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Revenue Committee
February 05, 2009

[LB117 LB282 LB309 LB376]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 5, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB117, LB376, LB309, and LB282. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; LeRoy Loudon; Dennis Utter; and Tom White. Senators absent: Mike Friend. [LB117]

SENATOR CORNETT: Welcome to the Revenue Committee. I am Senator Abbie Cornett from Bellevue; to my left is Vice Chair Senator Dierks from Ewing; Senator Greg Adams will be joining us from York; to his left is Senator Hadley from Kearney; research analyst Bill Lock; and committee clerk Erma James. To my far right is Senator Utter from Hastings; then Senator Loudon from Ellsworth; Senator Tom White will be joining us from Omaha; and Senator Mike Friend will be excused today. And to my immediate right is legal counsel Shannon Anderson; our pages are Rebecca Armstrong and Elsie Cook. Before we start the hearings today, could everyone in the room please turn their cell phones off or to vibrate. Sign-in sheets for testifiers are on the table by both doors. They need to be completed by everyone wishing to testify. If you are testifying on more than one bill, a form needs to be filled out for each bill. Please print and complete the form prior to coming up to testify. When you come up to testify, please hand the form to committee clerk Erma James. There are also clipboards at 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 a bill. The sheets will be included in the official record. We will follow the agenda posted on the door today. The introducer or representatives will present the bill followed by proponents, opponents, and neutral testimony. Only the introducer will be allowed an opportunity for closing remarks. As you begin your testimony, please state your name and spell it for the record. If you have handouts, please hand them to the pages. You must have ten copies of those--for each of the committee members. If you do not have copies the pages can make those for you. With that we'll begin the Revenue Committee hearing, and Senator Fischer you are recognized to open on LB117. [LB117]

SENATOR FISCHER: Thank you, Senator Cornett, members of the Revenue Committee. For the record, my name is Deb Fischer, F-i-s-c-h-e-r, and I am the senator representing the 43rd District here in the Nebraska Unicameral. I come before you today to introduce LB117. LB117 is a straightforward effort to address the challenges of maintaining valuable retail goods and services in our state's smaller communities. This proposal creates an income tax credit for retail businesses that operate in communities with a population of 2,500 or less. This applies only to businesses that report net taxable sales of \$500,000 or less on their sales tax returns during the taxable year. This is a refundable income tax credit equal to 2 percent of the net taxable sales. It is limited to \$10,000 for any taxable year. The income tax credit authorized in LB117 provides retail businesses with the cash situation that enables them to contribute to the functions of their business in order to continue offering products and services. In many

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communities it is what are considered essential services that are lost, such as grocery stores or gas stations. In communities of 2,500 or less, it is important to recognize that one business's existence is often dependent on another's. In other words, the local gas station needs the cafe just like the cafe needs the gas station; whether this is for people travelling through the town or for serving the people in that area. The large tax incentive programs in Nebraska do not have a significant impact toward economic development in many of our small towns. A hardware store or a restaurant or other main street retail businesses is the large employer in these communities, and with a population of only 600, for example, losing such a business is devastating to the economy of a small town. I'm aware of the fiscal note. Nevertheless, it is important to take steps to address the challenges of rural retail businesses. For each business this is just a small financial resource, but it could ultimately impact a business's ability to continue offering essential goods and services; create cash flow; retain employment; and create appeal and opportunity for business transition. I know that LB117 breaks away from the normal thought process with regard to the method and the target of economic development incentives. However I believe consideration needs to be given to the accessibility of goods and services and the supplying businesses in rural Nebraska. These main street business are the life blood of our state's small towns and the surrounding area. Thank you, Madam Chair. [LB117]

SENATOR CORNETT: Thank you, Senator Fisher. Are there any questions from the committee? Senator Adams. [LB117]

SENATOR ADAMS: So Senator, in comparison to the Tier 1 on the Advantage Act, you're really looking here to maintain existing rather than to incent new. [LB117]

SENATOR FISCHER: That is exactly right. I, as you know, I represent a very sparsely populated area in the state of Nebraska. And it's devastating when you have the only gas station in town...in the county, close; when you have the restaurant in town close. And some of these counties that I represent only have one community, and there might be 300 people in that community. I think the state needs to look at ways to maintain those small communities, because it's not just for the benefit of the people that live there--and for the most part it's older people who live in rural Nebraska, as you know--but it's very important for the rural community, the ag community, that surrounds a small town. It used to be the ag community would keep a small town alive. Recently I've read where we need to maintain small, rural communities because they keep our agricultural community around that town alive and going too. So it's something that I hope this committee will consider; I hope you will give it serious consideration. As I said, I realize what the fiscal note is on this. I know that, most likely, you will not be sending it to the floor. I fully expect that. But we have to...I believe we as a state need to do something if...we can't just keep saying that rural Nebraska's important; and we can't just keep saying that here in Nebraska we need to build jobs, jobs, jobs without realizing that there are differences in the state and what works in one area definitely is not going

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to work in another area. So I hope you're open-minded and will consider what we can do to help these smaller communities. [LB117]

SENATOR CORNETT: Any further questions from the committee? Senator Louden. [LB117]

SENATOR LOUDEN: Yeah, did...who had you bring this bill? The Small Business Association, or... [LB117]

SENATOR FISCHER: Nobody had me bring it, Senator Louden; I've been trying for a good three years to figure out what I can do to help rural Nebraska--what I can do to help sparsely populated areas and to maintain them. And we finally came up with this idea in working with my legislative aide...visited with other people about it: retail businesses; grocery stores; the Center for Rural Affairs; people who, in the past have shown an interest in trying to, maybe not grow rural Nebraska, but maintain it and where we are. So this is my bill. [LB117]

SENATOR LOUDEN: Okay. You're familiar with Highway 20? [LB117]

SENATOR FISCHER: Yes, I am. [LB117]

SENATOR LOUDEN: And so am I. As I drive down, you know, you go to Merriman and it's...I mean, it's dying. Cody's in terrible shape; what do they call it, the too tough to die is the sign outside of town and that sort of thing. But at one time, and I don't know how old you have to be around here, but that was a very important transportation route through there. And I've tried to work ever since then to get that improved, all the way from Sioux City right on up Highway 20, because that was one of the main transportation routes from Sioux City to Casper. And I'm wondering...when we try to maintain these small towns and then we have a Department of Roads that don't want to build any roads out there, are we beating our heads against a wall to try to do something like this if we can't get any cooperation amongst our, well, Department of Education and the Department of Roads? Because we have a Department of Education that's closing our schools out there by the bus load. So where will all of this fit in? If we could get this, could we get some type of cooperation amongst some of these other departments? [LB117]

SENATOR FISCHER: Hmmmm, I believe that would be under the Governor. The Governor runs those state agencies and that would be up to him. I can tell you I think Highway 20's in good shape. [LB117]

SENATOR LOUDEN: It isn't the highway, it's the transportation network that you can't get to it from Sioux City. It's four lane coming into Sioux City from Iowa, then from then on it's two lanes and Interstate 90 and Interstate 80 siphoned that all off. [LB117]

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SENATOR FISCHER: I mean, you folks on this committee know better than anybody when you have limited revenue there's not much you can do. And you've all heard me talk about the need for highway funding, so that's another problem. The problem I see is when I have the only gas station in Keya Paha county close. And I have older people living in Springview that worry how are they going to get gas for their car, and they're depending on friends and neighbors to drive to Bassett or to Ainsworth to fill up their tanks for them. And if you want to depopulate rural Nebraska, then you...then we allow that to happen. And I would like to see that trend stopped. [LB117]

SENATOR LOUDEN: Okay, thank you. [LB117]

SENATOR CORNETT: Seeing no further questions, thank you, Senator Fischer. [LB117]

SENATOR FISCHER: Thank you very much. I will need to waive closing; I have a bill across the hall. [LB117]

SENATOR CORNETT: Thank you. [LB117]

SENATOR FISCHER: Thank you very much. [LB117]

SENATOR CORNETT: First proponent. [LB117]

JIM OTTO: Senator Cornett, members of the committee, my name is Jim Otto, O-t-t-o. I'm a registered lobbyist for the Nebraska Retail Federation and the Nebraska Restaurant Association, and I'm here today to speak in favor of LB117 on behalf of both associations. First of all, I want to thank Senator Fischer for introducing it and a good question and an appropriate question, Senator Louden, because many, many times these...us lobbyists do ask senators to introduce certain bills and Senator Fischer did initiate this: called, asked, and really did some research on it. I guess...and I, too, am aware of the fiscal note. I'd just like to make a couple points. When you see that fiscal note, if those businesses are no longer in business, wouldn't we have a worse fiscal note? And I wanted to make the...Senator Fischer mentioned it very briefly, but that this isn't the way we usually do economic development incentives. And Senator Adams, you were talking about creation of jobs and this is preservation of businesses; but most, if not all, economic development incentives, as you are probably all aware, focus on primary employers. And primary employers are manufacturers, anyone who makes a product, sells that product far outside of the community, and brings all those dollars back to the community. And then the theory is that all, and probably a valid theory in most cases, that retailers, restaurants, grocery stores are secondary because they thrive off of the jobs that are created by primary employers. And so economic development incentives have been determined to be appropriate mostly only for primary

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employers because they bring new dollars to the economic community. And if you look at the community's economy as a pie, the easiest way I can explain it is all or most incentives are designed to grow that pie, not slice that pie smaller. If you were to give an incentive to a restaurant in Lincoln, Nebraska to start, the argument would be that all you're doing is slicing the pie smaller among all of the restaurants that already exist; you aren't really growing the Lincoln economy, you're just forcing that restaurateur to go in and take away part of the economy that already exists. But it would be my point that in some small towns the restaurant, the retailer, the grocery store, is in fact a primary employer. And it does help that small town's economic pie grow. It does not slice that small town's economic pie smaller. And I really want to commend Senator Fischer for bringing this up, because I think this is an issue that really needs to be discussed. When is it appropriate to assist in very small community's businesses other than manufacturers, etcetera? And one thing that I would add is that if one of these small towns needed a new water tower, they needed a new water system, they needed a new sewer system, they need some other form of infrastructure, there are several programs, both state and federal, that would come in and help them because they can't afford it. And the reason would be is that town's going to dry up and blow away unless we help them get a new water tower. But if we could help them in another way to maintain their businesses, maybe some of that other assistance would not be necessary. With that I'll shut up. [LB117]

SENATOR CORNETT: Thank you, Mr. Otto. Questions from the committee? Senator Louden. [LB117]

SENATOR LOUDEN: Thank you, Jim, for your testimony. Can you explain to me...because it says here a refundable income tax credit, and then one letter we got here said they get to retain a portion of their sales tax. Now this is a refund that comes off of the income tax off of this business, is that the way I understand this right? They don't get to retain part of their sales tax, do they? They just get to...they get a credit on their income tax. [LB117]

JIM OTTO: That's the way I understand it. [LB117]

SENATOR LOUDEN: Of 2 percent of their taxable sales. [LB117]

JIM OTTO: That's the way I understand it, Senator. [LB117]

SENATOR LOUDEN: Okay, going the next step then, some of these outfits...it can't be very much because there's not much income made there. I mean, some of them mom and pop places are barely making enough and I think if it wasn't for the fact they were furnishing their own groceries they'd probably be gone. Because those stores, when they come up for sale, they can't hardly find anybody to buy them. Whitman, we had a lumber yard there that sold different stuff and when he put it up...decided to retire, there

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was nobody to buy it and it's gone, you know. And he sold some groceries and everything. So will this actually do much? [LB117]

JIM OTTO: Well, I asked that same question of Senator Fischer's LA when it was being...and the way I understand it, and I don't know if that language...but I asked the same question. And the way I understand it, they would receive the amount that is that percentage of their sales tax even if they hadn't paid that much in income tax. [LB117]

SENATOR LOUDEN: Then they would receive a portion of their sales tax. [LB117]

JIM OTTO: It would come back in the form of an income tax credit, but it...for example, if they had \$8,000 coming and they only paid \$2,000 in tax, I think they still would get the other six. Now that's the way I understood it, because I asked that question. [LB117]

SENATOR LOUDEN: Okay, then they would get a rebate for more than... [LB117]

JIM OTTO: In other words, they would get more tax back than they paid in--if I understand it correctly. I did ask the same question. [LB117]

SENATOR LOUDEN: Okay, because this is what's not clear to me is how...what the mechanics are to this thing? Okay, thank you. [LB117]

SENATOR CORNETT: Senator White. [LB117]

SENATOR WHITE: Thank you for your testimony. I think you're right; that's what a refundable tax credit means. And even if you don't have enough taxes to generate that amount you will get it paid back. So it will be a check from the state to the store, whether or not they generated enough income. I do think though, under the bill, don't they have to generate enough sales tax to warrant it? [LB117]

JIM OTTO: The refund as I understand the bill would be based on a percentage of the sales tax they had collected. Which does...I probably shouldn't...it is a challenge for grocery stores because groceries do not, are not charged, there is no sales tax on food, so. As Senator Fischer said, this is an absolutely necessary discussion. I wish, if only for only the reason of having the discussion on the floor and having more people talk about it, it would be great to have it go on. But I don't know how you gain more attention to what we believe is a very necessary discussion. Because I don't know really how you go in and help those grocery stores the way they need to be helped. [LB117]

SENATOR CORNETT: Senator Dierks [LB117]

SENATOR DIERKS: Thank for your testimony, Jim. Does the Nebraska Retail Association...do they have programs available or incentives available to take care of

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some of the problems that Senator Louden was asking about like the lumber yard that closed or a grocery store that closed? Are there some ways that they can provide funding for a small co-op to form and take over these entities? Is there anything like that out there? [LB117]

JIM OTTO: At this point, no, Senator. [LB117]

SENATOR DIERKS: Thank you. [LB117]

SENATOR CORNETT: Any further questions? Senator White. [LB117]

SENATOR WHITE: Jim, one of the concerns you have when you do things like this is is it really an incentive or is it a subsidy for a business that's going to inevitably fail? Can you give me a sense, if we do pump this kind of money, are these businesses doomed anyway? [LB117]

JIM OTTO: Extremely good question, Senator. I guess as Senator Fischer said, if we accept the fact that they are doomed then there is really nothing we can do. If we...I mean, we need to somehow build the economy of those areas and as she said, the agricultural community can drive right by those small towns now that used to serve the agricultural community and small communities are looking for a reason to exist. But I would say that some of them are probably doomed, but I don't know that. Butch's in Hershey, for example, I don't know, at least when I lived out in North Platte Butch's was the best place to eat prime rib within 50 miles, and Butch's in Hershey drew all kinds of people. And of course maybe they were making too much money and wouldn't qualify for this, but those are the kinds of things that, if you can get those going, they really do help the community and do hire people and so. One of the problems with any economic development incentive is that everybody qualifies; you can't make a decision on, like a bank loan officer would make, on whether or not they should get that loan because they are viable. That's one of the challenges of any economic development incentive is that it goes to everybody that qualifies. [LB117]

SENATOR CORNETT: Seeing no further questions, thank you. [LB117]

JIM OTTO: Thank you. [LB117]

SENATOR CORNETT: Is there any further proponents? Are there any opponents? Is there anyone here to testify in a neutral capacity? That closes the bill on LB117. Senator Fulton, you are recognized to open on LB376. [LB117]

SENATOR FULTON: Thank you, Madam Chair, members of the Revenue Committee. For the record, my name is Tony Fulton, T-o-n-y F-u-l-t-o-n and I represent District 29. I bring to you LB376. In-home care is an important part of our health care system. Our

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state benefits from in-home care in a tangible way through the cost savings relative to institutional care. As one in six Nebraskans will be Medicaid eligible within the next decade, it is imperative that we take steps now to ensure greater stability for our state's vast safety net of family caregivers. LB376 provides a means of ensuring this stability by providing an elder care tax credit. The concept of providing tax relief for families who support a senior relative has been proposed by both the Clinton and Bush administrations and has had growing support both in Congress and in state legislatures throughout the country over the past decade. LB376 provides a \$500 elder care tax credit to qualified middle-class residents who provide in-home care to a loved one who is 65 years of age or older. The senior loved one must have a self-care disability, have an annual adjusted gross income of 250 percent of the poverty level or less, and must reside throughout the year in the taxpayer's principal home. The credit is refundable if the taxpayer's adjusted gross income is 250 percent of the federal poverty guideline or below, and nonrefundable if the taxpayer's adjusted gross income is between 250 percent and 500 percent of the federal poverty guideline. The credit is not available to taxpayers whose adjusted gross income exceeds the 500 percent poverty guideline. A self-care disability is defined by the U.S. Census Bureau as a physical, mental, or emotional condition lasting at least 180 days that makes it difficult for one to dress, bathe, or get around inside the home, and this language is reflected in the bill. According to 2007 census data, of the approximately 219,000 Nebraskans who are 65 years and older, 8 percent, or 17,000 have a self-care disability. This represents a 1 percent increase from 2005. According to a recent Congressional budget office study--it was in 2004, actually--on average, Medicaid costs per recipient of in-home care is 15 percent of the cost per recipient of nursing home care. Yet, as of fiscal year 2006, nearly half of our Medicaid spending on long-term care is appropriated to nursing facilities compared to only 36 percent for home, health, and personal care. This data reflects the evident fact that our state population is aging and that in-home care provides a significant savings in terms of state health care costs. Concluding, it is apparent that prudent state policy includes promotion of in-home care. LB376 intends to do just that by providing some modicum of tax relief to those citizens who undertake the great responsibility of caring for a senior relative who is unable to care for themself. In-home care is an important chapter in our state health care policy; a chapter that, in my view, should continue to expand and hopefully to include the tax relief provided by LB376. We do have some testifiers, but I will try to answer any questions if they exist. [LB376]

SENATOR CORNETT: Thank you, Senator Fulton. Are there questions from the committee? Senator Louden. [LB376]

SENATOR LOUDEN: Yes, thank you, Senator Cornett. Senator Fulton, now who gets the income tax credit here; the person that's the one that's being cared for or the "caree"? [LB376]

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SENATOR FULTON: The caregiver. [LB376]

SENATOR LOUDEN: The caregiver, you said? [LB376]

SENATOR FULTON: Yeah, the individual who's... [LB376]

SENATOR LOUDEN: In other words, if you have a relative in your home and you're the caregiver taking care of them you can get this refund? [LB376]

SENATOR FULTON: Yes, yes, the caregiver. And the policy here is to encourage families to care for their own. [LB376]

SENATOR LOUDEN: Okay, and... [LB376]

SENATOR FULTON: So, yeah. [LB376]

SENATOR LOUDEN: Say perhaps they have two parents; do they get the money for both of them? [LB376]

SENATOR FULTON: Yeah, that's a good question. That wouldn't be my intent, necessarily. Yeah, I guess I haven't thought of that. It's not often that both parents are living with the family caregiver. My intent would be for one. [LB376]

SENATOR LOUDEN: I think Senator Cook...I thought she told me both of her parents were... [LB376]

SENATOR FULTON: Yeah, that's...she makes me a liar out of me then. [LB376]

SENATOR LOUDEN: She was looking after her parents so, I mean, this is...I guess...would be one instance that's close by. [LB376]

SENATOR FULTON: Yeah. [LB376]

SENATOR LOUDEN: And that was what I was kind of trying to understand--who was the carer and who was the "caree" on this and who got the money. [LB376]

SENATOR FULTON: Well, I'd have to review the bill a little bit but that wasn't my intention, and I believe the way the bill is written it would...that tax credit could only be claimed once by the caregiver, regardless of how many individuals he or she is caring for. [LB376]

SENATOR LOUDEN: Okay, thank you. [LB376]

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SENATOR CORNETT: Senator White. [LB376]

SENATOR WHITE: Senator Fulton, thank you for the bill. My grandfather lived with us so I'm sympathetic, but looking at the fiscal note and you being on Appropriations, where are you going to find the money? [LB376]

SENATOR FULTON: Yeah, fair question. This is an issue. By the way, I have talked with another senator, today actually, who's interested in prioritizing this, and before...you know, he'll approach members of the committee, but before that moves forward that's a discussion we'll have to have. I believe I could find the money in Appropriations--\$1.6 million per biennium; I think the following...the out year is \$1.8 million, I think. I would endeavor to find it and if, indeed, the committee sees fit that this is an appropriate means of public policy that could move forward, then I would be a guy that would have to find this on the other end. So I'd work collaboratively with the committee and I do believe that...well, I know that I could find it; whether I can get my colleagues to agree would be a question that would have more urgency if, indeed, this committee saw fit to advance this bill. [LB376]

SENATOR CORNETT: Senator Adams. [LB376]

SENATOR ADAMS: I wasn't going to comment, but being the Education Committee Chair, if you could find that money, Tony, I know what we could use it for. (Laughter) And particularly in light of the fact that, though I think it's good to encourage people to be caregivers in their home, theoretically these caregivers could be people that the last thing that they need, financially, is a \$500 tax credit, yet we may be shorting some other part of our budget to provide that care. Just a thought. [LB376]

SENATOR FULTON: Okay, that's fair, but what we have done, hopefully, to mitigate that concern is to enact limits so the limits exist between 250 percent of the federal poverty guideline up to 500 percent of the federal poverty guideline. And so those who would...who make more than 500 percent of AGI, adjusted gross income, of the federal poverty guideline would not qualify for the tax credit. The idea here is to target middle-class families. And the broader policy has to do with what will occur with regard to Medicaid as the baby boomer generation begins to enter eligibility for Medicaid. You know, the numbers in Nebraska are pretty staggering. People over the age of 65...I believe the number was a little less than 25 percent; I'd have to get those exact figures. But what we're talking about in the coming years if we don't get a handle on our Medicaid policy, Medicaid will be what gobbles up the budget. Now we've taken steps in recent years, but this, in my opinion, is a policy move that would both recognize the value of family caregivers and also encourage family caregivers from the middle class, so. [LB376]

SENATOR ADAMS: Thank you. [LB376]

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SENATOR CORNETT: Actually, I think Senator Hadley then Senator Louden. [LB376]

SENATOR HADLEY: Senator Cornett. Senator Fulton, thank you, I think this is an interesting bill. Just so we're...our terminology is correct and such as that, can you briefly explain the difference between a nonrefundable and a refundable credit? Just so we're...and also, the second part, follow-up, would be why the difference, I noticed, in your bill between... [LB376]

SENATOR FULTON: Um-hum. [LB376]

SENATOR HADLEY: ...the two? [LB376]

SENATOR FULTON: Well, I am not a tax expert but my understanding...refundable tax credit, the potential exists to actually receive more tax dollars than what one has paid so that figure is refundable, period. Nonrefundable, one could only receive a tax credit up to the amount of tax that has been paid. So at 250 percent of the federal poverty guideline, those are people who make lesser money, we would afford them a refundable tax credit, and those who make more--up to 500 percent--is not refundable; and the thought being that their higher adjusted gross income wouldn't warrant that one receive more tax incentive than what one had put in. So that's a layman's interpretation anyway. [LB376]

SENATOR HADLEY: Thank you. [LB376]

SENATOR CORNETT: Senator Louden. [LB376]

SENATOR LOUDEN: Yes, one more question, Senator Fulton. There...you're talking about this...anybody's...how do you decide who you're going to do this for? It says anybody over 65 years of age that's living in your home? [LB376]

SENATOR FULTON: Right. [LB376]

SENATOR LOUDEN: Okay. [LB376]

SENATOR FULTON: The individuals who could apply for the credit are the caregivers who are providing care for one who is...and then we have the...actually I can point it out in the bill: page 6 of the bill; I believe it's subsection 6. But that spells out who the qualified resident individual...I'm sorry, the individual who's receiving the care. That individual would have to be at least 65 years of age, have had a physical, mental...so I'm on page 6 of the green copy of the bill, beginning in line three. [LB376]

SENATOR LOUDEN: Okay. [LB376]

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SENATOR FULTON: And there are four points which identify the individual who is receiving care. [LB376]

SENATOR LOUDEN: Okay. They would have to be someone who's having problems getting around or difficult or something like that, and what I'm wondering is this...does this include spouse? [LB376]

SENATOR FULTON: My intention would be yes. [LB376]

SENATOR LOUDEN: It could with that. [LB376]

SENATOR FULTON: Yes. [LB376]

SENATOR LOUDEN: But the other spouse then would have to file a separate income tax? Or would it make any difference? [LB376]

SENATOR FULTON: That's a good question. I don't believe...now this...my hesitancy here is because I don't know how the federal income tax code treats this, but I don't see why they wouldn't be able to file a joint tax return. [LB376]

SENATOR LOUDEN: Joint income and still receive the benefits? [LB376]

SENATOR FULTON: Yeah, because the identity here is there's a caregiver and it's a qualified resident individual, and then the one who is receiving care; two individuals who aren't identified. We don't make reference to whether or not they file joint tax returns or not. That's something, I think, that's probably driven at the federal level. So the potential exists that that's not in concert with what exists at the federal level by way of tax policy, but in my estimation I think that this would also apply to a spouse caring for...one person caring for his or her spouse filing jointly. I don't see why that wouldn't be included. And by way of policy, the idea here is to encourage in-home care such that a nursing home isn't utilized...the word is, institutional care isn't utilized. [LB376]

SENATOR LOUDEN: Well, what I was kind of coming around to that if they had to be under these certain poverty guidelines, would they be...evidently they don't have much of an income. Would they be further ahead just throw in the towel and take them down to the local health care facility and put them on Medicare? [LB376]

SENATOR FULTON: That's a decision... [LB376]

SENATOR LOUDEN: I mean, what would be the borderline to...other than the fact that they would want to stay out of there if the person possibly could, but is there...you're trying to use a monetary value to do this, and I don't know if the reward is significant

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enough to make the difference. [LB376]

SENATOR FULTON: Well, this isn't so much a...my experience has been that individuals would rather age in place. In fact, I'm...well, I do this for a living. I've not run across a lot of people who would rather move into a nursing home. So I'm not suggesting that enacting this policy... [LB376]

SENATOR LOUDEN: But you've run across those people that got put in nursing homes whether or not because they weren't able to be taken care of at...where they live because of the problems? [LB376]

SENATOR FULTON: Yeah. [LB376]

SENATOR LOUDEN: Okay. [LB376]

SENATOR FULTON: Because of the challenge that's involved. [LB376]

SENATOR LOUDEN: Okay. [LB376]

SENATOR FULTON: This...by enacting this bill, this policy, in and of itself...I don't know that this, in and of itself, is going to cause people to say aha, we're going to disallow choice of a nursing home, but it is...I believe it would play some small role in helping one to make that decision--to keep one at home. [LB376]

SENATOR LOUDEN: Okay, thank you. [LB376]

SENATOR CORNETT: Seeing no further questions from the committee. Senator Fulton, will you be staying for closing? [LB376]

SENATOR FULTON: I plan to. [LB376]

SENATOR CORNETT: Good. First proponent. [LB376]

MARK INTERMILL: (Exhibit 1) Thank you, Senator Cornett and members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here representing AARP. And AARP does support LB376. There's a copy of my statement being circulated, and the first thing I want to do is apologize for a mistake that is in the second paragraph on the fifth line that would probably add to the confusion of this bill. It is...that should read nonrefundable instead of refundable. It refers to the taxpayers between 250 percent and 500 percent of poverty. We do support this bill. We think that it does serve a public policy interest, supporting families who provide care to an elder who needs long-term services and supports. And by doing that we think we can mitigate the public cost of providing long-term care services. Senator Fulton has laid out the parameters of

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who's eligible for the tax credit. I did include a table here for your reference about what 100 percent, 250 percent, and 500 percent of poverty equate to this year so you can see who might be eligible for those tax credits. I don't need to tell you that when you consider this initiative you will need to consider the costs, but as you do that I think that you need to consider the cost of other care options. The General Fund cost for providing Medicaid to cover a day in a nursing home is about \$40 a day. For the home- and community-based services waiver, which includes assisted living, it's about \$30 a day. This tax credit would be about \$1.40 per day so you could serve about 34 people through the tax credit for what it would cost for a day in a nursing home, or the same care in a nursing home. We do think this has merit, and we would urge you to carefully consider it. We think it's part of the process of providing a good long-term care system. I don't know that \$500 is going to incent somebody to become a caregiver, but what it will do for that caregiver is to provide them with some resources to offset some of the cost of caregiving, things such as possibly putting in a ramp or doing some retrofitting around the house. So I would urge the committee to give this favorable consideration, and I'd be happy to try to answer questions. [LB376]

SENATOR CORNETT: Seeing no questions, thank you. [LB376]

MARK INTERMILL: Thank you. [LB376]

SENATOR CORNETT: Next proponent. Opponents to the bill? Is there anyone to testify in a neutral capacity? Senator Fulton waives closing; that closes the hearing on LB376. Senator Schilz you are recognized to open on LB309. Senator Schilz, welcome to the Revenue Committee. I think this is your first time here. [LB376]

SENATOR SCHILZ: (Exhibit 2) Thank you, Senator, it is. Good afternoon, Senator Cornett and members of the Revenue Committee. For the record, my name is Ken Schilz, K-e-n S-c-h-i-l-z, and I represent the 47th District. I come before you today to introduce LB309. LB309 would provide an incentive for established farmers or small business owners to transition their farm or business to a beginning farmer or a beginning business owner. The bill would provide for capital gains tax exemption for the farmer or small business owner who sells his or her farm or business to a beginning farmer or a beginning business owner. For the purposes of this legislation, a beginning farmer is defined as a person who has a net worth of less than \$500,000, including any holdings by his spouse or a dependent, based upon fair market value; B) provide the day-to-day physical labor and management of his or her farming or livestock production operation; C) demonstrate the adequate farming or livestock production experience, or demonstrate knowledge in the type of farming or livestock production for which he or she seeks assistance; D) demonstrate a profit potential by submitting projected earning statements and agree that farming or livestock production is to be his or her principal source of income; and E) demonstrate a need for assistance. Now for the purposes of this legislation, a small business person means an individual partnership, limited liability

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company, or corporation headquartered in Nebraska that will employ fewer than ten employees, and it will do business in a municipality, county, unincorporated area within a county or census tract in Nebraska that has A) an unemployment rate that exceeds the statewide average unemployment rate; B) a per capita income below the statewide average per capita income; or C) had a population decrease between the two most recent federal decennial censuses. Okay. And I've given the amendment to the Chair that would adjust that on the small business person. The definition of small business person used excludes some of our smaller communities that are successful and have been successful. This amendment would allow them to then become part of the process as well. This bill is an important tool for developing and keeping our rural people and our wealth, not only in our state but in rural Nebraska. I believe this bill is a great tool for the economic development of our state by transitioning businesses in our smaller communities and along our main streets to beginning business owners. And I have some information, too, that we'll be bringing that pulls some information from Entrepreneurship in Nebraska: Conditions, Attitudes, and Actions by Eric C. Thompson and William B. Walstad. And what this says here, basically, is...and I pulled this right out of there...the gentleman noted that 52 percent of small business owners plan on leaving their business within the next ten years, and 30 percent plan on leaving their business within five years or less. And so I think that, as you can see, it's very important, and as we go around we know that within the next 15 years we'll see probably the largest turnover of wealth that this country or the world has ever seen through the transition of the baby boom generation. That's why I bring this today. And we have with us today testifiers who will bring testimony of why this legislation is vital to rural Nebraska. I know there's a young farmer here today to testify in support of this bill and he may be able to answer any questions you may have about starting out as a beginning farmer in Nebraska. With that I'll end my testimony and I'd be happy to answer any questions. [LB309]

SENATOR CORNETT: Thank you, Senator Schilz. Questions from the committee? Senator Louden. [LB309]

SENATOR LOUDEN: Thank you, Senator Cornett. Senator Schilz, can this be used to turn some land over to a child, to your child, children? [LB309]

SENATOR SCHILZ: To your children? [LB309]

SENATOR LOUDEN: Yeah. [LB309]

SENATOR SCHILZ: As far as I know, as long as they qualify for the qualifications, yeah, it could be. [LB309]

SENATOR LOUDEN: Okay. In other words you could...and all you would be saving is the capital gains tax on the state side... [LB309]

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SENATOR SCHILZ: The Nebraska capital gains tax, that's correct, yes. [LB309]

SENATOR LOUDEN: Yeah, and that's why you'd be saving on that is what... [LB309]

SENATOR SCHILZ: Yeah. [LB309]

SENATOR LOUDEN: ...and it could be significant. They just got to be under that \$500...so they own less than \$500,000, but you could give them the whole kit and kaboodle, turn it over to them then, right? [LB309]

SENATOR SCHILZ: Right, absolutely. And I guess the way I look at that is I would much rather have that and have somebody living here and keeping that wealth in Nebraska than selling it to an outstate or outside the state interest or something and losing that opportunity. [LB309]

SENATOR LOUDEN: Okay, thank you. [LB309]

SENATOR CORNETT: Senator Hadley. [LB309]

SENATOR HADLEY: Thank you, Senator Cornett. Senator Schilz, thank you. I think this is an interesting bill. Just one quick question: is basically the theory then that if I'm the seller, I get the tax break? [LB309]

SENATOR SCHILZ: That is correct, yes. [LB309]

SENATOR HADLEY: And theoretically, I will lower my price of selling by the amount of the tax break? [LB309]

SENATOR SCHILZ: That's up to you. But what it does is this gives you that opportunity to move that land and to entice you to have that tax break going forward so that you can afford it, and I'm sure that the testifiers that are coming up will be able to answer that question somewhat as well. But you know, that's basically up to the person who's the buyer and the seller, how they do that. [LB309]

SENATOR CORNETT: Senator Adams. [LB309]

SENATOR ADAMS: Senator, how did you...on the business side of this rather than on the ag side of it...how did you arrive at the 12,000 inhabitants for a county? [LB309]

SENATOR SCHILZ: Well, and what I'd like everybody here to understand is that I looked at my district and I said okay. And just for a little background, every single community in my district except one is shrinking. Every community, so. We've got one

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community that's not, and over the last ten years they've grown--Sidney--has grown by 142 people. And to be real honest with you I didn't want to leave any of my communities out. [LB309]

SENATOR ADAMS: Okay, fair enough. [LB309]

SENATOR CORNETT: Seeing no further questions, thank you, Senator Schilz. [LB309]

SENATOR SCHILZ: Thank you very much. [LB309]

SENATOR CORNETT: First proponent. [LB309]

TODD REED: (Exhibit 3) Thank you, Senator Cornett and the committee. For the record, my name is Todd Reed, T-o-d-d R-e-e-d. I am a member of the Nebraska Farm Bureau Federation. I farm here in Lancaster County with my cousins around Waverly. We raise corn and soybeans on a mostly dry land farm. Currently, I do not own or rent any ground myself. My career goal has always been to have a farm of my own. Currently, I also have a Golden Harvest Seed dealership, and I do some precision ag consulting on the side. I'm here today to testify in support of LB309 on behalf of the Nebraska Farm Bureau. This bill is designed to provide an incentive for established farmers or small business owners to transition his or her farm or business to a beginning farmer or a beginning business owner. Farm Bureau has long worked to encourage more tools for young people to get into the business of farming and ranching. One challenge we have seen is that oftentimes established farmers and ranchers might be a bit more hesitant to work with someone just starting out in the business rather than someone who is already established. It is often easier because established farmers have a history of working with the bank or might have the capital readily available. This bill, if adopted, would provide an incentive and therefore encouragement for an established farmer or rancher to transition his or her farm to someone just starting out. Additionally, this bill would apply to small businesses that are important to our small town main streets, such as small town retail establishments and important services such as dentist practices or dry cleaners. Oftentimes, these types of businesses just close and liquidate rather than transition, and we want to help to find a way for these types of places to transition to new ownership because they are vital to keeping our small towns thriving. As with most any beginning farmer, getting started on my own is almost an insurmountable task considering how capital-intensive agriculture has become as of late. I'm already at a distinct competitive disadvantage--that's a typo in your paper; it should be competitive disadvantages--since I do not have the capital behind me that most established farmers do. This bill would provide me a more competitive position when looking to purchase land and machinery from retiring farmers. With that I would encourage your support of LB309. I would be happy to answer any questions you may have. Thank you. [LB309]

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SENATOR CORNETT: Senator Hadley. [LB309]

SENATOR HADLEY: Senator Cornett. Thank you, Mr. Reed. I guess I'm going to follow up on a question that I asked Senator Schilz. If I read this right, the tax break goes to the person who owns the land now. [LB309]

TODD REED: That's correct. [LB309]

SENATOR HADLEY: So if I have two parcels of land next to each other and one is owned by a person whose had it for 40 years and paid \$100 an acre and it's worth \$1,000 an acre, we're going to exempt the taxes on the \$900 of capital gain. And theoretically that should reduce the price to the person buying it. But the parcel next to that is a person who bought it last year for \$800 an acre and now is selling it for \$1,000 an acre, and so he only has \$200 in capital gain. So haven't we set up a system where we have...we could conceivably have equal valued land selling at different prices, depending on when the person bought it and the amount of capital gains that is involved with the land. [LB309]

TODD REED: Potentially, but as Senator Schilz mentioned, it all goes back to the agreement between the buyer and seller. And I guess my perception is that it wouldn't necessarily lower the selling price, but instead of...the seller gets on the back end instead of the front end. You can sell at the same price to the beginning producer and not incur the capital gain that you would incur selling at the same price to an established producer. I understand your point of theoretically it would lower the price, but I see it more happening at the back end of not having that capital gains tax onto that sale instead of the actual...the same selling price would apply to both individuals. [LB309]

SENATOR CORNETT: Seeing no further questions, thank you. [LB309]

TODD REED: Thanks. [LB309]

SENATOR CORNETT: Next proponent. [LB309]

WELDON SLEIGHT: (Exhibit 4) Senator Cornett and committee, my name is Weldon Sleight, W-e-l-d-o-n S-l-e-i-g-h-t. I am the dean of the University of Nebraska College of Technical Agriculture at Curtis. I appreciate being here with you today to talk about a very important bill for our students. I have the opportunity to live on the same campus as this great bunch of rural Nebraskan youth. I see them come there with huge ambitions of one day owning a farm or a ranch; and then I watch them go out as hired hands, still with the same idea that one day they'll own a farm or ranch. That won't happen, and I tell them that, unless they start owning part of an established enterprise early in their career. We've started some new programs--you've probably heard of the 100-Cow Program; the 100-Acre Program that will be initiated this fall; and the Business

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Builder Program. These youth are our future in agriculture. Agriculture is the backbone of what we do in Nebraska and yet our rural communities are dying. And one day, if we're not careful, we will have four or five farmers farming an entire county. We need to, some way, bring these young people back. They're the ones who are going to have babies, establish families; they're the ones that will keep our schools open; and they're the ones that will keep our main streets viable. So what we need to some way incentivize the system, and the Legislature's helped us with a couple of really important bills the last couple of years to do that. This one is also important. I won't rehearse what's already been said, but I will tell you that most farmers and ranchers have a very valuable asset, and it's very difficult for them to transfer that to the new folks because of finance. But also, that is their retirement. Those, Senator Hadley, that sell for \$1,000 and have a \$100 in the basis--those folks don't have any retirement to speak of; they put everything that they own back into that ranch or that farm. Some way we have to get them to understand that they can have more if they will help the youngster starting out that doesn't have a chance. And like a previous speaker, if we don't, then we will have others come into Nebraska and they will be the owners of Nebraska. And I have this innate feeling within me that we should have Nebraska families farming and ranching and the business owners of rural Nebraska main streets and our rural farms and ranches. Without that, I think that Nebraska is going to change substantially in a way that is going to be contrary to what we believe Nebraska is. I'll answer any questions that you have. [LB309]

SENATOR CORNETT: Senator Dierks. [LB309]

SENATOR DIERKS: Dr. Sleight, you have a program now through your campus at Curtis that allows or provides for a 100-Cow situation for young ranchers. Then this would enable them to help buy the land to run the cows on. [LB309]

WELDON SLEIGHT: Yes, the agronomy program, the 100-Acre program, is for the land, but one day those folks that go out with the hundred cows, we want them to start building equity or we want them to start building an asset early on. So they may not own a piece of land until they have 300 cows. There's just no way that these young people can go out and buy a million dollar asset that will provide for a family. So we want to get them started early, but we need an incentive for those who need to really retire and there's no way for them. [LB309]

SENATOR DIERKS: The young man that goes out with this program and has 100 cows...economically speaking we know that he's going to have to have another job. [LB309]

WELDON SLEIGHT: That's right. [LB309]

SENATOR DIERKS: Or his wife is or something because 100 cows just won't support a

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family today. [LB309]

WELDON SLEIGHT: It takes 500. [LB309]

SENATOR DIERKS: Now when I was a youngster, 100 cows would do that, but... [LB309]

WELDON SLEIGHT: That's right. [LB309]

SENATOR DIERKS: ...things have changed and we've tried to keep a hammer on it, but it seems like the hammer gets away from us. [LB309]

WELDON SLEIGHT: It takes 500 cows to make a living today, and so what we propose is that these young men and women go out and become partner-employees with established ranchers in this case, to where they will work for the rancher and...but they will have an asset that they start building. And we think over 15 years they'll own 300 cows, and then that can be the asset that will help them buy that...the land portion. [LB309]

SENATOR DIERKS: Thank you. [LB309]

SENATOR CORNETT: Senator Hadley. [LB309]

SENATOR HADLEY: Thank you, Dean Sleight, I appreciate your coming here. Can I go back, I guess, to my original question? [LB309]

WELDON SLEIGHT: Sure. [LB309]

SENATOR HADLEY: I'm still having trouble trying to figure out whether...if Senator Dierks has a piece of land, and Senator Adams has a piece of land, and they have different capital gains values and I'm a young farmer trying to buy, how this is going to help me decide or...I mean, am I going to be able to buy land cheaper? Because if I can't buy it cheaper there's no incentive to me as the young farmer, right? [LB309]

WELDON SLEIGHT: That's right. Some way you've got to buy it cheaper; there's no question. Our young people cannot afford to pay the inflated land prices that we have today. We have had too many come in from outside the state and inflate the land prices to the point that it's very difficult for someone to make a living in agriculture today--especially if you're just starting out. Now we've got some fabulous loan rates through FSA that makes it easier, but still when you run the numbers you can't make it in the current environment. You've got to have cheaper land. [LB309]

SENATOR HADLEY: And I guess just a follow-up...I guess I would hope to see a

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program that would be more of an incentive to me as the young person rather than the incentive to Senator Dierks by giving him the tax break, or Senator Adams to get the tax break; somehow attach a break to the young farmer versus the tax break to the persons who are doing the selling. That's... [LB309]

WELDON SLEIGHT: Senator, the problem we have is we have a huge number of young farmers and ranchers waiting in the wings but we need those mature individuals to say okay, I'm ready. And sometimes it takes an incentive to say okay, I'm ready. [LB309]

SENATOR HADLEY: Just one other thing... [LB309]

SENATOR CORNETT: That's fine, Senator Hadley. [LB309]

SENATOR HADLEY: ...just one other point, and I think...I'm glad you mentioned that because I had not thought about that; that the advantage of this might be to incentivize Senator Dierks to sell... [LB309]

WELDON SLEIGHT: That's right. [LB309]

SENATOR HADLEY: ...that he may not...that this really does incentivize him to actually sell the land whereas he might say (inaudible). [LB309]

WELDON SLEIGHT: Senator Dierks thinks he's going to live forever. [LB309]

SENATOR HADLEY: He has. [LB309]

WELDON SLEIGHT: That's right. (Laughter) [LB309]

SENATOR CORNETT: Senator White, you're recognized. [LB309]

SENATOR WHITE: Doctor, thank you for being here, and I like the way the bill is being fought, or set up. One of the concerns that we face...reality is regularly people from out-of-state or from Omaha who have economic activities other than agriculture are bidding up prices for land beyond what the land can produce in income. [LB309]

WELDON SLEIGHT: That's right. [LB309]

SENATOR WHITE: Isn't that the rock that we're facing? [LB309]

WELDON SLEIGHT: That's it, that's it. [LB309]

SENATOR WHITE: All right. One of the concerns that I've had over a long period of time is throughout our tax system we give a lot of breaks to people for owning land but

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not necessarily for working it. And is this a step toward trying to reward people who actually work on the land and live there, as opposed to just owning it? [LB309]

WELDON SLEIGHT: By all means. I would hope that we don't have some entrepreneurial person or persons that will see this as a way that I can...in fact, I believe the bill is written such that you have to operate it. [LB309]

SENATOR WHITE: Yes, you do. [LB309]

WELDON SLEIGHT: I think the same language is used here as the FSA uses, that you must operate the operation, the enterprise. If you don't operate it, you don't get it. [LB309]

SENATOR WHITE: Here's one of the odd things about that, though. We're making it tax credit... [LB309]

WELDON SLEIGHT: That's right. [LB309]

SENATOR WHITE: ...that would go to Senator Dierks dependent on whether Senator Hadley actually stays on and works it. Now what happens if Senator Hadley buys land and then doesn't work it? Do we punish Senator Hadley by taking the tax credit away from Senator Dierks? [LB309]

WELDON SLEIGHT: The tax credit will already have been given to Senator Dierks. [LB309]

SENATOR WHITE: So, I mean, I like how we're... [LB309]

WELDON SLEIGHT: Yeah. [LB309]

SENATOR WHITE: ...trying to move this. The other thing is is the prices that I'm seeing being bid, especially for ranch land but also now irrigated land, they're so far beyond what you could reasonably expect to produce from the land, is this enough? That even if we incent Senator Dierks to sell to Senator Hadley, I'm...and I hate to pick on Mister...well, actually, I like picking on him, Ted Turner...and I'm Mr. Turner and I walk in and I can pay and have paid far more to Senator Dierks than even Senator Hadley could do with the assistance of this bill. [LB309]

WELDON SLEIGHT: I think that we have to have pride in community. I've been speaking throughout the state trying to build that. If that were to happen, I would hope that I could visit Senator Dierks's community and say Senator, if this community's going to survive you can't sell out to Ted Turner who will take families away, rather than to these young people that will bring...that can have babies, that they will come there and

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that they will establish themselves and rebuild our rural communities. [LB309]

SENATOR WHITE: Doctor, if he says, but I have a family and there's \$2 million difference--and there very well could be, don't you agree, on a big ranch? [LB309]

WELDON SLEIGHT: There could be, yes, there could be. [LB309]

SENATOR WHITE: It's pretty tough to eat pride in the community. [LB309]

WELDON SLEIGHT: Unless his...and I wish I knew Senator Dierks better. But if his grandfather and great-grandfather developed that place... [LB309]

SENATOR WHITE: Which they did, I believe. [LB309]

WELDON SLEIGHT: Then I think that Senator Dierks needs to say, my kids aren't willing so maybe I need to have somebody...or my kid is, but it's so complex. People think that if you're in a farm family it's a no-brainer; you'll get it to happen. But Senator Dierks has six kids and they all want their share. And so when that happens, some way we have to give him an incentive so that he can treat one a little bit more fairly than the others. [LB309]

SENATOR WHITE: Is this the best way or could we, in fact, do things that might be a little more pointed and effective? For example, income tax changes that would exempt earnings from actually working on the land but not give the breaks to the people who own it, thereby making the young man or woman who wants to be a farmer or rancher... really giving them an economic hand up so they can get to that place where they can buy the land and hopefully compete with Ted Turner. Meanwhile, he's got to compete to hire people and pay them better because now the tax breaks are towards working it rather than owning it. [LB309]

WELDON SLEIGHT: I wish that that could happen. In fact, you passed a bill last year that does that: three years exempt of personal income tax exemption. The problem is, that first three years I'm going to make so very, very little. It will help me survive but it...I've still got to incentivize...we have ranchers in this state, and farmers, that never want to leave the ranch or farm; they'll die there. And that's okay. But they don't know that they think, I think, they're going to live forever and so they never tell anyone what their plans are, and because of that we're not getting transfers made nearly fast enough. And one of the former speakers said that we will transfer...in the next 20 years we'll transfer 70 percent of the ag land in this nation. And I think Nebraska's about the same way. [LB309]

SENATOR WHITE: Today's paper said the average age went from 53 to 56; nature's probably going to take care of that transfer... [LB309]

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WELDON SLEIGHT: Oh, yeah. [LB309]

SENATOR WHITE: ...whether we pass tax law or not. [LB309]

WELDON SLEIGHT: If you look at what's happening now we have a lot of widows who own land. There's a bunch of folks who are choosing just to put it in a CRP. We're...I'm estimating when the nationalized statistics come out that we're going to be at least 325,000 less cows now than we had in '74. Because we had at least 325,000; maybe up to 350,000. What a huge decrease in the revenue coming into this state. [LB309]

SENATOR WHITE: And that's that...number of ranches been turned into private hunting preserves... [LB309]

WELDON SLEIGHT: That's right. [LB309]

SENATOR WHITE: ...and they're no longer productive land... [LB309]

WELDON SLEIGHT: Nope. [LB309]

SENATOR WHITE: ...not as we would have understood it. [LB309]

WELDON SLEIGHT: You're exactly right; we have people coming in and turning ranch land into hunting lodge sorts of things. Because land is really cheap here if you're from out-of-state... [LB309]

SENATOR WHITE: Yes. [LB309]

WELDON SLEIGHT: ...and you make pretty good money, it's a buy. And so I can afford to just buy it, and we come and hunt it once or twice a year. [LB309]

SENATOR WHITE: Thank you, Doctor. I really appreciate your visit and your testimony. [LB309]

WELDON SLEIGHT: Thank you. [LB309]

SENATOR CORNETT: Senator Louden. [LB309]

SENATOR LOUDEN: Thank you, and I wholeheartedly agree with Senator White on his summation of the problems with absentee landowners bidding it up. But I think I started buying land when I was 19, and I probably bought land at least every two years until I was, oh, 60 years old or so. And I didn't ever have a problem buying that land until we come along with these 1031 deferred-tax sales, and when that came out there was no

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buying land after that because we couldn't compete with someone that was selling frontage property in Colorado, or someone that was selling some frontage property in downtown Omaha or something like that, because then they would transfer those funds there. And we had people all over the place that were buying ranches and a lot of them were in about \$500,000 range--\$500,000-\$800,000 range--and those people would come out there because they thought they were going to save all this tax money, and they ended up with having to do something they could work themselves, and I think they wish they would have put their money in Edward Jones or somebody because the size of the ranch they bought, they just bought themselves a job. Nonetheless, there's nothing we can do about that because that's a federal deal. But that has probably done more to stymie young people getting into the farming and ranching business than anything I know of was that tax-deferred sales. And before that we had what was called investment tax credit and you could buy some land, depreciate some of the buildings and fences and stuff on there, and actually get that cost per acre down to where it was manageable. I mean, that went on clear up until, I think, in the '80s--about '84-'85 is when we went to the investment tax credit, so. This is probably something that may help, but I don't see anything in here that you couldn't either sell it to your son or daughter and you could take your tax credit and two years later, or three, they could turn the thing themselves and go with it and still do it all at the same high price of land. Is there anything that you see in the bill to stop something like that? [LB309]

WELDON SLEIGHT: Senator, I hope that every one of our young farmers are just like you. And I hope that most of those retiring are just like you. I hope that we can determine in this state, and that's one of the reasons why it's such a passion for me, is that rural Nebraska's worth saving. And when we let Ted Turner, whoever, come in and buy, we're shooting ourselves in the foot. But I think some way we have to recognize, I think many of our rural communities don't recognize, they just say well, let's see, we lost that business, it's okay; we'll lose this one. And we just kind of compensate until we hear what we heard from Senator Fischer to where there's no stores left in town. Some way...these are still ag communities and the ag families have to take care of...they have to be the communities. But the way we're doing it there's just no way for these young people to come back. All of our students are going out, or a good number of them, as hired hands and one day...well, I'll tell you what happens. One day there's a will read and there's nothing in it for them, or even if they are a child there's a fourth or a third--we have big families in agriculture--and when I go to the bank and say I've got to buy off my siblings, the bank says there's no way you can do that and make the thing cash flow. But you're right, Senator; they've got to start early. They've got to start when they're 19-21. If they don't, there's no way that they're ever going to survive in agriculture. [LB309]

SENATOR LOUDEN: Thank you. [LB309]

SENATOR CORNETT: Seeing no further questions...oh, I'm sorry. [LB309]

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SENATOR HADLEY: Just one other statement. Dean Sleight, I just want to thank you for all the work you're doing for helping the young people of Nebraska... [LB309]

WELDON SLEIGHT: Thank you. [LB309]

SENATOR HADLEY: ...in the agricultural area. I think the work out at Curtis...I had a chance to be there this summer, and I feel a lot better with you at the helm out there trying to help the young people of Nebraska in agriculture, and I just wanted to tell you that. And I know the people in the Unicameral really do appreciate your help, thank you. [LB309]

WELDON SLEIGHT: Thank you. Appreciate all your help. [LB309]

SENATOR CORNETT: Thank you. Are there any further proponents? [LB309]

KATIE ZULKOSKI: Senator Cornett, members of the Revenue Committee, my name is Katie Zulkoski, Z-u-l-k-o-s-k-i, and I'm testifying on behalf of both the Nebraska Dental Association and Nebraska Veterinary Medical Association. And we are in support of the entire bill but especially the portion...I'm speaking to the portion concerning the small businesses. We think that's an important part of this bill and an important part of the economy in this state. And Senator Hadley, to your question on the small business portion of that, I think what our hope would be is that if I'm selling a small business, if I am selling the gas station in Springview that Senator Fischer talked about, instead of having the Kwik Shop, the large Kwik Shop that's operating in all of the communities in that area, what this would...this would allow the young person that would hire..have less than ten employees, the person that would be a small business owner, this would give them more of a competitive edge in the bidding process. [LB309]

SENATOR CORNETT: Any questions from the committee? Seeing none, thank you. [LB309]

JIM OTTO: Senator Cornett, members of the committee, my name is Jim Otto, O-t-t-o. I'm a registered lobbyist for the Nebraska Restaurant Association and the Nebraska Retail Federation, and I'm here to support this bill on behalf of both. Just take a minute of your time. I think, Senator Hadley, you have already articulated one of the best points of this bill in that the vast majority of inherited wealth is unrealized capital gains, and when that inherited wealth comes into the younger person's estate, it comes in at the present basis and then there would not be any capital gains. Whereas if Senator Adams or Senator Dierks were to sell it while they're still alive they would have significant capital gains which is a disincentive to sell. And in farming or any small business, having that person with experience have some kind of an incentive to sell and be with the person starting up the business and taking over, their expertise is just invaluable

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and I guess that's one of the main points that you've already articulated, but. With that I just wanted to make sure that we're on record supporting it. [LB309]

SENATOR CORNETT: Thank you very much. Are there any further proponents?
[LB309]

JOHN GREER: Madam Chair and members of the Revenue Committee, my name is John Greer, it's J-o-h-n G-r-e-e-r. I'm here today representing Nebraska Cattlemen, and I currently serve as the NCs taxation committee chairman. My wife and I own and operate our farm which consists of corn, soybeans, and a cow/calf operation near Edgar, Nebraska. Nebraska Cattlemen is here today testifying in strong support for LB309. Our board of directors met two weeks ago to discuss and take positions on introduced legislation to the beef industry. Not only did we vote to support LB309, the NC board voted to prioritize this bill. We feel this bill would create a strong future for succeeding generations for Nebraska agriculture. Our beef operations can be very capital intensive; it can be very costly if not economically unfeasible, buying out retiring generations. LB309 helps those wishing to sell their operations to a beginning farmer or rancher and gives them a tax break and an incentive to do so. In my area of south central Nebraska we are fortunate that there are several young, beginning farmers and ranchers who have returned home. If we were to pass this bill, or this bill was to become law, this would help them succeed in their desire to further the farm or ranch that they have the opportunity to buy. I guess, in conclusion, our youth are long on sweat equity and they're short on financial strength, and this would really help them become farmers or operators of successful businesses; and I think in the end it would broaden our tax base a great deal. In closing, Nebraska Cattlemen would strongly urge the Revenue Committee to move LB309 out of the committee and onto the floor for passage. And we want to thank you for your consideration and your service to the state. [LB309]

SENATOR CORNETT: Thank you. Any questions from the committee? [LB309]

JOHN GREER: Thank you. [LB309]

SENATOR CORNETT: Seeing none. Are there any further proponents? Are there any opponents to the bill? Is there anyone here to testify in a neutral capacity? Senator Schilz, you're recognized to close. [LB309]

SENATOR SCHILZ: Thank you, Senator Cornett and members of the Revenue Committee. I won't take a whole lot of time; I know you guys are working hard here and I just want to say thanks, first of all, for taking the time and listening to this. I think that, as I sat out there in the audience and listened, I think that what it comes down to...and being a farmer and a feedlot guy myself, and a small business guy, economic development guy...it comes down to opportunities and how do we create those opportunities. And I just...I think that all your points are very valid. I think there's ways

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that if there's some language that we need to tighten up I'd be more than willing to work with the committee to get that done. I do think that...somebody was asking the question about how do we make sure that they stay in day-to-day and don't turn around and sell that after a while. Well, if you look at the FSA definition of a beginning farmer, in order to qualify for that you have to stay in day-to-day. So what would happen is, if they pull out then that beginning farmer would lose that ability to continue and receive the breaks that they do. And so I would just hope that we can move this out of committee if possible, and with that if there's any other questions I'd be happy to answer. [LB309]

SENATOR CORNETT: Senator White. [LB309]

SENATOR WHITE: Senator, maybe I misunderstand your bill and if so, I hope you'll correct me, but the break doesn't go to the beginning farmer. [LB309]

SENATOR SCHILZ: No. [LB309]

SENATOR WHITE: The break goes to the guy that sold it. [LB309]

SENATOR SCHILZ: Absolutely. [LB309]

SENATOR WHITE: So if the beginning farmer stops doing it... [LB309]

SENATOR SCHILZ: Right. Well, if he stops in the first three years, remember, he's getting those income tax breaks and things like that; that all goes away. [LB309]

SENATOR WHITE: Yeah, but that's highly...and just so you know, it's highly unusual in a tax break of any kind that the duty to perform is on one person but the benefit goes to another. [LB309]

SENATOR SCHILZ: Sure. [LB309]

SENATOR WHITE: Normally, if I want a tax break and I don't perform then I lose my tax breaks. Here, it wouldn't work that way. [LB309]

SENATOR SCHILZ: Right, and I understand that. [LB309]

SENATOR WHITE: Okay. [LB309]

SENATOR SCHILZ: I understand that. And it is a little bit different than we've seen before, but I think as Dr. Sleight told us before, what we're seeing is just like we kind of see in the credit crunch on the national level. It's kind of locked up, I mean, it's hard for people to justify or figure out how they're going to move that land. First of all, you know, most folks that own ground and that are farming find that their children really don't want,

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or may not have the desire, to stay around or may not think they have the desire because they don't think that there's anything there. So if these opportunities are presented...and remember, it takes someone that owns that land to present an opportunity to the person that wants to buy it. And that's, I think, where we're trying to get with this. And so once again, I just appreciate your support and thank you very much. [LB309]

SENATOR CORNETT: Thank you very much. [LB309]

SENATOR SCHILZ: Thanks. [LB309]

SENATOR CORNETT: That closes the hearing on LB309. Senator Mello, you are recognized to open on LB282. May I see a show of hands for the people here to testify for the bill? [LB309]

SENATOR MELLO: Good afternoon, Chairperson Cornett and members of the Revenue Committee. My name is Heath Mello and I represent the 5th Legislative District. I introduced LB282 because Nebraska is one of seven states that do not have any type of tax incentives for film production companies. Without incentives, Nebraska is missing out on an opportunity to not only to bolster our image and to attract tourists to the state, but an opportunity to reap the benefits that occur when a production company films in a state. Just last week it was announced that a major motion picture was coming to the city of Omaha for only three days of filming. This film, entitled Up in the Air is based on a book written by Walter Kern and stars Academy Award winning actor George Clooney. Omaha is the hometown of the main character, played by Clooney, but Nebraska was not chosen as a location for this film because we do not have any type of film incentives. The majority of the filming will be done in Missouri, due to their highly competitive incentives. This is just one example of many film and productions that are choosing to film in our neighboring states instead of right here in Nebraska. LB282 would create the Nebraska Advantage Film Production Incentive Act. The Nebraska Advantage Film Production Incentive Act would provide income tax credits for companies producing films in Nebraska and would create a film office in the Department of Economic Development. The film office would be responsible for helping to recruit projects to the state and would administer the incentive process. When production companies come into a state for filming, they bring with them the opportunity for increases in sales tax revenue, job creation, and tourism. Even small film productions require a sizeable crew. The cast and crew members would utilize our Nebraska hotel, restaurant, and retail services, creating additional income for the state. Jobs would be created for Nebraskans that would be hired to help with the set construction and tear down, and tourism would benefit as a result of the movie and film projects that would be filmed here. Without any type of incentives for film production companies, Nebraska is missing opportunities to increase our revenue and bolster our image. As LB282 is currently written, it would provide for refundable income tax credit for up to 25 percent of

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documented cost to companies that film projects in the state. The amount of the credit would be dependent on the amount of investment in the state and the number of Nebraska residents the project employs. After introducing this bill, and after much discussion with members of the Nebraska film industry, I am told that the incentives that exist in LB282 may not be enough to make us competitive with Iowa, Missouri, and many other neighboring states. That being said, I hope the committee will seriously consider the need for Nebraska to create incentives for the film industry. Giving this unique industry the tools it needs to take hold in Nebraska will positively impact our state's long-term growth. With that I would take any questions, or... [LB282]

SENATOR CORNETT: Senator Louden. [LB282]

SENATOR LOUDEN: Yes, we went through this thing here a year ago, and I guess one of the questions was that, so many times when they do film in Nebraska it's partially derogatory towards the state. Is there anything in here so that that don't happen? [LB282]

SENATOR MELLO: No. [LB282]

SENATOR LOUDEN: Here a while back I was at a movie--I even forget the name of it because I'm not a movie fan--but anyway, they were talking about using Lincoln, Nebraska and that was supposed to be the end of the world. They went down to the airline and wanted the fastest ticket they could get out of there and it was Lincoln, you know, and this brought everybody down and they showed some scenes around there and I thought again, why, there's Ernie talking about derogatory remarks on Nebraska and this has always been the argument. And I'm wondering, you know, if we give these advantages and all we do is buy a bunch of trouble. [LB282]

SENATOR MELLO: Senator Louden, I do not know if any other state has any language in their statute that would put any kind of artistic limitations in regards to how the state's image would be invoked in any films. I do know this bill does limit, or would exclude any films such as pornography or things along those lines, which I believe was in the similar bill that you heard two years ago. But it does not provide for any limitations on how they can artistically portray the state of Nebraska. [LB282]

SENATOR LOUDEN: Well, I wouldn't put any limitations on how they could portray it. I would just put limitations that if you make us look bad, you're not going to get any money. (Laughter) We can go by the Golden Rule. Thank you. [LB282]

SENATOR MELLO: Yep. [LB282]

SENATOR CORNETT: Senator Adams. [LB282]

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SENATOR ADAMS: Senator Mello, the other argument--and you may already be aware of it--that was presented on the floor when this was last discussed was that we do this, and what we have really done is to help stockholders of these film companies, but in reality, the short-term employment that we've provided in the state really has done little for the state as much as it maybe has done to the...those who gain the dividends as stockholders. Could...would you respond to that? [LB282]

SENATOR MELLO: (Exhibit 5) The way this bill is written it's a very narrowly focused bill that targets mostly Nebraska industries. And in my statement, in my testimony, in conversations with the film industry they felt that by us narrowing it to try to answer that argument that was made on the floor, we've really made ourself less competitive in the current format that this bill is, because it's very limited in scope to the companies in Nebraska. We would essentially make an industry or a company from another state move to Nebraska and set up shop to apply and get the tax incentive. And I think, with that being said, I think it's something that...I'll pass out a letter cosigned by 61 other supporters, elected officials, and people from the film industry in Nebraska, with some more background on film industry issues in regards to what other states in the surrounding area has done, as well as just looking and providing some feedback that the film tax incentives are different than a bricks and mortar tax incentive; it's a tourism tax incentive more than anything else. And businesses that, you know, provide some kind of tourism promotion or good that has an impact on Nebraska would probably fit somewhere similar in this kind of industry. It's tough to draw the parallel now, but that's the way that other states have looked and viewed at it, and that's the way we'll probably continue as we look to revise this bill in the future--to help provide a stronger argument for that. [LB282]

SENATOR CORNETT: Senator Utter. [LB282]

SENATOR UTTER: Thank you, Senator Cornett. Senator Mello, as I read the fiscal note on this, it's about 6 million bucks over the biennium, and I guess this brings the total today to about \$45 million for all the bills we've heard today, but just help me...have you any idea what would get this \$6 million? Do you know of a program we can cut 6 million bucks out of or who do you think we should tax to make up for this \$6 million? [LB282]

SENATOR MELLO: Well, that's a great question, Senator Utter, and as I like to tell fellow members, you know, on Appropriations Committee we only spend what the Revenue Committee sends us--the money, so. That, at this point we're...you know, I'm actually, unfortunately missing a strong debate right now regarding provider rates and I would probably be able to get you more feedback as we go through some of the larger agencies--DAS, HHS, some of those agencies that might be able to help find some of this additional revenue. But the one unique thing, though, in this argument is, in all seriousness, this is new money that comes to the state and that's why this is a unique tax incentive because we're not getting any of this money. Right now there's no money

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that companies or film productions coming here and making a way or investing significant amounts of dollars and we're just taking all of their taxes. No, we haven't seen a lot of film productions in the state, and in part because we have no incentive. And the film I mentioned in my testimony is probably a glaring example, which is it's a 30-plus million dollar film with almost all of it being filmed in Missouri, with the exception of three days being filmed in Omaha so that they can get a shot of the Omaha Visitor's Bureau. And so that is \$30 million being spent on various services and labor that's going to a neighboring state and not to our state. And so we're missing out on that money altogether. So when the question gets posed, where would I find the money, the money is not really there unless the money comes here and gets spent. And that's the unique thing with the film industry and this film bill is, we're not looking at making any cuts in the state budget to pay for this; we're hoping to lure in money out of state--instead of spending in Iowa and Missouri to spend some of that in Nebraska, and by spending more of that money in Nebraska we'll give them a tax rebate back. [LB282]

SENATOR UTTER: One further question, how did you arrive at the 25 percent? [LB282]

SENATOR MELLO: That was in comparison to some of the other states. We, you know, kind of looking at what Iowa, Missouri, and Colorado, and New Mexico, it was a number that I felt was an appropriate number to try to make us competitive. But as I mentioned before, with it being an income tax--a refundable income tax credit--that limits, severely limits, the company in regards to trying to get the money. Most other states do a transferable income tax credit, which is a little bit easier to try to negotiate and sell that credit to another Nebraska company so that the out-of-state company would see a larger benefit. But the way we have currently written it would mean that the company would have to come to Nebraska and set up a business to actually get the income tax credit. Which...there are Nebraska film industries and film companies that would qualify for this and do meet the thresholds and would see a benefit from this, but there are very far and few between who would. [LB282]

SENATOR CORNETT: Senator Dierks. [LB282]

SENATOR DIERKS: Senator Mello, I like to put it this way: the Revenue Committee is charged with raising the money from what the Appropriations Committee sends to us. (Laughter) [LB282]

SENATOR CORNETT: Senator Louden. [LB282]

SENATOR LOUDEN: Yes, Senator Mello, what makes you think that they wouldn't go to Missouri anyway? I mean, what are they...where are they at in Missouri and what is it that...yeah, they can write a story. I mean, look at all the Wild West stories that were done in Spain for that matter, I mean, why would...if we had this, why would they still not choose Missouri over Nebraska unless we're like a flower attracting a honeybee--our

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nectar was greater--otherwise they will go where they think they have the best kind of shots and the best daylight. [LB282]

SENATOR MELLO: You're right. You're absolutely right. They will go, or will strongly consider, states where they feel they have the best incentive package, but they don't even consider Nebraska because we have no incentive package. So that, I think, is the main point of the argument and, I guess, the main point of the bill which is, with no incentive whatsoever, money is flying over our state to Iowa and Missouri and actually, most business right now is moving to Iowa. As I'm finding out in conversations with local Nebraskans in the film industry, they're able to take their commercials that they're filming and film them in Council Bluffs, Iowa because they qualify for a tax credit. That means they take...hire staff over...I mean, they follow their guidelines. But they just go right across the river there; do all of their business there even though their business is set in Nebraska, because we cannot offer any incentive whatsoever to try to persuade them to do their business in our state. [LB282]

SENATOR LOUDEN: You mean to say a bunch of those high-dollar Hollywood people would rather go stay and camp overnight in Council Bluffs than they would across the river in Omaha in some of our high-dollar motels and hotels? [LB282]

SENATOR MELLO: If it's going to provide for them the savings on their production costs that that's what they're...I'm telling you that is what they are doing. It's not that they will do that, but they currently are doing that. [LB282]

SENATOR CORNETT: Any further questions? Seeing none. You are... [LB282]

SENATOR MELLO: Thank you, and I waive my closing if there is anyone here. [LB282]

SENATOR CORNETT: Okay. First proponent? Opponent? Neutral testimony? That ends the hearings for today. [LB282]

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Disposition of Bills:

LB117 - Indefinitely postponed.
LB282 - Indefinitely postponed.
LB309 - Indefinitely postponed.
LB376 - Indefinitely postponed.

Chairperson

Committee Clerk