHRISTENSEN: No. [LB949]

SENATOR LANGEMEIER: ...or just a different classification or description to make sure we get them all? [LB949]

SENATOR CHRISTENSEN: I believe it's just a different description... [LB949]

SENATOR LANGEMEIER: Okay. [LB949]

SENATOR CHRISTENSEN: ...to be more consistent with the language. [LB949]

SENATOR LANGEMEIER: Okay. Thank you. [LB949]

SENATOR CHRISTENSEN: Thank you. [LB949]

SENATOR LANGEMEIER: Very good. [LB949]

SENATOR DIERKS: Okay, thank you very much. Are there any proponents of LB949? Go right ahead, Bruce. [LB949]

BRUCE RIEKER: (Exhibits 16, 17) Chairman Dierks, members of the committee, my name is Bruce Rieker, it's R-i-e-k-e-r. I'm the Vice President of Advocacy for the Nebraska Hospital Association. On behalf of the 85 hospitals and the 39,000 people that they employ that we represent, we're here to testify in support of LB949. With the written testimony that I have submitted for all of you, I also gave the page a copy of a map that shows the location of these 122 certified rural health clinics that will hopefully

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show where they are located. And I also have information that I can tell you which ones of them...it's quite lengthy, but we can figure out which ones of them are owned by counties, municipalities, as well as identify those that are owned by the nonprofit hospitals that are subject...the clinics that are owned by them that are the subject matter of LB949. Very quickly, as Senator Langemeier recognized that this was a one-word change to hopefully clarify the statute that would make nonprofit, certified rural health clinics owned by nonprofit hospitals tax-exempt. And later on I will address the amendment that Senator Christensen offered as well and the rationale for that. As you mentioned, but I want to hopefully make it a point, the 46 clinics in question are all owned and operated under the nonprofit licenses granted to the hospitals that own them. In fact, in almost every instance...well, I'm not going to make it an absolute statement, but with all of the rural health clinics that we have visited with and the hospitals that own them, it is our determination that all of them operate under the same tax I.D. number. So, there may be such and such a clinic doing business as, but they are owned and operated under the same tax I.D. number that the nonprofit hospital that owns them is licensed. Senator Christensen pointed out that we had certificate of need statutes in the 1980's, and based upon our research what we have learned is that back in the 1980's we had certificate of need statutes that required a need be, or that hospitals would prove that there was, in fact, a need before they could expand or add onto something. Three hospitals at that time wished to go together to build an independent imaging center and they were not allowed to do that without the current statute that we are talking about; thus, the reason that it was created that these clinics had to be owned by two or more hospitals. Since that time, the certificate of need statutes have been repealed. However, what we believe is that the statute we are talking about now simply failed to keep pace with that change with the repeal of the certificate of need statutes that happened since that time. I feel that...and we have visited with all of the members of the committee, Mary Campbell and I have done that, but I want to just talk a little bit about the mission. And a gentleman following me will go into more of how these rural health clinics actually function and what goes on at them. But again, they were created, organized, and operated to improve access to healthcare at costs lower than provided in the for-profit arena. And I see that he's passing out the...is the map being passed out now? Okay, you have that, okay. But as you will see, there is an importance. It talks about...there are certified rural health clinics and you will see them across the state, but their intent is to serve underserved populations. In almost every instance, their expenses exceed their revenues; they are subsidized by the hospitals that own them. To force them to act as nonprofit enterprises would have a profound effect more than just the cost of the sales tax. There would be increased administrative costs; right now, these supplies are purchased through a central purchasing department. There would have to be more done to keep track of those that are purchased not for profit and those that are purchased for profit. Eventually or inevitably, some of these will close, and I'm not here to cast a draconian view on this, but the costs associated with this, the audits that have been performed by the Department of Revenue, have levied sizeable assessments against some of our rural

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health clinics. And...back up for a moment. Until last year, as far as we know, the Department of Revenue treated all of these health clinics as tax-exempt; however, this provision in the law that requires them to be owned by two or more hospitals has now caused the confusion or the concern on our part. And thus the audits that are being conducted and the sizeable levies or assessments that have been made against a couple of these clinics. And it is truly...we had a board meeting yesterday with the Nebraska Hospital Association...it is truly a strong concern of theirs as to whether or not, if they are to be taxed, whether or not they will keep these doors open. So, I want to make sure that you know that to us, taxing them simply seems counterintuitive to delivering high-quality care at the lowest price possible. With regard to the amendment that Senator Christensen offered, since the bill was drafted it has come to our attention that there is a term of art utilized by Health and Human Services, "health care practitioner facilities," that, in our understanding, is another name for health clinics, okay. But while we're at the table, we are hoping that you would add that term as an exempt entity so that we're not back at the table a year from now asking that that particular term be added because that term wasn't specifically placed in the statute. For instance, West Point. West Point, the hospital in West Point has five of these. Their five rural health clinics are all classified as these "health care practitioner facilities." Now, to answer Senator Langemeier's specific question about, would this create additional entities or add entities? No. As far as we understand, visiting with the people at HHS, "health care practitioner facilities" is just a term of art, but we wanted to make sure that it was included, and we do not know that it would add any more than the 46 that we're discussing right now. So, in closing, we as a hospital association would ask for your support of LB949 and that you would advance it to General File. [LB949]

SENATOR JANSSEN: Thank you. Any questions? Senator Langemeier. [LB949]

SENATOR LANGEMEIER: Thank you, Chairman Janssen. Thank you for your testimony and thanks for the discussion on the amendment. Has there been some discussion with the Department of Revenue on these ongoing audits? Or do they put them on hold pending this legislation, or are they continuing, or have you had any discussions regarding that? [LB949]

BRUCE RIEKER: Well, we have met with the Department of Revenue as a hospital association. We have met with them specifically to discuss where we go from here and what it would take to clarify that these would be tax-exempt entities. We have not entered into a discussion about how they are conducting their audits. Right now, those particular audits are being handled on a case-by-case basis with our individual hospital members dealing with those issues directly with the Department of Revenue. So, as an association we have not weighed in. And we made that expressly clear to them that we weren't coming to them to discuss the merits of their audits, that we were coming to them to discuss where the points of concern are, or at least where we could change the statute to clarify that they are tax-exempt. [LB949]

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SENATOR LANGEMEIER: To follow up, so if this were to make it into law, changing the statute, would you expect then to be tax-exempt from this point on or is the association hoping those audits would cease, or do we reaudit them all and backtax? I'm putting you on the spot, here. [LB949]

BRUCE RIEKER: No, that's fine. We would hope that...obviously, from the date that it goes into force that it would be clarified that these would be tax-exempt. We would also hope that the Department of Revenue would treat them as they have treated them since their inception, that they were tax-exempt until this apparently came to light. So, if you want to make it retroactive to the beginning of time, I mean, or at least to the beginning of certified rural health clinics...George, they can do that, can't they? I'm teasing you, I shouldn't even say that. But if you wanted to make it retroactive, we would be thrilled. [LB949]

SENATOR LANGEMEIER: Thank you. [LB949]

SENATOR JANSSEN: Any other questions? Seeing none, thank you, Bruce. [LB949]

BRUCE RIEKER: Thank you, Senator. [LB949]

SENATOR JANSSEN: Next proponent, please. [LB949]

TODD CONSBRUCK: (Exhibit 18) Senator Janssen and members of the Revenue Committee, my name is Todd Consbruck, C-o-n-s-b-r-u-c-k. I am the Director of Clinic Services and Communication for the Dinklage Medical Clinic and St. Francis Memorial Hospital under provider-based rural health clinic laws. St. Francis Memorial is a not-for-profit hospital located in West Point; we've been a hospital since 1923. And I'm testifying on behalf of ourselves, the Nebraska Hospital Association, the Friends of the Nebraska Not-For-Profit Hospitals in support of LB949. In addition, serving as a manager for five not-for-profit hospital-owned clinics in West Point, Wisner, Oakland, Howells and Scribner, I also serve as the communications director for our Integrated Health System. We have a hospital, clinics, rehab, home health, the whole gamut of health services. Our mission at the health clinics is obviously to care for the healthcare needs of our area. We're in a quite a few counties with Cuming County being our home base, and we see approximately 23,000 patients every year in our clinic. We also train numerous students and residents, we're the primary site for Clarkson Family Medicine as an example, and most of our students come there because they plan to return to rural areas to practice. A lot of the students, particularly doctors, have wanted to become employed of late, and they also like coming to West Point because our doctors, our entire medical staff, is employed; and that's been something relatively new in the last ten years or so in rural Nebraska. Our main clinic, the Dinklage Clinic, opened in 1998; we did that because we had great difficulty when I came to our system in the

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early 1990's recruiting physicians. We were losing our physicians, our physicians were retiring, we couldn't recruit them, the clinics in place couldn't recruit them; so the hospital, who I initially worked for when I moved to West Point doing recruiting, had to step in, employ, give the bonuses, the moving bonuses. Just simply no one in the community had the money or ability to do that. We attached the clinic to the hospital because our hospital board, administration, particularly our physicians, felt that it would reduce healthcare duplication in the community. We had two clinics away from the hospital doing certain things, we could bring it all together. It would also improve patient care, we thought, tremendously, shorten emergency room response time. And it certainly has reduced administrative costs. Initially, in 1995 when we did this, our clinics broke even financially; since then, Medicare and a lot of things have changed and we have not been able to do that of late. We do meet our budget, but our hospitals subsidize our clinics to the tune of hundreds of thousands of dollars every year right now. There are two types of rural health clinics; basically, earlier I mentioned, we're provider-based. The Medicare definition is that a provider-based rural health clinics are owned and operated as an integral part of a hospital, nursing home, or home health agency. We operate as a department of the hospital, as do virtually all provider-based clinics. We are a department of the hospital, much like lab, radiology, any of the other departments. I attend department managers meeting, Q&A, corporate compliance. Our checks are cut from the hospital for our employees, benefit packages are the same. All those same basically are the same. Without not-for-profit status and rural health clinic designations, our clinics really would be in jeopardy. We likely would have been forced to close some of our satellites and we would have never opened them, honestly, if we weren't not-for-profit. We also could not maintain the quality of care, maintain our staff, and we would have great difficulty with this. Our hospital has supported the establishment of the four satellite clinics to better serve the region, again because those communities had great difficulty with physicians, access to care, etcetera. These clinics provide local access to healthcare. The thing is in those towns, it helps recruit and retain businesses; those businesses in those communities tell us it's their busiest days of the week...I know Scribner is an example...we hear that a lot. When we're open, the adjoining businesses are busy. If we weren't there, those folks would be coming there or to West Point, or going somewhere else. I'm trying to keep this short, I know it's a Friday afternoon. In closing, not-for-profit hospital and clinics, particularly provider-based rural health clinics, do serve a vital role in Nebraska, particularly rural Nebraska. Additional costs like taxes are not easily absorbed; therefore, which in most clinics is approximately 80 percent staff, that's...in my budget, 80 percent of my costs are for staff, something has to be cut when you pay those taxes. On behalf of St. Francis Memorial Hospital and the Nebraska Hospital Association, the Friends of Not-For-Profit Hospitals, I do urge you to support and advance LB949. Thanks for your consideration. I would certainly entertain any questions. [LB949]

SENATOR JANSSEN: Any questions? Seeing none, thank you. Good afternoon.  
[LB949]

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KEVIN NOKELS: (Exhibit 19) Good afternoon, Chairman Janssen, members of the Revenue Committee. My name is Kevin Nokels, K-e-v-i-n N-o-k-e-l-s, and I am representing Friends of Nebraska Nonprofit Hospitals. On behalf of our 84 members of the Friends of Nebraska Nonprofit Hospitals, we support LB949 to change the sales tax exemption for health clinics. I would say, notwithstanding the shortness of the session, we request that you help us get this done this year. These are simple drafting changes, they are enormously important to the statewide delivery of healthcare and addressing access to care and cost containment. Thank you for what we hope will be a prompt, favorable action on these changes. [LB949]

SENATOR JANSSEN: Thank you, Kevin. Any questions? Seeing none, thank you. [LB949]

KEVIN NOKELS: Thank you. [LB949]

SENATOR JANSSEN: Alright. Any other proponents? Any opponents? Anyone in a neutral capacity? Seeing none, that ends the hearing. And, Senator Christensen, do you waive closing? [LB949]

GEORGE KILPATRICK: He waived closing. [LB949]

SENATOR JANSSEN: Oh, you waived closing. And that ends the hearing on LB949 and the hearings for the day. We are going to go into executive session. [LB949]

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Disposition of Bills:

LB718 - Indefinitely postponed.  
LB754 - Advanced to General File, as amended.  
LB890 - Advanced to General File, as amended.  
LB949 - Indefinitely postponed.  
LB979 - Held in committee.  
LB1004 - Advanced to General File.

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Chairperson

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Committee Clerk