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Revenue Committee
February 11, 2009

[LB419 LB531 LB583 LB634]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 11, 2009, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB531, LB419, LB583, and LB634. Senators present: Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Mike Friend; Galen Hadley; LeRoy Louden; and Dennis Utter. Senators absent: Abbie Cornett, Chairperson; and Tom White. [LB531]

SENATOR ADAMS: Well, it is 1:30 and we're going to begin this hearing of the Revenue Committee. First thing I'd ask is that everyone turn your cell phones off, if you haven't already. That'll be important so that everyone who's here today can hear the testimony--not only the committee members but the audience. First thing I'll do is to introduce people. As we go around the room: Senator Utter from Hastings; Senator Louden from way out there, and you can interpret that any way that you want, Senator Louden; Senator White may be here later; Senator Friend, I hope, will be joining us soon; Senator Cornett, the Chair of the committee obviously is not here right now; Senator Dierks, the Vice Chair of the committee is, I believe, introducing a bill some place else right now and will soon be with us; I'm Greg Adams from York; next to me, Senator Hadley from Kearney; and committee staff. I would ask that as you come to the microphone, as we move through these bills, that you be sure you turn in the registration note to the clerk. Make sure that you speak into the microphone and be sure that you state your name clearly and spell it for the record if you would, please. With that we will begin the hearing on LB531. Senator Sullivan. [LB531]

SENATOR SULLIVAN: Thank you, Senator Adams and members of the Revenue Committee. I'm Senator Kate Sullivan, that's Kate, K-a-t-e; Sullivan, S-u-l-l-i-v-a-n, representing Legislative District 41. LB531 amends Section 77-5903(4)(a) of the Nebraska Advantage Microenterprise Tax Credit Act to increase the allowable net worth threshold for a farm or livestock operation to be considered a microbusiness. In 2008, the Legislature passed LB177 which added the \$200,000 net worth restriction for farm and livestock operations as part of the Microenterprise Tax Credit Act. For the purposes of the act, a person's net worth includes the fair market value of their own assets such as land, buildings, inventory, and cash plus the fair market value of the assets of their spouse and dependents. These assets all count towards that \$200,000 limit. LB531 increases the allowable net worth for a farm or livestock operation to \$500,000 and leaves the remaining restrictions in place. Since the largest assets of someone who runs a farm or livestock operation are land, buildings, and animals, I believe the \$200,000 limit is overly restrictive for farm and livestock operations. Unless the farm or operation is on the list of allowable farm and ranch operations that include processing of ag products, aquaculture, ag tourism, production of herbs, fruits, trees, vegetables, tree nuts, dried fruits, organic crops, or nursery crops, the total assets must be less than \$200,000. Many farm and livestock operations are looking to diversify, perhaps by venturing into new crop production such as organic vegetables, tree nuts, fruit trees, or

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

wine grapes, for instance, or moving towards value-added agricultural products, or making the transition to sustainable ag production methods, or going into ag tourism like a dude ranch. The net worth restriction on farm and livestock operations that are not yet one of the allowable operations may prevent them from diversifying into one of those operations and thus becoming eligible for the tax credits under this program. Other types of businesses don't have a net worth restriction to qualify as a microenterprise. Many of those businesses have buildings and other assets that may have a high market value. Quite frankly, this doesn't seem fair and equitable. The average market value of an acre of Nebraska farmland has gone up 23 percent in the last year. According to the Nebraska Farm Real Estate Market Survey, the state's all land average value was for \$1,425 per acre as of February 1. That's up from \$1,155 last year. Average ag land values are 88 percent higher than they were in 2003. In my legislative district, average ag land values have gone up from 21.4 percent in the central part of the state, of my district, to 28.4 percent in the northeastern part of the district. The values range from \$1,614 per acre in central Nebraska to approximately \$2,700 in northeast Nebraska. A 160-acre farm in central Nebraska may be worth \$258,000. That same 160-acre parcel may be worth \$440,000 in northeast Nebraska. Very few farm and ranch operations are 160 acres these days. The average farm size in Nebraska is approximately 930 acres. If we want to encourage farm and ranch operations to diversify and create more employment options in rural Nebraska, we should not artificially limit their opportunity to participate in state tax incentive programs through restrictions such as the \$200,000 net worth limitation. I encourage you to support LB531 and rural Nebraska by advancing this bill to General File. Thank you for your time, your consideration, and I'll try to answer any questions. [LB531]

SENATOR ADAMS: Thank you, Senator Sullivan. Committee, are there questions for the senator? Senator Louden. [LB531]

SENATOR LOUDEN: Yes, well, thank you, Senator Adams, and thank you, Senator Sullivan, for bringing this, I guess, to our attention which, I guess when you say microenterprise I guess that means like microchips from microcattle. [LB531]

SENATOR SULLIVAN: (Laugh) Possibly. [LB531]

SENATOR LOUDEN: When this was at \$200,000, yes, it didn't take much of any farm at all to make that. Now is there a cap any place on the amount of money that can be given out on credits? I've not... [LB531]

SENATOR SULLIVAN: In any given year, yes, there is. [LB531]

SENATOR LOUDEN: Now, then how many applications...do you have any idea how many applications have been done with the \$200,000? Is there very many able to... [LB531]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR SULLIVAN: Well, I know that right now that probably, for 2009, the cap has been reached already by applications, so. But keep in mind, I don't know of all those applications how many are farm and ranch applications. These applications for the tax credit could be coming not only from farm and ranch operations but other microbusinesses as well, so I can't tell you. [LB531]

SENATOR LOUDEN: Okay, well, because some of this it's a production of agricultural products and that sort of thing. [LB531]

SENATOR SULLIVAN: Right, right. [LB531]

SENATOR LOUDEN: It doesn't necessarily mean that they have to have a farm to grow the products first, it means they could have a tin building and be buying these products, is that correct? [LB531]

SENATOR SULLIVAN: That's right, but if we're talking as in my bill, about existing farm operations... [LB531]

SENATOR LOUDEN: To do this. [LB531]

SENATOR SULLIVAN: ...that might want to diversify... [LB531]

SENATOR LOUDEN: Yeah. [LB531]

SENATOR SULLIVAN: ...you know, it's very easy for them to reach that \$200,000 limit and so you're excluding them. [LB531]

SENATOR LOUDEN: Anyway, leading up to, probably, my last question, do you think that \$500,000 is high enough? Do you think that should be bigger? [LB531]

SENATOR SULLIVAN: No, I don't. Otherwise I would have said so in my testimony (laugh). [LB531]

SENATOR LOUDEN: I guess the reason I bring that if you're considering any land values in there and then some equipment to work with, if you've got much of any machinery or anything like that to do something...I guess I was thinking of a constituent I know of that's interested in doing some cake decorating and that sort of stuff. [LB531]

SENATOR SULLIVAN: Um-hum. [LB531]

SENATOR LOUDEN: And right away they can't do it unless they have a kitchen. [LB531]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR SULLIVAN: Right. [LB531]

SENATOR LOUDEN: And right away, then, you've got to have some place to put the kitchen and a few things like that... [LB531]

SENATOR SULLIVAN: Um-hum. [LB531]

SENATOR LOUDEN: ...and then if they are already in some type of a ranching or farming business, then they're... [LB531]

SENATOR SULLIVAN: They're excluded. [LB531]

SENATOR LOUDEN: They're done for. This microenterprise thing doesn't mean whiff. They're on their own. [LB531]

SENATOR SULLIVAN: No, it doesn't. That's right. [LB531]

SENATOR LOUDEN: And I have a problem with putting these high-minded issues out there that we're going to help somebody when nobody in the world can use them, because I've seen that done with that Beginning Farmer. I've had... [LB531]

SENATOR SULLIVAN: Sure. [LB531]

SENATOR LOUDEN: ...people that wanted to be...start farming and so we would look into the Beginning Farmer and it didn't mean a thing, you know. There was a cap on it and by the time they bought a little machinery or something like that and was ready to go, and probably got some help from some relatives, why, it was over the top, so. That's the reason I'm wondering if this cap should be higher. [LB531]

SENATOR SULLIVAN: Well, I don't disagree with you, and I wouldn't disagree with you if you wanted to raise that and perhaps consider that in your committee in terms of an amendment, so. [LB531]

SENATOR LOUDEN: Okay, thank you. [LB531]

SENATOR SULLIVAN: Yes. [LB531]

SENATOR ADAMS: Senator Hadley. [LB531]

SENATOR HADLEY: I just wanted to say, Senator Louden, the next bill that we hear actually does deal with the total limit in this bill, so I think it's very appropriate that we hear this bill first... [LB531]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR SULLIVAN: Um-hum. [LB531]

SENATOR HADLEY: ...because by raising that cap, the next bill we're going to hear talks about raising the total limit that we have on this bill so that, really, the bills work, basically, in tandem. [LB531]

SENATOR SULLIVAN: Okay. [LB531]

SENATOR ADAMS: Are there other questions for the Senator? Hearing none; you'll stay around to close? [LB531]

SENATOR SULLIVAN: If I need to, yes. [LB531]

SENATOR ADAMS: All right. [LB531]

SENATOR SULLIVAN: Thank you. [LB531]

SENATOR ADAMS: The committee will now hear proponents of the bill. Proponents? [LB531]

JAY REMPE: Senator Adams, members of the Revenue Committee, my name is Jay Rempe, that's J-a-y R-e-m-p-e. I am vice president of governmental relations for Nebraska Farm Bureau here today...this afternoon on behalf of Nebraska Farm Bureau in support of LB531. And basically, for all the reasons that Senator Sullivan laid out in her opening. We concur with everything she said. Let me just share a couple additional figures with you of the capital costs that are required now to invest in agriculture. Senator Sullivan mentioned the land prices and what's happening there, but also on some other parts of agriculture--investing in our livestock operation, for example. Figures that we've got in from folks in the industry, 100 head dairy today you're looking at probably a minimum capital investment of \$350,000, and that's a very, very small size dairy, so if you start looking at these different investments and the amount of equity that are involved here, you can easily see that \$200,000 threshold pretty quickly, so. With that I'll be quiet, and I'd be happy to answer any questions you might have. [LB531]

SENATOR ADAMS: Thank you, Jay. Are there questions for Jay? Anyone? Senator Louden. [LB531]

SENATOR LOUDEN: Yeah, Jay, I guess I'd ask you the same question that I asked Senator Sullivan. Do you think the \$500,000 cap is high enough? When you mention 100 head dairy for \$350,000... [LB531]

JAY REMPE: Yeah. [LB531]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR LOUDEN: ...who's going to own the cows in that? You're going to have rent the cows for that, won't you? (Laugh) [LB531]

JAY REMPE: (Laugh) You know, that's a good question. And frankly, we wrestled with that on some other legislation we're involved with, that we're trying to target some help for beginning farmers, is where you set that threshold. I guess at this point, \$500,000, I think, is a reasonable number to try to set it at and see how it works, with the idea that we may have to come back and take a visit, a look at it, again. [LB531]

SENATOR LOUDEN: Do you know how many applications have been in with the \$200,000? I mean, is this working now? Is there anybody doing this? [LB531]

JAY REMPE: I know there's...the figures I've seen are total figures for the Microenterprise Program, and the part that we're talking about is just targeted to the beginning farmers, and I'm not sure exactly of the total. I know with the \$2 million cap that Senator Hadley mentioned that the last few years they've bumped up against that cap, and so I don't know. But of the number of applications how many of those have been beginning farmers versus other microbusinesses, I'm not sure...microenterprises, I'm not sure. So I can't really answer that question. [LB531]

SENATOR LOUDEN: Jay, thank you. [LB531]

JAY REMPE: Um-hum. [LB531]

SENATOR ADAMS: Senator Utter, did you have a question? Anyone else? Senator Friend. [LB531]

SENATOR FRIEND: Yeah, thank you, Mr. Chairman. Mr. Rempe, on page 2 of the green copy there is a definition of microbusiness. It lays out, you know, a business employing five or fewer equivalent employees at the time of application. Two quick questions: is there only one application process? I mean, I don't know if I'm missing a definition, but in order to qualify is there a continual process that a microbusiness has to go through every year? I mean, is an application required every year? [LB531]

JAY REMPE: Um-hum. [LB531]

SENATOR FRIEND: Okay. [LB531]

JAY REMPE: That's my understanding. [LB531]

SENATOR FRIEND: Okay. [LB531]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

JAY REMPE: I may be... [LB531]

SENATOR FRIEND: Okay, then that leads me to my second question. The problem that I see here, and I could be wrong, if a microbusiness grows, and it goes to the amount but it also goes to the amount of employees... [LB531]

JAY REMPE: Um-hum. [LB531]

SENATOR FRIEND: What happens if I have a microbusiness under this definition, I'm doing really well, I'm taking it...are we trying to wean people off of this at a particular time? I mean, because, so in other words, I'm growing. I'm a microbusiness and I'm doing pretty well, and that would be great in our farm economy. Are we trying to wean them off of this so others could use it? Is that the thought process? I mean, if I had ten employees are we saying Mike, you're doing fine, I don't think you need this type of help anymore? [LB531]

JAY REMPE: Yeah, I think the way that works, and I hope somebody will correct this if I'm wrong, but it, you apply for it; in order to receive the credits you have to provide some investment in your microbusiness and so you receive the credits based on the investment. So if you apply one year, you can't come back and apply for the same investments again the following year. [LB531]

SENATOR FRIEND: Okay. [LB531]

JAY REMPE: So, but if you do invest more in your business and you still meet the requirements, then you can apply again, I think, is the way it works. But, hopefully...I'll dig into that and make sure, and if I'm wrong I'll let you know. [LB531]

SENATOR FRIEND: Right, I guess my point is that...and I think I see where you're going with this...you've got a microbusiness incentive plan or an advantage plan that's not working if there's no growth. [LB531]

JAY REMPE: Um-hum. [LB531]

SENATOR FRIEND: So eventually you're going to have to say here's the definition of microbusiness. You can still be considered a microbusiness by their definitions and as far as this advantage act is concerned you're doing fine. It's to the point where we need to help others, or at least those are the priorities, so. [LB531]

JAY REMPE: Right, yeah. [LB531]

SENATOR FRIEND: Thanks. [LB531]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

JAY REMPE: Um-hum. [LB531]

SENATOR ADAMS: Other question? Seeing none, thank you, Jay. [LB531]

JAY REMPE: Thank you. [LB531]

SENATOR ADAMS: Other proponents? Any other proponents to the bill? Seeing none, then we'll move to opposition testimony. For the record, is there anyone who wishes to speak in opposition? Then we'll move to neutral testimony. [LB531]

CHUCK HASSEBROOK: Thank you for the chance to visit with you. I'm Chuck Hassebrook, H-a-s-s-e-b-r-o-o-k. I represent the Center for Rural Affairs in Lyons, Nebraska. We were very much involved in initiating the creation of the Microenterprise Tax Credit. It was to, kind of fill a gap, I guess you would say, in our array of tax credits in Nebraska. We have a number of tax credits for larger businesses, but we didn't have anything for the microbusiness sector which is where much of the growth occurs, particularly in rural Nebraska. When the credit was created, it received a \$2 million annual limit on the amount of total credits and in addition, there was a \$10,000 lifetime limit per entrepreneur. So it's a good credit; it's kind of there to get people started. They get \$10,000 in their lifetime and after that they graduate up. And then there are other tax provisions in the code to address their needs. When...last year...you know the applications for this open November 1, and then they run through the end of October the subsequent year, So the applications for this year started November 1, 2008 and they run through the end of October 2009. As of January 2 last year, January 2, 2008, the total number of applications was over 600, and they totalled twice the limit--\$4 million. So they'd gotten one-sixth of the way through the year, basically two months out of 12, and they'd already exceeded the available credits by double. Most of those applications were from farmers and ranchers, and when we looked at it we said, you know, if you just looked at the annual cost of equipment and machinery replacement in Nebraska by farms and ranches you could be looking at \$50 million a year in tax credits. So working with various folks--we worked with farm groups and others--we decided to focus this on two things. LB177 then, last year, was passed to try to say okay, this is a good tax credit, this could help a lot of new businesses get started, but let's try to focus it where it's going to do the most good in getting new things started and off to a decent start. So we said within agriculture, where most of the credits were going, we would focus it on beginning farmers and the \$200,000 net worth test was simply part of the definition in the state statute of a beginning farmer, and in addition, alternative enterprises that a farm might take on so that a farm could have more than that net worth if they were going into a baking business and may be a farmer. But if they were going into a baking business or aquaculture or something like that, because those are alternative enterprises that net worth limit wouldn't apply. As of January 2 this year, the applications had fallen by more than a third. I think the Department of Revenue is essentially estimating that, even with those changes, the amount of total tax credits that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

will be applied for will be more than double the \$2 million available. So while in concept I could support this legislation, the reality is it's just creating more ways to divide a pie that's already not big enough, that's already less than half big enough. And so my only plea--I'm testifying neutral--my only plea would be to only do this after we've removed the cap. Because as long as the \$2 million cap's in place, removing this just makes it more of a rush to the State Treasurer's office. And that's really what it was last year was a rush to the State Treasurer's office, and only those who got in before even the tax year for which it was intended...only those who applied before the beginning of the tax year got it, and even they only got 50 cents on the dollar because the demand so exceeded the available credit. So that would be my advice, or my suggestion to the committee, would be to hold this. Deal first with removing...finding the revenue to remove the cap, and then come back as you can and look at measures like this to expand eligibility. [LB531]

SENATOR ADAMS: Thank you, are there questions for this testifier? Seeing none, thank you. [LB531]

CHUCK HASSEBROOK: Thank you. [LB531]

SENATOR ADAMS: Is there any other neutral testimony? Any other neutral testimony? If not, Senator Sullivan, you can close. [LB531]

SENATOR SULLIVAN: Thank you very much for your consideration of LB531, and appreciated your comments and your questions. Just a couple of reminders, I guess, maybe. First of all, under this Microenterprise Tax Credit, no other business other than farming and ranching has a net worth limitation, so I ask you to consider that. And also, from my research, I think the committee decided when they implemented LB177, they decided not to tie this to the Beginning Farmer statute last year. And then in reference to--I think it was mentioned there's a \$10,000 lifetime limit on this credit for a microenterprise. In any given year, they do have to submit a new application, but there are a variety of things that they can use--new investment being one of them, new employees, or adding health insurance for those employees, or even advertising and promotion of the new microenterprise business. So there are a variety of ways, without necessarily growing the business dramatically but enhancing it and still applying for the tax credit. So again, I thank you for your consideration and thank you. [LB531]

SENATOR ADAMS: Are there any final questions for Senator Sullivan? Senator Utter. [LB531]

SENATOR UTTER: So the tax credit, regardless of how you slice the pie, or whether you're expanding your business or enhancing your business or what you're doing, is still limited to \$10,000 per applicant... [LB531]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR SULLIVAN: Lifetime. [LB531]

SENATOR UTTER: ...applicant per lifetime. [LB531]

SENATOR SULLIVAN: Right, right. [LB531]

SENATOR UTTER: It may take it four or five years to get to that \$10,000 but they're limited to a \$10,000 credit. [LB531]

SENATOR SULLIVAN: Exactly, um-hum. [LB531]

SENATOR ADAMS: Other questions? Thank you, Senator. [LB531]

SENATOR SULLIVAN: Thank you. [LB531]

SENATOR ADAMS: That will close the hearing on LB531, and we will proceed on to the hearing on LB419. Senator Hadley. [LB531]

SENATOR HADLEY: Senator Adams, members of the committee, my name is Galen Hadley. That's G-a-l-e-n H-a-d-l-e-y. I represent the 37th District as a senator, and I'm here to introduce LB419 which also deals with the Nebraska Advantage Microenterprise Tax Credit Act. And to make it very short and simple, right now there is a \$2 million limit in the fund that can be used, and the intent of this bill is to basically to get rid of the \$2 million limit. We have a number of proponents that can explain much more in depth, but I just wanted to take a minute and talk just a little bit about the fact that, you know, this is a microenterprise tax credit. And so often, at least I hear in my district, that we have tax advantage acts and they seem to be geared to the larger enterprises--the ones that are employing the employees with \$50,000 a year salaries, the ones that are bringing in 30, 40, 50 employees to the community. But in our communities in out state Nebraska it's the farms, it's the small businesses that are the backbone of what we have in our communities. And I would dare say the same is true for the metropolitan areas. Omaha and Lincoln, the small businesses are what make it go also. Because ultimately, we can spend our time looking for large businesses to come to town, but if we can help a small business grow...if a small business can grow, that's as good as bringing in a new business. So I certainly support this bill. The applications in the past have been used up within a matter of just a short period of time, so we spent a lot of time talking in previous...I know Senator White and Senator Friend talking about the sunset and how well our other acts, our other laws are doing. Well, we have a law here, an act, that is successful. The money is being used within a matter of a few months. And it seems to me that if we have something that is successful that we ought to expand that. There is a cost to it and Senator Utter, I certainly understand the problems of cost, but I also would make an argument in this case when these businesses do expand, hopefully they're profitable businesses that give back in the way of taxes. And lastly, this is basic industry

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

to smaller Nebraska. It's the...microenterprise--it's the small farmer, it's the small businessman on Main Street that needs this help. With that if you have any questions that I can answer I would certainly do that, but I also do have proponents that maybe have even more specifics than I have. [LB419]

SENATOR ADAMS: All right, thank you, Senator Hadley. Are there questions for the senator? Senator Louden. [LB419]

SENATOR LOUDEN: Yes, thank you, Senator Hadley. This...when you say tax credits they've got to make some money first before you get the tax credit, is that correct? [LB419]

SENATOR HADLEY: We hope that...yes, I believe that is right. This is...you know, we have the different types of tax credits--the refundable and the nonrefundable--and that's correct. But, you know, our goal is hopefully that they will make money. [LB419]

SENATOR LOUDEN: Right. Well I'm wondering, how do you put a \$2 million cap on that when these people applied for it if they don't know whether or not they're going to make money, I guess? [LB419]

SENATOR HADLEY: I can't answer that, Senator. [LB419]

SENATOR LOUDEN: Okay, I was just curious how that's going to work. [LB419]

SENATOR HADLEY: I'm sure we give an application where they ask for a certain amount of money and the Department of Revenue accepts the applications up to the time that the commitment is \$2 million and then basically quits accepting them. [LB419]

SENATOR UTTER: Okay, thank you. [LB419]

SENATOR ADAMS: Are there other questions for Senator Hadley? Seeing none, we know you'll be around to close. [LB419]

SENATOR HADLEY: All right. You mean I can't go back? [LB419]

SENATOR ADAMS: You can. [LB419]

SENATOR UTTER: No, you have to stay. [LB419]

SENATOR HADLEY: (Laugh) I have to stay, okay. [LB419]

SENATOR ADAMS: We'll now hear proponents on the bill. [LB419]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

CHUCK HASSEBROOK: (Exhibit 1) Hi, thank you again. I'm Chuck Hassebrook, director of the Center for Rural Affairs in Lyons; H-a-s-s-e-b-r-o-o-k. If there's one thing I would ask you to remember about this hearing today, it's two key facts about microenterprise in Nebraska. The first is that during our last recession from the year 2000-2003, that three-year period, microenterprise employment in Nebraska grew by 5 percent. During the same time, all other non-farm employment fell. So let me restate that: during our last recession, microenterprise employment was the one thing that grew. It grew by 5 percent. All other employment, non-farm employment, fell. The second is that today microenterprise accounts for one out of every six jobs in Nebraska, but it receives \$1 out of every \$75 for job creation tax incentives. And LB419 simply addresses that imbalance. And it positions our small businesses to lead Nebraska's economic recovery out of this recession by removing the \$2 million annual cumulative limit on Nebraska Advantage Microenterprise Tax Credits. This tax credit supports a critical driver of our economy, and that's owner-operated businesses with up to five employees. It provides them tax savings or refunds equal to 20 percent of their investment in starting or growing their businesses, and was noted earlier, it has a \$10,000 lifetime limit. Now, microenterprise is an important element of our economy at any time. It accounts for 85 percent of our businesses, and it accounts for 16 percent of employment. But it is especially critical, in my judgment, during recession when it's the leading force in economic recovery and creates new jobs when other employment is shrinking. Today in America we're facing our most severe economic crisis since the Great Depression, and that makes this year a critical time to invest in economic recovery through microenterprise. But the fact is today that many qualifying small businesses prepared to invest in our recovery are simply turned away once we reach the \$2 million cap on microenterprise tax credits. LB419 would put microenterprise on the same terms as big business by making their investment in job creation tax incentives available to all qualifying businesses without regard to a limit. Now the direct cost of LB419 is modest. I think a \$3 million to a bit over \$4 million--\$4.6 million, I believe, in the second year; yes, \$4.6 million in the second year. And that's money; that's real money. But the fact is, it pales in comparison to letting our economy shrink deeper into recession, and frankly it would remain a small fraction of what we spend per job on job creation tax incentives for larger businesses. This relatively low cost stems, frankly, from the measures taken by the Legislature last year in LB177, at our urging, to target the credit to the most beneficial investments to the rural and urban economy. The changes had their intended effect as I mentioned earlier. As of January 2 this year, the applications received to date were less than a third of the number received the same time last year but they're still on track to be well over twice the amount of money available. And it seems to me that the reforms you made last year position this body to prompt creation of new businesses and the expansion of existing microbusinesses by lifting the cap this year and doing it at a relatively modest cost. And most importantly, that will plant the seeds of economic recovery in Nebraska and will plant the seeds of fiscal recovery for state government. Because it's very hard to finance state government when the economy's going to pieces. Thank you. [LB419]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR ADAMS: Are there questions? Senator Utter. [LB419]

SENATOR UTTER: So effectively this is removing the cap entirely. [LB419]

CHUCK HASSEBROOK: Yes, yes. [LB419]

SENATOR UTTER: Removing the sunset, right? [LB419]

CHUCK HASSEBROOK: Yes. Well, the sunset may be a different bill, actually. I think the sunset's in a different bill, isn't it, Senator Hadley? [LB419]

SENATOR HADLEY: I think it would be part of the bills we dealt with... [LB419]

CHUCK HASSEBROOK: Yes, Senator Cornett's bill has a sunset. [LB419]

SENATOR HADLEY: Yes, that's right. [LB419]

SENATOR UTTER: So we have or will deal with the sunsets. [LB419]

CHUCK HASSEBROOK: Yeah, yeah. [LB419]

SENATOR UTTER: So I guess my question, and being a small-town banker, a country banker, why, I certainly sympathize and recognize the importance of encouraging small businesses, particularly in rural Nebraska. I am having a difficult time coming to grips with where we get the money. And I guess I would appreciate your help of telling us where this money's going to come from to fund up to \$7 million in fiscal year 2012-2013. Because it seems to me like we either, number one, we cut some state program, somewhere, by that amount of money, or--assuming the goal is met here--or we ask somebody else to pay those taxes to make up that revenue. What's your suggestion there? [LB419]

CHUCK HASSEBROOK: Well, that is the \$64 question, as my father would say, although it's more like a \$7 million question, actually. [LB419]

SENATOR UTTER: Seems like it. [LB419]

CHUCK HASSEBROOK: (Laugh) Well, I don't have a good answer to that. I do think that ultimately, though, these are the kind of provisions that will help grow our economy and that's the best... [LB419]

SENATOR UTTER: Absolutely, I agree with that. We have a now problem... [LB419]

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Transcriber's Office

Revenue Committee
February 11, 2009

CHUCK HASSEBROOK: Yep, yep. [LB419]

SENATOR UTTER: ...as I see it. [LB419]

CHUCK HASSEBROOK: That's right. And I don't have an answer to the now question. I would simply, and that may be a cop out--I guess it is, but I would simply say that, I mean, in the big mix I would hope we could find room for this because I think it's a good investment. Now my hope is that there'll be some...that the budget situation will be helped at least somewhat by federal stimulus funds; that remains to be seen. And...but if, in fact, it is, I would hope that that would be one of the places we could look is if, in fact, we get some help with the state budget from federal stimulus funds I would urge you to look there--taking a portion of that and using it for something like this. [LB419]

SENATOR UTTER: Well, I really promised Senator Hadley I was going to ask him that question, (laughter) but I decided to spare him and do it later on, so. [LB419]

SENATOR HADLEY: And he answered it very well for me, Senator. (Laughter) [LB419]

SENATOR ADAMS: Are there other questions for this testifier? Senator Louden. [LB419]

SENATOR LOUDEN: Yes. At the present time, there's a \$2 million cap, all right. And at the present time, one person can only get \$10,000. In other words, we're...if you...we're talking--is my math right?--200 people or 200 applicants if they made the \$10,000. That's the most. Now, if some of them didn't make that much money, then there would be more applicants, or how is that divided out? How do they...I still don't know how they figure out ahead of time how much money they're going to give away or if you've got to wait until after you've run your business a year to show what you've done. [LB419]

CHUCK HASSEBROOK: One thing, it is a refundable credit so even if you don't have a tax liability you'll get essentially a refund of previous payments or whatever. So it doesn't depend so much on the immediate profitability of the business, which is one of the things that makes it so helpful to startups is because most startups don't...generally the first few years, aren't paying taxes. The...let me say, last year the average credit that was requested was \$6,000, and what they did was they...and I'm not...I can't tell you all the details of how the Department of Revenue does that, but as of January 2, the application's been open for two months, because they open up in November 1, as of January 2 they had \$4 million of applications, last year. And so what they did, they awarded everybody who applied and had a legitimate application half the credit. And so the average credit received was \$3,000, and then after January 2 they just took no more applications. [LB419]

SENATOR LOUDEN: Okay then, when you say those credits then on January 2 there

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Transcriber's Office

Revenue Committee
February 11, 2009

wasn't any money changed hands any place, was that correct? [LB419]

CHUCK HASSEBROOK: I think that is correct, I think they... [LB419]

SENATOR LOUDEN: When would that money have changed hands then? [LB419]

CHUCK HASSEBROOK: I believe when people would file their taxes for 2008. [LB419]

SENATOR LOUDEN: They have to operate for a year and file their taxes then they can get the credit back, providing they applied for them for that calendar year. [LB419]

CHUCK HASSEBROOK: Yeah, so it'd be like a traditional investment, or like the old style investment credits when we had them at the federal level, where you'd make your investment during the year and then you got the benefit of it when you paid your taxes. [LB419]

SENATOR LOUDEN: Got your credit at the end of the year. Is this what this...what I'm wondering is, you know, as we lift that why...where there isn't any money changes hand---they've got to make money first, why, I guess I wonder how they know that they're going to give that money out. Because this is all betting on a, as you'd say in shooting dice, it's all betting on the come. [LB419]

CHUCK HASSEBROOK: Yeah, if there's somebody here from the Department of Revenue they could probably give the precise method, but they must have...like I said, they cut off applications--they keep an eye on the volume of applications so they, at some point, when the limits have been reached or exceeded they tell you not to apply anymore. [LB419]

SENATOR LOUDEN: And then it's also capped at...they can only get 20 percent of their investment. [LB419]

CHUCK HASSEBROOK: Right. [LB419]

SENATOR LOUDEN: In other words, in order to get \$10,000 they have to have a \$100,000 investment? [LB419]

CHUCK HASSEBROOK: \$50,000; it's 20 percent of...you have 20 percent of \$50,000 it'd be 10, yeah. [LB419]

SENATOR LOUDEN: Okay. [LB419]

CHUCK HASSEBROOK: Yeah. [LB419]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR LOUDEN: And that would be another cap that's on there. [LB419]

CHUCK HASSEBROOK: Yeah, basically, yeah. [LB419]

SENATOR LOUDEN: And I don't know if those are being removed by the bill or not. Okay. [LB419]

CHUCK HASSEBROOK: No, no; just the \$2 million is being removed. [LB419]

SENATOR LOUDEN: Yeah, thank you. [LB419]

CHUCK HASSEBROOK: Yep, thank you. [LB419]

SENATOR ADAMS: Are there other questions? Sir, I have one, and I'm not sure you're the person to ask, but you've brought up two things that cause me to start thinking--both in your testimony on LB531 and now. You have talked about the increasing demand for these tax credits out there, and jobs created. How do we measure the jobs created in these microenterprises? Do you know how we do that? [LB419]

CHUCK HASSEBROOK: Yeah, I mean, a lot of them are self-employment. In other words, sometimes it's people quitting their own job by starting a small business. So many of them are sole proprietors--they're people who are self employed as an individual farmer would be, or... [LB419]

SENATOR ADAMS: Okay, or it could be a spouse then, or son or daughter. [LB419]

CHUCK HASSEBROOK: Or they hire; there's some of both. So the data is collected...I think on job creation it's U.S. Department of Labor data. I took it...I got it yesterday off a web site, the national web site, that provided that data state by state. [LB419]

SENATOR ADAMS: Okay. The other question I have for you, and I don't necessarily anticipate an answer--it's as much a statement as a question: when I see programs like this, I want to do everything I can to preserve and protect them because I think the intention is absolutely great. But in order to do that, right away I start wondering, how's this being gamed and by who? And is that pushing the demand for this? You see what I'm saying? [LB419]

CHUCK HASSEBROOK: Yes. [LB419]

SENATOR ADAMS: And maybe there's nobody out there that's gaming this particular tax credit, but I'm always fearful we're going to lose good programs because of how they get abused. [LB419]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

CHUCK HASSEBROOK: Yeah. [LB419]

SENATOR ADAMS: I don't know--if you want to respond to that, you can; it was more of a statement than a question. [LB419]

CHUCK HASSEBROOK: Well, I would: this is the most restrictive...I mean, because of that concern this is the most restrictive tax credit we have on the books. I'm going to give you an example. When the Legislature passed this they said you couldn't use it on pickups and vehicles because they felt people would game it in order to buy a pickup that they would mostly use for personal use or whatever. So it is...and then the restrictions added last year to focus it more tightly on the most beneficial investments. You know, it is so dramatically different from the other Nebraska Advantage Tax Credits for larger businesses which have none of those kinds of restrictions. They don't have any lifetime limits; they don't have any of those things. This is one of the most restricted, most targeted tax credit we have on the books. And, you know, frankly, because one of the reasons we and legislators worked to do that is because cost was a concern. There's a \$2 million cap and we wanted to get the most bang for the buck we could. And we knew that if we...you know, to give an example, if we provided a credit on all routine machinery replacement by Nebraska farmers we'd be at \$50 million a year. So this is a really tightly targeted credit... [LB419]

SENATOR ADAMS: Okay, thank you. [LB419]

CHUCK HASSEBROOK: ...to prevent gaming. [LB419]

SENATOR ADAMS: Are there any other questions? Thank you, then. [LB419]

CHUCK HASSEBROOK: Yep, thank you. [LB419]

SENATOR ADAMS: Other proponents? [LB419]

JOHN HANSEN: Good afternoon. For the record, my name is John K. Hansen, H-a-n-s-e-n. I am president of Nebraska Farmers Union and I appear in support of this bill. And I am multi-tasking today, going back and forth across the hall between here and Natural Resources. But this kind of effort, which we have always historically supported as an organization, is particularly appropriate to rural economic development in rural communities, and it is particularly effective. And when we look at small business and we look at how we try to incent them, a lot of the long standing issues we have had in public policy relative to trying to do economic incentives that are appropriate and effective and all those kinds of things, those things that we do best recognize that there's some very fundamental differences between small business and large business and how we go about trying to recruit those kinds of businesses and how we try to incent them and support them. We think the program has worked reasonably well so far,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

and that it is a good thing for the Nebraska economy to have these kinds of incentives because small business, if you compare some of the characteristics of it to larger business enterprises, requires more individual initiative, requires more personal commitment, it is much more appropriate at filling in the small cracks in economic development needs in rural communities, and it is a tougher, more resilient kind of economic force to have present in your state. So having lots of small businesses spread across the state is helpful to the state because those small businesses, just like production agriculture, even though they may be losing money and that a lot of large businesses would just say well, we're losing money, we're going to quit, we're going to throw in the towel, production agriculture as a business, small businesses--they just tough it out. They just suck it up and they keep on going. They're more resilient, they last longer, they work at lower profit margins, and it is a great thing that we have all of the other programs and things in place that help teach entrepreneurship and all of those things, and so we think this is a particularly appropriate program and we support the bill and thanks, Senator Hadley, for bringing it forward. With that I would be glad to answer any questions in the off chance I would actually be able to do so. [LB419]

SENATOR ADAMS: Thank you, John. Are there questions? Senator Louden. [LB419]

SENATOR LOUDEN: Well, thank you, Senator Adams. Well, John, I thought I'd ask you a question and see if you can answer it for me (laugh). And I was glad you're here today. This tax credit, it's just strictly state tax money, isn't it? There's no federal money or anything, it's just state tax money. And have they been giving away the \$2 million or have we been in it long enough to know if they're even giving away all of that money on us, on the state tax credit? Because there is a cap. I mean, they're talking about \$10,000 and you'd have to make a bundle of money in order to pay \$10,000 worth of state tax, wouldn't you? [LB419]

JOHN HANSEN: A lot more money than I'm used to making, that's for sure, Senator. And I have not researched...I'm not sure what the Revenue Department numbers are; I didn't have a chance to do those. And I'd defer the technical part of that question to the Revenue Department if they're here because I really don't know. I remember when we brought this bill and worked on it initially we thought that we ought to have higher caps and we ought to try to go that way and so we're in support of kind of where we kind of thought we needed to be in the first place. And based on the experience so far, we think we're okay. And this is something the state can do and say what can we do at the state level? You know, and as you know as you travel rural Nebraska and you work with folks in rural communities, they're always trying to ask the question, and rightly so, well, what about us? What's the state doing to help our kinds of businesses, our kinds of communities? [LB419]

SENATOR LOUDEN: Yeah, thank you. One other point I would...I agree with your testimony on production agriculture. As you say, even if you're not making money you

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

suck it up anyway, and I guess some of my personal experience here lately is you get to notice that one of those tractors broke down and you go in and get her fixed anyway, whether you're making any money or not, because you about have to have the thing. It isn't the case where we're going to pick up and move to some other state and do business like a factory would, or something like that. So I agree that production agriculture's probably the backbone of what's kept Nebraska where we are. Do you have any comment for that? [LB419]

JOHN HANSEN: I read two or three different ag publications and daily market things every day. Not that I remember them; that's why I read them every day. But I was struck by one that I read this morning which said, gee, looking at the economic downturn, looking at the fiscal crisis in Washington, looking at the income safety net in the farm bill--you guys in agriculture really need to just diversify your business operation so that you're getting some other additional sources of additional business-related income outside of your farming operations if you want to ride this out (laugh). And I was just struck by that--here we are in this tough situation and we're supposed to make an additional investment into a whole other line of business at this point in time to diversify our economic base. I was struck by the story that we all tell which is that what happens to a farmer who inherits a million dollars? Well, he just keeps farming until it's all gone. And so I thought probably the folks who are in the best financial position to diversify the portfolio when they're in financial trouble are folks who probably would, just for purposes of keeping it simple, just continue to keep farming until all their money was gone or the banker told them they had to quit. (Laugh) [LB419]

SENATOR LOUDEN: (Laugh) Okay, thank you. [LB419]

JOHN HANSEN: Thank you. [LB419]

SENATOR ADAMS: Are there other questions? Seeing none, thank you, John. Other proponents? [LB419]

DAVID BUCHHOLZ: (Exhibit 2) Good afternoon, and thank you for this opportunity. My name is Dave Buchholz, D-a-v-e B-u-c-h-h-o-l-z--with a last name like that you can understand why I called my business David & Associates. I'm in the marketing business. I'm a marketing communications advertising company owner based in Hastings. Over the 25 years I've owned my business I have worked with, met with, and consulted with dozens of small businesses that fit the profile of those who qualify for the Nebraska Advantage Microenterprise Tax Credit. In addition to working with clients of this profile, I also serve as a speaker on marketing for a number of rural and small business development programs including REAP, EDGE, and others. The Nebraskans in these programs have much in common. They have spirit, drive, innovation, good ideas, and a sincere desire to build a business. To build a business here in Nebraska and many times right in their rural Nebraska hometown or inner city neighborhood--the very places

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

in this state that sorely need economic vitality and opportunity. There's another characteristic that many of these entrepreneurs and small business owners have in common: they typically lack the capital they need to get a solid footing under their business. They have a great idea, they're skilled and talented, and they are ready to work as hard as necessary to succeed. But the bottom line is this: a great idea unfunded or underfunded is usually a failed idea. An idea unfulfilled, an idea unrealized, and an opportunity lost for this state. The current \$2 million limit on tax credits for microenterprise seems quite arbitrary to me, especially when one considers that the state is significantly spreading its risk over hundreds of small businesses to the tune of \$10,000 or less per tax credit. Compare that to the multimillion dollar incentive package that have become an expensive expectation in courting just one large employer. The fact is that with small microenterprises and entrepreneurial Nebraska-based businesses, we do not have to get into a bidding war. We're talking here about people who have already chosen Nebraska as their home and as the headquarters for their business. We don't have to continually give away the farm to build small business in Nebraska. Consider the number of situations across the nation in which one decision in one corporate boardroom can close a facility overnight and take with it hundreds of jobs and millions in tax incentives that originally lured them. And while I'm not denying the value in continuing to attract large employers, what I'm saying is that we should balance our support for business attraction with an equitable investment in nurturing homegrown businesses, and that's what LB419 is all about. What is the likelihood that a major employer is going to locate in the Grafton or Sutton area? But a young man is marketing pickled asparagus there to specialty food stores across America and enjoying considerable success. Is a major animal health company going to choose Broken Bow as its headquarters? Probably not. But a family-owned business in that community is selling products to dog and horse owners across the nation, as well as through PetSmart. Small business and spirited entrepreneurs, many times in unlikely places, have helped fuel the pioneer spirit that is Nebraska. From Cabela's to Kool-Aid Nebraska history is filled with stories of business success born in the basements, barns, and brains of creative Nebraskans. So who knows what worldwide brand name the next microenterprise loan could lead to? But it really doesn't matter, because if a small business provides jobs and income for three or four Nebraskans, that's success enough, I believe. That's one more business generating revenue for the state; one more business providing paychecks and benefits; one more business doing business with other Nebraska businesses. As Nebraskans, we should all be concerned about how to energize areas of our state that need jobs and economic growth. We all want to create opportunities for young people to live and thrive in rural areas and city neighborhoods. The technology is there, the markets are there, the ideas are there, the entrepreneurial training is there, the spirit and the will are there. What we can provide is a small assurance that some funding is available to help these small businesses get their sea legs and begin their journey toward success. Microenterprise lending helps build a stronger and broader root system for our state's economy by creating more businesses and more employment. It helps extend the tendrils of that root system into small towns,

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

farms and ranches, and depressed neighborhoods all across the state, creating a statewide diversity of investment and enterprise that sustains communities and nourishes economic growth. Eliminating the arbitrary cap on microenterprise tax credits is about creating greater opportunity, possibility, self-reliance, confidence, and that's all I think any small business entrepreneur really asks and I think that, as a state, it's an investment we can afford to make. Indeed, we cannot afford not to. So I urge you to pass LB419. Thanks for your time. And I'd take any questions you might have. [LB419]

SENATOR ADAMS: Thank you, sir. Are there questions for this testifier? I guess not, thank you though. [LB419]

DAVID BUCHHOLZ: Thank you. [LB419]

SENATOR ADAMS: Next proponent. [LB419]

PETE McClymont: Senators, I am Pete McClymont, P-e-t-e M-c-C-l-y-m-o-n-t. I'm here as vice president of legislative affairs for Nebraska Cattlemen. We are here in support of Senator Hadley's bill, LB419. I would just like to add on to the testimony that you've heard before this. And to some questions you, Senator Utter and Senator Loudon, have raised...probably improper for a beef guy to use a poultry analogy, but this is the true chicken or the egg. Obviously, we have to come to some point where we further fund this from new revenues. On the other hand, to Senator Loudon's point, our ranchers are probably losing at least \$100 a head right now on selling their calves. People in feed lots, from what we get in our office, are losing \$200-\$300 a head. So as that happens and it becomes less viable for people to stay in long term, a bill like LB419 goes a long way in getting more people involved in taking ownership. These people that would benefit from this are long on sweat equity; they're true value-added people. They're going to take livestock--in our scenario--utilize grains, animals, and try to sell them for more money. So you've increased the tax base, you've helped the next generation, so. With that I'll conclude my testimony, but would hope that this committee would support LB419. Thank you, sir. [LB419]

SENATOR ADAMS: Thank you, Pete. Are there questions? I guess not, thank you. [LB419]

PETE McClymont: Thank you. [LB419]

SENATOR ADAMS: Next proponent. [LB419]

JAY REMPE: Senator Adams, members of the committee, once again my name is Jay Rempe, J-a-y R-e-m-p-e, vice president of governmental relations for Nebraska Farm Bureau, here today on behalf of Nebraska Farm Bureau in support of LB419. Just suffice it to say that Nebraska Farm Bureau is very interested in programs that will

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

assist in rural economic development. We think this is a valuable program; it's obviously been a successful program by the amount of applications. Unfortunately, because of the \$2 million limit its effectiveness is limited somewhat, and by removing that cap we think it could have a lot more effectiveness and impact on rural economic development, so. For those reasons we support the bill. [LB419]

SENATOR ADAMS: Thank you, Jay. Are there questions for Jay? Thank you. Other proponents? [LB419]

RICARDO CASTRO: Good afternoon. My name is Ricardo Castro, R-i-c-a-r-d-o; last name C-a-s-t-r-o, and I'm the executive director with the Nebraska Hispanic Chamber of Commerce. The Nebraska Hispanic Chamber of Commerce represent the Hispanic micro and small businesses, and the businesses trying to reach the rural Latino market. We are looking to learn about the most reliable business tools and opportunities in order to make them available to our membership or to our target market. In this process, we recently learned about the Nebraska Advantage Microenterprise Tax Credit Program and started looking for feedback from business owners who might have applied or just to learn about their experiences before we can explain the program to our members, or to the local Nebraska business...Latino business owners. We...well, unfortunately, we couldn't get any feedback or any opinion because anyone who...we couldn't find anyone who was granted with the program. The few people who knew about it told us while they were making arrangements to get help in order to leave their mom-and-pop businesses in order to get educated in this program the program was already closed and not available for them. Basically, they didn't make it on time. Information came late. It looks like the time frame for the availability for the program was extremely short. The Nebraska Advantage Microenterprise Tax Credit Program has not been reachable to us because it hasn't been promoted properly. Also, while I have to say that being an immigrant business owner doesn't imply solely facing language challenges or barriers. We normally...once we learn the language, we need to start (inaudible) the new system. And that's our big obstacle now. Finally we can communicate, but we need to learn how business is done here. Being an immigrant also makes it a little more difficult to understand how to reach the opportunity this great country offer to its residents and business people. We also realize the opportunities are out there like this one--this is an opportunity for business owners and for us, and we just don't know how to reach them. It is critical to lift the \$2 million in total tax credit. Why? Because there's much to that because there's a lack of knowledge and help, we...it's demonstrated or I can tell you guys that we only use our savings, our whole family strengths, and a huge willingness to survive while doing businesses, but we are not using business tools available for business owners. To give you an example, south Omaha business district went from 95 percent commercial real estate vacancies in 2001, and it only took six years to be 95 percent occupancy. And that's only the south Omaha business strip. We want to keep growing, but in a formal and organized way, so that we can pay back to the land that host us by helping with the local economic recovery. And that's only Omaha. We have

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

examples of we already got communication or people from different communities approach us like businesses from Lexington, Grand Island, Hastings, Crete, Sioux City, the north Omaha African American community, and many other cities along the great state of Nebraska. Please pass the LB419. Now, more than ever, is the time to use all the tools available to boost our economy. And finally, I would like to let you know one more time--I would like to emphasize this--we want to keep growing. We want to be formal players in the business economy of Nebraska. We want to grow, but organized. Thank you. [LB419]

SENATOR ADAMS: Okay, thank you. Are there questions for this testifier? Guess not, thank you sir. [LB419]

RICARDO CASTRO: Thank you. [LB419]

LYNN REX: Senator Adams, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities, and we too would like to go on record in support of this measure. We think it's important for small business. I'd be happy to respond to any questions you might have. [LB419]

SENATOR ADAMS: Okay. Are there questions for Lynn? Thank you, then. [LB419]

LYNN REX: Thank you. [LB419]

SENATOR ADAMS: Other proponents? [LB419]

MARLENE ANDERSON: Hello, my name is Marlene Anderson, M-a-r-l-e-n-e A-n-d-e-r-s-o-n. My husband and I own a small hardware store in Oakland, Nebraska, and I'm also a loan officer at our local bank there. Oakland is a town of 1,200 people. We have a hardware store, grocery store, drug store, flower shop, and some other small businesses. And two years ago, my husband and I qualified for the tax credit. The only reason we got the credit was we have an excellent accountant who applied for our \$50,000 very quickly. And that is why I'm here to ask for the maximum cap to be lifted. With our \$50,000, we built an addition onto our store so that we could handle acetylene and other cylinder gases such as oxygen. This new venture not only affects Oakland; we have several other outside communities where people come in and buy this product. We also purchased a fork lift. And it took us two years to spend all the \$50,000. The second year we purchased a point of sale system, and so we have used the entire \$50,000 and we have received our \$10,000 tax credit. Personally, I'd like to see you enable us to apply for it again in the future. You know, maybe have an extension of time that people like us could reapply. I guess my last comment is, you know, we'll probably own the store another 12-15 years and anything that you can do to help us keep it a profitable business. The hardware store has been there for close to 100 years, and I would love to pass it on to someone in the next generation and not have to liquidate it.

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

So anything that you can help us in rural Nebraska is very much appreciated, and that's why I support LB419 [LB419]

SENATOR ADAMS: Okay. Are there questions? Seeing none, thank you. Any other proponents? [LB419]

JIM BARR: Senator Adams, fellow committee members, my name is Jim Barr, B-a-r-r. I'm from York area. I'm pretty much retired, but before I retired I had the opportunity to work for USDA Rural Development, and as...in that position I got to travel around the state quite a bit talking to people on rural development issues, particularly as we implemented the 2002 rural development provisions of the Farm Bill. And as we went around, one of the main things we tried to ask was what programs seem to be working? What ones aren't working? And what new programs would you like to see developed? And one of the things that almost always came up was the need for some sort of business incentives in the rural areas--particularly such as tax credits or grants and that sort of thing. And as part of that it seems like the Nebraska Advantage Act and all the related act legislation in Nebraska it's tried to address those issues. And it's...the main one addressed the big companies of course and that seems to be pretty well handled. But the limits on the microenterprise, which is the five employees or less, seems to be kind of holding that program back. If you get away from Interstate 80 and what they call the fish hook up towards Norfolk and in there, an awful lot of what job creation you look for pretty much has to come from people trying to make their own jobs in some fashion. And this is the sort of thing this program addresses. And as far as I know, over 80 percent of the businesses in Nebraska probably are five employees or less. And another thing about it...one of the problems you sometimes have with the Nebraska Tax Advantage is that some of the larger companies occasionally get a better offer and leave. But with the microenterprises in rural Nebraska, most of these people are creating their own job so that they can stay here and so that's likely not going to be the case with them. And the only thing I can say about the questions on the funding of it is that in the long run it's investments like this that are having to be made in order to grow the economy to continue to have...revenue sources. So thank you. [LB419]

SENATOR ADAMS: Thank you, Jim. Are there questions? Guess not, thank you. Are there other proponents? if not, are there opponents to this bill? Seeing none, we'll move to the neutral. Anyone want to testify in a neutral capacity? Senator Hadley to close then. [LB419]

SENATOR HADLEY: Yes. Thank you, Senator Adams. I appreciate the committee taking the time to hear the proponents, because I think this is an important bill and it's a bill I do feel passionate about. A couple of points: one is that there is a sunset in it, but LB164 we passed...actually, this took the sunset out, but LB164 puts the sunset back in for December 2015, which is the same with the other acts. I'd like to answer Senator Utter, because I think he does ask a good question. It's a question that we need to ask

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

everybody that comes up here because we are in tight times. But I look at what's going on in Washington, D.C., and we're looking at taking \$800 billion, give or take a few billion, and we're trying to throw it against the wall to see if any of it sticks for a stimulus. What are we trying to stimulate? We're trying to stimulate the economy, aren't we? We're trying to get jobs, we're trying to help with lending, we're trying to do those types of things. And we're throwing it against the wall and just hoping some of it, somehow, works. We have a program here that works. We have a program that two months we have twice as many applicants as we can take. January 2 of the year that we're looking at, the money's gone. We're giving 50 percent on the dollar. And this is a stimulus program. This isn't money helping somebody pay off a mortgage that is in over their head. This isn't helping to move a plant just from one state to another state. This is starting...helping small businesses, small farms, small cattle operations to stimulate the economy. And what I worry about is that every year we have this limit on it, this is a year that we've lost those people making that investment to stimulate the economy; we've lost them. If those people that weren't funded...they can go away. So I worry about that. To answer Senator Utter, I guess that's why I support this bill because I worry about it. That if we defer it and don't act on it, we've lost another year of businesses that we could help. And these are businesses that may help the state of Nebraska weather this downturn. If we could get businesses stimulated to spend money in Nebraska, we're getting money to spend money. But sometimes you have to do that. Now if you ask me what specific program I would cut, I don't know. But at the risk of probably bringing raindrops down or a thunderstorm on my head, we do have a rainy day fund. I might make the argument that a \$3 million investment out of that to help potentially hundreds and hundreds of small businesses around the state, to stimulate them, might not be a bad investment. So I would ask the committee in their deliberations to wisely deliberate this and hopefully get it out on the floor where we can discuss it and we can talk about stimulating something that will directly stimulate the economy. And one last thing, it seemed to me that when we spent a lot of time talking about the other programs--and I wish Senator White was here because I believe it was he that asked a lot of the questions about whether they were being successful or not. And we got data on their success. We've brought you a program that we're here telling you it's so successful we need more. So hopefully you've got the data that we might be able to help these small businesses. And I thought it was great that we had someone from basically talking about the Omaha area, that this can help Senator Friend's district as well as can help Senator Loudon's district. I really don't believe this is a rural-urban type of thing. Sure it's the ag, but there are small businesses in Omaha that can avail themselves of this type of credit also. With that I would, if anyone has any questions, I would certainly try to answer them. [LB419]

SENATOR ADAMS: Are there questions for Senator Hadley? If not... [LB419]

SENATOR HADLEY: Thank you for the courtesy. [LB419]

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Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR ADAMS: ...that will close the hearing on LB419 and we'll move on to LB583. Senator Dierks. Go ahead, Senator. [LB419]

SENATOR DIERKS: Thank you, Senator Adams, members of the Revenue Committee. For the record, I am Senator Cap Dierks, spelled C-a-p D-i-e-r-k-s. I represent District 40 in this Legislature, and I'm here today to introduce LB583. Many different groups and individuals have contacted me about LB583. The question from everyone can be summed up as, are you serious about this bill? The answer I give them and share with you today is yes, I am serious about this bill. I have had the pleasure of representing Legislative District 40 for 19 years. During that time the most common request I receive is to please provide real property tax relief. During those 19 years there have been attempts to help our residents reduce their property tax burdens. Unfortunately, the results are not permanent and property taxes continually rise, especially for rural Nebraskans. I have asked for a bill to place a sales tax on all services except medical. There is no specific sales tax rate in the bill because I didn't have the numbers to see if we should keep the rate at 5.5 percent or see if it could be lowered. I have included a tax on food which I know is controversial but should be discussed by this committee. I have included in the bill an income tax credit on the purchase of food for qualifying low-income residents. The Department of Revenue must provide educational programs to inform the public of this tax credit. Also in the bill you'll find an end to the local option sales tax. Increasing educational costs directly correlate with yearly increases in property taxes. Therefore, this bill changes the way in which community colleges and school districts receive their funding. LB583 would eliminate the general levy authority for community colleges and change our funding source to General Funds. It also requires school districts to come to the Legislature for General Funds instead of property taxes to pay for compensating employees, including salaries, retirement, health insurance, and so forth, as well as to fund the school district's transportation cost. It is my hope that with LB583 the discussions will begin on shifting from property taxes to sales taxes. I would like to see an interim study on such a shift, and meetings with interested groups. I am serious about finding a way to provide property tax relief and look forward to the testimony today on LB583. With that Senator Adams, I will end my testimony and try to answer any questions. [LB583]

SENATOR ADAMS: All right. Are there questions for Senator Dierks? I don't know if that means we don't know where to begin, or... (Laughter) [LB583]

SENATOR DIERKS: Well, last count there were about 27 people out here. I suppose all of them want to testify, but...(laugh) [LB583]

SENATOR ADAMS: I'm sure, I'm sure. [LB583]

SENATOR DIERKS: I was going to just offer one little anecdote. When Pete McClymont was testifying on that last bill he mentioned something about the costs of production

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

for...what it costs to raise a calf and how much money people are losing. And what it costs to feed the animal and how much money they're losing. I was at a meeting in Brewster, Nebraska, three years ago. And it was a meeting called by a friend of mine and there were 75 people there representing 15 counties. One of the gentlemen there was a rancher from someplace over there in the Sandhills and he told me that his property tax at that meeting was \$9 an acre and it took ten acres for him to run a cow. Then your math will tell you that's 90 bucks a cow before you start doing anything else. And that's gone up. When I sold my calves in January at the Erickson Sale Barn, I couldn't stand up in front of the auction block and then tell people, folks, I need a 10 percent surcharge here because everything I'm buying cost me 10 percent more last year. Those producers, both farmers and ranchers, are at the bottom of the totem pole as far as where the dollars come from. They don't have a way of recouping that except by the generosity of the auction market or the crop price. So when it costs more for the fertilizer dealer to get the property, the fertilizer, to his business because the costs of transportation costs more, then he has to charge more--he has to put a surcharge on what he charges me for my irrigation system. There's got to be some way to provide some relief for those people that are faced with paying these bills. It doesn't matter, really, how you effect your evaluation because if you need so many dollars for taxes for running your county and your city and your school, they've got to get it there. It doesn't matter what your valuation is, yeah, you can take the valuation and make some differences, but it all has to be mixed up in the local district, so. We need to find some way to provide some relief. I kind of mentioned when I started testifying here, every place I go the first question I get is when are you going to help us with these property taxes? And that goes for the people in the towns too. We've got empty stores in some of those towns that are still paying property taxes and they're producing nothing. There's got to be a more fair way to do this. Sorry, I just get on my soapbox. [LB583]

SENATOR ADAMS: That's all right. One last time around, at least in the opening, are there questions for Senator Dierks? Senator Utter. [LB583]

SENATOR UTTER: I really don't have a question, Cap, but let me just say this. That I applaud you for bringing this forward, because I think it should open a much broader discussion on exactly what Nebraska's tax mix ought to be and on the whole matter of some of the things that we're talking about today with regard to tax exemptions and tax benefits and who's going to pay the taxes. And I for one sincerely appreciate you bringing it forward if for no other purpose that it opens a discussion, I think, on our entire tax system. [LB583]

SENATOR DIERKS: Thank you. [LB583]

SENATOR ADAMS: Senator Friend. [LB583]

SENATOR FRIEND: Thank you, Chairman Adams. Senator Dierks, do you...a few

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

years ago, Senator Redfield brought a bill, I think, to the Revenue Committee. The Revenue Committee made the mistake of leaving it alive and she tried to inject it on the floor and it actually had to...well, I thought it was a great item by the way. Tried to inject it into a bill on the floor that removed just a ton of sales tax exemptions. Do you remember, or do you know off the top of your head, in regard to our sales tax code we've got pages of sales tax exemptions, particularly in regard to the use tax--you don't have any of that data, I mean, do you have just a high-level idea of how many exemptions we're dealing with? Tough question, puts you on the spot. The reason she brought that amendment and the reason we were discussing it out on the floor is because everybody gets the property tax complaints but when we have a sales tax system that's so dysfunctional it begs...you know, the questions about the property tax, I mean, if we had a third, a third, a third and it was pretty functional, nobody'd be complaining about the property taxes. I think that that's your point here. If we can handle this piece of it which is our most...everybody thinks our property tax is the most dysfunctional thing in the state. It's not. It's that we have a sales tax code that every time we need money we go out there and tap it and then start paying for things, and then two years later when everybody complains enough, we remove those, you know, things and make them exemptions again. I saw that somebody had dropped something in front of you; that somebody, I know, is in the know, so I'm curious if you have just some numbers there off the top of your head. I was buying you some time, did you notice that? [LB583]

SENATOR DIERKS: Okay, well I tell you, I can take the time to go through this, but... [LB583]

SENATOR FRIEND: Well... [LB583]

SENATOR DIERKS: ...it looks like there's... [LB583]

SENATOR FRIEND: Well, not all, I mean... [LB583]

SENATOR DIERKS: ...somewhere around 50 of them. [LB583]

SENATOR FRIEND: Okay. [LB583]

SENATOR DIERKS: And that may not be all of them. We have the professions, like attorneys, engineers, accountants, and it was an attorney that helped me put this bill together and I said what about taxing attorneys? He said tax attorneys' sales, their service, because they'll just get it from their clients anyway. I mean, this was an attorney that told me that. [LB583]

SENATOR FRIEND: What would there answer be...and yeah, we don't have to go through all of those, but I...it was anecdotal. [LB583]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR DIERKS: Um-hum. [LB583]

SENATOR FRIEND: What would their response be when we say we're not even taxing the products and the commodities in the proper way? I mean, and if we did, would we even have to have some of the use fees and the service fees that we try to implement? [LB583]

SENATOR DIERKS: You see, Senator Friend, I don't even know the answer to that. But I think...what I'm asking the committee to do is to hold this bill and let us use this as a method of taking pieces of it, piece by piece, and finding out where we can make things better. And I told this, I think, told you the other day in exec session that I wasn't concerned about putting money into a fund to hire some group to come in and do this study. I think we have the expertise in our committee to take care of this study ourselves. And that's what I would encourage, so I'm open to whatever anybody has to say about it. I just think that it's time for us to take a look at what some of these problems are. [LB583]

SENATOR FRIEND: Well, thanks. [LB583]

SENATOR DIERKS: Yep. [LB583]

SENATOR ADAMS: Other questions for Senator Dierks? If not, we would take the first proponent. [LB583]

JOHN K. HANSEN: For the record, my name is John K. Hansen, H-a-n-s-e-n, and I am the president of the Nebraska Farmers Union and also their paid lobbyist. We are in support of the concept of taking a look at whether or not we could come up with a broader based state tax system that was more fair, and so in concept we're in support of the idea of taking this bill and using it as a vehicle to examine it. My organization has been looking for ways for a very long time to try to develop a more fair and balanced and proportionate state tax system. And so as we have done that we were brave or foolish enough to work with Senator Tim Hall who took a hard look at and I'm still healing up from that experience. And we did 101 ways of trying to come up with the right mix of sales tax increases that would cause enough folks to tolerate it on the one side and maybe lighten up on the other side that you could try to move something forward. And at that time we were not ready to do that. The body was not ready to do it and when it comes to tax policy, theory is one thing, practice is another. And so when we talk about what the theory of what tax policy ought to be we all, you know, we can come together more quickly. When it comes down to the part where I might actually have to pay more money in this area or that area, then that's just a really bad idea and I didn't think it through. And so the issue of property taxes, however, as you look at the state tax system--when we look at where we're at, where we've been, all of the major

studies that we've ever done of tax policy--continue to come back and say our state is heavy on property taxes. We're in the middle of the pack in sales and income, but we have more reliance on property than our neighboring states and it's probably healthy for certainly the state's largest single industry production, agriculture, who is really not in a financial position to pass any of our additional operating costs on to anyone. We don't go down to the sale barn and say taxes went up, we're going to have to get more for the calves. We don't go to the grain elevator and say gee, our property tax bill went up, we're going to have to get more for the corn or soybeans or wheat or any of those things; it's wholly absorbed. And so the issue of property tax and property tax relief and all those things continues to go on. In my experience as 19 years as president of the state's second largest general farm organization, one of the constants that has been there all of those years and continues to be there as I do meetings across the state of Nebraska is what are you guys going to do to try to, you know, reduce our property tax load? And so we've been a part of a lot of different kinds of efforts at the state level to come up with a more fair and balanced system, and so it's been a while since we've tried to do a dramatic increase in the sales tax base itself. And it would have to be broad enough that you'd have to be able to lower the rate in order to be able to do what you need to do to get enough buy in and there's some things, frankly, that are in this particular package we have heartburn with, and that we have historically, for example, never supported the sales tax on food. We still don't. But we would support the idea of taking a look at a really broad-based increase in the sales tax base in the state and if we actually did that then I think my organization would be willing to revisit its position on some of the other issues. Until then, we'll just continue to come into the Revenue Committee on bended knee and try to beg you guys to give us one more additional sales tax break on...from farm equipment parts to, you know, whatever else we can do to try to help our guys out. And with that I would end my testimony, and be glad to answer any questions, if I could. [LB583]

SENATOR ADAMS: Are there questions for John? I guess I don't have a question, but you kind of ignited a thought (laugh). I was envisioning, as you were describing, okay we go away from property tax and maybe if our base was broad enough we could actually reduce our sales tax, but let's assume for a moment it stays where it's at or has to go up, then at some point this committee starts hearing testimony: states neighboring us have lower sales tax than Nebraska so we're not competitive across the border on farm parts or motorcycles or whatever, accounting services or whatever it might be, and so to be competitive we start doing just what you described and we're right back to eroding the tax base again. That...I think we probably share the same fear. [LB583]

JOHN K. HANSEN: Yes, and it's...I'm certainly not an expert, but I've been working on this for a really long time and, you know, of all the three primary sources of revenue that we have: income, sales, and property. The one that, in many cases, is least reflective of earned income, which is a good indicator for ability to pay, is the property tax. And so I represent an industry where, just because your valuation went up, doesn't necessarily

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

mean that your income went up. In fact, it might mean that your income just went in the tank. So commodity prices may have collapsed, it didn't rain at your place, you know, all kinds of things happen all the time and yet you're stuck with that particular fixed tax bill. And so of the three sources of revenue that we get the one that we would argue, and I think most Nebraskans would agree with, that is the most regressive from an earned income standpoint, is the property tax. And so it's a long standing gnarly problem and it's painful enough that folks like us are willing to look at some other options and there's only so many ways to get revenue in, unfortunately, until Senator Friend thinks of a new way, which is to come up with some unknown source of revenue that nobody can understand or explain--it just comes in. Until then, you go back to the existing sources and so, you know, broadening the sales tax base is one of the ways that we, frankly, looked at doing. It's...if you're able to buy a service or if you're able to buy a product, usually the sales tax isn't going to kill you. And if that's the deciding difference, you're probably close enough to the edge you maybe should have looked at maybe buying it in the first place. And so the sales tax is the second most regressive in our view, and the income tax is the fairest way because at that point you've actually made money, and you know for sure you made money. But, you know, so we've looked at income tax increases, sales tax increases, and we had so darn much fun with broadening the sales tax base last time that I just thought we should do it again (laugh). [LB583]

SENATOR ADAMS: Senator Hadley. [LB583]

SENATOR HADLEY: Thank you, sir, I appreciate your testimony. And I guess this is for you and Senator Dierks: I just wrote down a number that I thought was kind of interesting and the number is 38, and that's the number of senators in 2012 that will be in their second four-year term. And if we're going to have effective tax changes and such as that, a lot of times it takes that second four-year term. And when you have term limits that might be easier to make the changes than sitting here. I have heard that, for example, other bills--even last year--that the term limits can impact how people vote. So I just...I think maybe it's a good time to start studying the bill so that we might have that shot. [LB583]

JOHN K. HANSEN: Well, I really shouldn't say anything, Senator, but I would observe that it's kind of a trade-off and while you're new and inexperienced you're more likely to entertain new and potentially politically dangerous ideas and that while you have the benefit of experience having been here longer, you're here long enough to know how dangerous it really is (laugh). [LB583]

SENATOR ADAMS: So, you're suggesting there's forgiveness with youth. I'm not sure about that. Senator Louden. [LB583]

SENATOR LOUDEN: Well, I guess maybe you guys haven't been here long enough but I think summer before last we had an interim study, Senator Burling had with that...on

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

tax...a tax interim study. And we hired a facilitator and I don't know, it cost, what, 60,000 bucks or so, and that handbook is floating around here someplace on what we come up with that--on what would be the fairest way and what would come up with the different kinds of taxes. And at the present time, after our spending that \$60,000 or whatever it was--I think he was allowed to spend \$100,000 and didn't quite spend it all--but we had a facilitator who was very good at stuck and stuff off the internet which I'm not that fond of, but anyway, when we got done, when the dust all settled, why we pretty much stayed with what we have going now. And if any of you ever sit down and have to listen to Bob Wickersham explain it all when they worked on it years ago, they still go for that third and third and third. The question is, is whether or not you think it's a third and a third and a third nowadays. And that's the problem now. Here a couple of years ago we put \$75 million out to lower property tax and it did lower property tax. But here this last year, your community colleges, pretty near every one of them, put that one cent back on that was...where they were given enough state aid to lower it, so that evaporated. All the counties that I know of in my district turn around and raise the levy someplace, whether it was schools or county levy or what, so our \$75 million that we put out there to have property tax relief evaporated. We're right back...my tax bill for property tax is right back or above what it was two years ago. And so somewhere along the line, if you're going to give any kind of tax relief you're going to have to put some kind of a cap limit on how much schools can spend, and that's very unpopular. We found that out when we had that Senator Burling's tax task force, as we call it, because people would come and complain about their property tax and first thing we'd ask them, well, did you go to your school budget hearing? And the answer was well, no, we can't cut school funding, my lord, we can't do that--we've got to have schools. And that was about 65 or 75 percent of the property tax. So until you can come up with this golden chalice that you can pour this out of and find out how you're going to take care of that type of spending and your Medicaid and whatever, it's a futile effort, I tell you. Because I was in on that task force and we run around the state that summer and the answers...there were never any good answers. So we'll have to face it. I think this is very good for discussion but I don't know where it'll end up at and I don't know...and I was here when Senator Redfield was trying to put her 2.5 cent sales tax on everything that was sold, and what she didn't realize was she was leaving the city sales tax in there too. Because that's what I pointed out to her; the cities will be making more than the state is, actually. So it's a tough problem and I don't know if you'll ever sell it. It's probably like trying to describe who God is, and I think it...thank you. [LB583]

SENATOR ADAMS: (Laugh) Are there other questions? Hearing none, thank you, John. [LB583]

JOHN K. HANSEN: Thank you, and I would wish the committee the very best of luck in these efforts. [LB583]

SENATOR ADAMS: Are there other proponents to this bill? Well, I would open it up to

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

opponents, then. [LB583]

THOMAS J. O'NEILL, JR.: Senators, members of the committee, I'm Tip O'Neill. I'm president of the Association of Independent Colleges and Universities of Nebraska here to oppose the bill. I would propose an amendment to it, though, that would take away our objection and that is on page 6, line 6 after the word except: insert educational and medical services. Again, we're here because the sale of educational services is paid for by something we call tuition and obviously tuition payments, both in the higher education and in the private K-12, taxable tuition would add significantly to the cost that students and their parents and families bear to either attend college or go to a parochial school. So for those reasons we would oppose the bill. I'd be happy to answer any questions you might have. [LB583]

SENATOR ADAMS: Are there questions for Tip? Thank you, Tip. [LB583]

THOMAS J. O'NEILL, JR.: Thank you. [LB583]

RON SEDLACEK: Good afternoon, Senator Adams and members of the Revenue Committee. My name is Ron Sedlacek, that's spelled S-e-d-l-a-c-e-k. And I'm here today on behalf of the Nebraska Chamber of Commerce and also authorized to testify on behalf of the Lincoln Chamber of Commerce, the Nebraska Agri-Business Society, the Nebraska Auctioneers Association, and the Nebraska Petroleum Marketers & Convenience Store Association. And with that list I'll give to you, in opposition to LB583. We have traditionally, over the years, and regularly and predictably opposed the extension of the sales tax base to include most services. And we continue with that opposition. Certainly a number of other business trade associations may weigh in by either letter or with you personally or perhaps in testimony today in that regard. Particularly on the part of the State Chamber, our opposition has always been based on the effect of taxing business to business transactions. Essentially what we're doing is pyramiding the number of transactions that adversely affect smaller businesses...the small and medium-size businesses--those that do not have attorneys on staff. They do not have accountants on staff as employees as larger corporations do. They would have to pay an additional service tax for those accounting and other professional services--for maintenance of machinery equipment and so forth. In fact, looking at the taxation of some professional services in other states, and particularly our neighbors to the north and South Dakota, we can see what the effect is. There are...those services are often contracted outside of the state in order to avoid the tax. And therefore, not only do you find it to be somewhat of a futile effort then, to collect the tax on those services because it's being done in a state where there is no nexus at that point, but then you're also losing the income tax revenue that's derived from those particular occupations. So I think we have to keep in mind that there is going to be somewhat of a shift in that regard. We would certainly not weigh in at this point on the sales tax on food. We have not visited that issue for quite a while, but we would probably, if this were to...the bill

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

advanced to General File, we may take a position in that regard too. But with that, that will end my testimony. I'd be happy to answer any questions that you may have. [LB583]

SENATOR ADAMS: Are there questions? Senator Hadley. [LB583]

RON SEDLACEK: Yes, Senator. [LB583]

SENATOR HADLEY: Do your groups have any feelings overall on the taxing structure in Nebraska? Do they feel it's appropriate? Worthy of studying? Inappropriate, needs changes? The overall mechanisms that we use to tax. [LB583]

RON SEDLACEK: I can't speak for all of these groups. I was authorized only by a number of these groups to speak on LB583. But I can speak, a little bit, and answer your question in regard to State Chamber policy and to address that specifically. The tax code is always dynamic and adjusts to the economy and economic conditions at the time. We understand that. We also understand that there are many ways to approach, and we have participated in studies in the past as well as reviewed many studies that the Legislature has authorized in the past regarding the tax system. There, in fact, there was a Syracuse Tax Study that was performed many years ago--I can't remember the exact date but certainly it seems almost two decades ago at this point, perhaps longer. But one of their recommendations was if you're going to do a tax on services, do not do business to business transactions. You are pyramiding the tax; you are making the Nebraska business anti-competitive; it's not a good thing. And that was a commissioned study by the Legislature. So that very study would not, I do not believe, be supportive of this particular concept. Yes, it'd be great to broaden the base, lower the rates; no question about it. Because we could be competitive with other states and that's why so many states, in bringing in economic development programs, why are many states, particularly the higher-tax states, have more economic development programs in their toolbox. And that's to keep competitive with other states. Because they do not have that broad base or they have higher rates. In order to be competitive they need to have, then, special incentives or programs in order to accomplish that so at least they have more of a level playing field. And that's essentially the case here in Nebraska when we compare. There have been studies as to our tax situation. For example, our income tax rate is the second highest, nominally, the second highest rate of surrounding states. Of course, Wyoming and South Dakota don't have an income tax. Iowa is the highest, but when you look at the effective rate, we're actually higher than Iowa. So what do you do to be competitive? We have a system of credits then, so. I'd be happy to discuss that another time. [LB583]

SENATOR ADAMS: Other questions. Senator Friend. [LB583]

RON SEDLACEK: Yes, Senator. [LB583]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR FRIEND: Thank you, Chairman Adams. Mr. Sedlacek, I...would your opinion... and I know this bill--it's been discussed as probably out here for research and discussion purposes... [LB583]

RON SEDLACEK: Um-hum. [LB583]

SENATOR FRIEND: ...but are you saying that if we actually had numbers in here that significantly reduced the rate that maybe the State Chamber would say well, you know, it's something to...I mean, would it change your testimony? Would you...there is no rate in here. [LB583]

RON SEDLACEK: Um-hum, right. [LB583]

SENATOR FRIEND: I mean, there's two "x's"... [LB583]

RON SEDLACEK: I can answer your question directly. [LB583]

SENATOR FRIEND: Yeah. [LB583]

RON SEDLACEK: No. Because we do not favor the proposition of taxing business to business services... [LB583]

SENATOR FRIEND: Okay. [LB583]

RON SEDLACEK: ...regardless of the rate because it's a pyramiding. [LB583]

SENATOR FRIEND: Okay, good. Do you remember...of course you do...a few years ago, the Legislature implemented the largest tax increase that we've had I think since it's actually been a Unicameral. [LB583]

RON SEDLACEK: Um-hum. [LB583]

SENATOR FRIEND: Do you remember what the State Chamber's position was on that particular tax hike--the sales tax on contract labor? [LB583]

RON SEDLACEK: We were opposed. [LB583]

SENATOR FRIEND: Okay. I don't remember...I remember I was on a scorecard and a lot of folks that actually voted for that... [LB583]

RON SEDLACEK: Um-hum. [LB583]

SENATOR FRIEND: ...had pretty clean records on the State Chamber scorecard. I'm

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

kind of wondering why, Ron. I've never asked you that question--I don't mean to put you on the spot, but... [LB583]

RON SEDLACEK: I'd have to take a look at the specific...but I don't call it a scorecard, I call it accountability to our membership... [LB583]

SENATOR FRIEND: Right, and I'm wondering... [LB583]

RON SEDLACEK: ...we take positions on bills and report... [LB583]

SENATOR FRIEND: ...and I'm wondering why...and this isn't sour grapes, Ron, I'm trying to figure out why people are opposed to making a sales tax system, a sales tax code fairer. [LB583]

RON SEDLACEK: Um-hum. [LB583]

SENATOR FRIEND: And I think I know the answer: because we can use it as a tool--it's as simple as that, Ron. I mean, we can say...if we get in a real, real major bind here, we've got two pages of stuff that we can go out and find revenue with. [LB583]

RON SEDLACEK: Um-hum, um-hum. [LB583]

SENATOR FRIEND: Call it, you know, whatever you want--accountability or lack of accountability, absolutely. [LB583]

RON SEDLACEK: You can repeal exemptions, you can expand the base, you can raise the rates...absolutely. [LB583]

SENATOR FRIEND: And why was it so easy to do that? \$359 million and we had actually, I think, 13 people, fundamentally, at the very end vote against it since the lobby wasn't there. I mean, is that fair enough? [LB583]

RON SEDLACEK: Well, the lobby was there--it was just very few and far between at that point. [LB583]

SENATOR FRIEND: Okay, all right. [LB583]

RON SEDLACEK: But there were...there was still a coalition against, that I recall, and certainly I know the State Chamber, I believe the NFIB, there were others but I... [LB583]

SENATOR FRIEND: Okay. [LB583]

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Transcriber's Office

Revenue Committee
February 11, 2009

RON SEDLACEK: ...I don't want to commit them here... [LB583]

SENATOR FRIEND: All right [LB583]

RON SEDLACEK: ...without reviewing the history again. [LB583]

SENATOR FRIEND: Thanks for the discussion. [LB583]

RON SEDLACEK: All right. [LB583]

SENATOR ADAMS: Other questions? Thank you, Ron. [LB583]

RON SEDLACEK: Thank you, Senator. [LB583]

KORBY GILBERTSON: Good afternoon, Senator Adams, members of the committee. For the record, my name is Korby Gilbertson, it's spelled K-o-r-b-y G-i-l-b-e-r-t-s-o-n. I'm appearing today as a registered lobbyist on behalf of the Nebraska Society of CPAs. The society specifically opposes the imposition of a sales tax on their services for a number of reasons. They have opposed this in years past and continue to do so. While we appreciate Senator Dierks's interest in trying to reduce property tax burdens, the society has felt that we need to also consider the overall impact on the state, especially when you are looking at a service that is rather portable. There...many businesses locate in Nebraska use Nebraska CPA firms to do their tax preparation. Those businesses would not necessarily stay here--larger accounts would move outside of the state, which would be very easy to do for a service like this. Unlike other services that you generally would get taken care of here in Nebraska, it'd be fairly easy to ship your tax information elsewhere to have those services done. I did not see the estimated revenue chart that Senator Dierks proposed, but I'm assuming that those numbers would assume that all services would stay here in Nebraska and nothing would leave the state. And it is our estimation that that would not be the case if the bill was to be passed. I'd be happy to try to answer any questions. [LB583]

SENATOR ADAMS: Are there questions? In light of what you've said, as I look through this list that Senator Dierks handed out, I'm going to estimate that well over half of the things I see on this list would be portable. [LB583]

KORBY GILBERTSON: Very portable. That's our concern. [LB583]

SENATOR ADAMS: Thank you. [LB583]

KORBY GILBERTSON: Thank you. [LB583]

JOHN LINDSAY: Thank you, Senator Adams, members of the committee. My name is

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Transcriber's Office

Revenue Committee
February 11, 2009

John Lindsay, appearing as a registered lobbyist on behalf of AIA-Nebraska, representing over 500 architects in the state of Nebraska. My testimony will echo quite a bit of what Ms. Gilbertson just testified to. Similarly, we have portable services. I think you'd...in a situation like this I think you'd see some of the larger firms with multiple offices would simply move the work to other offices that are already in existence outside the state of Nebraska. Firms in, at least in the border towns, would move their services across the state line--again, having the service performed in another state, thus costing both the sales tax and the income tax. Leaving, I think, some of the firms in smaller towns at a competitive disadvantage because they may not be able to compete with those who can move their services out of town. One other issue I'd point out is that the property tax is probably the most stable tax we have in Nebraska and certainly we also appreciate Senator Dierks and the committee's attempts to look at lowering the tax burden. But at a time, especially an economic time like this when the sales tax, when we have actual...where we had declines in sales tax...if we become more and more reliant on sales tax it could put the state in even larger bind in future economic downturns. I'd be happy to answer any questions. [LB583]

SENATOR ADAMS: Thank you, John. Are there questions? Seeing none, thank you, sir. Next testifier. [LB583]

JIM CUNNINGHAM: (Exhibit 3) Senator Adams and members of the committee, good afternoon. My name is Jim Cunningham, that's spelled C-u-n-n-i-n-g-h-a-m. I'm testifying in my capacity as the executive director and registered lobbyist for the Nebraska Catholic Bishops Conference which represents the mutual interests and concerns of the archdiocese of Omaha and the dioceses of Lincoln and Grand Island primarily with regard to matters involving public policy. If I wasn't paying attention, Senator Loudon, earlier when I heard you mention chalices and defining God, that did get my attention. (Laughter) Twenty-six years ago, in representing the conference I was part of a diverse group who worked alongside Senators Pat Morehead and David Newell to repeal the sales tax on food. And that did happen in 1983. As I was mentioning to Senator Dierks this morning, if I'm not able to persuade you with any of the arguments about the injustice of the sales tax on food, I might mention that the sales tax was repealed in 1983. The first--in my records--the first real, serious effort to reinstate the sales tax was in 1993, and probably the second most serious attempt to reinstate the sales tax on food was in 2003, so at the very least, Senator Dierks is a bit premature with his bill, and maybe he would agree to wait until 2013. Our reasons for opposing the sales tax on food are grounded in the belief that the right to nourishment in order to sustain life is fundamental to human dignity and a basic human right. We believe that reinstating the tax on food would be unjust because it would impose a disproportionate burden upon low and limited income individuals and families, including children and the elderly. Given the inherent regressive nature of the sales tax, exacerbated by higher food prices, escalating unemployment, and persistent poverty, reinstating this tax would hit those least able to pay with the greatest severity. Now you

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Transcriber's Office

Revenue Committee
February 11, 2009

might say well, Cunningham, you ought to not come in and testify unless you read the bill, because if you read the bill you'll find that this issue is addressed by virtue of a proposed state income tax rebate. I have read the bill, and it is true that there is a proposed income tax rebate intended to offset the sales tax on food, but my response to that would be that it does address the issue, but it does not solve the issue. It does not solve the moral dilemma of taxing food for at least a couple of significant reasons. First and foremost, it's unrealistic, it's impractical, it's ineffective, it's cumbersome, and it is also inconvenient. For two reasons: the poor and fixed-income elderly would have to wait until sometime after they file the tax return in the following year in order to receive relief from the regressive impact of the food sales tax. This presumes that they will have relief they need and deserve in the form of a core savings plan with the state as the banker. Such a policy presumes that the poor and moderately poor can afford such a plan. In our estimation, these presumptions are unrealistic and unjust. When a single mother or an elderly person on fixed income who is struggling month to month to make ends meet needs to buy food for the children at the end of the month of August, for example, she won't be gratefully reflecting upon the tax credit she received from the state the preceding February, nor will she be looking ahead with grateful appreciation to the check she could receive the next February. On a day-to-day basis, the prospect of a credit refund check offers little consolation and assistance to an individual or a family that is barely able to afford the cost of food in the first place. And the second shortcoming of the rebate tax credit in comparison with an exemption is that the credit is more inconvenient, if not altogether uncertain. This is because not all those in need, those who spend disproportionate amounts of their income on the basic necessity of food, will necessarily benefit just by the mere availability of the credit. To presume that all eligible persons, most particularly those who have the greatest difficulty meeting their daily nutritional needs, will undertake or even be aware of the procedures and thereby receive a rebate check is unrealistic and unreasonable. We can appreciate the public relations efforts proposed in the bill for purposes of promoting the availability of the tax credit, but the economic realities and the social policy issues are much more complex than this. In the full context of the policy, the added feature of a public relations initiative has very little redeeming value in our view. Our view is that the Legislature did the right thing when it exempted grocery food sales from the sales tax. We urge you to not give further consideration to reversing that decision here at your committee level. Thank you for your attention and time. [LB583]

SENATOR ADAMS: Are there questions? Senator Louden. [LB583]

SENATOR LOUDEN: Yes, thank you for your testimony, Mr. Cunningham. I guess most of it I agree with you, but when this...when before prior to 1983 when we had tax credits for food because at that time four of my kids were quite young--in fact, one of them was two years old and had to file income tax and they got their food tax credit just like I did for myself and everybody. I thought that wasn't all that bad back then. The other question I'd had to ask, do we pay sales tax on food now? [LB583]

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Transcriber's Office

Revenue Committee
February 11, 2009

JIM CUNNINGHAM: We pay sales tax on prepared food and food sold in vending machines. [LB583]

SENATOR LOUDEN: And whenever you pull into a McDonald's or someplace like that you pay a sales tax on that food? [LB583]

JIM CUNNINGHAM: That's right, that's right. [LB583]

SENATOR LOUDEN: And you go at about 5:00 in the afternoon and the cars are lined up until they can't hardly get in anymore to buying their food. These people are probably buying their supper or whatever, so how much of that, I would say, how much does a average person spend in a days' time on their sales tax on food at the present time, and how much would they spend if they had a sales tax on food? I mean, this is just for people that are preparing their own food. [LB583]

JIM CUNNINGHAM: Right. Of course, I don't know the exact numbers or I'm not able to give you any numbers on that, Senator Louden. I think the policy perspective is is that it was generally felt that prepared food, bought to take off site, probably has more of a luxury aspect to it--something that people do more when they have some disposable income available--whereas grocery store food tends to fulfil the basic necessities of food, the basic nutritional needs of food. Similarly to vending machine food: I think that it's probably something that people can go without more easily than they can the food that they have to buy at the grocery store. I don't recall the basic policy arguments as to why it was separated between prepared food and grocery store food, but I would suspect that it was deemed that grocery store food meets more of the basic nutritional needs and therefore is justified for the sales tax exemption. [LB583]

SENATOR LOUDEN: Well, when you mention 2003, because I was the one that introduced that bill in 2003 to fund education, and I heard all those arguments and most of them weren't correct on prepared food, the others. Mostly the reason that it was done that way is they tried to put it as a service and rather than a sales tax on food and the idea was that they weren't able to get it off of everything and they got it off of just prepared food and of course the bill at that time that I introduced, I think as you use your card for food stamps...we weren't prepared anyway, but anyway, just a question: I wondered if you had any idea on how much food we already pay sales tax on? [LB583]

JIM CUNNINGHAM: I don't, Senator. [LB583]

SENATOR LOUDEN: Okay, thank you. [LB583]

SENATOR ADAMS: Are there other questions for this testifier? Senator Hadley. [LB583]

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Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR HADLEY: Yes, Mr. Cunningham, I appreciate your testimony. After having...I happened to live in South Dakota for 20 years, which does tax food, and I guess I do agree with what you're saying. And we especially saw a lot of border bleed because I lived close enough to Iowa that did not tax food and so consequently it was almost a regressive in the standpoint that the people with more money could go to Iowa, pay to go to Iowa and buy food, the poor couldn't afford to go so they were kind of hit twice in doing it. So I appreciate your testimony. [LB583]

JIM CUNNINGHAM: Thank you, Senator. [LB583]

SENATOR ADAMS: Other questions? Thank you, then. [LB583]

JIM CUNNINGHAM: Thank you. [LB583]

SENATOR ADAMS: Next opponent. [LB583]

JACK CHELOHA: Good afternoon, Senator Adams, members of the Revenue Committee. My name is Jack Cheloha, the last name is spelled C-h-e-l-o-h-a. I'm the registered lobbyist for the city of Omaha. I want to testify in opposition to LB583. If I could, I'd just like to give you a little piece of the puzzle in terms of how municipalities operate. As you know, Omaha's the largest city in our state. We have roughly about 400,000 residents. With that as our residents shop, etcetera, and obviously live, they pay income tax, they pay property tax, and they do pay sales tax. In terms of what LB583 does in particular that caught our attention is it would eliminate the local option sales tax. In Omaha, that number right now is 1.5 percent, which was approved by the local voters as an offset of property tax. From that 1.5 percent we raise roughly \$120 million a year, which is about...let me think here...a little over a third of our total budget for the city of Omaha. Our property tax levy total is about 44 cents. So if we eliminated the local option sales tax, we would roughly, to make up that revenue for all the services we provide to our residents, and by services I mean police protection, fire protection, street and road maintenance, parks, recreation, all the things that citizens demand from a municipality. We would have to raise our levy by roughly 61 cents per hundred to make up that \$120 million. Because each cent of property tax raises about \$1.9 million or close to \$2 million. So we'd have to raise it by \$61 million. We wouldn't be able to do that because there's currently a cap on cities in terms of how much you can levy, of 45 cents, and then you get a nickel if you do an interlocal agreement. And so with that these are the reasons why this bill, at least, wouldn't work for us, because there's no provision for making up that revenue that local cities would lose off their local option sales tax. Hopefully, I've thought of things that you might want to know about, and I'll try and answer any other questions you might have. [LB583]

SENATOR ADAMS: Senator Hadley. [LB583]

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Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR HADLEY: Thank you, Senator Adams. Mr. Cheloha, maybe it's an unfair question and you can't answer, but how would you feel that the citizens of Omaha feel with the fairness of our taxing system in Nebraska? We hear a lot about ag areas and, you know, people out-state and concerns with property tax and such as that. But, you know, you represent the largest urban area in the state...just a sense of what the population feels about the fairness of the taxing in Nebraska. [LB583]

JACK CHELOHA: Sure. Thank you for the question; I appreciate that. When I'm not down here as a lobbyist, my second hat I wear is I'm on a local city council staff, and it seems to me that property taxes are relative to wherever you live. And in terms of citizens complaining, we do feel the number of complaints relative to property taxes and so, no matter where you are, that seems to be an unpopular tax. And I appreciate, like other witnesses have said, what Senator Dierks is trying to do here but ironically, we would be forced to go back to that well to try and make up our revenue. So we do hear a number of complaints regarding property tax, if you will. Sales tax has been stable for at least, I think, 20 years--I'm not sure how long--maybe almost 30 years now in terms of what the rate was in Omaha. So those are the things that we hear about and then obviously in terms of income tax, citizens would generally take those concerns or complaints, if you would, to you fine people that represent them on the state level because we don't have a local income tax, but. No matter what your property tax is it seems like it generates criticism, no matter where you are. [LB583]

SENATOR HADLEY: Could I ask a follow-up question? [LB583]

SENATOR ADAMS: Yes. [LB583]

SENATOR HADLEY: A follow-up question: is your sense...if you had to weigh the concerns with the level of taxation versus the methods of taxation, which would be the larger concern, do you think, for the people of your...in a metropolitan... [LB583]

JACK CHELOHA: Well... [LB583]

SENATOR HADLEY: Does that make sense? Yeah, I... [LB583]

JACK CHELOHA: No, right, no; I understand. [LB583]

SENATOR HADLEY: You know, is it the absolute amount of taxes that you think people are concerned about or are they more concerned about the equity of the way we tax? [LB583]

JACK CHELOHA: Right, I understand and appreciate your question. It would be hard for me to explain that because it becomes very personal for almost every citizen and, you know, it's gee, did I pay too high of a percent or did I pay too big of a total? And what's

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

fair? So it's hard to determine what's fair. And so I really couldn't comment on that. I know, maybe, the local chamber has some studies on that and then they try to do comparisons and poll their members. All I can speak about is anecdotally when citizens testify on the local city budget for the next year and things like that, and I know that they're very mindful of the property tax. [LB583]

SENATOR HADLEY: I always thought it was fair where I get the services and you get to pay the taxes. [LB583]

JACK CHELOHA: Absolutely. [LB583]

SENATOR HADLEY: I thought that was the fair method of taxation. [LB583]

JACK CHELOHA: Yeah, absolutely. [LB583]

SENATOR ADAMS: Other questions? Thank you, then. [LB583]

JACK CHELOHA: Thank you. [LB583]

SENATOR ADAMS: Next opponent. [LB583]

THEODORE SUHR: Thank you, Senator Adams, committee. My name is Ted Suhr, T-e-d S-u-h-r. I'm the vice president for administrative services at Southeast Community College, but today Dennis Baack, the executive director of the Nebraska Community College Association, is out of state and so I was asked to testify in his place for the association in opposition to this bill. The association has three major issues or areas of concern that we would like to visit with you about with regard to the opposition. The first one, obviously, is with removal of the General Fund operating tax levy for the community college system which would cost about \$100 million to do. We provide a lot of training, and listening to the testimony to the two previous bills about microentities and stuff in the state, the community colleges produce an awful lot of training and a lot of...for those type of businesses. The local control of the community colleges has always allowed us to respond quickly to economic development needs of businesses and small businesses in the state. We provide educational services to about 150,000 Nebraska residents each year; 92 percent of our graduates remain in the state and 70 percent of them in the area they attend. By taking away the local property tax levy you will, in essence, make us a state institution, a state agency, if you will. We notice that in the bill, the bill still leaves the capital improvement fund and the ADA hazardous waste levy, which we think probably would be a conflict with the Duis amendment with regard to having a state agency with a property tax level. The other...that's kind of the second issue. The third issue deals with that very issue--that if you're going to take that away, which again increases the amount of property taxes above \$100 million, you also then add \$750 million or three-quarters of a billion dollars in buildings to the state for the

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

state to maintain, which again is going to require some additional funding to take care of. I think we all know how difficult it is for the state right now to handle the buildings they already have, let alone adding another three-quarter billion dollars worth of buildings to that list of things that need to be done with maintaining those buildings. So those are the three main issues that I was asked to present to the committee on behalf of the Nebraska Community College Association. I'd be happy to answer any questions that you might have. [LB583]

SENATOR ADAMS: All right. Other questions for this testifier. Guess not, thank you, though. [LB583]

THEODORE SUHR: Thank you. [LB583]

JACKIE McCULLOUGH: Good afternoon, Senators. My name is Jackie McCullough. I'm the executive director for the American Council of Engineering Companies of Nebraska. We represent engineering firms across the state and would echo many of the comments made by the accountants and the architects earlier this afternoon, and would add one additional component to this proposal. Sales taxes work best when you're taxing tangible goods, and I'm paying for that tax when I receive the good that I'm purchasing. For engineering firms, many times the collection of those fees does not come immediately. Oftentimes, there's a contingency fee built into that and they are invoiced on the percentage of construction that's done, or the service that's complete as it goes. So oftentimes there's a retainer held back or the final fee is modified at the end, based on the outcome of the project. Also, immediate payment is rare. Oftentimes, the industry average for collecting the fees for the performance of work is 96 days. If the tax on services were to be instituted, if the engineers need to pay for that tax when they invoice the client but they're not paid for two or three months, they're paying the tax three months before they are collecting the fee from the client. So with that, and echoing the comments made earlier, I will be happy to answer any questions. But we would be opposed to LB583. [LB583]

SENATOR ADAMS: Questions? Guess not, thank you. Next opponent. [LB583]

LYNN REX: (Exhibit 4) Senator Adams, members of the committee, my name is Lynn Rex, L-y-n-n R-e-x, representing the League of Nebraska Municipalities. And first of all, although we are opposed to LB583, we would like to thank Senator Dierks for bringing this bill forward because I think it's important to have this discussion. I think it's important to note that during the years that Senator Vard Johnson was chair of this committee, back in the '80s, there was a Syracuse Study. I think Bill Lock and maybe several others in this room were around at that time. And one of the things that also came out of the Syracuse Study was that the state of Nebraska needs to provide more aid to local governments because there's been a tremendous shift, basically to residential homeowners, in terms of property taxes. And one of the bills we've talked

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Transcriber's Office

Revenue Committee
February 11, 2009

about in the past, and I'm sure we'll be talking about again, is that one of the examples that I think is rather profound is that in 1977 when the Legislature passed the bill to provide exemptions for livestock, farm equipment, and business inventory, at that time I can remember Senator Martin Kahle who was from Kearney, as a matter of fact, around the Kearney area. And he told me when it was all said and done, even though those exemptions occur on the personal property tax side of things, he ended up paying more because of the shift that went over to the property taxes on his home. He said if he could redo that vote he would've done it, because at the end of the day not only did local governments lose significant amounts of money because the state of Nebraska at that time, under Governor Exon, said we can't afford to do more than \$70 million and so there was a tremendous shift and a tax base went down dramatically. What I've passed out to you is the 174 municipalities in this state that do have local option sales tax. Although we value this discussion and would be happy to participate in any discussions the committee would like to have, I think it's important to note that 174 municipalities had local voters vote on this question and they said yes, they want to impose a local option sales tax. Something that is an overlay on this sheet is that 43 of the 174, plus an additional three cities, had voter approval on LB840 programs. Those are programs where local voters vote as to whether or not to enable their municipality to have a special program for economic development incentives on the local level. So we do know that this bill would repeal the local option sales tax; we're very concerned about that. Our experience when LB518 passed, and that's just one bill with three exemptions, within the first two years, political subdivisions in this state lost \$250 million in actual dollars--not just valuation, in actual dollars; \$250 million. Our statewide appropriation for municipalities is only \$17.9 million. At that time we were told, and I think we've discussed this before, that local governments need not worry because those that were promoting that effort when Senator Cal Carsten was chair of this committee, which were all the ag groups, the business groups, everybody that could breathe was supporting that bill that had inventory, livestock, or business inventory, and what they would tell you is we're not going to shift that over to property taxes. We're going to have a dollar per dollar reimbursement and it would be based on where that property was located. And what occurred is the Nebraska Supreme Court basically said no, that's a fixed class, you can't do it. And at the end of the day, the Legislature didn't have the money to appropriate, and the Governor at that time said we don't have the money either. And so you had a tax base that was vast, narrowed down dramatically in a period of about five years. And that shift went over to property taxes. So in any event, I would just like to encourage you to always look at these sorts of issues. As Senator Loudon stated, Senator Burling certainly had a lot of discussion and an interim study on this, but there's been study after study on property tax issues. And I know Shannon knows a lot about it, but certainly Bill Lock is probably the expert that we rely on, just for information across the state. When you also overlay the lid and levy constraints--and we'll be discussing that at a hearing next week with you--those lid and levy constraints are the 530 cities and villages of the state of Nebraska; over 240 of them are already up against their maximum lid and levy. And of those, a number of them...they're not as fortunate as

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

Kearney, or York, or some of the other cities--certainly not Omaha--not as fortunate as those cities. They can't even raise the money to get to the 2.5 percent to spend. So there is a tremendous issue in terms of tax fairness and tax equity that at some point needs to be addressed in this state. Not just on the municipal side, but I'm sure with other political subdivisions as well. I'd be happy to respond to any questions that you might have. [LB583]

SENATOR ADAMS: Questions? Thank you, Lynn. [LB583]

LYNN REX: Thank you very much. [LB583]

SENATOR ADAMS: Next testifier. [LB583]

KATE BOLZ: (Exhibit 5) Good afternoon, my name is Kate Bolz, K-a-t-e B-o-l-z. I am the community educator for the Nebraska Appleseed Center for Law in the Public Interest. We are a nonpartisan, nonprofit, independent law firm protecting the interests of low-income Nebraskans. And I'm here today to briefly testify in opposition to provisions in LB583 that would impose a sales tax on food. First, rising costs of food in the last year coupled with layoffs and closures statewide mean that this is not the time to increase taxation on the basic needs of Nebraska families. Second, nearly one in ten Nebraskans struggles with hunger, and a taxation on food would mean that more people in our state load fewer items into their grocery carts and are forced to do without. And finally, the provisions to exempt folks using food stamps and to provide a tax credit do not adequately resolve these problems. There are a significant number of low-income, working families that struggle to afford food but do not qualify for food stamps. And second, the tax credit provisions do not compensate for the costs of sales tax on a minimally adequate diet, and low-income families would be losing out on at least a week's worth of groceries at the end of the day. So I encourage you not to enact a food sales tax in Nebraska through LB583. [LB583]

SENATOR ADAMS: Thank you. Are there questions for Kate? Thank you, then. Is there any more opposition testimony? We would take neutral testimony then. [LB583]

MARSHALL HILL: (Exhibit 6) Good afternoon, Senator Adams and members of the committee. My name is Marshall Hill, M-a-r-s-h-a-l-l H-i-l-l. I'm executive director of the Nebraska Coordinating Commission for Postsecondary Education. And prior to taking about three minutes, no more, to tell you the points I'd like to address, in view of the fact that we have some new members, I'd like to take a minute or so and just let you know a little bit about the Coordinating Commission itself. First, we are not a peculiarly Nebraskan invention. Thirty states have state agencies very, very much like ours. Most of them started to deal with people like many of us--early stage baby boomers. Back in the mid-60s, governors and legislators realized that they were going to have to start building new colleges and universities, greatly increasing enrollments. They wanted to

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Transcriber's Office

Revenue Committee
February 11, 2009

do so efficiently; they wanted to ensure that they were not unnecessarily duplicating facilities and so forth, and so coordinating commissions were created. We are one of the nation's newest coordinating commissions, begun in the early '90s. All of the other states except one have agencies very similar to ours. What do we do? We do higher education planning for the state; we administer all of the state's financial aid programs; we approve proposals for construction projects on public campuses that would rely on tax funds; we review new...propose new academic programs and approve them before they are begun; we assemble and analyze state data; and publish lots of reports. The commission itself is comprised of 11 commissioners who are appointed by the Governor and confirmed by the Legislature. We have 13 full-time staff--that makes us the smallest agency of our type in the nation. I just want to address the one aspect of the proposed bill that deals with higher education and that is the funding of community colleges. We've provided you some general information about community colleges within this Bird's-Eye View of Nebraska Higher Education. This is very consciously created to conveniently slip within your pocket, if you so choose. It's quite clear from our analysis of the funding of community colleges around the nation that they're funded differently in all states. I've provided you a chart which demonstrates that quite directly. You'll see that of the three general sources of revenue--that is state appropriations, local appropriations, and tuition and fees--each state uses different percentages of those three sources as they fund their community colleges. So there are 19 states which do not rely on local property taxes to fund their community colleges. So it's done in all sorts of different ways. I cannot provide a data-driven assessment about which way is best, but I'll say that on the basis of working at state-level higher education for the past 15 years you cannot automatically look at this list and say that the ones that are locally funded are automatically better than the ones that are state funded, or vice versa. There are very good systems around the country that are funded in both of the same ways. Our concern about the method of funding is less than the level of funding. So we would encourage you that if you do decide to make a change in this direction that you do so in a way which is at least revenue neutral to the community colleges. We've provided you another couple of charts which indicate the enrollment patterns of Nebraska's community colleges over the past ten years. You'll see a steady increase. They are our second largest sector of higher education in terms of the number of students they enroll, and in terms of the number of students they actually affect, that is, students who enroll at various times during the year, they affect actually more than 80,000 Nebraskans. I believe that's all I have to say, other than the point that this growth in community college enrollments is quite common around the country. I don't, frankly, know of a single state which is not experiencing this. Partially, it's a result of the lower tuitions that they offer, the smaller class environments, the more focused attention on the needs of first-generation college students and entering students; we see nothing in Nebraska that goes against those trends. And other than that I'd be pleased to respond to any questions you might have. [LB583]

SENATOR ADAMS: Questions for Marshall? Guess not, thank you, Marshall. [LB583]

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Revenue Committee
February 11, 2009

MARSHALL HILL: Thank you. [LB583]

SENATOR ADAMS: Is there any other neutral testimony? [LB583]

BRENDA FAUBER: Good afternoon, Senators. My name is Brenda Fauber, F-a-u-b-e-r. I'm here on behalf of the Nebraska Court Reporters Association. I'll tell you that I decided that I'd come up and speak in the neutral position because they didn't have as many people on that side. Actually, some of you may recall we were here last year when the Revenue Committee decided that they would advance some legislation on behalf of the Revenue Department and for the first time impose a sales tax on court transcripts that the court reporters were producing around the state. Following the public hearing on that bill last year, there was some additional work that was done. The Revenue Department ended up implementing an exemption on those transcripts following the work, so that did not end up in a transcript sales taxing position last year. Under LB583, it is unclear whether that exemption will remain or not remain, so I am just here on behalf of the court reporters to say either it's a product and it's exempt, or please don't pass it if it's a service. [LB583]

SENATOR ADAMS: Are there questions for this testifier? [LB583]

BRENDA FAUBER: Thank you. [LB583]

SENATOR ADAMS: Is there any other neutral testimony? Senator Dierks, it looks like you can close. Senator Dierks waives closing and that will end the hearing, then, on LB583. And we'll go on with the hearing on LB634; Senator Mello. [LB583]

SENATOR DIERKS: Senator Mello, whenever you are ready. [LB634]

SENATOR MELLO: Thank you, Vice Chairman Dierks. Good afternoon, members of the Revenue Committee. My name is Heath Mello, and I represent the 5th Legislative District. In an effort to provide more property tax relief to a broader segment of the population, I introduced LB634, a bill which would expand eligibility for the homestead exemption. LB634 is a very simple bill. It would exclude Social Security income that is not subject to federal income taxation from the calculation of eligibility for the homestead exemption. Individuals on fixed incomes, like many of those receiving Social Security income, are the most hurt by the constant rise in property taxes. A fixed income, even with small cost-of-living adjustments, cannot always account for the ever increasing property valuations. This bill hopes to help keep more seniors in their homes by expanding eligibility to the homestead exemption to exclude the portion of Social Security income that is already not subject to federal income tax. The amount of Social Security income that is excluded from federal income tax is dependent on the total amount of income for an individual or a couple. For example, the exemption for a single

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

person who makes \$34,000 a year, or a couple that makes \$44,000 a year, would only be 15 percent of their Social Security income. For a single person making \$25,000 a year, or a couple making \$32,000 a year, this bill would exclude 50 percent of their Social Security income from the eligibility calculations for the homestead exemption. When faced with the burden of high property taxes, many seniors are forced out of their homes. Those that are able often move to states that have lower tax burdens. Those that are unable to move to other states often move in with family members or into assisted living facilities. Keeping seniors in their homes is beneficial to the long-term growth of our neighborhoods and our communities. Keeping seniors in their home also helps our state save money in the long run by delaying potential relocations to nursing homes and assisted living centers. The longer people are able to stay in their homes, the stronger our neighborhoods and communities remain. While the fiscal note on this bill is high, there are persons that will testify after me that can show a lower estimate for this legislation. I urge the committee to look favorably on this bill and will take any of your questions. [LB634]

SENATOR DIERKS: Thanks, Heath. Senator Hadley, please. [LB634]

SENATOR HADLEY: Thank you, Senator Dierks. Senator Mello, thank you for being here. We had an interesting discussion the other day in the office regarding the term fixed income. What is your definition of a person who's on a fixed income? [LB634]

SENATOR MELLO: I would...my definition would be someone who receives a set income on a yearly basis with the possibility of a cost-of-living adjustment. [LB634]

SENATOR HADLEY: I guess we had just discussed the idea that, in our minds, a lot of times we think of fixed income as someone who's, basically, income is fixed. It's the same amount every year, but actually Social Security is indexed to COLA rise and so... [LB634]

SENATOR MELLO: Um-hum, um-hum. [LB634]

SENATOR HADLEY: ...and a lot of pensions are addressed, so while the base may not go up as much as people want, there are increases in a lot of basic retirement benefits people get. [LB634]

SENATOR MELLO: I would consider, though, that you're correct, Senator Hadley, but the base, the increase is so small that's why it's still considered...at least the definition is still considered fixed. Because there's no...while you're not going to get a continued \$1,000 per month for the rest of your life, you might get a \$1,000.28 next year per month. I mean, it's the small COLA adjustment as how the Social Security Administration defines it, so that's how...the definition I go with. [LB634]

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Transcriber's Office

Revenue Committee
February 11, 2009

SENATOR HADLEY: A truly fixed income is a senator's salary. [LB634]

SENATOR MELLO: You are correct. (Laughter) [LB634]

SENATOR DIERKS: Other questions? Guess you got 'er, Heath. [LB634]

SENATOR MELLO: Thank you, Senator Dierks. And I need to get back to Appropriations Committee and will waive my closing. [LB634]

SENATOR DIERKS: Okay. [LB634]

SENATOR HADLEY: Find us the money (inaudible). [LB634]

SENATOR DIERKS: (Laugh) Bring us the money. [LB634]

SENATOR HADLEY: Bring us the money, right? [LB634]

SENATOR DIERKS: Yep. Proponents, please, for LB634. Go right ahead, sir. [LB634]

ROBERT COURTNEY: (Exhibit 7) Senator Dierks and members of the Revenue Committee, my name is Robert Courtney and I'm the Volunteer Statewide Advocacy Coordinator for AARP and a registered lobbyist for them as a volunteer. I also volunteer with Saline County Eldercare and represent Saline County on the Lincoln Area Agency on Aging Advisory Board. I thank you for the opportunity to speak with you today in support of LB634. [LB634]

SENATOR DIERKS: Robert, perhaps you should spell your name for us. [LB634]

ROBERT COURTNEY: Oh, I'm sorry sir; yes, sir. The first name is R-o-b-e-r-t, last name Courtney, C-o-u-r-t-n-e-y. [LB634]

SENATOR DIERKS: Thank you. [LB634]

ROBERT COURTNEY: As a volunteer for Saline Eldercare, I assist the Saline County Assessor and the elderly with filing their homestead exemption applications every year. In fact, I've already done some this year. During the last few years, I've seen applicants losing all or a part of their exemption due to the income guidelines and AARP has received numerous inquiries based on the same problem. It is tragic for those who have been receiving an exemption for years losing ground on property taxes. These are the homeowners who can least afford to pay tax increases. LB634 can help to correct this problem, and as Senator Mello said, it's a simple bill. We estimate the total cost of this bill to be about \$10,000. Now that's...I saw the fiscal note today is a little over \$10 million. The fiscal note was a little over \$16 million. We've attached a sheet that

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Revenue Committee
February 11, 2009

describes how we arrived at this estimate. The estimates are based on the Department of Revenue reports for the 2007 homestead and state income tax information for persons over 65. LB634 would provide added relief to approximately 8,000 homeowners who currently receive a partial exemption, and extend eligibility for 6,000 new filers. And I noted that in the fiscal note they said that the number of new filers would be 16,000. And I believe that's the differences between our dollar amounts. These new filers are middle-class homeowners whose incomes don't exceed \$50,000 a year. These homeowners that would have added relief have incomes between \$29,100 and \$36,800. As you know, Nebraska's tax system isn't really retiree-friendly. Many of our seniors each year decide to leave Nebraska for states that have lower property taxes or do not tax Social Security and retirement income as we do here. AARP has reviewed Nebraska's population growth for single year age groups over the age of 50 during the period from 2000 to 2007. We compared those growth rates to three states that are similar to Nebraska geographically, economically, and demographically. We found that Nebraska's rate of growth with the three comparison states was the lowest in the 66-, 67-, and 68-year-olds. If Nebraska's 62-68 population had grown at the same rate as the average growth in these other three states, we would have had 5,424 more Nebraskans in that age group in 2007 than there actually were. Keeping retirees in the state, where they could continue to pay taxes, could offset much of the cost of this bill. Social Security and other retirement income provide a floor for the Nebraska economy. In these troubled financial times, these folks are not going to lose their jobs and become eligible for state funded programs such as Medicaid. They're going to provide a stable base to the state with stable incomes. This is a valuable resource that we must maintain. LB634 will provide property tax relief to middle income retirees and for those individuals. It could help solve the retiree out migration issues. I urge you to report LB634 favorably to General File. [LB634]

SENATOR DIERKS: Thank you, Robert. Questions? I think not. Thank you very much. [LB634]

ROBERT COURTNEY: Thank you. [LB634]

SENATOR DIERKS: Further proponents of LB634? Is there anyone in opposition to LB634? Anyone neutral on LB634? Well, that will close the hearing on LB634. Thank you all for your attention, and you're excused. [LB634]

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Revenue Committee
February 11, 2009

Disposition of Bills:

LB419 - Held in committee.
LB531 - Placed on General File.
LB583 - Held in committee.
LB634 - Indefinitely postponed.

Chairperson

Committee Clerk