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Revenue Committee
January 29, 2010

[LB897 LB918 LB958]

The Committee on Revenue met at 1:30 p.m. on Friday, January 29, 2010, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB958, LB918, and LB897. Senators present: Abbie Cornett, Chairperson; Merton "Cap" Dierks, Vice Chairperson; Greg Adams; Galen Hadley; Pete Pirsch; and Dennis Utter. Senators absent: LeRoy Louden, and Tom White.

SENATOR CORNETT: (Recorder malfunction)...Vice Chair, Senator Cap Dierks will be joining us; to his left Senator Greg Adams from York; Senator Hadley from Kearney. To my far right, Senator Pete Pirsch from Omaha; Senator Dennis Utter from Hastings. Senator Louden from Ellsworth and Senator White from Omaha will be absent today. Our research analysts are Steve Moore to my immediate right, and Bill Lock will not be joining us today. Erma James is committee clerk. Our pages are Abbie Greene and Ryan Langle. Before we begin the hearings today, I'd please ask everyone to turn your cell phones to either off or vibrate. The sign-in sheets for testifiers are on the table by both doors and need to be completed prior to coming up to testify. If you are testifying on more than one bill, you need to submit a form for each bill. Please print and complete the form prior to coming up. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clipboards at the back of the room to sign in if you do not wish to testify but wish to either indicate your support or opposition to a bill. These sheets will be included in the official record. We will follow the agenda posted on the door today: introducer, followed by proponents, opponents, and neutral testimony. Only the introducer will be granted the opportunity for closing remarks. As you begin your testimony, please state your name and spell it for the record. If you have handouts, please bring ten copies for committee and staff. If you only have the original, we will make copies for you. Please give the handout to the pages to circulate to the committee. With that, we'll begin the Revenue hearing today. Senator Giese, you are recognized to open on LB958.

SENATOR GIESE: (Exhibit 1) Thank you, Senator Cornett and members of the committee. My name is Robert Giese, G-i-e-s-e, and I represent the 17th Legislative District, which includes Dakota, Dixon, and Wayne Counties in northeast Nebraska. One of the major topics for the Revenue Committee over the interim and dating back to last session was Nebraska's tax treatment of various forms of retirement income. Last year, separate bills were introduced to exempt Social Security income and military retirement income and, of course, my bill, LB538, which would have exempted government employee pension income from state income tax. In December, the committee held hearings in Bellevue on two interim studies, LR106 and LR139, which continued that discussion on the taxation of retirement income. As the committee is likely aware from the ongoing discussion, Nebraska is in the overwhelming minority of states in our tax treatment of most forms of retirement income. We are one of just five states which taxes Social Security benefits to the same extent as the federal

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government, and one of just four states which does not offer some type of tax credit or exemption for pension income. In comparison, each of our surrounding states either does not have a state income tax or offers tax credits or exemptions for one or both of these forms of retirement income. Some states, as opposed to fully exempting these benefits, have addressed the issue by offering general retirement income exemptions. LB958, by gradually phasing in an exemption for up to \$20,000 of Social Security benefits, military retirement benefits, public pension income, or other qualified retirement income follows this approach. In my legislative district, which borders both Iowa and South Dakota, the problem of longtime Nebraska residents simply moving across the river due to other states' more favorable tax treatment is prevalent. As the committee heard during the interim study hearings in December, the Siouxland region--which includes Dakota County, Nebraska, Woodbury County, Iowa, and Union County, South Dakota--is a prime example of how Nebraska's treatment of retirement income serves as an incentive for Nebraska retirees to leave the state. Between 2000 and 2008, the 65 to 69 age group in Dakota County grew by just 4.3 percent compared with 13.2 percent in Woodbury County and a stunning 55.3 percent in Union County, South Dakota. I would submit to the committee that these individuals are not leaving because their neighboring counties offer better services or better quality of life than in Dakota County. They are leaving because Nebraska continues to fully tax all forms of retirement income. I recognize that we are facing an increasingly difficult fiscal situation in our state and that the fiscal note predicts a significant revenue loss should LB958 be adopted. The intent of drafting LB958 was to minimize any potential fiscal impact by delaying the implementation or exemption until 2011. Even if the predicted revenue loss was delayed until the next biennium, however, the fiscal analysis ignores the obvious benefits that exempting retirement income present to the Nebraska economy. Simply put, retirees spend their income. Each additional dollar that is no longer subject to state tax is a dollar that will undoubtedly be spent on goods and services in retirees' local communities. While these dollars will no longer be subject to state income taxes, a significant number will be subject to state and local sales taxes. Much has been made in recent years about the so-called brain drain--the trend of young Nebraskans leaving the state after high school or college for other states. Our state's treatment of retirement income, particularly in comparison to our neighboring states, has eventually spurred a similar gray drain. LB958 represents a measured approach to this issue and I would encourage the committee to seriously consider addressing this problem and ending the incentive for lifelong Nebraskans to leave the state at age 65. The longer we delay catching up to our neighboring states the more we stifle our state's growth potential. Thank you for your time and I would be happy to answer any questions. [LB958]

SENATOR CORNETT: Senator Hadley. [LB958]

SENATOR HADLEY: Senator Cornett. Senator Giese, we heard bills last year on this also. With the impact on revenue, just...I guess what tax policy helps us if we were to decide to do this? What is the underlying policy that says we should exempt retirement

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income from state income tax? I mean what...we can do it, but shouldn't there be, you know, a reason we do it other than just, well, we might make some more money or we might not lose? Kind of what is the tack, what is the underlying policy in exempting retirement income? [LB958]

SENATOR GIESE: Well, Senator, I'm going to defer to the... [LB958]

SENATOR HADLEY: Okay. [LB958]

SENATOR GIESE: ...tax policy experts, but in my own personal opinion, and this is nothing new to the committee, I said this last year, that until we look at trying to keep some of our 65 and older retirees in the state, until we look at that as a state as a plus, we are going to continue to lose them and they're just going. [LB958]

SENATOR HADLEY: Okay. [LB958]

SENATOR GIESE: We have no reason for them to stay, so. [LB958]

SENATOR HADLEY: Then a second question, and maybe somebody later can answer it also, isn't this really a tax shift? Because if we lose \$85 million in revenue and we have to make it up, do we raise income taxes on the working people so eventually people, you know, down the line, you will have paid in more when you're working so people are exempt when they retire. So is it...is it just basically a wash in a person's lifetime? [LB958]

SENATOR GIESE: Well, I would hope that that wouldn't be the case, but the...again, I will defer to the committee... [LB958]

SENATOR HADLEY: Okay. [LB958]

SENATOR GIESE: ...and you have your hands full. [LB958]

SENATOR HADLEY: Okay. Thank you. [LB958]

SENATOR DIERKS: Thank you. Other questions for Senator Giese? I guess not. Thanks, Bob. [LB958]

SENATOR GIESE: Thank you. [LB958]

SENATOR DIERKS: First proponent for LB958, please. Go right ahead, sir. [LB958]

ROGER REA: (Exhibit 2) Senator Cornett and members of the committee, for the record, I am Roger Rea, R-o-g-e-r R-e-a. I live in Omaha and I'm a retired teacher from

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Omaha Public Schools. I have a number of volunteer positions. I'm chairman of the board for First Nebraska Educators Credit Union, vice chairman for the Omaha School Employees' Retirement System, and president of the Nebraska State Education Association-Retired, an organization of approximately 5,000 retired school employees in Nebraska. I'm one of the many thousands of retirees who donate their time to make Nebraska a better place in which for all citizens to live. I became aware this morning of the fiscal note that was attached to LB958. We would support changing the effective date. I thought we had this crafted so that there was no fiscal impact this year. We would support changing the effective date of the bill to make sure that there is no fiscal impact this year. In the materials that I have handed out, there are several spreadsheets. If you skip back past the written testimony to the first set of spreadsheets, the first spreadsheet shows the...how much public pension money comes into Nebraska and to each and every county. That does not include payments made by Social Security, military pensions, or tax-qualified pension income. It does show you that there is a significant amount of money coming into each and every state in public pensions, a total of approximately \$30 million each and every month. I know of no other form of economic development that can boast that they're bringing in more than \$360 million to the state economy while spreading that money across the entire state. If it were not for retirement income, many small Nebraska communities would cease to function. In addition, the money brought into the medical facilities by both pension income and Medicare helps keep the doctors in rural Nebraska and helps ensure that small clinics and hospitals can remain open and serve not only retirees but also the entire surrounding community. Social Security and pension income is very important to the state. It's important to Nebraska to keep retirees in the state and to attract retirees from other states. Most states recognize that fact and provide some form of tax incentive to attract and retain their retirees. Nebraska is not known for being particularly retiree friendly. As was mentioned before, it's one of just five states in the nation that tax Social Security benefits to the full extent allowed by federal law. Nebraska is also one of just four states that do not provide some form of tax-exemption or tax credit for retirement income. LB958 addresses both of those situations. The federal government did not tax Social Security benefits until 1984. Further, the tax on Social Security was implemented to help fund the...to help keep the Social Security Trust Fund solvent, with the federal tax on Social Security benefits going directly into the Social Security Trust Fund. The federal tax limit on Social Security benefits was increased in 1993, with additional federal tax dollars going to shore up the Medicare Part A Trust Fund. The federal tax dollars were used to help strengthen the financial solvency of these two programs that serve seniors, not generate revenues for other spending. Since Nebraska state income tax is calculated as a percentage of the federal liability, Nebraska got a windfall tax benefit that all but five of the rest of the states chose not to implement. Finally, the initial threshold for income before any federal tax was applied to Social Security benefits in 1984 was \$25,000. That number has not been adjusted for inflation. Had the number been adjusted for inflation, retirees would not be currently taxed at the federal level until their incomes rose to just over \$51,000. The provisions of LB958

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would increase the exempted amounts by just \$20,000 when it's fully implemented, which means that Nebraska would still be receiving state income tax from the wealthiest of the retirees. LB958 is a modest proposal designed to attract and retain retirees in Nebraska. While about 90 percent of the money paid to Nebraska retirees stays in Nebraska, some money does leave the state. About \$3.6 million per month is paid to about 2,500 retirees living outside the state of Nebraska. That's money that cannot be used to generate economic activity in Nebraska, a fact that is not lost on other states who actively recruit retirees to move to those states. Recruiting takes many forms and one form of recruitment is encapsulated in the tax policy of the state. I provided you a set of slides for a PowerPoint presentation and will skip to that on page 4. You see how Nebraska compares to the seven states around us. Nebraska ranks dead last to the contiguous seven-state area in terms of providing a tax climate friendly to retirees. Over on page 5 I've shown the nine states that receive the greatest amount of Nebraska pension income. While Nebraska ranks first, with about 90 percent of the monthly pension income, I call your attention to a very interesting statistic on this page. Kansas and South Dakota share approximately the same number of miles of border with Nebraska, with most of Nebraska's population living closer to Kansas than to South Dakota. But South Dakota, with about a quarter of the population of Kansas, receives 1.6 times more pension money from Nebraska than does Kansas. Why? Public pension income from outside of Kansas is fully taxed by Kansas, while the public pension income paid by the state of Kansas is not taxed, while South Dakota does not have a state income tax. I submit that retirees are not flocking to South Dakota for the balmy weather. They're moving to South Dakota for the favorable tax climate. The same thing is true regarding more favorable taxation of Social Security benefits by other states. While Nebraska does retain approximately 90 percent of the money that comes from pension income, a nonscientific survey shows that people who leave the state are among the wealthiest--people who purchase, on average, more goods and services than their counterparts and who require far less in terms of social services paid for by the state. AARP-Nebraska recently conducted a study of U.S. Census data for Nebraska, South Dakota, Kansas, and Iowa--four plains states that are very similar geographically, culturally, and economically. The study compared the growth in populations in Nebraska to the average growth in the other three states. Those results are on page 6 of the handout, the graph at the top. The red line shows the actual population of Nebraska, the dotted-black line shows the population in the other three states on average. Nebraska lags the four-state average growth rate in age groups 63 to 68, and those are prime retirement years. A fair conclusion is that individuals who reach retirement age tend to look for places that favor...value their retired citizens with tax breaks. A second AARP study looked at the population growth in the South Sioux City area, Nebraska, compared to the growth in South Dakota and Iowa and the counties that border the South Sioux City metropolitan area. This study focused on the population growth from 2000-2008 in various age categories; is displayed on page 8 of the handout here, in the graph on the bottom, slide number 16. The dark red is the Nebraska population growth, the dark blue is the growth in Iowa, and the light blue, kind

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of peacock blue, is the growth is South Dakota. You can clearly see that until age 55 there's no difference in growth in the populations for the three-county area, but for age 55 to 59 the Nebraska growth was about 30 percent while the growth in South Dakota was about 70 percent. A similar trend exists for age groups 60 through 64 and 65 through 69. In addition, the study showed that individuals who moved from Nebraska to South Dakota had an average adjusted gross income of approximately \$39,000, while the average adjusted gross income for Dakota County, Nebraska, was only \$28,700. A fair conclusion is that the wealthier retirees are moving from Nebraska to South Dakota, which improves the economy of South Dakota and hurts the economy of Nebraska. Does tax policy make a difference in the way people behave? Can Nebraska afford to give more tax-exemptions? I call your attention to the College Savings 529 Plan that Nebraska sponsors. College Savings 529 Plans allow individuals to invest money for the benefit of a student's education, typically a child or grandchild. To encourage citizens to participate in the College 529 Plans, Nebraska provided a tax credit of \$1,000 per individual when the program began in the year 2000. Money flowed into the plans. To encourage more participation, the exemption from state income tax was increased to \$5,000 per person in 2006. According to testimony last month at the legislative Retirement Committee hearing on the Nebraska 529 Plan, the increased exemption encouraged even more people to save in this fashion and to save even more money per individual. Senator Pankonin, the Chair of the hearing, said this about the increased exemption: The key question is, are we increasing opportunities or decreasing opportunities to stay in Nebraska and invest in Nebraska? While there is a cost increase in the exemption in the form of lost tax revenue, the net result was more incentive to stay in Nebraska and invest in Nebraska. The same can be said about providing tax relief for retired Nebraskans to encourage them to stay in Nebraska. Providing tax incentives does change behavior. Every governmental body uses its taxing authority to encourage desired behaviors, and Nebraska is no exception. Witness the 2006 change in the deduction allowed for College 529 Savings Plans. I ask you to use this opportunity created by LB958 to make it more attractive for Nebraska retirees to stay in Nebraska than it is to establish a permanent residence in another state. In summary, LB958 moves Nebraska towards what I would call a FEE simple solution, F-E-E. FEE simple is an acronym that I coined to show three things that a tax policy should be--fair, equitable, and recognize the economic impact of the payment of the retiree benefits in the state. F, fairness: Is it fair to tax unearned income to retirees? If other states do not do it, then why is it fair in Nebraska? The second...the first E, equity, equity for retirees: Is the current Nebraska tax policy for retirees treating Nebraska citizens equitably compared to other surrounding states, and does the unfavorable tax treatment for retirees have negative consequences for Nebraska? I submit that the survey data shows that it does. The final E is for economic impact in the state. I have documented the economic impact for the money that stays in Nebraska during my testimony here today and now ask you to consider the lost opportunity for retiree income that's received by former Nebraska citizens now living in different states and spending their retirement incomes in other states. Retiree dollars are green dollars that do not require

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infrastructure or put pollutants into the air or waterways of Nebraska. They are a source of economic development that requires very little, if any, maintenance. In thinking about the purpose of Social Security and public pension income, the following statement rings true: Social Security and public pensions were intended to keep our elderly and disabled citizens out of poverty. They were never intended to be a source of revenue for the states. Be glad to answer any questions you might have. [LB958]

SENATOR DIERKS: Thank you. Questions for Mr. Rea? Senator Hadley, please. [LB958]

SENATOR HADLEY: Thank you, Senator Dierks. What would you say the underlying policy is, the tax policy for exempting retirement income? What is the overarching policy that we should do this? [LB958]

ROGER REA: It strikes me that the reason that you do that is to help the citizens stay in the state. If you want to have people stay in your state, you ought to have some reason to do that. Living in Nebraska is actually a privilege, I like living here, but it taxes me a lot. Why would I want to stay in Nebraska when I can have the same kind of life in another state that doesn't tax me? Almost every other state in the Union provides that kind of incentive. They want the retirees to be in the state. Every retiree who comes to the state of Nebraska brings with them not only their retirement income but also Social Security and Medicare. It's an enormous amount of money for every single retiree. It's brand new money to the state. It's like having an industry that doesn't cost you anything to attract it. Why would you want to attract to a manufacturing plant? To provide jobs. Why would you want to attract retirees? To provide income that will make it possible for you to provide jobs. There are roughly 4,000 jobs that are supported by just the public pensions that are put in Nebraska. That's a huge economic engine. It strikes me that one of the reasons you might want to do this is to increase economic development in the state. [LB958]

SENATOR HADLEY: A second question that I asked Senator Giese, it shows 2011-2012 basically \$84 million of economic impact. If the state is going to stay even in our budget, we're going to...we're either going to have to cut \$84 million out of the budget or we're going to have to raise taxes on the working people to cover the \$84 million. If we do this, down the line doesn't it become a wash then? Because if we have to raise taxes for those people during their working years because we're not going to tax retirement benefits, so if you're a school teacher you pay higher income taxes during your working life in Nebraska so you can be exempt from taxes when you retire. Is that not a tax shift from the retirement...retired people back to the people that are working? [LB958]

ROGER REA: Actually, I look at it the other way around. Social Security benefits were not taxed by Nebraska until they started being taxed by the federal government. The

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federal government took the tax money from the retirees and put it in the trust fund for Social Security and the trust fund for Medicare. Nebraska took the tax money that they generated and spent it on general revenues. Nebraska got a windfall profit and has had that profit since 1984. I view this as putting that profit back to where it started off (inaudible). [LB958]

SENATOR HADLEY: So you don't think we'll have to raise taxes to get \$85 million to pay for this thing? [LB958]

ROGER REA: I think you probably will but the question is... [LB958]

SENATOR HADLEY: And will this...will this be paid by people who are working now in the state of Nebraska? [LB958]

ROGER REA: More than likely will, yes. [LB958]

SENATOR HADLEY: So it will raise taxes for those people who are not retired in Nebraska, yes or no? [LB958]

ROGER REA: Well, yes. [LB958]

SENATOR HADLEY: Okay, so those people will pay for the benefit for the retirees, and I'm just saying as time goes on those, you know, 20, 30, 40 years from now a person who is 30 years old now is going to pay higher taxes the rest of their working life so when they retire they can have tax-free retirement. Is there something wrong with that way of looking at it? [LB958]

ROGER REA: Well, let me give you...let me give you a different kind of analogy. Let's suppose that you and I both own a home and that my home is valued at \$100,000 and your home is valued at \$100,000, and the assessor comes in and reevaluates your home and says your home is worth \$200,000, and they are identical homes. And we have that disparity for a period of time. And suddenly they come up and say, gosh, now we're going to have to reevaluate my house and raise it up to \$200,000. My taxes will be increased but yours will be decreased. It's the same kind of thing. Nebraska did not tax Social Security benefits until 1984. They got along without that income and no one worried about it. [LB958]

SENATOR HADLEY: But I'm asking you again, will we have to raise taxes for the 80... [LB958]

ROGER REA: I said yes. [LB958]

SENATOR HADLEY: Okay. Okay, that's...one last question: You compare a lot to South

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Dakota. South Dakota does not have an income tax. [LB958]

ROGER REA: True. [LB958]

SENATOR HADLEY: Where do they rank in teacher salaries? [LB958]

ROGER REA: I don't know for... [LB958]

SENATOR HADLEY: Forty-ninth. [LB958]

ROGER REA: Thank you. [LB958]

SENATOR HADLEY: The only thing that...I lived in South Dakota for 20 years and the saying up there was the only thing that kept South Dakota from being 50th in teachers' salary was Mississippi. So now we have a situation where teachers are paid very low in South Dakota because they don't have the...they don't tax. They don't have an income tax. So teachers...are we saying teachers from Nebraska that are paid a higher salary turn around and then go to South Dakota to live where they don't have to pay sales tax...or income tax and their teachers are 49th in pay? That seems to be a problem. [LB958]

ROGER REA: This is not about education employees. This is about people who are getting Social Security benefits, which includes teachers but also includes every other citizen in the state. [LB958]

SENATOR HADLEY: But doesn't it say private pensions and annuities, Class V school employees, judges, county employees, Nebraska school employees? So it's not about just Social... [LB958]

ROGER REA: And Social Security. [LB958]

SENATOR HADLEY: ...and Social Security, but it's... [LB958]

ROGER REA: Social Security I think is first in the bill. [LB958]

SENATOR HADLEY: Oh, I understand, but you're going to exempt all these others, right? [LB958]

ROGER REA: No, we're going to exempt the first \$20,000... [LB958]

SENATOR HADLEY: Okay. [LB958]

ROGER REA: ...from all sources. If you get more than \$20,000 from Social Security,

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then it would exempt up to \$20,000 total for every single retiree. Once you reach that maximum cap, it's over. If you get that cap by having Social Security benefits get you there. You get no further exemption. If you get that cap because you have military pension but you don't get Social Security, when you reach that cap it's over. [LB958]

SENATOR HADLEY: Okay. [LB958]

ROGER REA: It's a cap on total amount from all sources and those are just the sources. [LB958]

SENATOR HADLEY: Okay. Thank you. [LB958]

ROGER REA: And thank you for letting me clarify that because I did not realize that was (inaudible). [LB958]

SENATOR DIERKS: Senator Utter, please. [LB958]

SENATOR UTTER: Thank you, Senator Dierks. Mr. Rea, thank you for your testimony. I do have two or three questions. Was it your testimony that there's about 2,500 people that have left the state for the reason you're talking about here? [LB958]

ROGER REA: From the...2,500 that we can document from the retirement systems that are administered by the state of Nebraska. [LB958]

SENATOR UTTER: Do that again for me, please. [LB958]

ROGER REA: The retirement systems that the state of Nebraska administers,... [LB958]

SENATOR UTTER: Uh-huh. [LB958]

ROGER REA: ...the school employees, the county employees, the state judges, the State Patrol, and the state workers, those are the people we can document and that's 2,500. [LB958]

SENATOR UTTER: Okay. How many of those people do you think would come back to the state? It seems to me there's a lot of reasons for retirees to leave the state and relocate. Obviously, taxes are one of them. [LB958]

ROGER REA: Uh-huh. [LB958]

SENATOR UTTER: Family is another maybe compelling reason. Sunshine might be another compelling reason. What percentage of those people, if we would adopt your bill, do you think would come back to the state? [LB958]

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ROGER REA: I'm not sure I can answer that question directly but answer it slightly indirectly. The key here is to try to make them comfortable staying here when they retire so that they don't leave the state. The question you might want to ask is, how many people are we going to be able to save by making this change? How many... [LB958]

SENATOR UTTER: Well, that's a question I don't think you can answer nor can I. [LB958]

ROGER REA: Yeah, and I can't answer the question that you asked either, but let me put it in kind of (inaudible) terms. I was talking with a gentleman, I think I mentioned this at the hearing in Bellevue, talking with a gentleman from...he now lives in Wyoming. He was a former Nebraskan. He founded TD AMERITRADE. He told me he moved as soon as he retired, he moved from Nebraska to Wyoming because Wyoming did not have an income tax and they gave him some breaks for taxes. He said since he's retired from TD AMERITRADE, he started five businesses and those five businesses don't have a single Nebraska employee and not a single person pays any Nebraska tax. He said, I would like to come back to Nebraska, I would like to have the headquarters for my five extra businesses, which now hire 200 people with a good-sized payroll, in Nebraska but they have not made it comfortable for me. He said, if they made it comfortable for me, I would probably come back. [LB958]

SENATOR UTTER: Well, let me point out as I ask this next question that I am one of you. I'm old enough for retirement benefits and so I ask this question keeping that in mind. The source of revenues that...I'm really concerned, to be honest with you, about what the source of revenues is going to be that makes up for the potential loss, particularly when I look at the over \$200 million impact on Nebraska's revenues. It's obvious, as Senator Hadley pointed out, that we either have to increase the taxes on somebody, we have to cut state expenses by \$200 million. And this goes into effect, according to the bill, and I understand your testimony that you were not aware that it was going to go into effect until next year, but even if it just goes into effect next year, we're looking at a fiscal situation in our state next year that was far worse than it was this year. And I guess I have a real problem implementing something now that's going to go into effect next year, even if this bill is amended, when we're not sure what our fiscal situation is. The closest estimate we have right now is that we could be facing a \$600 million shortfall and the estimates range upward from that level as we move into next year. And then I'm...I guess the real question is, is there a responsibility of any kind...at what level of taxes do you feel comfortable, as a senior citizen, in paying and supporting the government of this state as compared to the level of taxes that we're going to ask some young family, 21, 22, 23 years old that has three children? Where's the fairness there? [LB958]

ROGER REA: Keep in mind that when retirees spend their income, they're spending it

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on goods and services. They're paying sales tax on all those transactions. That I think is a consumer's tax, it's a reasonable tax for seniors to pay. Unearned income, which is what pensions and Social Security income is, unearned income, I'm not sure it is entirely reasonable to ask them to pay income tax on that. The question is, how do you balance the state budget? Do you balance it on the back of the workers, or do you balance on the backs of the elderly? The elderly now pay a higher percentage of their tax burden...of the tax burden of the state now than they did 20 years ago and they do that because Nebraska taxes Social Security benefits to the same extent provided by... [LB958]

SENATOR UTTER: How do those benefits compare to the taxes that the young working class people are paying? [LB958]

ROGER REA: Depends on how many exemptions they have. I don't know very many retirees who have four children to get four exemptions. [LB958]

SENATOR UTTER: They don't have the expenses of those four kids either. The other thing that I think it's important to point out as we begin this discussion is the fiscal situation that we face in Nebraska as compared to the fiscal situation that we're facing in all of the states that surround us except maybe Wyoming, including South Dakota, by the way, that all of these states that have some retiree benefits, and I'm not suggesting that maybe some benefit may be appropriate or may not be appropriate, but all of these states have got a fiscal situation that they've got to rectify. We happen to be in the best, save Wyoming, thanks to their natural resources, we may be in the best situation of all of these states in terms of the fiscal situation, even though we are facing a rather sad situation in the next biennium. It just...it seems to me that we're looking at something that...a tax situation that may change in all these other states that you're referring to. [LB958]

ROGER REA: Yes, it may. [LB958]

SENATOR UTTER: Thank you. [LB958]

ROGER REA: Thank you. [LB958]

SENATOR CORNETT: Further questions from the committee? Seeing none, thank you. [LB958]

ROGER REA: Thank you, Senators. [LB958]

SENATOR CORNETT: Good afternoon. [LB958]

JOHN JENSEN: (Exhibit 3) Good afternoon, Senator Cornett, members of the Revenue

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Committee. I'm John Jensen, J-o-h-n J-e-n-s-e-n. I live in Omaha, Nebraska, a retired teacher, and thank you for this opportunity. Hopefully in my testimony I can answer some of the questions that have been coming up, and I think I can. Here's a quick summary of findings from research reports in other states as they dealt with this very same problem. The states are Maryland, Arkansas, Louisiana, even here in Nebraska, Alabama, the Federal Reserve Bank of Kansas City, Florida, Georgia, Tennessee, and North Carolina. Here are some of the things they came up with, highlights. A retiree who relocates to another state will purchase goods and services from local vendors in that other state and that spending creates a significant impact on local and state economies each year, continuing until the retiree dies or leaves the state. Out-migration of retirees has a significant negative impact on the local and state economies. For every elderly household that leaves Maryland, one study found, that one-half a job is lost and over \$70,000 in new income per household is lost. In-migrating retirees 65 years of age and older also bring additional dollars in the form of Medicare payments to state hospitals, physicians, and healthcare providers, and that is significant in especially a state such as Nebraska where our rural health clinics are hard to keep. Unlike other age groups, a substantial portion of income that the elderly receive comes from outside the state. Social Security and Medicare benefits is new money coming into the state. It's just as good new money as when we sell our grain to China. That's outside income coming into the state. It's wonderful for our economy. Well, so is the Social Security income, so is the Medicare benefits that we receive. Persons age 50 and above in the United States have 77 percent of the personal financial assets, 80 percent of the money in savings accounts, and 68 percent of all money market accounts and almost 50 percent of all stocks. This I think our bankers would welcome in the state of Nebraska. And if the bankers would love it, then it would be additional help in lending to companies here in the state. The retirement industry boasts local economy and increases the state tax base. Large investments in infrastructure and tax abatements are not required by the government to attract or keep retirees. We don't need schools for retirees because we don't have the children. Retirees do not pollute and they do not destroy the environment. Retirees increase the number of volunteers and contributors, benefiting many organizations. And if you want to go to your local library and ask how much retiree volunteers help, it's a tremendous amount. Attracting retirees will not strain social services. That's what these studies found. They will not strain healthcare services. In fact, they will help keep healthcare services in the area, they will not strain the school systems, and they will certainly not strain the criminal justice system. In Georgia, Governor Sonny Perdue pushed the state's legislature to provide up to \$70,000 of exemption of pension income and Social Security income for a couple. The Governor got it passed. This is law in the state of Georgia. His press secretary said, and I quote: It's certainly meant to attract retirees to the state. And his press secretary said, the Governor sees it as a revenue-positive idea. And perhaps part of the answer to where do we get the money in the future when this would be implemented is that it would be a revenue-positive scheme. All these reports have the same essential conclusion--retirees are good for the economy. And if you lose the retirees, you're hurting the economy of

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Nebraska. It's great if we can attract some retirees from North Dakota and South Dakota. They might see Nebraska as rather balmy and would move here. Perhaps we could do that. My main consideration is how can we keep retirees from leaving when they first retire. So where does that leave us here in Nebraska? If I might be so bold as to what the policy questions before us are: What should Nebraska be doing to retain retirees in Nebraska? Number two, what should Nebraska be doing to recruit retirees from other states to move here? Number three, what should be the immediate goal in reducing the tax burden on Nebraska retirees? What should be the long-term goal of reducing the tax burden? And then finally, number five, when calculating the cost of changing the tax policy, and I know that's what happens when you get the cost of \$80-some million the second year, \$16 million the first year, it does not include and it probably won't ever include the projected, anticipated savings, the additional income that the state will have, the better economy, the impact of the economy. That, as Governor Sonny Perdue in Georgia said, could very well make it revenue positive in the long term. When the Legislature passed laws giving corporations, and I'm talking about LB775 was the first one, no one here except perhaps Senator Dierks was in the Legislature when LB775 passed, that was a tax incentive bill for corporations to move to Nebraska. I look at our bill as a tax incentive bill to keep retirees here and maybe get some additional retirees from other states to move here. Just as LB775 kept ConAgra in Omaha and produced some additional jobs for Omaha, it did little or nothing for the economy of Hastings. But our bill, LB958, will provide an incentive for every community in Nebraska, every grocery store, every station that sells gasoline, every healthcare provider. Everyone in the state will help, no matter how small the community is or how large it is. Here's some astounding figures: The total Social Security income paid to Nebraskans is over \$3.5 billion; the total Medicare benefits, over \$1.7 billion. Then you add in almost a fourth...four-tenths of a billion dollars paid to the public employees through NPERS and OSERS. We're talking about \$5.6 billion. And the total impact of that to the economy, after you have the multiplier effects of this income, which is from outside the state, it's new money coming in, it's over \$7 billion a year. To me, that is astounding. And if we could find a way to keep and increase the number of retirees by just 10 percent, by keeping some of those who move out to have them stay here and maybe attract a few more, just a 10 percent increase could very well have a \$700 million impact on our economy. And that would go a long ways to covering the cost of this bill and it would be better, of course, for the retirees because we should not try to balance the books off the backs of retirees. We're trying to keep them off of Medicare (sic). This would also help keep them off of Medicare...excuse me, off of Medicaid. In other words, make them pay their own way in retirement. With that, I'll answer any questions if you have any. [LB958]

SENATOR CORNETT: Questions from the committee? Seeing none, thank you. Next proponent. [LB958]

ROBERT L. BUSSMANN: Senator Cornett and members of the Revenue Committee,

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I'm Robert Bussmann, R-o-b-e-r-t B-u-s-s-m-a-n-n. I'm a retired classroom teacher at the elementary level, as well as a retired elementary principal of 35.5 years. I'm also the president of the Nebraska Association of Retired School Personnel. Our executive director, Bob Kuhn, from Grand Island was unable to be in attendance today and I know that he presented testimony at the December 10 hearing for LR106, and I would like to just highlight a few things from that particular written testimony that was submitted, as well as some additional comments that I would like to add myself. As an organization, we have 18 total associations from Omaha to Scottsbluff with 1,250 members, and are also affiliated with the National Area Retired Teachers Association. We would like to see some relief from our state of Nebraska taxation of the public employee pension benefits and also from the state tax on Social Security pensions. Many of our older retired teachers are in vulnerable financial situations, especially if their spouse does not have pension to supplement their income. Many of our retired teachers in this situation are dying in Medicaid nursing homes or in hospitals that accept Medicaid circumstances. And in the written testimony that was submitted, he cited, Bob cited, specifically in December a teacher in Auburn and a teacher in Grand Island. Our state organization keeps track of volunteer hours and you heard mention earlier by Roger, as well as John, about volunteer hours that are spent by our retired educators working with the youth of Nebraska. This last year at our state convention, it was reported that 81,910 hours were reported by our volunteer educators in our local associations, and at that same convention we presented a facsimile check for the amount of \$1,600,000 to Senator Gloor and Senator Utter, who were also in attendance at our state convention, and that just represents a small portion of the volunteer hours that retired teachers give to their respective communities. Many individuals don't choose to report those particular hours. Nebraska retired teachers are well known in the National Retired Teachers Association in D.C. NRTA has a competition every year for outstanding volunteer projects with youth in the local communities of the retired teacher units across the nation. Nebraska has had one of three winners in four of the last five years chosen as top volunteer projects in the United States. There are over a million retired teachers that belong to NRTA nationwide, so the program is very competitive. We are the only state that has received four of the top awards presented in the last five years. Briefly, retired teachers are still giving back to their communities, as I mentioned earlier, by volunteering and making a difference in the lives of Nebraska youth in their golden years. I believe that they are deserving of any tax break that would be provided them by our lawmakers. I would like to cite specifically a local unit, and the local unit is the Lincoln Area Retired School Personnel, of which I'm the immediate past-president. This past year, through philanthropic contributions that we gave to agencies, specifically noted with children, like the Food Bank Backpack Program, the Lincoln Education Association Harvest of Books, the Child Advocacy Center, and I could list 14 altogether, sponsoring a summer writer's workshop free to the children of Lincoln, jointly with the Lincoln city libraries, as well as providing four \$1,000 scholarships to graduating seniors that are going into the education field, just under \$18,000 we have put back into the community from our volunteer work, and that money is raised through a book sale that I took time to come

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today. The book sale is going on at Gateway right now. And so that's how we particularly get our money for those particular projects. In conclusion, economic security and stability for retired school personnel is of utmost importance, as well as a major concern in present times. As you heard, a majority of states acknowledge that retirement security and stability for their senior citizen is important and they do not tax the benefits that retirees receive from either Social Security or any public pension paid by a retirement system that is guaranteed by state law. Presently, this is not true for our state. Taxation of these benefits cut short that economic security and stability that our state's retired school employees should be afforded for in their...for their dedicated years of service. There is also mentioned the trend of new retirees moving from Nebraska to other states that do not tax all or some percentage of pension benefits and Social Security. As a result, Nebraska is losing out on the spending by our retirees and not seeing these dollars placed back into our Nebraska economy. For the benefit of our retired school employees, I encourage each of you to give favorable consideration to LB958. Thank you. [LB958]

SENATOR CORNETT: Questions from the committee? Senator Hadley. [LB958]

SENATOR HADLEY: Senator Cornett. Yes, just a couple quick questions: We had a bill last year as part of our budget proposal that we had to put, like, \$80 million into the state pension plan for retired...basically retired teachers, the State Patrol, and judges, because they're literally the only people in the state now that have a defined benefit pension plan. Literally all businesses across the nation have gone away from these. Are you saying that that is not a good plan when you talk about these teachers that can't make it on that, the retirement plan that... [LB958]

ROBERT L. BUSSMANN: Well, some of our more senior teachers are not getting a full amount. It has considerably been helpful with...and I can't remember what was passed where, an additional percentage of money was provided through their pension plan, but we still have...within our organization here in Lincoln, we had two of our members that passed away this last year and they were both 102. [LB958]

SENATOR HADLEY: Okay. [LB958]

ROBERT L. BUSSMANN: And so it's those particular individuals that are up in years that have not the same type of benefits that me, as a seven-year retiree,... [LB958]

SENATOR HADLEY: Have. Okay. I don't think anyone questions at all the dedication of teachers and the fact of the retirement and all employees, but I guess, you know, the dilemma I see is that I just did some quick numbers, we could be looking at either having to cut our budget 4 percent to fund this or increase taxes by 4 percent. And the people across the state have told us point blank they do not want tax increases. So do we...with state aid to education being basically one-third of our...give or take, of our total

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budget right now in the state, and it would be upwards of \$1 billion, should...do we...the dilemma is do we cut current aid to education to help fund retired teachers, to exempt them from taxes? [LB958]

ROBERT L. BUSSMANN: That's a dilemma that you're going to have to solve from the standpoint of your position as legislators. And, yeah, it's a hard decision to make. [LB958]

SENATOR HADLEY: Well, I just wanted to bring that out because that's, you know, that's I guess what I see we're facing. Because I understand. In a perfect world, I'd love to exempt...I'm not near as old as Senator Utter. I mean you can just tell by looking at us. (Laughter) But I am retired also and I certainly understand it. So I'm torn between...the biggest, you know, balancing act I'm trying to balance is the good, the need for this, versus the impact on the people who are going to have to somehow pay the bill. That's... [LB958]

ROBERT L. BUSSMANN: I guess I...I guess I would have one comment in relationship to where you are at right now. From the beginning of time to that particular point, who got you basically started and in the direction that you're in? It was an educator, a teacher. [LB958]

SENATOR HADLEY: Well, I...no, I was an educator for 35 years so I... [LB958]

ROBERT L. BUSSMANN: Well, you know. (Laugh) [LB958]

SENATOR HADLEY: ...I know. Thank you. [LB958]

SENATOR CORNETT: No further questions. [LB958]

ROBERT L. BUSSMANN: Thank you. [LB958]

SENATOR CORNETT: May I see a show of hands of how many people are left to testify as proponents? I'd like to ask everyone, if you have written testimony, submit that. Please do not just read off your testimony. We can have copies of that made and read that. Just share your thoughts with us, please. [LB958]

MARK INTERMILL: (Exhibit 4) Thank you, Chairman Cornett, members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, representing AARP. First of all, I want to thank the committee for the interim hearing that was held in Bellevue in December. I think that gave us a good opportunity to have a thorough discussion of these issues so I will be very brief. My hope between that time that we held the hearing and today was that we would have had a revenue report that would have said that things are looking at lot better. Unfortunately, we haven't. So as a result, while we

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support the concept included in LB958 and think that this is something that we will eventually need to do in Nebraska, just not only to address the issue of retaining retirees but restoring some fairness, we will not be actively mobilizing our members to support this bill this session. We have to balance our budget. We have a growing demand for state services due to the recession. We can't afford to take any actions this year that would erode the tax base. But in the future, what I would ask is that when times do get better that this issue be given primary consideration; that we take a look at the fairness. And in the statement I note that there is a growing share of tax revenue or taxable income that's being accounted for by Social Security specifically due to the way that Social Security is taxed. I would ask that this issue be given consideration and we would look forward to working with the committee to develop a targeted and reasonable proposal to try to achieve some of those goals. Be happy to answer any questions. [LB958]

SENATOR DIERKS: Thank you, Mark. Questions for Mr. Intermill? Yep, Senator Utter would. [LB958]

SENATOR UTTER: I don't really have a question, Mark, but I think that's a reasoned approach and I'm sure future legislators will continue to look at this issue. And I just want to tell you that I appreciate your recognition of the fiscal situation that we're in. [LB958]

MARK INTERMILL: Okay. [LB958]

SENATOR DIERKS: Thank you. Other questions? I guess that does it, Mark. [LB958]

MARK INTERMILL: Okay. [LB958]

SENATOR DIERKS: Anyone else in support of LB958? Is there anyone in opposition to LB958? Opponents? [LB958]

JOHN CEDERBERG: Good afternoon. My name is John Cederberg, C-e-d-e-r-b-e-r-g. I'm an independent CPA here in Lincoln and my practice primarily, in fact almost totally, is to be the help desk for independent accounting firms located throughout the United States and these accounting firms do not have Washington service centers, do not have specialty offices. And so they call me and consult with me about their client situations in the same way that the local practice offices of a Deloitte or a KPMG would call their Washington service center. These firms are scattered throughout the United States and they give me a very interesting window on what happens, state taxation as well as federal, throughout the country. I'm not here to say to you that I have any lack of respect for the contributions of retirees in the state of Nebraska. One of the...one of the things that I noticed when I was listening to the prior testimony, I am a member of St. Mark's Methodist Church here in Lincoln, most of the volunteers of that very large congregation

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tend to be retirees because they don't have to go off to work every day. Members of that church are Tom and Nancy Osborne, well known as the creators of Teammates. That church has a remarkable number, several hundred Teammates mentors and many of them, not all of course, but many of them are retirees who have...who just do a marvelous job spending an hour a week with at-risk children here in the Lincoln Public School...or in the Lincoln school system. I shouldn't say public because private can be as well. So I don't come with any lack of respect for the contributions of retirees. My son thinks I'm here against interest. He likes to remind me that I'm of advanced years (laugh) and, you know, this would benefit me personally. But I do want to remind the committee of some of the testimony, and I know there's been significant turnover in the committee since I last sort of made some of these observations to you, that unfortunately the structure of Nebraska's economy, the demographics of our available tax revenues just don't permit us to make at this point major contractions in our tax base. One of the things that people frequently, social clubs and so forth, ask me to come talk to them about is why is it that the sales and income taxes in Nebraska tend to be high for all Nebraskans, not just retirees but tend to be high for all Nebraskans, and yet we don't...we don't generate enough revenue. And the answer is that I explain to them that property taxes were designed to generate revenue in economies with a very long earning cycle. Production agriculture has an earning cycle of plus or minus a year. Sales and income taxes are urban taxes. They are taxes that were designed, that are designed structurally to generate revenue in economies with short earning cycles, like they are here in Omaha and Lincoln, 30, 45, maybe fewer days. There's a lot of turnover. They generate revenue by creating turnover in the economy. Nebraska is well behind our neighbors in that effort to convert our economy and diversify away from production agriculture to...not to disregard production agriculture, but to add the nonproduction agriculture volume to our economy that will support a...will support a sales and income tax revenue system. Unfortunately for us as policy wonks, our people have decided that even though there aren't enough of us to do the trick very successfully that we should move from the property tax to the sales and income tax faster than we've been able to diversify our economy and achieve that. So as a result we are in a very tricky balance and we are in a position where we've, through very, very conservative fiscal management, we have succeeded in keeping our budget balanced. We've succeeded in keeping our sales, income tax within reach of our neighbors. We have succeeded in keeping our income tax above but kind of within reach of our neighbors. Our system is very progressive, our income tax, and at the higher ends where S corporation and LLC income tends to be taxed, we're the highest in the region but not totally out of reach. And...but we've been able to do that only because of our very conservative fiscal management on the spending side. Now as a policy, and I would respond to Senator Hadley, as a policy, I tend to, and this...and you or your predecessors on this committee and Senator Dierks has heard me say this before, I tend to promote and to support being like the other states, so that piece of the policy of not sticking out is a good policy. But unfortunately, our structure is such that until we're able to generate a great deal more volume in the urban economy and change the basic

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structure of our state, we're just not going to be able to reasonably afford over the long term to reduce our tax base in the way that we have. Just, you know it shocked me when I did it, but some years ago I sat down with the statistical abstract of the United States and tried to determine how...what our population was per settled square mile, which is the square miles of the state, take out large lakes, like Salt Lake, the Great Salt Lake, take out the federal lands, the lands for which the states aren't responsible. We are the...were at that time and I'm absolutely confident still are, the third least populous state in the Union per settled square mile. The two behind us are South Dakota and North Dakota. Montana, Alaska don't get in that because of the huge amounts of federal land. When you are that sparsely populated, we need to do some things. Iowa is, you know, way ahead of us. Kansas is way ahead of us because of the Kansas City area. You need to do some things to increase your population and support your sales and income tax, and then, you know, if maybe five years from now, maybe ten years from now, depending on what happens, I'd be perfectly happy to come back here and support this provision. It's just not timely at this time. I'd be very happy to take any questions. [LB958]

SENATOR CORNETT: Senator Utter. [LB958]

SENATOR UTTER: Mr. Cederberg, thank you very much for coming. The message that I'm getting from your testimony at least is, is that if we broaden this tax base by the inclusion of more businesses and ultimately more workers, then maybe we can look at a lower tax paid by all Nebraskans. Is that fair? [LB958]

JOHN CEDERBERG: That would be correct. As to the extent we can grow the nonproduction agriculture base, the volume of economic activity that is in a short earning cycle, which basically is nonproduction agriculture employment, the faster you grow that the better return you get from your sales and income taxes, and then we could...we would look at lowering...well, we'd really look at doing two things. We'd look, because our citizens are demanding it, we'd look at perhaps replacing even more of our property tax, whether it's the property tax for schools or other things, and we would also balance that by bringing our sales and income tax closer to some of our neighboring states. Absolutely shocked, I think, the members of the committee. A few years ago I did a study that showed that even though the Colorado income tax is significantly lower than ours, if we adopted their rates even on our own population base we would substantially increase the revenue because they use a flat tax. We could do the same thing with Missouri because they use a much less progressive tax. We have a volatile income tax, too, because we depend so highly on the income at the 6.84 rate. But, yes, that would be absolutely my testimony, that as...that the objective of our state should be to grow the nonproduction agricultural economy as fast as we can, produce as much as we can, export it as far as we can send it, and in that process be able to lower our taxes for everybody. [LB958]

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SENATOR UTTER: Your emphasis on nonproduction agriculture has to be, I assume, generated from the belief that the expansion of production agriculture is probably...there's not a lot of expansion available out there. Is that correct? [LB958]

JOHN CEDERBERG: Well, the emphasis on nonproduction agriculture from a state fiscal standpoint is that the economic activity from nonproduction agriculture simply has a shorter earning cycle and feeds the sales and income taxes so much faster and, therefore, helps in this policy decision that we made basically four decades ago that we were going to shift our reliance from a... [LB958]

SENATOR UTTER: But you're not minimizing the importance of production agriculture to the state. [LB958]

JOHN CEDERBERG: Oh heavens, no. I mean this state goes south if production agriculture goes south. [LB958]

SENATOR UTTER: Thank you. [LB958]

JOHN CEDERBERG: Hey, I was a partner at Touche Ross in Nebraska in the eighties. I will never forget the eighties. [LB958]

SENATOR UTTER: Neither will I. (Laugh) [LB958]

JOHN CEDERBERG: Actually, I'm reliving the eighties because my clients are partners in independent accounting firms who didn't live through the eighties, they're too young, and I'm the institutional memory that knows what you do when a bank goes south. (Laugh) [LB958]

SENATOR UTTER: Thank you. [LB958]

JOHN CEDERBERG: Yes, I lived through that. I never want to live through that again. No, production agriculture is absolutely critical to the state. I'm talking in terms of how do we support our public policy of shifting from property to sales and income. [LB958]

SENATOR UTTER: I just wanted to...I understood that. I just wanted to emphasize that point. [LB958]

JOHN CEDERBERG: Besides, I think, Senator Utter, you knew that I grew up on a farm in Polk County. (Laugh) [LB958]

SENATOR UTTER: Yes, right. (Laugh) [LB958]

SENATOR CORNETT: Senator Dierks. [LB958]

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SENATOR DIERKS: John, welcome to the committee. It's been awhile. Would you give me a simple description of what you mean by nonproduction agriculture? [LB958]

JOHN CEDERBERG: Basically, manufacturing, service, things that...things that are paid for, that generate compensation... [LB958]

SENATOR DIERKS: Ethanol. [LB958]

JOHN CEDERBERG: ...and that go through the manufacturing process maybe in 30, 45, 60 days. [LB958]

SENATOR DIERKS: You're talking about like ethanol,... [LB958]

JOHN CEDERBERG: Ethanol would certainly be that. [LB958]

SENATOR DIERKS: ...packing, packing firms. [LB958]

JOHN CEDERBERG: Yeah. I mean, you know, ethanol is a manufacturing process and the earning cycle between the time the farmer delivers the corn and the ethanol plant pays for it and the ethanol plant sells the ethanol into the energy system and sells the by-products, you know, back into the feeding system is not a year. You know, it's 30, 45 days at the most. [LB958]

SENATOR DIERKS: Okay. Well, you know, every place I go in my district and even other districts across the state, especially in rural Nebraska, we hear the cry for relief from property taxes. [LB958]

JOHN CEDERBERG: Uh-huh. [LB958]

SENATOR DIERKS: Even to the point where the ranchers are telling us now that they will go someplace else to do their ranching because they just can no longer afford this. We have people telling us they're paying as much as \$9 an acre and it takes 10 acres for a cow, so they're looking at 90 bucks an acre just for pasturing a cow for 150 days and they still got the winter feed on top of that. When I tell them if we're going to find relief from that, I'm telling them there's only two ways. One is to do away with the need for the money and the other one is to shift the tax to some other...some other source. We know the need is not going to go away. The need gets worse every year. We have increased salaries every year, whether it's in the courthouse or the schoolhouse. The need goes up. So do the need for property taxes. Now if we do a tax shift, and we've been told by everybody the administration won't go along with a tax shift, what's the...what's the answer, John? [LB958]

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JOHN CEDERBERG: Well, I'm here really promoting not a shift as such but a growth, because property taxes are not a growing tax base. I mean we can raise the levy rate and land values can go up or down, but property tax is not a rapidly growing and inherently growing revenue base. Our dynamic revenue base is sales and income taxes. That's what we have to husband. Now to the extent that you can grow the sales and income taxes by growing the economic activity that generates those sales and income taxes, you can provide property tax relief, as we've been doing for the last decade in the rapid growth in school aid. Senator Adams is, I know, Chair of Revenue (sic) Committee and, you know, deals with this situation every day of his life. You know, we have massively grown the school aid, as property tax relief. We've done other things as property tax relief. We had the rebates to the counties or to the jurisdictions. That could be a shift if you haven't grown your sales and income tax, if you haven't husband that well, but it doesn't have to be a shift if you can grow your economic activity and bring that money in. And that's my focus, is what can we grow rapidly. The thing we can grow rapidly is sales and income taxes. [LB958]

SENATOR DIERKS: Thank you. [LB958]

SENATOR CORNETT: Senator Hadley. [LB958]

SENATOR HADLEY: I just have one very quick question for Mr. Cederberg. [LB958]

SENATOR CORNETT: Oh, of course. [LB958]

SENATOR HADLEY: My bill is coming up next. Can I quote you? (Laugh) [LB958]

JOHN CEDERBERG: (Laugh) It's public...I think it's spread all over the state Internet. Of course you can quote me. [LB958]

SENATOR HADLEY: Okay. Thank you. [LB958]

JOHN CEDERBERG: Thank you. [LB958]

SENATOR CORNETT: Any other questions? Seeing none, thank you. Are there any further opponents? Is there anyone here in a neutral capacity? That closes...Senator Giese has waived closing on this bill. That closes the hearing on LB958. Senator Hadley, you are recognized to open on LB918. [LB958]

SENATOR HADLEY: Chairperson Cornett, members of the Revenue Committee, it's a real pleasure to be in front of you because I know this is a very august committee, intelligent and wise, articulate and fair. Good afternoon. I'm Senator... [LB918]

SENATOR CORNETT: Flattery does work. [LB918]

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SENATOR HADLEY: (Laugh) I'm Senator Galen Hadley, G-a-l-e-n H-a-d-l-e-y, and I represent the 37th Legislative District. Today I'm pleased to bring you LB918 and this deals with what Mr. Cederberg was just talking about. I'm bringing a potential to increase nonproduction agriculture base of Nebraska. LB918 makes some important and timely updates to the Nebraska Advantage Act. First, it makes Internet-based software applications eligible for Nebraska Advantage. This refers to what is sometimes called cloud computing. Second, it builds on legislation approved in 2008 that added Web portals to the act by adding a definition of data centers and making tier 2 data projects eligible for one of the tier 4 incentives. Third, it adds a definition of wages for Super Advantage projects, a definition that is more inclusive of an employee's full compensation. Let me tell you why I brought this bill to you and why I hope we will send something to the full Legislature for debate and approval. Like Nebraska, other states are facing fiscal challenges and in many cases their legislatures are debating which taxes and fees to increase and how much they will increase. We have not embarked on these discussions and I hope we don't. We cannot tax our way out of the financial problems we face and we might not be able to cut our way out. Growth has to be part of the solution. Again, I want to say that again. We cannot tax our way out of the problems we have and we may reach the point that we cannot cut our way out of the problems we have. Growth has to be an integral part, and I believe that's what Mr. Cederberg was just talking about, is the potential to grow our economy that grows the revenues of the state. So as other states talk tax increases, the fact that this committee, and hopefully the full Legislature, will have serious discussions about improving our economic expansion incentive programs, sends an extremely positive message to businesses across the country that are looking to expand or relocate. The message is that Nebraska welcomes their investment. In the current environment, we truly could be one of the shining stars across the nation when it comes to promoting economic development. Again, I think that's a very important part. Part of our job is to keep businesses spending money because when businesses spend money for capital equipment expenses and salaries, that's where we derive our revenues for the state. So anything we can do to help businesses do that helps the citizens of Nebraska. When this body approved the Nebraska Advantage Act in 2005, it was cutting edge, state of the art, but the world changes quickly. The means of delivering computing software has evolved dramatically. Delivery of complex programs and databases as shrink-wrapped disks or even applications installed on the user's computing system is rapidly being replaced by licensing of applications accessed over the Internet. Not until the last few months have I heard the term "cloud computing," and it's sometimes a concept that is difficult to get one's arms around. I Googled cloud computing and Wikipedia has 13 pages now on cloud computing. What we are talking about today in its simplest terms is moving from floppy disks to Yahoo. However, eligibility for Nebraska Advantage remains tied to three things: one, delivery of software to users rather than providing access to software by electronic means; the requirement that software be delivered in a tangible form rather than by electronic means; and third, that the physical location of the

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servers on which the software is hosted be within Nebraska despite the fact that projects, Nebraska employment, and tangible property investment meet Nebraska Advantage thresholds. Software is a rapidly growing, high-wage industry, and is a target industry for the state. Making the change outlined in this bill will allow us to compete for these jobs. Lastly, but certainly not the least, are data centers. This is especially important to me because, as you will hear in more detail soon, Kearney has invested heavily in a data center park that we believe will play an important role in our future in the state. Data centers are a business category for which Nebraska has great advantages and is a target industry for our state. We have attracted a significant number of data center site prospects and with the help of legislation that Senator Cornett and others were involved in approving, we were able to land the Yahoo project. While the change the Legislature made to attract Yahoo works admirably for them, it is not for the vast majority of data centers that do not provide general Internet search and navigation capabilities. We are talking about the Amazons, the Facebooks, the Hewlett-Packards, the Rackspace. By defining data centers in the Nebraska Advantage Act's list of qualified activities and making them eligible for tier 4 computer equipment tax-exemption, I believe that we will put communities across our state in a very competitive position to track these prospects. Finally, I think it is important that companies receive credit for the full compensation they pay employees and that we include such benefits as 401(k) contributions and pretax medical benefits. A company's contribution to a retirement plan or money an employee may choose to set aside for medical purposes should be counted toward the compensation threshold. In closing, I know that we are facing our own financial challenges and this bill does not...does have a minimal fiscal impact on the state. Senator Utter may disagree with that but we will hear about that. However, I believe that it would take less than a month for the state to see a positive return on their investment if just one project located anywhere as the result of this bill. Any fiscal impact in later years is dependent upon a company making an investment and bringing jobs to a community. I want to remind the committee that there is no fiscal impact to the state if this legislation is not utilized by a company. I submit that the capital invested, the jobs created, and the taxes paid by a company and its employees who are able to take advantage of this bill will be more than offset...would more than offset any fiscal impact to the state and local governments. I thank you for your time and consideration and would answer any questions you may have. [LB918]

SENATOR CORNETT: Yes, Senator Hadley, one of the...one of the goals of the Advantage and the Super Advantage Act, particular the Super Advantage, which the Web porthole language was passed under, was higher paying jobs. What is your dollar cutoff for jobs in this, not including benefits? [LB918]

SENATOR HADLEY: I would ask that you ask the people who might come behind me. I do not know. [LB918]

SENATOR CORNETT: Okay. Sorry. Senator Adams. [LB918]

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SENATOR ADAMS: Senator Hadley, one of the complaints, and maybe you remember in your former life as a mayor, that we still I think currently hear from some municipalities is that their local option sales tax, if an LB or a Nebraska Advantage Act company decides to take sales tax credits, they're also taking the local option sales tax credits, leaving them short. Inherent in this, given that we're exempting personal property tax, there's going to be an impact on the local levels of government. Is it again the state giving away local tax dollars and creating the same situation we have with local sales tax? [LB918]

SENATOR HADLEY: Senator Adams, I think that argument could be made. I think the counter to that argument is that these do bring new jobs, new investment, new people to the communities which may offset that loss of property taxes, sales taxes, by having growth in the community in jobs, employment, real estate, and such as that. So I think that's the counter to that argument. And as far as I know, the problem is always measuring that. Because on one hand we know exactly what the loss is, but it's sometimes hard to quantify or we don't take the time to quantify the gain of maybe picking up 50 or 100 jobs in a community. [LB918]

SENATOR ADAMS: Fair enough. [LB918]

SENATOR CORNETT: Seeing no further questions, thank you. [LB918]

SENATOR HADLEY: Thank you, Senator Cornett. [LB918]

CHAD DENTON: Good afternoon. How are you? Thank you for the opportunity to be in front of you today. My name is Chad Denton, C-h-a-d D-e-n-t-o-n. I'm here speaking on behalf of the Nebraska Chamber of Commerce and Industry, the Nebraska Economic Developers Association, and the Lincoln Chamber of Commerce in support of LB918. About me, I'm a board member for the Nebraska Chamber. My occupation is in economic development. I travel around the United States doing economic development work with the offices in Omaha, Nebraska, and Cleveland, Ohio. I was active in the process in 2005 that created LB312. I have not been involved in the amendment, the actual LB918. But after reading LB918, I understand and support the issues identified within the bill. So with multiple testimonies today, my goal is to briefly address the principal areas of the amendment as we see it. The first is the technology service. And it's not my plan to reiterate but maybe reinforce some of the things that were just said. Software development and software licensing have become the crucial issues, and what's happened is it's our position that clarity is needed within the statutes so that a company that is defined as something that already qualifies within the statutes, that because...with Nebraska employment, and they're doing this at a Nebraska location, that those companies don't be excluded from the program because of what's happened with technology. So in my mind, we have a qualified activity that has never changed.

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They're developing software, they're licensing software, but the mode of distribution, how you buy the software and how you now use it has changed because of technology. To illustrate the issue, if I buy software, either individually or through my company, I can purchase it by disk through the company. They can send me the disk. Or I can purchase it at Best Buy or another retail. I'm buying a purchased disk. Or I can be on the Internet and I could purchase the software and download that entire program and never take physical possession except what's been transmitted into my computer and now I use the software. I hit a button that said I accept, I agree, and I now become...I've purchased a license or I've purchased a product. Or in this cloud computing concept I can purchase the same software but maybe my computer isn't capable of running the software or maybe it's easier to have somebody else run that software or maybe it's cheaper to have somebody else run that software. I can buy the software, have 100 percent rights to that software, but now what happens is I'm sitting at my desk on my computer and, via the Internet, I type in my password and now I'm using the product, but I'm using it, I'm actually accessing it from Minnesota, from California, wherever that data center with my information may be. I purchased the software or licensed the software from the same Nebraska company that has Nebraska employment that is at a Nebraska location. All that changed was the users, how they purchased it and how they choose to use it. The only thing that changed then is the method of distribution. So we believe the targeted activities should qualify and I'd even pose the question if it was ever intended in the 2005 legislation to ever exclude this type of activity anyways. Could we have foreseen the distribution and how that occurred and how that's affected this software developer or the licensing of technology? The second principal item in LB918 is the data center and, because of the proliferation of the first issue and the cloud computing and everything else and the enabling factors of the Internet, using, transferring, backing up, storing data, there's so many uses of this data and how you can now transfer it, it's created a nationwide need for more data storage. These data centers attract a lot of investment, in my mind, a significant infrastructure that's hard to walk away from, high-paying jobs, and in some instances other businesses. In the previous testimony a company was brought up that went to Omaha and there were other businesses that were attracted because of that company going to Omaha. And the reality that data centers just...they provide services support for businesses throughout the country without regard to where the business location is. So a Nebraska business can support information, the flow of information for companies throughout the United States. We believe more data centers are inevitable and that Nebraska needs to remain competitive in that industry. Finally, and I'm almost there, wages, which is referred to as compensation, in my mind there are really two different issues to this. One is, how many credits will be earned because of compensation, because of that definition? But just as importantly and I think something that gets lost is you also must meet a mandatory minimum wage requirement in order to qualify. So a company can hire and have a new employee. They were hired in the year of application or afterward, so they're a new employee, but if they don't meet the wage requirement they're not going to qualify for benefits. The most simple example is if I have an employee or any business that's a

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qualified activity has an employee and they make \$30,000 gross wages. What happens in that equation is now I have 401(k), HSA cafeteria plan and now my wage might be \$25,000. Under the current statutes, we're using the \$25,000 to meet the minimum wage, and this is a very simple example, but we don't feel that \$25,000 is representative of the wages made by that employee, the compensation earned by that employee. What should that number be? Should it be gross or should it be something else? We feel that \$25,000 or whatever that number may be that came down on the pretax basis could jeopardize a company or a person qualifying for the levels. So in conclusion, really two of the three issues I believe represent the evolving nature of technology. One is I think software development, licensing of technology, a company that hasn't changed what they do but the transmission of that data has. The other one is an evolving industry of data centers that provides an opportunity for Nebraska. And the last one is taking a look at what compensation should be included in order to provide incentives to companies that are creating jobs. That's all I have. I appreciate the opportunity and be happy to discuss any questions that you might have. [LB918]

SENATOR CORNETT: I remember working with you in 2005, the Advantage Act. [LB918]

CHAD DENTON: Yeah. [LB918]

SENATOR CORNETT: The Super Advantage Act, 2008 I believe,... [LB918]

CHAD DENTON: Right. [LB918]

SENATOR CORNETT: ...you were not part of those negotiations but, as a part of the chamber and a board member, I assume you're familiar with it? [LB918]

CHAD DENTON: I'm familiar with it, but I have not worked with it with one company, nor was I involved in that process. [LB918]

SENATOR CORNETT: Okay, but you're familiar with what the intent was. [LB918]

CHAD DENTON: Somewhat. [LB918]

SENATOR CORNETT: Okay. I think that it went...we went over it a number of times that the intent was higher paying jobs or, you know, better jobs, and one of the things that was a source of negotiations for the Web porthole language was the minimum wage requirement in that. [LB918]

CHAD DENTON: Right. [LB918]

SENATOR CORNETT: And I think that it was very clear at the time that we were looking

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at what the minimum wage was excluding benefits. Now I can see why you'd want to maybe exclude some of the things you were referring to, pretax benefits,... [LB918]

CHAD DENTON: Right. [LB918]

SENATOR CORNETT: ...but healthcare? You want to lump that in as one of the benefits also? [LB918]

CHAD DENTON: I think it needs review and discussion on what that number should be, and that's what I believe. I don't know what should be in that number. I believe if it's \$25,000, that would be too low. I know the Nebraska Advantage Super Tier Act has been a number that has been extremely difficult when talking to companies about that level. [LB918]

SENATOR CORNETT: To meet. [LB918]

CHAD DENTON: To meet. [LB918]

SENATOR CORNETT: But I think the point of it at the time was to attract those higher jobs. But again, as I said that I can see the point, maybe some of the things that are pretax benefits... [LB918]

CHAD DENTON: Yes. [LB918]

SENATOR CORNETT: ...but some of the things that are lumped here in the definition are just benefits. They're not tax benefits, correct? [LB918]

CHAD DENTON: I agree. [LB918]

SENATOR CORNETT: Okay. Thank you. [LB918]

CHAD DENTON: Yeah. [LB918]

SENATOR CORNETT: Questions from the committee? Senator Utter. [LB918]

SENATOR UTTER: Mr. Denton, are you aware of some...of, in your consultant activities, are there companies waiting for somebody to provide some incentive for them to come and locate, or is this something that could happen in the next four or five years? How do you feel about when this could happen? [LB918]

CHAD DENTON: I feel that tax incentives always come into the fray and it is for new locations but it's also for existing locations and that there aren't many conversations that occur when you're talking about site selection that that is not one item on the list. There

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is an article of a magazine called Area Development that I just received yesterday that talks about when you're talking incentives, these types of incentives considered most important when making a location decision, these types of tax incentives get 50 percent billing. So it comes up often, is not always what convinces the companies to move, there are lots of other issues, but tax incentives always come up. [LB918]

SENATOR UTTER: I think the inference was made, and correct me if I'm wrong, that maybe, in your opinion, to attract not only this industry but maybe some other industries that we might have set the peg on the Super Advantage Act a little high from a salary standpoint? [LB918]

CHAD DENTON: The salary levels right now have made the Super Advantage tier almost impossible for the companies that I've discussed with. [LB918]

SENATOR UTTER: And I think maybe that...would you agree that that may be particularly even more important in rural Nebraska than it is in the metropolitan areas, to help us in the greater Nebraska area attract industry? [LB918]

CHAD DENTON: And that's the point I was trying to make with the lower salary. There are tiers and you must meet a minimum wage and then if you meet the next level it's one more percentage of credit. It's an issue here in the Super Advantage but it's an issue all across Nebraska for the various tiers. [LB918]

SENATOR UTTER: Looking at the fiscal...have you taken a look at the fiscal note on this? [LB918]

CHAD DENTON: I saw it this morning. [LB918]

SENATOR UTTER: Okay. So what's your...how do you feel about that? What...in terms of the...not only the expense standpoint but looking out in the '12-13 area as far as the fiscal note is concerned, which may be a time when we may really be scrambling for bucks,... [LB918]

CHAD DENTON: Right. [LB918]

SENATOR UTTER: ...do you think this is a longer term proposition than this or what's your...and I'm not asking you to second guess the Fiscal Office but I just, in terms of the General Fund implications here, if you could adjust the fiscal note would you...how would you adjust it? [LB918]

CHAD DENTON: When I read the fiscal note, I felt like maybe I understood why it was so low in the first three to four years, and that's because I felt like software development was always...and licensing of technology was in consideration back then and has that

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really adjusted the fiscal note that much? The data centers would provide a fiscal note later on because of the higher investment and the property tax-exemptions that could result, but those would be the two major adjustments I would see. [LB918]

SENATOR UTTER: Are you familiar with the data storage concept that former Senator Brown has proposed out at the Naval Ammunition Depot in Hastings in the... [LB918]

CHAD DENTON: I have data center clients, only one in Nebraska, and I do not know anything about the Kearney project itself. [LB918]

SENATOR UTTER: Thank you. [LB918]

SENATOR CORNETT: Seeing no further questions, thank you. [LB918]

CHAD DENTON: Okay. Thank you very much. [LB918]

SENATOR CORNETT: Next proponent? May I see the number of hands for the people supporting? [LB918]

JEAN BARTMAN: Good afternoon, Chairman Cornett and members of the Revenue Committee. My name is Jean Bartman, that's spelled J-e-a-n B-a-r-t-m-a-n, and I'm here to testify in favor of LB918 and I want to thank Senator Hadley for introducing this bill. My role here today is as a consultant in the credits and incentives arena for state and local taxes. I'm a CPA from Omaha. I'm with a national public accounting firm and have worked in the state tax arena for most of my career, 25-plus years. And in working very closely with both LB775 and, of course, LB312, I've gotten into very much the details of how the program is run and how the incentives work for my clients. And in looking at the proposed language of, you know, that what we're looking for as to what needs to be tweaked in the current LB312 environment, you know, I'm fully for it because I think it's really just a practical clarification of what we're trying to do anyway. And what I mean by that is that when the qualifying activity became cloudy in a couple of particular instances that maybe triggered this language change, it seemed very practical to me, once again. In other words, delivering software in a medium other than a tangible disk over the Internet is just really how business is being done today just simply because of the changing technology. So I see adding the language that clarifies that, transferring software over a medium that's more conducive to current technology, just seems practical to me in that it just includes the type of expenditure that I think we're trying to attract anyway. Secondly, also in looking a little closer at the language including data centers in tiers that bring in the kinds of companies that actually really are doing this kind of...this same kind of business even though it's not as large as the Super Advantage size, once again is contributing to economic benefit for the state. Also, in working with a number of other states, my comments here today are just to lend to the fact that this clarification of this type of medium is, you know, pops up in a number of

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contexts in a number of states, and it's just very much a trend that, you know, the statute language and how we viewed certain types of, you know, tangible personal property in prior years just needs to be clarified just simply because the technology has changed. So I just try to lend towards my observation of what's gone on in a number of states that, to me, this seems like just an extremely practical change to the language. I also notice that, you know, a personal property tax-exemption on this type of investment through the incentive program is also one, when I compare it to other states, seems like it's something that Nebraska should do simply because from a competitive standpoint. For instance, our neighboring state Iowa exempts from personal property taxes these types of servers and, you know, these types of capital investments. So I think that language addresses something that just makes us more competitive. And finally, if...to continue to attract new business to the state of Nebraska and the fact that the kinds of jobs and the kinds of business that, you know, the language of LB918 is attracting, it's really, in my estimation, will just benefit the state for the higher paying jobs and, you know, the kind of business that we're trying to attract here. I didn't want to reiterate, you know, what Chad had just shared with you, but from a technical perspective I do the same business and I think he articulated it well. With that, if there's any questions... [LB918]

SENATOR CORNETT: Seeing none, thank you. [LB918]

JEAN BARTMAN: Thanks. [LB918]

SENATOR CORNETT: Next proponent? [LB918]

TODD CUSHING: Good afternoon, Chairman Cornett and members of the Revenue Committee. My name is Todd Cushing, it's T-o-d-d C-u-s-h-i-n-g. And in his absence, I'd like to thank Senator Hadley for his introduction of this bill also. I'm a commercial broker. I am a 100 percent commission kind of guy. I represent Fortune companies. My background was I was a Fortune executive for a company out of Omaha that did business. I worked there for 28 years. Commercial real estate, I deal with CB Richard Ellis. I'm part of a technology practice group. There are 70 members in that group that do data center practitioner. I'm one of about six brokers worldwide that only do data center brokerage. I'm a technology broker. I work with companies as a tenant rep. I rep, I help them find locations and find sites. So when I do that, I look a lot at power cost, incentives, and reasons why they'd want to put a data center in an area. We look at natural disasters and things that would attract technology. In the top three would be probably incentives and cost. And I've had clients that I brought to Holt County, Binovia; I've had clients that I've taken out to Scottsbluff; and I'm very familiar with Prairie Bunkers. I'm working with Kearney on their technology park with Gensler Architects. I'm working with South Sioux City and their development, and I do a lot of work in Omaha. But most of the work I do, I do out of state, so most of my living is not made here. I'm very familiar with LB775 from my days as an executive, but as I look at what we're

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accomplishing here with this legislative bill, the change is the inclusion of the tier 4, to have data centers and the ability to expand that so we can offer it. It was pretty focused before. As we'd look through the different tier levels as to what was available to a client, they're used to seeing state incentives, county incentives, local city, and maybe a foundation, as some folks would do in maybe San Antonio. That's how they would attract. So we show them, hey, we've got cheap power in Nebraska. Then they say, well, what else? And we can show them cheap power in a lot of places and we talk about, well, what about incentives? And so then we talk about Nebraska incentives and we start to compare it to areas like Kings Mountain just north and west of Charlotte, which Apple just decided to put their data center there. We'll look at San Antonio, another hot spot. Microsoft's data center is down there. I've got a building right next to that that I'm trying to help somebody out with. It's 150,000 feet. Their ability to adjust personal property, their ability to adjust sales tax for a project is very competitive. So Nebraska would end up in the finalist list but we just aren't sinking the putts that we need to sink to be productive and really sink those deals and make them happen. So typically for me, it's the incentives, the ability to really show them why Nebraska did have a Super Advantage. We're a technology company. We're showing at all the right trade shows. We've got great people and I would say with Tim O'Brien and the group with NPPD that represent us. But when I look at the existing document, it's not quite perfect yet. There's some stuff in there that I have found to be...where we're talking about rented equipment exclusions, well, most data centers lease their hardware. And so when they lease their hardware because they don't want to go back to the mill every two or three years to have it requalified, they just let the lease run out and they renew it. So right now it says, hey, rented hardware is not in it, so it's not perfect but it's a huge up from where we were relative to a competitive nature. So with that said, I could rattle on about technology all day, I'll take any questions you've got or answer anything you'd like to ask. [LB918]

SENATOR CORNETT: Seeing no questions, thank you. [LB918]

TODD CUSHING: I'm sorry? [LB918]

SENATOR CORNETT: Or, Senator Pirsch, did you have a question? [LB918]

SENATOR PIRSCH: You currently help or represent some of these data centers, is that right, in locating... [LB918]

TODD CUSHING: I'm a tenant rep for clients. So typically today, if somebody is looking for data center properties, then I would help them find the property. So as an example, most of the companies that are in Omaha, that are a large company or technology companies, I'd help them find data centers and do national searches, so I compare Omaha to other places. I do international work. I'm doing projects in Germany or Toronto, other places right now. I've got Omaha companies that I'm showing an Omaha

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product to, but these are...some of these companies are Fortune companies or bigger companies so they will ask me to look competitively other places. I'm also in a case where I've got a large Indian company that has a presence in Omaha and they've got a large data center. We're looking at a \$25 million project right now. And when I look at the incentives here and I stack up power and everything against that deal and compare it to, frankly, Kings Mountain, San Antonio and some other locations in West Virginia and Washington, it gets pretty competitive pretty fast. So that's what I do, is help them look at the options, kind of build a matrix for them, and show them what works. At the end of the day, I'm a commercial broker. [LB918]

SENATOR PIRSCH: Very good. Well, thank you for clarifying that. [LB918]

TODD CUSHING: Sure. [LB918]

SENATOR PIRSCH: No other questions. [LB918]

SENATOR CORNETT: Thank you very much. [LB918]

TODD CUSHING: Okay. Thank you. [LB918]

SENATOR CORNETT: Next proponent? [LB918]

PHILLIP PHILLIPS: (Exhibit 5) Thank you very much, Chairman Cornett, and to the other members of the committee. I appreciate this opportunity to come here and speak in behalf of LB918. My name is Phillip Phillips, really is. That's P-h-i-l-l-i-p P-h-i-l-l-i-p-s. I'm director of business retention and expansion for the Greater Omaha Chamber of Commerce. In that function, I work primarily with local businesses but also with other firms that are considering expansions or contractions in the Omaha area, and have a good view of what's been happening in the technology world. Before joining the Omaha Chamber, I worked for the University of Illinois doing technology transfer work, and with a site selection firm in Chicago doing general site selection. One of the nice things about being the latter presenter is that so much of what I was going to say has already been said and said much more eloquently by Senator Hadley and the other presenters. I think we've all heard that the world of technology has changed and we see it go through various incarnations. About 30 years ago, we saw the switch from mainframe-based computing to distributed computing and everyone wanted all the applications on their computer on their desk. And now we're seeing a migration back to the idea that your terminal on your desk is just accessing much wider databases and much more sophisticated programs than you could have personally. It was interesting that on the way over here I was listening to the radio and heard a commercial for TurboTax, I think it was, that they would do, if you were doing one of the EZ forms, they'd do your tax software for free and you could just access the program over the Internet. It's a whole new world in terms of software. So the things that we have seen in

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our experience in dealing with companies show us that software is now a service, not a product, and really should not be viewed as something that has to come in a physical form, shrink-wrapped in a little folder. That's not going to happen much in the future. And it's a very anachronistic concept to expect that a company is going to have all of its servers and all of the equipment which distributes that software necessarily in Nebraska. If a company has the investment in Nebraska to qualify for Nebraska incentives and if they have the employment in Nebraska, they should be eligible for Nebraska Advantage even if the particular server that distributes that software over the Web is located somewhere else. For example, if you access Google, I can guarantee you, you have no idea where the server was that you accessed, and probably you weren't concerned about that. The important thing is the jobs and the intellectual capital that are created by the firm. Saying that you have to have the software distributed from Nebraska is kind of like saying that a trucking company wouldn't be eligible if the gasoline in their trucks came from some other state. That's their raw material. The Web accesses the raw material for the technology companies. I asked to have a letter distributed from a company called WebEquity Solutions, which is a company that Chad and I both worked with, a company which chose to locate in Omaha. I think it is worth taking a few seconds to tell the story here which puts some flesh on some of the kind of hypothetical things we've talked about in terms of companies that might come to Nebraska. About a year and a half ago, we first met with a company called WebEquity Solutions, which was located in Oakland, Iowa; had about 37 employees at that time. A new management team had just taken over and they were interested in moving the company to a larger community and growing that company, and they were very fortunate because the nature of their software is that it evaluates the quality of mortgages; probably a good field to be in right now. We worked with that company and they had a lot of offers and a lot of reasons to move elsewhere. The investor who purchased the company was from Minneapolis, which is a center of technology. Silicon Valley, the Research Triangle area, all of those areas offered advantages, but the company chose to move to Omaha. One of the things that was a factor in their consideration was the availability of incentives, but they discovered, as they had applied for incentives, that there were questions about their availability that they had not anticipated. And I've got to quote pretty directly the kind of things that people say and other clients have said. They say: We plan to invest \$10 million, we plan to hire 100 people, the average salary is \$60,000; what is the reason that the state of Nebraska is quibbling about whether or not we should be an eligible company? And I think actually what we're trying to get to here is away from minutia and semantic differentials in terms of definitions and to the basic thrust of the legislation in Nebraska Advantage and in LB775, which was to encourage technology companies to locate and grow in Nebraska. As Doug McGregor said in his letter, their company very seriously considered leaving Nebraska because they looked like they weren't going to receive any incentives. That company had 37 employees when they moved here. Their goal was to grow to about 100 employees. They're well on their way now to doing that. And if you think of the gap that would be left by 100 \$60,000-a-year jobs in the Nebraska economy, it becomes

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evident how much this could mean. It is very difficult. We don't know the opportunities we've missed because we don't have incentives, and we don't know the opportunities that haven't happened yet, but I think we all know that we have missed opportunities and we'll miss more in the future. So for that reason, I hope that the committee will move forward with LB918 and would entertain any questions that you might have. [LB918]

SENATOR CORNETT: Yes, I just want to be clear on this. I've read the letter here. [LB918]

PHILLIP PHILLIPS: Uh-huh. [LB918]

SENATOR CORNETT: The Tax Administrator is currently allowing WebEquity to qualify for the...is it Advantage Act or Super Advantage Act? Which...? [LB918]

PHILLIP PHILLIPS: It's Nebraska Advantage. They're not... [LB918]

SENATOR CORNETT: Nebraska Advantage Act. You're meeting those minimum wage requirements. I believe your letter says you pay two to three times the average salary. [LB918]

PHILLIP PHILLIPS: Yeah, their average wage would be \$60,000 to \$70,000 a year. [LB918]

SENATOR CORNETT: So basically, you just...you agree or...that the language in regards to technology needs to be cleaned up, correct? [LB918]

PHILLIP PHILLIPS: Right, because though the company eventually was qualified, this required about an eight-month process. They had to hire a lot of accountants and a lot of lawyers and basically try and find ways to find aspects of their operation that might qualify under other aspects. Now we should make it straightforward that technology is qualified, that you're not going to have to come here and argue for eight months to get a bill. [LB918]

SENATOR CORNETT: And I agree with that. [LB918]

PHILLIP PHILLIPS: Thank you. [LB918]

SENATOR CORNETT: I don't have a problem with that aspect. My problem that I'm going to have to work out is the wages, withholding, benefits aspect of it. [LB918]

PHILLIP PHILLIPS: Oh, that aspect of the bill? [LB918]

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SENATOR CORNETT: And but your client here has met all of those. That wasn't part of the difficulty. [LB918]

PHILLIP PHILLIPS: Oh yeah, this client, the only reason they would not have been a tier 6 is that... [LB918]

SENATOR CORNETT: Just the language. [LB918]

PHILLIP PHILLIPS: ...their number of employees would not reach the employee threshold. [LB918]

SENATOR CORNETT: Okay. Thank you very much. Questions from the committee? Seeing none, thank... [LB918]

PHILLIP PHILLIPS: Just... [LB918]

SENATOR CORNETT: Oh, go ahead. [LB918]

PHILLIP PHILLIPS: ...you know, in terms, I think it's been more or less covered. When I get a statement at the end of the year from the chamber of commerce, it talks about my total compensation and they talk about what they've contributed to the 401(k) and everything else. And we can discuss exactly what should be included or not included. We shouldn't be penalizing companies for having generous fringe benefits because what our incentive policy is saying now is that if you give something as a fringe benefit, it's not going to count for incentives. [LB918]

SENATOR CORNETT: Let me ask you a question. Fringe benefits, yes, I can...I, like I said earlier, I can see... [LB918]

PHILLIP PHILLIPS: Yeah. [LB918]

SENATOR CORNETT: ...maybe looking at that,... [LB918]

PHILLIP PHILLIPS: Uh-huh. [LB918]

SENATOR CORNETT: ...pretax dollars, things like that, but you...healthcare is not considered a fringe benefit anymore, is it? [LB918]

PHILLIP PHILLIPS: Yeah, it's a fringe benefit and there's a portion which is paid by the company. [LB918]

SENATOR CORNETT: Paid for, company. [LB918]

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PHILLIP PHILLIPS: So what the company is paying, you know, clearly is an expense out of their pocket and they shouldn't be penalized for paying an employee through healthcare rather than giving the employee money directly in their paycheck. And the way the incentive is written, they might not qualify because they paid the employee, they gave the compensation in a noncash form. [LB918]

SENATOR CORNETT: Okay. Thank you. [LB918]

PHILLIP PHILLIPS: Okay. [LB918]

SENATOR CORNETT: Any further proponents? How many further proponents are there? I'm going to limit testimony to five minutes. [LB918]

SUZANNE BRODINE: (Exhibit 6) Good afternoon. My name is Suzanne Brodine, S-u-z-a-n-n-e B-r-o-d-i-n-e, and I'm here today representing the city of Kearney. The city of Kearney supports LB918 to provide incentives for data centers and technology-based businesses through the Nebraska Advantage Act. In September 2009, Governor Heineman announced Kearney as one of the three premier sites in the state to be developed and marketed for data centers. Kearney is working in cooperation with Department of Economic Development to strategically place Kearney to attract new technology investment. Using matched grant funds from DED, Kearney has hired consultants to assist in the planning process: Gensler Architects, Hewlett-Packard, CMX, SCORE Marketing, and CB Richard Ellis. Buffalo County and the city of Kearney have obligated over \$3 million to construct infrastructure to serve Kearney's new Technology Park. By July 1, 2010, this infrastructure will be completed. More than \$1 million of additional local and state funds have also been committed for future projects at the site. The jobs that are created when Nebraska secures this type of industry are skilled and well-paid. In addition, state and local communities have an opportunity to reap significant positive fiscal results through increased property values and additional sales and income taxes. I would like to point out that Kearney's Technology Park is not within the city limits. The city of Kearney will not receive any property tax benefits from this. We support this project because of the type of jobs that it will attract to our community and because of the increased sales tax we expect to see from the workers, the employees at those facilities. The perceived technology-based industry and business is a step in the right direction for Kearney and Nebraska, a step toward creating good jobs, expanding our revenue base, and broadening and strengthening our economy. LB918 will establish the incentives necessary to make the Kearney Technology Park and other projects like it across the state successful. The city of Kearney does support LB918. Thank you. Do you have any questions? [LB918]

SENATOR CORNETT: Seeing none, thank you. Are there any further proponents? Are there any opponents? Is there anyone here to testify in a neutral capacity? Senator. [LB918]

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SENATOR HADLEY: I have an hour and a half closing, but I'll waive it. [LB918]

SENATOR CORNETT: (Laugh) That's even better than flattery. Senator Howard, you are... [LB918]

SENATOR UTTER: That's too bad. I really wanted to ask him a question or two. [LB918]

SENATOR CORNETT: Oh, he didn't to close. Just, we'll do it...oh, okay. (Laugh) Senator Howard, you are welcome to open on LB897. [LB897]

SENATOR HOWARD: (Exhibits 7 and 8) Thank you, Senator Cornett and members of the committee. We'll keep this moving right along. For the record, my name is Senator Gwen Howard and I represent District 9. I appreciate the opportunity to present LB897 for your consideration. I'm introducing LB897 to relieve some of the tax burden on seniors and disabled citizens of moderate means. This bill grew out of a conversation with a constituent about how to help seniors in these tough economic times. LB897 would do that by adding \$5,000 to the current income limits in the Nebraska homestead exemption. Currently, persons over age 65 with certain disabilities or certain disabled veterans and their widows receive a break on their property taxes. The extent of that exception depends on their household income. Right now, an individual who is otherwise qualified for the homestead exemption only receives a full exemption if he or she makes under \$24,800.99 after deducting for medical expenses. For a married couple, the income limit is \$29,100.99. Those individuals who make \$31,301 or couples making over \$36,801 are not eligible for the exemption. Between those limits, there are several levels of eligibility for a percentage of the exemption. LB897 would increase those eligibility limits by \$5,000. According to the estimates from the Department of Revenue, 2,300 people applied for the homestead exemption and did not qualify because their income was between \$100 and \$5,000 over the income limit. Likely, more did not apply because they knew they would not qualify. The department also estimated the average amount of medical expenses for 2009 for these individuals is roughly over \$6,000 per year. LB897 is a simple idea--increase the homestead exemption. It's a modest increase that will provide assistance to seniors and disabled Nebraskans. Having said that, (laugh) I realize that the size of the fiscal note is pretty hefty. I just have to be honest with you. What I hope to do is have LB897 start a dialogue about how we can assist the aging and the disabled with the challenges they face in this economy. Thanks for your time and your attention, and it's nice to come in here. I haven't been in Revenue for a few years, so thank you. [LB897]

SENATOR CORNETT: I was going to say I don't think I've seen you since contractor registration. [LB897]

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SENATOR HOWARD: Exactly. You remember that? (Laughter) [LB897]

SENATOR CORNETT: I'm not like... [LB897]

SENATOR HOWARD: And we were successful. (Laugh) [LB897]

SENATOR CORNETT: I was going to say I'm not likely to forget it. (Laugh) Questions from the committee? Seeing none,... [LB897]

SENATOR HOWARD: Thank you. [LB897]

SENATOR CORNETT: ...will you stay for closing or are you waiving? [LB897]

SENATOR HOWARD: I will. [LB897]

SENATOR CORNETT: Okay. [LB897]

SENATOR HOWARD: I will. I was over in Natural Resources earlier but we're good now. [LB897]

MIKE GOODWILLIE: Good afternoon, Senator Cornett, members of the committee. My name is Mike, M-i-k-e, Goodwillie, G-o-o-d-w-i-l-l-i-e. I am the deputy Douglas County Assessor and am testifying in support of LB897. When Senator Howard's office called us and said she had a constituent who had some interest or had expressed some questions about how to perhaps make the homestead program a little bit more accessible to seniors of moderate means, we talked about a number of things and ultimately the discussion centered on the income eligibility limitations rather than valuation amounts. Currently, to be eligible from a valuation standpoint, you can own a home up to 200 percent, if you're over 65, of the average value of a residential...single-family residential property in your county. In Douglas at least that's in the neighborhood of \$300,000, so it didn't seem like the goals of a homestead exemption program, which is to help moderate people stay in their homes, would be advanced if you increased those eligibility limits. So on the other hand, you look at the income limits and revenue adjust them statutorily for inflation every year. But Senator Howard had it right. If you are a single senior, for a full exemption you can earn no more than \$24,800; for married, filing joint, it's \$29,100; for disabled individuals and disabled veterans it's a little bit more. But in this day and age, those amounts are not particularly large. I mean I don't think seniors get a break when they fill their gas tank or go to the grocery store. In light of the fiscal note and in light of the discussion about the senior pension bill, I don't think it's probably appropriate for us to ask you to try and strap another 16 million bucks on the General Fund. But that said, I would echo Senator Howard's sentiment that perhaps if economic times change this may be one thing to look at, because I think the goal of the program is good and that is, you know, we're not

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trying to benefit retired CEOs, we're not trying to benefit, you know, Warren Buffett. We're looking at people that don't own relatively expensive houses. The full exemption can cap, it caps out at no more than 100 percent of the average value of a residential home in that particular county, and these income amounts are not huge. So I guess what I would ask, in support of this bill, is to keep this in mind when things economically perhaps turn around because I think there's a population out there that would certainly benefit from an increase in the income limits. And with that, I would entertain any questions that you might happen to have. [LB897]

SENATOR CORNETT: Seeing none, Mr. Goodwillie, you've become a fixture here. [LB897]

MARK GOODWILLIE: Thank you. What's that? [LB897]

SENATOR CORNETT: I said you're becoming a fixture in... [LB897]

MIKE GOODWILLIE: I have spent a lot of time down here this week, not entirely pleasant, not entirely unpleasant. [LB897]

MARK INTERMILL: (Exhibit 9) Senator Cornett, members of the committee, my name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today representing AARP. As in the previous bill that I was before you, this is something that we would really like to support. We are very fond of the homestead exemption program because it does help older people address one of their top costs or one of their top concerns. We have also found that there are a number of people who we think are really struggling. We know they're struggling with their property taxes that don't quite qualify, and this bill would have helped them to do that. So in a normal year, we would have been actively and enthusiastically in support of this bill, but we do recognize the fiscal constraints that we have. So I guess the one thing that I would ask you, though, what we have seen over the last 10 or 12 years is that there has been a tax shift to residential property in the state of Nebraska, and that's where the people who benefit from a homestead exemption, that's where they pay their taxes. So my request of the committee would be to, as you look at different things that come before you that might continue that shift, to keep the older citizens of the state in mind and try to make sure that we minimize those tax shifts as much as possible. Be happy to answer questions, if there are any. [LB897]

SENATOR CORNETT: Senator Utter. [LB897]

SENATOR UTTER: Thank you, Senator Cornett. Mark, where is the beginning and where is the end, as you see it, in terms of how far can we go with these tax-exemptions that go from homestead exemption to exempting retirement income? And I guess I'm kind of wondering where the end is. [LB897]

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MARK INTERMILL: Uh-huh, and I... [LB897]

SENATOR UTTER: And what responsibility do citizens, regardless of age, have to support their government? [LB897]

MARK INTERMILL: If I were sitting in your chairs, the thing that I...and also I'm going to include some AARP philosophy here, we really want to make sure that we focus any tax relief to those who are least able to afford taxation. I think the homestead exemption is an example of a program that does that. Whether or not it quite reaches everybody who could...really needs the relief is another question. I think anything that we would do, either in homestead exemption or income tax relief, needs to be tremendously targeted. So that's what I would say would be the...that we need to make sure that the tax relief is going to those who really need the assistance. [LB897]

SENATOR UTTER: Thank you. [LB897]

SENATOR CORNETT: Senator Hadley. [LB897]

SENATOR HADLEY: Senator Cornett. Mark, I literally had the same question that Senator Utter had and just asking it a little different way, have we done enough in the income tax realm to help lower income people? Because you have to be a homeowner to get the exemption, whereas we have people in apartments and those kinds of things. So I just worry about the lower end income. [LB897]

MARK INTERMILL: Yeah. In an ideal world, we would...I would also like to discuss homestead exemptions for renters because, in effect, they do pay property taxes through their rent, and a lot of other states do have...essentially extend that to renters. I think with the income tax issue, it's...the Social Security issue is the one that I think needs to be...have the closest attention because those thresholds were set in 1984, the \$24,000, and the \$24,000 in 1984 is a lot different than \$24,000 today. If you look at \$24,000 in 1984 is equivalent to about...or \$24,000 today is equivalent to about \$11,000 in 1984, so that's the level that Social Security taxation occurs, again focusing on those folks that are least able to afford the taxation. [LB897]

SENATOR HADLEY: Thank you, Mark, very much. Thank you for testifying. [LB897]

MARK INTERMILL: Sure. [LB897]

SENATOR CORNETT: No further questions. Thank you. [LB897]

MARK INTERMILL: Thank you. [LB897]

SENATOR CORNETT: Any further proponents? Are there any opponents? Anyone in a

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neutral capacity? Senator Howard, do you wish to close? [LB897]

SENATOR HOWARD: Sure. I'll just make this really brief. I don't envy you with your...(laugh) have people forever coming in wanting a little relief from something or other. LB897 would increase the current homestead exemption by \$5,000. Passage of LB897 would make more Nebraskans eligible for this exemption, providing tax relief to seniors and the disabled. My interest in this has always been keeping people in their own homes, not having them leave. Nobody wants to do that. I hope we can look at this together in the future in better times because I think we'll all remain here. Thank you. [LB897]

SENATOR CORNETT: Thank you, Senator Howard. That ends the hearings for today. [LB897]