[LB327 LB532 LB573 LB626]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 8, 2013, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB626, LB532, LB573, and LB327. Senators present: Galen Hadley, Chairperson; Paul Schumacher, Vice Chairperson; Tom Hansen; Burke Harr; Beau McCoy; Pete Pirsch; and Kate Sullivan. Senators absent: Charlie Janssen.

SENATOR SCHUMACHER: This will convene the hearings today, on February 8, before the Revenue Committee. Senator Hadley will not be with us today. He's working on workmen's comp claim from yesterday or something. (Laughter) I'm the Vice Chair of the committee. My name is Paul Schumacher, from District 22; Senator Pirsch from Omaha; Senator Sullivan from Cedar Rapids; Senator Burke Harr from Omaha on my extreme right; Senator Janssen will be joining us later; Senator McCoy from Omaha; next to him is Senator Hansen from North Platte. Our committee counsel is Mary Jane Egr Edson. And Bill Lock is not here today. Matt Rathje is our committee clerk. And our pages are...

EVAN SCHMEITS: Evan.

SENATOR SCHUMACHER: Evan Schmeits. And I don't think Nate is here today.

MATT RATHJE: Yeah, the other one is not here.

SENATOR SCHUMACHER: Okay. We'd like to remind you to turn off your cell phones or put them on vibrate while in the hearing room so that we can proceed without them disrupting the tape recording devices. Sign-in sheets for testifiers are on the tables by both doors and need to be completed by everyone who wants to testify. If you are testifying on more than one bill, you will need to submit a separate sheet for each bill. Please print and complete the form prior to your testimony. When you come up to testify, hand your testifier sheet to the committee clerk. There are also clipboards in the back of the room to sign if you do not wish to testify but would like to indicate your support or opposition to a particular bill. These sheets will be included in the official record. The agenda will be altered just slightly today. Senator Conrad has got two bills, and so we will take up LB532 right after LB626 so she can get back to pressing business. And the introducer will first speak and followed by the proponents, the opponents, and neutral testimony. Only the introducer will have an opportunity for closing remarks. When you begin your testimony, state your name and please spell it for the record. If you have any handouts, please bring ten copies to the committee and staff. If, for some reason, you don't have ten copies, we can make copies for you. Give the handouts to the page to circulate among the committee members. And the hour being here, Senator Conrad, welcome to the Revenue Committee on LB626. [LB626]

SENATOR CONRAD: Thank you. Thank you. Senator Schumacher, members of the committee, my name is Danielle Conrad. That's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. As you know, I represent the "Fighting 46" Legislative District, and I am here today to introduce LB626. LB626 eliminates an income tax reduction for extraordinary dividends and certain capital gains and repeals Section 77-2715.08 and 77-2715.09. The special capital gains exclusion was passed as part of our financial incentive package given to Nebraska's business community in 1987 as part of discussion surrounding LB775 to entice highly compensated officers and employees to remain and/or relocate to Nebraska and to protect business owners from paying any tax on the increased value of the stock if their company is sold. The exclusion has cost the state approximately $30 million per year since 1988, or approximately $450 million since its inception, almost half a billion dollars. To put that in perspective, what would that mean? What would an extra $60 million pay for in a biennium budget as represented in this legislation? Well, Senator Sullivan, I see you sitting there, and I know that your committee and the Appropriations Committee, my committee, have been working very hard and talking about our state's critical obligations regarding educational funding. Sixty million dollars is more than enough funds for a biennium increase of over 2 percent in TEEOSA. Right now, we're talking about a 5 percent or a 7 percent difference in that regard, at least at these preliminary stages. That would require that 2 percent difference, about $50 million, so legislation like this could easily cover that. Sixty million dollars in a biennial budget would more than support a 4.5 percent increase to provider rates across the state of Nebraska, our critical partners all across this great state who provide for child welfare needs, for healthcare needs, for citizens with developmental disabilities. The list goes on and on and on. Sixty million dollars would pay for...more than fund the state's portion, which is currently at about $48 million, of those in need of services on the developmentally disabled waiting list, which right now has about 2,207...thousand Nebraskans who are waiting for basic services that our state can't provide at the current point in time. Those are just a few examples of what these funds could be used for. I introduced LB626 because I believe it's important to discuss where our tax dollars are going and to shed the light on some of the exemptions that many Nebraskans might not be aware of. And there is no surprise to anybody that taxes are a huge topic for conversation around the Capitol this session. I commend Governor Heineman for his leadership in starting the dialogue. But I firmly believe that if we're going to be talking about taxes we should be talking about everybody's taxes. This is one vehicle to do that. I'd be happy to entertain any questions. [LB626]

SENATOR SCHUMACHER: Thank you, Senator Conrad. [LB626]

SENATOR CONRAD: I do understand that it is "No Question Friday," though. (Laughter) That's what I've heard. [LB626]

SENATOR SCHUMACHER: Well, we can reconvene at 10:30 tonight. [LB626]

SENATOR CONRAD: Okay. (Laughter) No, thank you. [LB626]

SENATOR SCHUMACHER: Any questions? Senator Sullivan. [LB626]

SENATOR SULLIVAN: Thank you, Senator Schumacher, and thank you, Senator Conrad. Do you have any idea in your research whether or not this legislation achieved what it was originally intended? [LB626]

SENATOR CONRAD: I don't know off the top of my head, and I'm hopeful that this legislation will help to shed some light on that fact. I think it's been a long time since we've had an opportunity to examine whether or not the underlying public policy objectives that were anticipated in this legislation have been met. I am guessing there will be some folks behind me on both sides to offer their opinions about whether or not this has met our state's needs in regards to its original underpinnings. But I think that without legislation like this we wouldn't even be able to ask the questions. And these are questions that we're just starting to learn more about and think more about now, and here we are at 2013. Has it worked? Maybe so. Has it also contributed to a structural imbalance regarding state revenues and state obligations? I think, probably, yes. [LB626]

SENATOR SULLIVAN: What's your gut-level feeling that this sort of advantage...you think it really would entice somebody to stay? [LB626]

SENATOR CONRAD: I would have my doubts, but then again I understand that it was part of a larger package that was negotiated far beyond...before our time in the Legislature. And I also think that the more important question to ask about its impact on the very small set of Nebraskans that it does benefit would be: Is it a good value for the Nebraska taxpayer? We're foregoing a significant amount of revenue to benefit a very small group of Nebraskans. And I think that my contention is that we should ask that question: Is it a good value? [LB626]

SENATOR SULLIVAN: Thank you. [LB626]

SENATOR SCHUMACHER: Senator Pirsch. [LB626]

SENATOR PIRSCH: I don't want to blow "No Question Friday," but I think that might have been done, so I might as well. So with respect to...do you have an idea of the number, just in general terms, of...does the officers and employees...you said that there was a small group or a set. Do you know, roughly, number-wise, what that is? [LB626]

SENATOR CONRAD: You know, Senator Pirsch, I don't know if we have a specific number. But there are some assumptions in the fiscal analysis based upon past years and revenue receipts and otherwise where I think that you could draw some conclusions. I don't see a specific number identified in the fiscal analysis, but I'd be happy to get that information for you if I'm just missing it at first glance. [LB626]

SENATOR PIRSCH: Okay, thank you very much for your question, yeah. [LB626]

SENATOR SCHUMACHER: Any other questions from the committee? Hmm, I can't give up...turn down the temptation. (Laughter) I have a couple of... [LB626]

SENATOR CONRAD: I'd expect nothing otherwise, Senator Schumacher. [LB626]

SENATOR SCHUMACHER: Okay, well, I'll put my Republican hat on today. (Laugh) The capital gains and extraordinary dividends that this is addressing are only those that are taken in by someone who is an employee of the corporation or while employed by the corporation. The average citizen who might buy some stock and have a capital gain or get a dividend is not covered by this. [LB626]

SENATOR CONRAD: That's right. [LB626]

SENATOR SCHUMACHER: At the same time, that corporate dollar that is earned at the corporate level, if it's a Class C corporation, pays 34 percent on the income tax for...on a dollar profit. It pays 7-point-something percent to the state. Pass through to the taxpayer. It...the taxpayer will pay income tax at, I think, about 15 percent at the federal level. And, since we don't generally give people special treatment for dividends, except maybe in this particular case, another 6 percent. And add up all that, that dollar earned by a corporation is 60 to 70 percent taxed. Do you see any problem with that issue, in fact, that we shouldn't extend this exemption out to all earners of corporate income to avoid the double taxation? [LB626]

SENATOR CONRAD: Senator, thank you for your question. At the outset, I think you note there are some inequities in terms of who this special tax status or treatment is afforded to. It's not widely available, and I think that's a more interesting question, rather than looking at how our current system works. But I do think that when you look to other areas, for example, that regardless of whether or not this specific provision remains on the books or would be extended or otherwise, Nebraska has a very strong ranking and reputation as a business-friendly state and...under our current tax system. And so I think that, overall, those questions should be asked. And I may not have the right answer today. [LB626]

SENATOR SCHUMACHER: Well, you know, we have been asked to take a look at tax policy in this state and to come up with something that might be better if there is anything better. [LB626]

SENATOR CONRAD: That's right. [LB626]

SENATOR SCHUMACHER: So one of the issues involved in that--and this brings up that topic, and it may need to be addressed in the context of a broader tax policy that will come down sometime in the future, but--is how do we treat corporate dividends, double taxation of corporate income, how do we treat capital gains. And so your comments and your thoughts are really appreciated and needed in this discussion. [LB626]

SENATOR CONRAD: Thank you, Senator. And the last point I would just make is that, in looking at the historical context for this provision of law--which was negotiated as part of LB775, which I think everybody agrees that that's an accurate description--as this body well knows, we've taken on considerable work over our tenure in the Legislature to modernize and evolve those tax incentive programs into the Nebraska Advantage Act and Super Advantage Act and have worked very diligently to frequently take a look at and update our economic development programs. Well, we haven't taken the same careful eye to this component that was part of those original negotiations. And so it may be lagging a little bit, but I do think it is fair game. And as we are all committed to having a comprehensive dialogue about our revenue infrastructure in Nebraska, I think that it should be one part of the discussion. [LB626]

SENATOR SCHUMACHER: Any other questions? [LB626]

SENATOR CONRAD: Well, I imagine my brevity will be well rewarded. So with that I will turn it over to testifiers, pro and con, and am interested to hear the discussion myself. Thank you, Senators. [LB626]

SENATOR SCHUMACHER: Thank you, Senator. Proponents. Any proponents? I thought I was the only one that had no one show up to (laugh) support my bills. Opponents. [LB626]

JOHN CEDERBERG: Good afternoon again. You know, I kidded Bill Lock out in the hall that I thought that these hearings were scheduled to test how many suits I owned. (Laughter) I'm John Cederberg, J-o-h-n C-e-d-e-r-b-e-r-g. I will be brief, as I didn't bring written testimony to hand out. My points will be few and easy to remember. I am here this afternoon, again, on behalf of the Nebraska Chamber of Commerce and Industry and also on behalf of the Lincoln Chamber of Commerce. And then I do have a second function that I'm certainly willing to fill here if you don't choose to follow the "No Question Friday" and want to ask about the history of this provision because I helped write it back in 1987 and then was very deeply involved again in 2007 when we added the dividend provision. And so if any of the members would like to discuss with me the history of either of those provisions, I'm certainly willing to do that. Both the State Chamber and the Lincoln Chamber have strongly supported this capital gain exclusion since it was first done in 1987, and both chambers supported the extraordinary dividend addition in 2007. I just would...back in the '80s I was, from time to time, a very unprofitable partner at Touche Ross because I was over here, not getting paid, but...or Touche not getting paid. But in my practice, the routine issue that we were facing, particularly in the Omaha office, was that...was the following scenario. Executives had been...senior executives in the Fortune 500 companies that Omaha is so blessed to have, they were approaching retirement age. They had exercised many stock options over the years and then, you know, very short period of time between exercising their options and selling off then the stock in their employer. And sometimes they didn't sell it all, but starting to sell off the stock in their employer. They would move. Arizona was a particularly popular place in those days because many of them already had separate homes in Arizona. And at that time Arizona had a fresh-start basis or a...now I believe that has since been repealed. I cannot locate it anymore. But at that time they had a fresh-start-basis rule which meant that your income tax basis in the state of Arizona in any asset was equal to its fair-market value on the date that you became a resident. Well, if you became a resident and almost immediately sold the asset, your basis was fair market value and you had no gain. And because so many of them already had second homes in Arizona, this worked out very nicely. But Texas, Jackson Hole, Wyoming, Florida, you know the litany. And then they would sell the stock and...but they lived there then and, as a result, the community lost their leadership, we lost their philanthropic activities, and so forth. And so in the major comprehensive tax revision that we did in 1987, we looked on this, not as an economic development provision in the same context of being business friendly to their employer, but we looked at this from a retention perspective of giving these people an incentive to stay and be very active in their communities. In Lincoln I encountered a different scenario. One of the larger Lincoln clients was closely held. The family had been given an offer that some people called the "Godfather" offer, too good to refuse. They ultimately did not take it, as it turned out. But, I mean, the plan was very, very clear that at some point between negotiating the definitive agreement and the closing they were going to live in Texas because the numbers were so big that you couldn't afford otherwise. And so, at the time, I was at least a strong advocate and maybe even brought to the table the concept of widening this exclusion to closely held businesses. It morphed quite a bit in the process, and it would not have helped this family, as it turned out, because of the five-shareholder and 10-percent-minority rules that ultimately came into the bill. But the objective was very clear. It was different than the economic development objective. It was a retention objective to keep these people in the state, to keep the taxes that they would pay on their investment income and their other income after the sale, and to retain their leadership in the community. The extraordinary dividend provision in 2007 really had a very different objective. If you remember, the extraordinary dividend provision only applies if the dividend exceeded 20 percent of the fair market value of the outstanding stock. That is really a redemption. That's a partial liquidation. And in the ordinary course, if the employer had redeemed 20 percent of the employee's stock, the employee could have made the election for that redemption, not paid tax, and that election would have stayed good then for that employee's life. However, there is a complication in Section 302 of the federal code which says that if the employer...or would withhold, that if the employer redeemed 20 percent or, actually, any percentage of its stock, pro rata, from all the shareholders, then it's treated as a dividend. And from a technical perspective, within taxes, it would not be eligible for this exclusion. And that was just, frankly, a scenario we hadn't thought of in 1987. We learn things every year and...but it would...but the addition of that provision was important because it does then simplify and make possible the election by the employee. And this is really most important in situations where the company is mostly employee owned. And it equalized the treatment of those employees with employees in other situations who would have had the election very much available to them. My experience is that I don't think, and I'm confident, that it hasn't been universally successful in keeping people in town. The people who use this are invariably in their 50's, 60's, 70's. They may subsequently choose to move elsewhere for nontax reasons, whether it be the weather or where their children are located or what have you. But I can tell you very honestly that, from the day that the exclusion became effective until now, I have not once actually consulted with somebody who was eligible for the election and was planning to leave the state at the time of the transaction. So in that respect, at least from the standpoint of saying, okay, we're not going to just incent these people to leave us precipitously, it has been a success. Both chambers would suggest that the bill is premature in the context of comprehensive tax revision, if we get there. If we don't get there, for whatever reason, the chambers would urge that the LB626 be indefinitely postponed. In an effort not to monopolize the table, I am going to make a side comment that Senator Harr has a clarification bill on this same topic that's coming up later, and the chamber would certainly be supportive of that. Any questions? [LB626]

SENATOR SCHUMACHER: Questions of the committee? [LB626]

JOHN CEDERBERG: It's "No Question Friday," good. [LB626]

SENATOR SCHUMACHER: No questions, well, you're not going to get by quite that easy. [LB626]

JOHN CEDERBERG: Oh. [LB626]

SENATOR SCHUMACHER: You pointed out that we've been asked to do a comprehensive review of our tax situation. And among our tax situation is taxation of C corporations that is distinct from individuals and pass-through corporations and entities. If you maybe take 3-4 minutes, maybe longer if necessary, you know, give us a "101" on the taxation of corporations, how they're taxed at the federal level, how they're...what they can deduct as a business expense, what they pass through to the shareholders, and what you've learned, in your career in accounting, is a smart way to handle that without it creating inequities and disparate treatment. [LB626]

JOHN CEDERBERG: Take off my chamber hat maybe. (Laugh) [LB626]

SENATOR SCHUMACHER: Okay. [LB626]

JOHN CEDERBERG: C corporations, you know, I have long talked with our congressmen, particularly back when Hal Daub was a member of the House Ways and Means Committee in the House so many years ago. Why is it that the federal government can't make dividends tax deductible to C corporations and go on down the road? Because then you would have integration of the corporate and individual tax. You know, at this point, a taxable C corporation at the federal level is taxed on its net income, which is its gross income minus its operating expenses, comes to taxable income. It's taxed on that at a maximum rate of 35 percent, though most of the corporations in this state never get beyond 34. And then, if they choose to make a dividend, that is taxed again to the individuals. Nebraska follows the federal on that...in that context. So if you distribute the earnings, if you were to distribute 100 percent of the aftertax earnings, you'd get to a situation similar to what you suggested, Senator, that you have 34 percent federal tax. You would have up to a 35 percent individual federal tax on the remaining 65 percent. [LB626]

SENATOR SCHUMACHER: Now does that include the qualified dividends break that's now there? [LB626]

JOHN CEDERBERG: No. Well, the qualified dividends, that's true. We...they did keep the qualified dividends, so I'm sorry on that. Yes, it would be a 20 percent tax on the dividend. So it's 20 percent of 65 percent, and then you have to add the state tax: 7.8 percent on the company; 6.8 percent on the individuals. Gets to be a pretty high level. Now one more comment on it, or point, I emphasize here before I get off the C corp. The shareholder's basis in the shareholder stock does not adjust. So if the C corporation, because of its earnings, has increased in value and that is sold, the shareholder pays on the...at the capital gains rates on that increase. This becomes particularly sort of deceptive to the general public in situations where the company pays no dividends. It pays 34 percent tax; it adds its earnings to its capital; it expands; it becomes more and more valuable. And they say, well, the shareholders never pay tax on that. Well, no, they do. They pay tax when the companies...when their stock is sold, and it's worth more because of the accumulated earnings and accumulated value. That's the C corp scenario. S corporations and partnerships, which includes most limited liability companies, have a wholly different framework, and that's why the S corporation and LLC entity is so very, very popular here in Nebraska where so much of our business is privately held, is family held. The S corporation scenario is you calculate taxable income almost identically to a C corp. I mean, it...there are some technical differences, but let's not even get into them. They're not material. You calculate taxable income almost identically to a C corp, you divide that taxable income up among the shareholders proportionately per share, and they put it in their individual returns. So the company pays no tax; the shareholders pay tax. In exchange for paying the tax on that income, the shareholders increase their income tax basis in the stock. So if the earnings are not distributed to them, they aren't taxed a second time on those earnings when the stock is sold at value. Now if the earnings are distributed to them, that reduces their basis in the stock. I think we got into that the other day maybe. That reduces their basis in the stock. And then, of course, if and when they sell their stock they realize capital gain based on, again, the difference-between basis. Now if you...when you get over to partnerships, which the LLC has, since the early 1990s when we adopted it, become such a large part of our closely held economy, when you get over to the LLC you have one more provision that's important, and that is: If the member of the limited liability company taxed as a partnership sells their membership interest at a gain, then the limited liability company is permitted, if it makes the election. And this is a bit of a complicated counting, so then they don't all make the election. But the LLC is permitted, if they make the election, to adjust their income tax basis in the assets for the gain recognized by the selling member, and then they specially allocate, for instance, the additional depreciation, to the buying member. And so theirs is almost total integration once you get to the partnership level of the corporate and the individual tax. [LB626]

SENATOR SCHUMACHER: Is there any policy reasons for the disparate treatment between Subchapter S and C corporations and between the deductibility of...or nondeductibility of dividends and the deductibility of interest? [LB626]

JOHN CEDERBERG: I am not sure that there's such an important policy reason as it's fiscal. You know, I've always been told, when I was suggesting that we should...that corporations should be able to deduct their dividends, I've always been told that the fiscal note on that at the federal level would be so huge that it couldn't be managed, and I've...you know, my response has been, hmm, I bet over 15 years we could adjust, you know, let's phase it in. (Laugh) But that's...it...my analysis and my experience is that that is historical fiscal problem not a policy problem because, frankly, interest and stock capital play the exact same function. Debt and stock play the exact same function in a corporation. They provide the resources for assets and working capital. [LB626]

SENATOR SCHUMACHER: Now the federal government gives a break on income derived from stock, either...generally taxing it 15 to 20 percent, but Nebraska does not differentiate. Is that correct? [LB626]

JOHN CEDERBERG: That's correct. Nebraska does not differentiate. And of course that is one of the reasons, if you were following this situation when the tech bubble burst in the early '90s, all of a sudden Nebraska revenues just went in the...you know, phew. Well, the reason is that we give no differentiation to capital gains, we give no differentiation to dividends, and we have such a high proportion of our business income being taxed at the individual levels. Two things happen in recessions that make our income tax really volatile. One is that when a recession starts and the market mitigates, capital gains shut off like somebody went and hit the faucet. The other is that, in an economy...in Nebraska...and I've been through this twice in my career, sharply, in Nebraska. In Nebraska, where we have such low unemployment and such high S corporation taxation--I mean "high" being in percentage of people in the S corp--wages and salaries are less elastic than business income. You know, an S corporation owner, manufacturer, said to me when this thing started in...when the recent recession started in 2008, I'm going to take losses in 2008 and 2009. But I've got enough capital to survive, and I'm not going to lay off any of my people because I don't know where I'm going to get them when the recession is over. We have too low unemployment. And, you know, that's...he's not unique in that attitude. And so what happens is, in Nebraska, business income coming from pass-through businesses goes down so much faster than wages that that makes our tax system highly volatile. [LB626]

SENATOR SCHUMACHER: Thank you for that short course. (Laughter) Senator Hadley, welcome back. [LB626]

SENATOR HADLEY: Happy to be here. [LB626]

SENATOR SCHUMACHER: The deck of the Enterprise is all yours. [LB626]

SENATOR HADLEY: (Laugh) I'll let...I'll tell you what. Why don't you finish this bill, and I'll listen. [LB626]

SENATOR SCHUMACHER: Okay, okay. (Laugh) Any other questions? [LB626]

JOHN CEDERBERG: Are we done? [LB626]

SENATOR SCHUMACHER: We'd be done. [LB626]

JOHN CEDERBERG: Thank you. [LB626]

SENATOR SCHUMACHER: Any other opponents? [LB626]

JOSEPH YOUNG: (Exhibit 1) Good afternoon, Chairman and Vice Chairman of the committee and committee members. For the record, my name is Joseph Young, last name spelled Y-o-u-n-g. I'm the director of public policy at the Greater Omaha Chamber, and we are testifying today in opposition to this bill, LB626. And I will be brief as well. In 1987 I was in kindergarten, (laughter) so I actually have a little...I'm submitting in clerk's...passing around a letter that we requested that Nick Niemann put together for us with some of the legislative history on this bill. He was also one of the principal drafters of this tax policy at the time and has been around ever since, obviously doing tax work in the state of Nebraska. And I do want to highlight just one piece of that letter. It's a great...it outlays it very well, the history behind this legislation.

But one of the things he says in there is that tax advisors obviously have a professional obligation to give their clients the best tax advice possible. And he admits that his firm and others, prior to 1987, would advise their clients to move their businesses out of the state--you know, at least their tax status out of the state--before they sold and, many times, the individual as well. So he didn't feel good doing that as a Nebraskan, so they came and worked with the Legislature to get this policy passed. And so I think, you know, I don't have any empirical evidence that, Senator Sullivan, indeed this is...this has stopped folks from moving out of the state. But certainly we don't want to give tax advisors reasons to tell people to move out of the state, so I think...I'm sure that it has. I don't have any specific examples, but I'm sure that it has helped keep folks in the state of Nebraska. And with that, I'd conclude my testimony. [LB626]

SENATOR SCHUMACHER: Any questions from members of the committee? Seeing none, thank you for your testimony. [LB626]

JOSEPH YOUNG: Thanks, appreciate it. [LB626]

SENATOR SCHUMACHER: More opposition. Seeing none, any neutral testimony? [LB626]

RENEE FRY: (Exhibit 2) Good afternoon, Chairman Hadley or, I should say, Senator Schumacher, Vice Chairman Schumacher, and members of the Revenue Committee. My name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute, a nonpartisan, nonprofit focused on budget and tax policy in Nebraska. Senator Conrad requested that we do some research on LB626, so I'm here in a neutral capacity to present our analysis. I'm going to skip the first part of my testimony because Senator Conrad covered that, so I'll skip down to some of the data. So the beneficiaries of the special capital gains election are overwhelmingly high-income Nebraskans living in urban areas. In the years for which complete data are available, the average number of returns claiming this deduction was 999. On average, those taxpayers deducted $551,000 of income per return for an average savings of about $38,000 and an average cost to the state of about $38 million. These beneficiaries represent barely one-tenth of 1 percent of the returns filed in the state. Moreover, 87 percent of the benefit in those years went to an average of just 101 Nebraskans with incomes over...greater than $500,000. On average, each of those 151 returns exempted over $3 million of income and saved $220,000 in taxes. Nebraskans with incomes under $200,000 received less than 2 percent of the total payout. Claimants of this deduction also tend to reside in Nebraska's urban population centers. In 2010, for instance, over 82 percent of the benefit went to residents of either the Lincoln or Omaha metropolitan areas. So we agree with the Governor: We should modernize our tax code. However, I think Senator Conrad's bill points out that a thorough and systematic review of all of the sales and income tax exemptions, their purpose, and whether that purpose remains today should be part of that discussion. I'd be happy to answer any questions. [LB626]

SENATOR SCHUMACHER: Questions from members of the committee? Senator Sullivan. [LB626]

SENATOR SULLIVAN: Thank you, Ms. Fry. Do you have any idea if other states do this? [LB626]

RENEE FRY: That's a great question. I don't. We can look into that though. [LB626]

SENATOR SULLIVAN: Okay, thank you. [LB626]

SENATOR SCHUMACHER: Other questions? I just have one. Let's say I was in a position where I had, as a result of being an employee of a company, accumulated a half a million dollars' worth of stock, and I knew I would be going to dump that stock. And if you aren't an accountant enough to answer this, just tell me. And I said, well, gee, I really don't want to pay Nebraska 6-7 percent of my half a million dollars' worth of gain in this stock, so I think, for at least the next year, I won't sell my house here, but I'll sure move to Florida for a year. Can I take the gain in Florida and say I'm a resident of Florida and then move back the next year? [LB626]

RENEE FRY: Yeah, I think so. [LB626]

SENATOR SCHUMACHER: So it's a pretty easy system to beat if we were to... [LB626]

RENEE FRY: Yeah, and I think, you know, the research at...you know, I submitted some research on migration in LB405... [LB626]

SENATOR SCHUMACHER: Well, I'm not really migrating. I'm just moving to Florida for a year. (Laughter) [LB626]

RENEE FRY: Well, part of...I mean, it costs to move, right? So you'd have to evaluate whether the savings outweighs the cost of moving, right. I can see, if you already have another house, how it would be a lot easier to do that. But I think, probably, actually physically moving may not be all that worth it. You know, so a couple of thoughts on that. One, you know, tax policy, you really want a broad base, right? And so this violates sort of that theory of having a broad base and a low rate. Also, you really want to avoid setting tax policy at the margins, again, really going to that broad base. And so that research that we found on LB...that we shared in LB405 on migration, there were a couple of studies in there that look specifically at tax increases on high-income earners, and it found that, if there was...if they could migrate so...one of the studies specifically was about New Jersey raising taxes, and they found that if there is close proximity you may have a little bit, but still the state brought in more revenue than it lost. So at least that's based on the...academic research would tend to find you would still bring in more revenue than you would lose. You may have a small migration effect, but it would be less than the revenue collected, at least based on that research. [LB626]

SENATOR SCHUMACHER: Any other questions from the committee? Thank you for your testimony, Ms. Fry. [LB626]

RENEE FRY: Okay, thank you. [LB626]

SENATOR SCHUMACHER: Any other neutral? Senator Conrad. [LB626]

SENATOR CONRAD: Briefly. Thank you, members of the committee. I, by no means, consider myself to be an expert when it comes to areas of taxation but, rather, a student, and one engaged in lifelong learning. And I think that this has been a critical chapter in that education to learn a little bit more about Nebraska's tax system, and I hope that we will continue the dialogue moving forward. I just want to point a couple of things for the record. I think that we've heard today that opponents agree that there is no empirical evidence that this legislation, that this component of our tax code has met its intended public policy objectives. Additionally, I think that when you look at the number of beneficiaries, again, this gets back to that critical, fundamental policy question about value to the Nebraska taxpayers. And, just as bookends, in a report put out by OpenSky Policy Institute, when you heard from Renee Fry just a few minutes ago that we're talking about this legislation benefits less than one-tenth of 1 percent of the returns filed in Nebraska and carries with it a price tag of about $32 million a year, by comparison the earned income tax credit, widely considered to be one of the best antipoverty tools that we have available, benefited more than 100,000 low-income working Nebraskans earning less than $25,000 in income and had a total price tag of only about $16.5 million. These are 2006 statistics. I understand those are the most recent statistics that were widely available. So I just point that out by way of illustration and bookend. When we ask ourselves the tough question about value to the Nebraska taxpayer, I think it's fair to consider the amount of Nebraskans that are benefited and to take into account whether or not this fits well within a modern and vibrant tax infrastructure. Thank you. [LB626]

SENATOR SCHUMACHER: Any other questions for Senator Conrad? Thank you, Senator Conrad. I'm afraid over the next year or two we may all be more students of tax policy than we ever hoped to be. (Laughter) [LB626]

SENATOR SULLIVAN: That's all right. [LB626]

SENATOR CONRAD: Lifelong learning, that's right. [LB626]

SENATOR SCHUMACHER: Senator Hadley. [LB626]

SENATOR HADLEY: I apologize for being late, but I did want to hurry back to hear Senator Conrad because I promised her this morning that I would be very attentive to her bill. So we will now move to LB532. Senator Conrad, you're happy to open on LB532. [LB532]

SENATOR CONRAD: Just one moment, Chairman. Okay. What would we do without our fantastic staff? [LB532]

SENATOR HADLEY: Isn't that the truth? [LB532]

SENATOR CONRAD: (Exhibit 3) Yes. Senator Hadley, members of the committee, my name is Danielle Conrad, D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d, representing the "Fightin' 46th" Legislative District of north Lincoln. I'm here today to introduce LB532, which in its essence is really a state-level Buffett Rule. And as the page is bringing around some information about what Nebraskans think about a Buffett Rule from a recent Omaha World-Herald poll for the committee's consideration during the context of discussion on this legislation. LB532 creates a new tax bracket for high-income earners and is based on the Buffett Rule, recently enacted federal legislation. Currently there are four tax brackets with the highest tax rate of about 6.84 percent. LB532 creates a fifth bracket for those making $400,000 and more for an individual and married filing singly and $450,000 for those married...for those filing jointly and head of households at 7.74 percent. The bill would increase revenue to the General Fund of about $42 million the first year and about $31 million the second. I introduce this bill because it's again my belief that if we're going to be talking about taxes in Nebraska we should be talking about everyone's taxes, including those who can afford to pay a little bit more. I would be happy to answer any questions, and I thank you for your time today. [LB532]

SENATOR HADLEY: Are there questions for Senator Conrad? Senator Pirsch. [LB532]

SENATOR PIRSCH: Thank you and appreciate your opening here. I just want to...with respect to the Buffett Rule, which is an application I suppose on the...I think he's referencing the federal dynamic. [LB532]

SENATOR CONRAD: That's right. [LB532]

SENATOR PIRSCH: Does it apply...is there a different dynamic that was being followed by implicating this on a state level? In other words, is it harder to escape federal taxation than it is to...for these (inaudible)? Do they have the ability on the state level to transfer to a different state and thus making it a little bit different than...I don't know? I'm wondering if that's... [LB532]

SENATOR CONRAD: Sure. I think this has been a common theme in questions this week on different pieces of legislation that have been before this committee about this fundamental question about whether or not our tax policy drives decisions about location. I think the research is pretty clear that it does not. So my contention would be that this legislation should not be a hindrance to anybody in terms of retention or relocation who would fall into the newer tax bracket. But what it does do is as it has also been pointed out is Nebraska generally follows our federal system for a variety of good reasons. And as demonstrated in the latter part of 2012 when Congress was looking to avert the fiscal cliff and struck a deal to rescind the Bush tax cuts for people making $400,000 and $450,000 and above, really my legislation is along the same lines of thinking in that regard. And so it would modernize our tax system, again, make it a little bit more progressive. I agree with the Governor. There's always room for improvement so here is my idea to improve and modernize our tax system. And I think that from a policy perspective, you know, we have to ask ourselves, does it make sense to tax hardworking Nebraska families and working families at the same level as less than 1 percent of Nebraskans who are in that very, very high earning capacity level would be or to make some slight adjustments for those who could pay a little bit more? [LB532]

SENATOR HADLEY: Other questions for Senator Conrad? Senator Schumacher. [LB532]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Senator Conrad, do we have any idea how many people, numbers of people would be affected by this? [LB532]

SENATOR CONRAD: Yes. And I think, let's see here, if...let me triple-check, I know that it's less than 1 percent of Nebraskans. I think that it's about 4,000 filers if that's correct. And I'd be happy to update those numbers if they're inaccurate, but I think that's the ballpark. [LB532]

SENATOR SCHUMACHER: Do we have any idea--I don't know where you'd get this data, but I'll ask just in case you stumbled across it in putting this bill together--how many of those 4,000 people are indigenous to Nebraska in that they built a business here and their roots are here? How many of those 4,000 people may work for a multistate corporation that they could just as well set them up with an office in Miami as set them up with an office here so if we get a little greedy on the taxes here they're just out of here? [LB532]

SENATOR CONRAD: Senator, again, this is one that I don't know off the top of my head. I don't know if we'd be able to generate information regarding state of origin on the basis of the filings, which is how we kind of calculate the fiscal notes and otherwise. But when you're looking at that small of a group we could probably start to run some assumptions or methodology. I understand your point. [LB532]

SENATOR SCHUMACHER: I mean... [LB532]

SENATOR CONRAD: It's a small group of people that could easily... [LB532]

SENATOR SCHUMACHER: I mean if big corp has offices in Miami and offices in Omaha and they're going to put a vice president making $500,000 a year someplace, nice if they spent the money here and he was located here or she was located here. But if this means Nebraska takes an extra nip out of them, well, Miami has a beach. [LB532]

SENATOR CONRAD: Um-hum, sure. I understand that. And again, I think it goes to that behavior question and if there are people that seek to minimize or mitigate their tax burden they might take any number of actions under the sun. But when it comes to that fundamental question about whether or not these components of our revenue infrastructure drive behavior in terms of relocation and retention of certain segments within our society, I would argue no. [LB532]

SENATOR SCHUMACHER: I don't have any further questions. [LB532]

SENATOR HADLEY: Senator Conrad, we talk a lot about tax policy. What would your thoughts...I agree with you that our top rate kicks in awfully quick in Nebraska. [LB532]

SENATOR CONRAD: Right. [LB532]

SENATOR HADLEY: What would you think of spreading the brackets out but keeping the top rate at 6.7 or whatever it is and spread the brackets out so that maybe you don't reach that until $100,000 or something such as that? [LB532]

SENATOR CONRAD: Sure. [LB532]

SENATOR HADLEY: What would you think of that (inaudible)? [LB532]

SENATOR CONRAD: Senator Hadley, I think that's the exact kind of conversation we should be having in this dynamic. And as you well know from a legislator's perspective, we can't get everything on the table unless we put everything on the table. And that is my point in bringing LB532 and LB626. And we should have a revenue infrastructure that meets the needs of most Nebraskans and that is modern and that is dynamic. And I think that one of the key pieces of Nebraska's current system, which is it's strength, is that it has balance and income tax being one of the only features of our state taxation system that is progressive. I'd like to see it be a little bit more progressive. But if we can make it a little bit more equitable for more working families and those in need, I'm all for that conversation and those ideas. [LB532]

SENATOR HADLEY: Thank you, Senator Conrad. No other questions, thank you, Senator Conrad. [LB532]

SENATOR CONRAD: Thank you. [LB532]

SENATOR HADLEY: Are you going to stick around for closing or? [LB532]

SENATOR CONRAD: I will, lifelong learning. [LB532]

SENATOR HADLEY: Okay. Good. First proponent. [LB532]

LARRY SCHERER: (Exhibit 4) Good afternoon, Senator Hadley, members of the Revenue Committee. My name is Larry Scherer, L-a-r-r-y S-c-h-e-r-e-r. I'm director of research for the Nebraska State Education Association. NSEA supports conceptually the progressivity of the income tax rates included in this bill. The association for several years has advocated a state revenue system that is balanced, fair, and responsive to economic growth to support public education. NEA has an initiative known as Taxation Structures, Economic Development Policies, and Funding for Public Schools or TEF for short. We recognize that fair and efficient taxation and strong economic growth are key to an adequate and equitable funding system for public schools and postsecondary education. In addition, NSEA will support Senator Schumacher's LB613 when it comes up for hearing later this month. We believe that progressive income tax rates should be part of the discussion, as Senator Conrad said, of the Tax Modernization Commission or whatever body comes out of this commission and this body. And we are hopeful that teachers, retired teachers, and faculty at our public schools and colleges will be involved in that conversation. Thank you for your time and consideration, and I would be happy to answer your questions. [LB532]

SENATOR HADLEY: Thank you, Mr. Scherer. Are there questions for Mr. Scherer? Seeing none, thank you. [LB532]

LARRY SCHERER: Thank you. [LB532]

SENATOR HADLEY: Any further proponents? Opponents? [LB532]

RON SEDLACEK: (Exhibit 5) Chairman Hadley and members of the Revenue Committee, for the record my name is Ron Sedlacek, that's S-e-d-l-a-c-e-k, and I've been asked to appear here today on behalf of the Nebraska Chamber of Commerce and to also include in my testimony representing the Lincoln Chamber of Commerce in opposition to LB532. At this time when we're trying to take a look at the overall tax code in Nebraska, we do not favor an increase in the income taxes nor sales tax rates in Nebraska. The increase that is proposed would bring Nebraska to probably the ninth highest tax rate as far as individual income tax in the nation. Possibly tenth when you consider that Iowa's rate is nominally higher, however, Iowa does provide for the deductibility of federal income tax liability, which we do not and other states do not. When we take a look at the state individual income tax rates--and I can hand this out to the committee--and this is published by the Federation of Tax Administrators. You probably have this information already, January 1...as of January 1, 2013, so it reflects as best as we can tell the rates across the country. There are other states obviously that have more progressive rates such as California, but their highest rate kicks in at $500,000 single filer. Take a look at New Jersey, another state with a higher tax rate of 8.97, effective rate which would kick in at $500,000. And New York, which is 8.82 which would kick in at $1,029,250. At this time we just cannot find...our board of directors did meet and discussed all the tax legislation before the Legislature this session and asked that we appear in opposition. [LB532]

SENATOR HADLEY: Any questions for Mr. Sedlacek? Senator Schumacher. [LB532]

SENATOR SCHUMACHER: Thank you, Senator Hadley. I notice that the Iowa high-end rate on the sheet that I believe you're providing to us is 8.98 percent, which looks like it even beats out New York and right up there with D.C. But then you said something interesting that Iowa permits the deductibility of federal income tax. [LB532]

RON SEDLACEK: That's correct, um-hum. Their nominal rate is higher. Their effective rate is much lower, but it's a bit higher than Nebraska's highest rate at this time. So when you take a look at the rates, Iowa still, of all the surrounding states, does have the highest effective rate. [LB532]

SENATOR SCHUMACHER: Do you have any idea how we stack...how many states do not allow the deduction for federal income tax when computing state tax (inaudible)? [LB532]

RON SEDLACEK: I do have that information in another file here. I don't have it here at the table, but I can get that to you. [LB532]

SENATOR SCHUMACHER: That would be kind of interesting if we're an oddball in that. Thank you. [LB532]

RON SEDLACEK: Um-hum. [LB532]

SENATOR HADLEY: Any other questions? Thank you, Mr. Sedlacek. [LB532]

RON SEDLACEK: Okay, thank you. [LB532]

SENATOR HADLEY: Any other opponents? [LB532]

JOHN CEDERBERG: (Exhibit 6) For the record, my name is John Cederberg, J-o-h-n C-e-d-e-r-b-e-r-g. And on this bill I'm here representing myself as a CPA and practitioner. During...on Wednesday during this very long hearing, Joe Henchman from the Tax Foundation referred to a study that they had done about the character of millionaires. Unfortunately, he didn't bring the whole study and give it to you. And I thought that Senator Conrad's superbracket bill was absolutely the appropriate time for us to consider the character of millionaires. So I went on their Web site, I printed off the entire report, and am distributing it to you. Actually, I have three or four extra copies if anyone else would like one. But in pages 4 and 5, I think there's some very interesting charts because we tend to think of millionaires as a monolithic group. They are these high paid, Fortune 500 CEOs who make $12 million a year, including their stock options. Or they're these extraordinarily wealthy people who inherited all their wealth and clip coupons. And what we discover in their study, and Joe mentioned this, that in the period they studied from '99 through 2007 only 50 percent of the millionaires actually appeared in more than one year. And this is the discussion that I have had with the committee, without having seen their study--I learned about their study listening to Mr. Henchman--that in Nebraska high-income people, the people who file the millionaire returns, are what I call transient millionaires. They're a millionaire once because they sold their business or they sold a lot of assets and then they don't come back to that anymore. The other thing you will see there in those charts is the very high percentage of upper incomes that are S corporation pass-through entities. And these people, you know, they're not distributing all of their income. I did some...I did a study about ten years ago about the amount of S corporation income that is actually distributed. Now in response earlier to Senator Schumacher's question, I told you that the taxes are paid at the individual level. And what I did is I prevailed on a substantial number of S corporations on promise of anonymity to actually give me their confidential tax information regarding the taxable income of their corporation and the distributions that were made. And out of about 20 corporations, none of which were banks, by the way, Senator Sullivan, this is...but of the 20 corporations that agreed to participate, they...I think about 10 of them distributed either approximately the federal and state taxes on the income or a little bit less and retained and reinvested all the rest of the income in their business. So while they showed a taxable income that was very substantial, would easily fall within the $400,000, I kind of relooked at my summary this morning, would easily fall within the $400,000 income, this was not disposable income that any of those individual shareholders were taking to the grocery store or to the auto dealer or the boat dealer or what have you. This was the way that we were building capital in Nebraska. And then, of course, the other group, you know, did distribute more. Nobody was distributing 100 percent of their income. And, of course, in the banking industry which has since come on board as pass-throughs, capital restrictions prevent them from distributing all of their income. They have substantial retentions. So I just wanted to take this opportunity to alert and discuss with the committee the fact that there is a whole lot of, I won't say deception, but a whole lot that doesn't appear on the surface with respect to these high-income returns. Many...in Nebraska, we just don't have those kinds of people in large numbers. Either they're people who are transient millionaires because they sold their business or they are paying on behalf of their business. That's my testimony. I personally would not support a superbracket. I think that Senator Pirsch's, as I told him either yesterday or the day before, bill to conform the corporate rates to the individual rates would be far more consistent with our economic development and our objectives and with the state's economy I believe would be far more consistent than adopting a superbracket. Any questions? [LB532]

SENATOR HADLEY: Are there questions for Mr. Cederberg? Senator Schumacher. [LB532]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for being here again today. You know, we're learning a lot today. We're learning a lot of different issues that have got to be put together into some type of if we're going to do something comprehensive. Most of us, at least my age category, grew up thinking a millionaire was Mr. Howell on "Gilligan's Island." (Laughter) He had it all. When you say millionaire, are you talking about somebody who makes a million dollars a year in income or somebody with net assets of a million dollars? [LB532]

JOHN CEDERBERG: Well, I mean clearly in this context I'm talking about a million dollars in taxable income in one year or even $400,000 or $500,000 of taxable income in one year. We're talking about high-income taxpayers, not asset taxpayers. I mean, you know, just think about the result here. If I have a million dollars of net assets and it's invested at 5 percent, that doesn't clear...you know, in the popular parlance, yeah, that person is probably a millionaire. But in tax parlance, absolutely not. [LB532]

SENATOR SCHUMACHER: So what we're using tax parlance rather than looking at the farmer who happened to be on $15,000 an acre land. [LB532]

JOHN CEDERBERG: Yes (laugh). [LB532]

SENATOR SCHUMACHER: The next, has it been your experience in working in the accounting field that a lot of the small business folks may end up working...they have a good idea and working their tails off for two, three years for virtually nothing, maybe their spouse is helping them, and then pop it for three, four years and really do well and then the market does what the market does and it all fizzles out according to the second law of thermodynamics and then they're back to either starting over or more average income? Is that a common scenario? [LB532]

JOHN CEDERBERG: Maybe I've been lucky, but let me tell you the more common scenario of the people I've advised is the first part you're absolutely right. I mean we're consuming capital. They use up maybe some of their inheritance, some of their wife's inheritance. I mean they scrounge money from wherever they can get it to get off the ground. If it works, then we have some years that have really good income. But then if it works and it doesn't go off the cliff after that, you get into a period that is really, really tough and that is the growth phase where their income is fairly high on paper, their taxes are...the cash flow taxes are fairly onerous. But the working capital requirements that are necessary to expand their business, their inventory, their equipment, whatever it is they're in. If they're in manufacturing, it's buying equipment, you know, arranging space and expanding inventory. If they're in some sort of retail business, it's, you know, building their store and expanding inventory. Cash flow just becomes horrendous. And this is when they get deeply into the bank. And then it probably does level out because they've reached their capacity, either the capacity to manage or the capacity to finance. And then they maybe spend the next decade working their way back out of the bank. That's the scenario that I find most common and that in my professional practice have had to help people through most frequently. [LB532]

SENATOR SCHUMACHER: So along these lines, should we, as we start to put this puzzle together, look at an income averaging technique to make up for those folks who work three years for nothing and then it begins to pop? Or is that a good or bad idea? [LB532]

JOHN CEDERBERG: It's a complicated idea if you try to do it independently of the federal government. You know, the federal government used to have an income averaging process and they abandoned it. And, you know, in many respects it would be quite appropriate. I suppose the easy conversation is somebody who wins the lottery. You know, he hasn't had enough to pay income taxes for ten years and then all of a sudden he pays at 39.6 percent or some wonderful number. But the complications of income averaging and the way Congress tended to mess around with it on the fringes just made it an accounting nightmare. And I was personally happy to see it go away. Now, you know, it went away in a time when people still did manual returns (laugh). Maybe it's not as bad now as the computers can handle it (laugh). But, no, I would not encourage us to think in that regard, particularly independently of the federal government. [LB532]

SENATOR SCHUMACHER: Okay. In the design of the system, the scenario you described seems fairly logical and you can see how it plays out, how do you design the system so that when it's in that work your tail off for nothing phase and then in the try to finance a stable infrastructure phase that the taxes don't become such that the folks...so that it destroys incentive and productivity? What is your sense of the break-even points there? When is too much, too much? [LB532]

JOHN CEDERBERG: Well, you know, this is a difficult question. In the early period where they are working very hard for very little return from the business itself, if they can sustain that for very long, there's other income in the family. Maybe it's the spouse has a good job, you know. And so the losses pass through in either S corporation or an LLC (inaudible). This is why I so frequently urge new businesses to form as LLCs, really relieves the family tax situation to the point that it eases the transition. You know, there are some things we just can't manage through tax policy. And it's that second phase when the cash flow is just so dear because of the requirements to expand the business and keep up with demand we can't really deal with that in tax policy. I mean, to try and do so would be so extraordinarily separate from the federal government. And our tax rate, I mean, our tax rate is material, but it is not as material as the fed's. And there's something to be said for the KISS theory, keep it simple. [LB532]

SENATOR SCHUMACHER: Thank you for your testimony. [LB532]

JOHN CEDERBERG: Yeah. [LB532]

SENATOR HADLEY: Further questions? Mr. Cederberg, my quick math, as a member of the Legislature, if it was cumulative, it would take me 37.5 years to get to that top bracket. (Laughter) And with term limits, I'm not going to make it, am I? I may live 37.5 more years, but I just thought I'd let you know I don't think I have to worry about it. [LB532]

JOHN CEDERBERG: That's why I voted for the constitutional amendment. [LB532]

SENATOR HADLEY: Thank you. Thank you, John. Any other opponents? Neutral? [LB532]

RENEE FRY: (Exhibit 7) Good afternoon again. Members of the Revenue Committee, my name is Renee Fry, R-e-n-e-e F-r-y, and I'm the executive director of OpenSky Policy Institute, a nonpartisan, nonprofit focused on budget and tax policy in Nebraska. Senator Conrad again requested that we conduct research on this bill, and I'm here today in a neutral capacity to discuss our analysis. Our research shows that under LB532 about 1 percent of Nebraskan would contribute less than 1 percent of their incomes in additional taxes. We asked the Institute on Taxation and Economic Policy to run a distributional analysis, and their results show that the top 1 percent of Nebraskans will pay an average of $5,536 in additional taxes. ITEP also pointed out that their model includes a deductibility of state income taxes on federal taxes and concludes that about 15 percent of the tax increase would ultimately be offset by the federal deduction. However, their model does not account for higher federal tax rates that are scheduled to kick in, in coming years. When those higher federal rates are in place, the federal offset would be about 24 percent. This means that out of the $31 million in additional revenue for FY '14-15, $7.4 million that would normally go to the federal government would stay in Nebraska. So in other words, as their Nebraska taxes go up, their federal taxes will go down. If LB532 is implemented, Nebraska would be in a similar situation as it presently is in terms of tax rates among neighboring states. Our tax rate would still be lower than Iowa's, although as was pointed out earlier, we did not look at the effective tax rate. We just looked at the actual tax rate. And we'd still have fewer brackets than Missouri and Kansas. The bill could potentially help address Governor Heineman's concern that middle-class Nebraskans who make more than $54,000 a year are taxed at the same...or who make less than that are taxed at the same marginal rate as Warren Buffett. Presently, tax revenue in Nebraska is generated by the three-legged stool of property, sales, and income taxes. Right now our stool is a bit wobbly as income taxes only account for 23 percent of total state and local tax revenues, while property taxes account for nearly 38 percent and sales taxes account for about 33 percent. The rest of the state and local tax revenue comes from miscellaneous taxes. As we go forward with discussions about tax reform in the state, increased income tax could prove to help reduce property taxes and balance the three-legged stool. But we suggest that a thorough and complete examination of our state's tax code, such as that proposed in LB613, would help us come to such a conclusion in an informed and prudent manner. I do want to mention, Senator Schumacher, you had asked a little bit about the millionaire effect. In LB405 I distributed a bibliography and there were two studies in there. One specifically looked at California's increase. They added a top rate on their high-income earners. And what they found, just like Mr. Cederberg had suggested, that folks usually don't make more than a million dollars in one year every year. So it's fleeting, comes and goes. And so what they found in that study was that if someone is making a million dollars, they're doing really well so they don't move because they're having a lot of success. And it did find, interestingly enough, that when they move it tends to be because of divorce. But anyway, I would encourage you to look at that study. And there is one on New Jersey as well and those are in the bibliography. If it would be easier, I could also send a link to those studies to the committee clerk if you'd prefer. But thank you for your time and for letting me speak on this matter today. I'd be happy to answer any questions. [LB532]

SENATOR HADLEY: Senator Pirsch. [LB532]

SENATOR PIRSCH: I just had, if you could send a link to those two, I would appreciate it. [LB532]

RENEE FRY: Sure, yeah, absolutely. [LB532]

SENATOR HADLEY: Phil Mickelson in California is a little upset with their high tax rate I know that. [LB532]

SENATOR SULLIVAN: Senator Hadley. [LB532]

SENATOR HADLEY: Oh, Senator Sullivan, did you have... [LB532]

SENATOR SULLIVAN: Well, all I wanted to say is apparently money doesn't buy happiness, right? (Laughter) [LB532]

RENEE FRY: Right, exactly right. [LB532]

SENATOR HADLEY: But it goes a little ways. Senator Harr. [LB532]

SENATOR HARR: I'll ask you another time. Thank you. [LB532]

SENATOR HADLEY: Okay. Thank you, Ms. Fry. [LB532]

RENEE FRY: Thank you. [LB532]

SENATOR HADLEY: Any other opposition? All right, I'm sorry, neutral? Seeing none, Senator Conrad, would you like to close? [LB532]

SENATOR CONRAD: Yes, please, briefly. Thank you, Senator Hadley, members of the committee, for your time and careful attention. It's been said that variety is the spice of life. Well, I believe that adversity of opinion is the strength of a democracy. And so I'm excited to bring these ideas before the Revenue Committee. I know you've had a very long week this week and that there will be many dialogues and discussions in the months to come about the right direction to take Nebraska to ensure that we have a revenue infrastructure that meets our state's critical obligations like healthcare, like education, like natural resources, like economic development. And as negotiations continue, I hope that ideas related to equity and value are included in those discussions. And these two pieces of legislation are meant to do just that. Thank you. [LB532]

SENATOR HADLEY: Other questions for Senator Conrad? Thank you. [LB532]

SENATOR CONRAD: Thank you. [LB532]

SENATOR HADLEY: Have a good weekend. [LB532]

SENATOR CONRAD: You too. [LB532]

SENATOR HADLEY: Next, LB573. Senator Harr wishes not to open? No. (Laughter) Oh. [LB532]

SENATOR HARR: That is correct. [LB573]

MARY JANE EGR EDSON: "No Open Friday." [LB573]

SENATOR HARR: Chairman Hadley, members of the Revenue Committee, I am Burke Harr, B-u-r-k-e H-a-r-r, and I represent Legislative District 8, which consists of midtown Omaha, which is the Dundee, Benson, and neighborhoods surrounding your Creighton Prep Junior Jays. LB573 clearly defines exactly who should be considered a shareholder with respect to employee stock ownership plans, or ESOPs. An ESOP is a tax-qualified, defined contribution benefit plan. ESOPs are a very flexible, financial, and equity incentive instrument that uses corporate tax deductions or tax-free dollars to achieve a variety of individual and corporate objectives, including shareholder liquidity, perpetuation, raising working capital, and charitable giving. An ESOP is unlike any other employee benefit plan in that the ESOP trust is designed to hold, primarily, stock of the sponsoring employer. In its simplest form, a company establishes a trust to which the company contributes stock or cash to purchase stock. The stock is then allocated out to employees' individual accounts within the trust. When cash is contributed, it is used to purchase stock from shareholders and then allocated out to individual employee accounts. The issue raised here dates back to the passage of LB775. The Legislature passed an incentive for businesses to remain in Nebraska by exempting capital gains taxes for the transfer of stock or sale of stock by employees of a Nebraska corporation so long as the company had five or more stockholders located within the state. Nebraska's statute does not have a definition of a number of shareholders within an ESOP. Recent Department of Revenue audits prohibit ESOPs from getting the advantage laid out in LB775 because the state would default to federal law. The federal definition states: The number of shareholders within an ESOP trust equals one shareholder. This definition is purely for administrative purposes and has no real, true tax benefit. Let's say you have 7,000 employees who participate in an ESOP. The federal government does not want 7,000 K-1s to be filed, so instead they say an ESOP trust equals one shareholder. By following federal law, the Nebraska Department of Revenue has denied capital gain treatment by former ESOP shareholders. Federal law does allow for each state to craft their own definition for ESOPs. I would like to be clear: This is not a bill that would benefit a few rich guys in Omaha. Each employee, whether it is the CEO or the janitor, can participate in an ESOP. Let's say we have an employee who retires with $22,000. Under the current law, Nebraska would be forced to tax that money as ordinary income, not capital gains, which is a lower rate. LB573 would allow each participant in an ESOP trust to be considered a qualified shareholder for purposes of 77-2715.09. I first became aware of this ESOP problem when we, last summer, started looking at the problems or ways to improve Nebraska Advantage Act and LB775. And this is one of the early ones that really popped off the paper that says, this is something we can do to help our employers here, and employees, insofar as it doesn't seem to make sense. So with that, I would entertain any questions. [LB573]

SENATOR HADLEY: Questions? Senator Schumacher. [LB573]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Now I thought I had this straight in my head, and I must not, because you just said that on the way that our Revenue Department is interpreting the...this to be one shareholder instead of the five... [LB573]

SENATOR HARR: Um-hum. [LB573]

SENATOR SCHUMACHER: ...that we are taxing it...would be taxing it as ordinary income instead of capital gain. [LB573]

SENATOR HARR: Um-hum, yes. [LB573]

SENATOR SCHUMACHER: Now I thought we didn't give capital gains special treatment in Nebraska. [LB573]

SENATOR HARR: We do not, except under LB775. [LB573]

SENATOR SCHUMACHER: Okay, okay. Thank you, Senator. [LB573]

SENATOR HADLEY: Senator Harr, just so I understand this, are you saying that the federal government is really not setting a tax policy statement with the fact that they treat it as one shareholder, but it was more of a... [LB573]

SENATOR HARR: Clerical, administrative. [LB573]

SENATOR HADLEY: ...clerical, paperwork, administrative reason to treat it that way, rather than a tax policy. [LB573]

SENATOR HARR: That is correct. There is no real tax difference other than, again, paperwork. [LB573]

SENATOR HADLEY: So from the federal government standpoint, from a tax standpoint, they don't care whether it's treated as 1 taxpayer or 7,000. [LB573]

SENATOR HARR: No, they're very clear that it allows each state to define an ESOP as they wish. [LB573]

SENATOR HADLEY: As they wish. [LB573]

SENATOR HARR: And in addition, we...this is merely...I wouldn't say this is a change in statute but merely a clarification of statute. [LB573]

SENATOR HADLEY: Okay. Senator Pirsch. [LB573]

SENATOR PIRSCH: That's what I'm going to get at. It's not like...you're not striking out any prior language from statute. You're just adding language that, in the absence of that language, there is ambiguity or vagueness? [LB573]

SENATOR HARR: That is correct, in which time the Department of Revenue relied upon a revenue ruling. And so, instead, what...we would like to come, as the policymaking body of the...of government, is to come forward and say, this is the intent that ESOP is not, in fact, one employee or the trust is not one employee because it's made up of multiple as long as there are five or more within that ESOP because that's the intent of LB775 was to reward...if you have five or more shareholders, to allow special incentives. And by this ruling, and I believe it was more of an oversight than intent. We reviewed LB775. I haven't found any intent that says ESOPs were supposed to be treated as one or five or how. I think it was merely an oversight at that time. But the intent is, if you have five or more shareholders, that the...LB775 would apply. [LB573]

SENATOR PIRSCH: Thank you. [LB573]

SENATOR HADLEY: Senator Schumacher. [LB573]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Just one follow-up. It seems like some of the tax bills before us follow one of two categories. One is part of this big philosophical review...overview of what to do to modernize the tax system into the next 50 years or so. And the second is kind of technical, fix-it kind of things. Which category would you put this one in? [LB573]

SENATOR HARR: I would contend this would fall in more similar to Senator Hadley's bill to update the Nebraska Advantage Act. And this is a clerical, cleanup language due to an oversight so that we can give our brothers and sisters in the Department of Revenue a little guidance on how we want to interpret the statute. [LB573]

SENATOR SCHUMACHER: And so it would be more of an immediate nature than a longer-term analysis. [LB573]

SENATOR HARR: I would agree with that, yes. [LB573]

SENATOR SCHUMACHER: Thank you. [LB573]

SENATOR HARR: Thank you. [LB573]

SENATOR HADLEY: Thank you, Senator Harr. [LB573]

SENATOR HARR: Thank you. [LB573]

SENATOR HADLEY: The first proponent. [LB573]

MIKE WEAVER: Afternoon, Senator Hadley, committee members. My name is Mike Weaver, W-e-a-v-e-r, and I am an attorney with the Lieben, Whitted law firm in Omaha and I am here on behalf of several clients. We represent several ESOPs that would be affected by this legislation, and I am here to, sort of, answer any technical questions, if you have them, with respect to the ESOP and how the legislation might work, if you have any of those, either right now or I...we do have several businesses that are going to testify, so I can take questions now or I can take some questions after you hear the testimony, however you would like, but... [LB573]

SENATOR HADLEY: Do we have questions for Mr. Weaver? Mr. Weaver, I guess the question I have...do you see ESOPs as a growing phenomena, stable phenomena, declining phenomena among businesses? [LB573]

MIKE WEAVER: The general consensus is that it's still a growing phenomena. It doesn't...you know, the primary or one of the benefits of the ESOPs is to encourage employee ownership, which is ideally to encourage their investment in the business and to help the business grow. So it's a growing phenomena. [LB573]

SENATOR HADLEY: Would you say, Mr. Weaver, that--and maybe there is data, but maybe there is not--but ESOPs would generally have less of a tendency to move from their locations to other states than normal C corporations? [LB573]

MIKE WEAVER: The tendency to move would seem...would likely be less because you have the employees that are actually located in that state that are the primary owners of that company. So their tendency to want to, you know, uproot and move would be less. [LB573]

SENATOR HADLEY: I would think it would be a good retention tool to keep businesses in the state, just off the top of my head. [LB573]

MIKE WEAVER: That's...I would agree. [LB573]

SENATOR HADLEY: Okay, thank you, Mr. Weaver. [LB573]

MIKE WEAVER: Yeah. [LB573]

SENATOR HADLEY: Oh, I'm sorry. Senator Sullivan, I just went flying around. [LB573]

SENATOR SULLIVAN: That's all right. Thank you, Senator Hadley. [LB573]

SENATOR HADLEY: I keep expecting Senator Harr not to ask a question, so go right ahead. [LB573]

SENATOR SULLIVAN: Thank you, sir. Typically, is there a trend of the types of businesses that take advantage of this? [LB573]

MIKE WEAVER: It really is a tool that can be used by a variety of different businesses, so I couldn't say that with limited to just, you know, a company that has 1,000 employees versus a company that has 20. We...they really do run the gamut. [LB573]

SENATOR SULLIVAN: Okay, thank you. [LB573]

SENATOR HADLEY: Senator Pirsch. [LB573]

SENATOR PIRSCH: In talking about benefits, I guess it was kind of a dual benefit, talking about remaining in the...ESOPs, with that kind of anchor the company in to the state perhaps a little more. [LB573]

MIKE WEAVER: Um-hum. [LB573]

SENATOR PIRSCH: Is there any...could you comment or talk about...do ESOPs...is there any research or any kind of anecdotal suggestion that ESOPs, the fact that you're having employees, the workers, enjoying the...participating in the success of the company, does that tend, on a whole, to lead to more successful companies? Has there been any research you're familiar with? [LB573]

MIKE WEAVER: I guess I'm not familiar with anything that specifically identified the success rate of an ESOP-based company versus a non-ESOP-based company, for example. I do think, from the clients that we've experienced, that we've had experience with, and with just the general ESOP associations that we're affiliated with, that they do have a tendency to just be more successful because the employees do have an investment in the stock and they want that stock to grow, so they want the company to grow because that makes their stock more valuable. So in that sense, anecdotally, you know, the argument would be that that's why they're...that they would be more successful. We can sure look and see if there's anything like that out there. [LB573]

SENATOR PIRSCH: Okay, wonderful. Thank you. [LB573]

SENATOR HADLEY: Senator Schumacher. [LB573]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Are these ESOPs used as vehicles for the original owners/entrepreneurs exiting and transferring their businesses over to employee purchasers? [LB573]

MIKE WEAVER: Yeah, that's one of the reasons or one of the ways that you can use an ESOP is if you've had an individual or group of individuals that have started a company, grown it, and they're to the point in their life where they're ready to pass that on and it, for whatever reason, it might not be to heirs or, you know, it certainly could be to heirs that are involved in the ESOP. But, yeah, it's a way to get that stock transferred to the employees who then can continue on with the company. [LB573]

SENATOR SCHUMACHER: Now in that vehicle, if the employees have built up some type of a pension fund or something like that, can they use that money to purchase the...those...the assets or stock from the original owners? [LB573]

MIKE WEAVER: It can be, depending on what type of pension plan was in place at the time that the conversion to an ESOP would occur. It's possible that the funds that the employees have built up, for example, in a 401K account or something, could be used to purchase the stock. That's one of the ways to do it. [LB573]

SENATOR SCHUMACHER: And that would be a capital gains taxation, at least at the federal level, to the original owners? [LB573]

MIKE WEAVER: It would be, unless they make a...they can make an election to not get taxed on that capital gain as long as they roll over that...the money that they receive into a different type of investment. Basically, it's a, you know, a domestic corporation. If they roll that gain over into another investment, then they can defer the recognition of that gain until they sell that next investment. [LB573]

SENATOR SCHUMACHER: So if someone has a company that they built up, they're now selling it to an ESOP of their employees, it's almost like a 1031 transfer where you pay in the... [LB573]

MIKE WEAVER: Similar, yeah. You're basically...it's not a...you're not escaping the taxation of it. You're just deferring it. As long you invest it in an appropriate investment, you can defer the recognition of your gain until you sell that next investment. So a 1031 is a good... [LB573]

SENATOR SCHUMACHER: Thank you. [LB573]

SENATOR HADLEY: I guess I have one further question, Mr. Weaver, just...this says, in the situation that there was a great tax benefit when people went into the ESOP and suddenly, now, they want a tax benefit later. Do you see what I mean? That...I didn't ask that quite right. But just want to make sure that forming an ESOP didn't give them a tax break and now they want another tax break by saying that they have numerous...you know, that we'll treat it as five or more employees. [LB573]

MIKE WEAVER: I'm not sure I'm following your question, Senator. [LB573]

SENATOR HADLEY: Well, I just want...I guess I want to be able to look our other senators in the eye on the floor and say, this isn't something that they could have known about earlier, they made a decision then, and now they want to change that decision because it gives them a tax break now. [LB573]

MIKE WEAVER: No, I don't...right. I don't think that is the way they would be looking at this. I think, generally speaking, and certainly we thought that this, the capital gains exclusion, would be applicable in this situation. And in fact, you know, the type of ESOP that this relates to wasn't even available until 1996, which is after LB775 was passed. So I think you just have legislation in 1987 that was passed that really couldn't anticipate this, but now that it's here I think it really is more of a sort of a technical correction to make it... [LB573]

SENATOR HADLEY: Technical correction. [LB573]

MIKE WEAVER: Yeah. [LB573]

SENATOR HADLEY: Okay. Thank you, Mr. Weaver. The next proponent. [LB573]

CHAD HARTNETT: Good afternoon, Senators. My name is Chad Hartnett, and that's spelled C-h-a-d H-a-r-t-n-e-t-t. I'm here representing HDR, Incorporated, where I'm the treasurer and corporate controller. HDR is an architecture and engineering company based in Omaha. We are a broad-based, employee-owned company that is owned by an ESOP, an employee stock ownership plan, and a 401K plan. We were bonded in Nebraska in 1917, and we've been headquartered in Nebraska ever since. We've been employee owned since 1996, when the current employees and McCarthy Capital purchased the company back from a French construction company. The French construction company was looking to either move the headquarters to Dallas, Texas, or to sell the company to one of our competitors. And the CEO at the time felt that Nebraska was the right place to have their headquarters and that we could do it better on our own. In 1996, at the time of this buyback, we had just 1,700 employees with just 350 in Nebraska, and today we have 7,800 employees with 950 in Nebraska. We've had 17 consecutive years of double-digit growth. We feel that employee ownership and our presence in Nebraska has a lot to do with that. As I said, we have broad-based employee ownership; 6,700 of our 7,800 employees own 100 percent of the stock. Every level of the company has stockholders, from the boardroom to the mailroom. There is no one shareholder at our company that owns more than 2 percent of the stock. Employees must sell their stock when they retire or leave the company, so we have no outside shareholders or influence. All the shares are held in an ESOP 401K trust on behalf of the employees, and we elected S corporation status in 2002. I'll try not to repeat myself or repeat Mr. Weaver's testimony too much. But I just wanted to say that, you know, ESOP-owned S corps are tax deferred, which means the employees is taxed upon the sale of the stock versus the corporation being taxed annually. And we have used that cash to invest in the company, invest in the education of our employees, and grow the company. We feel that ESOPs have engaged employees as they have skin in the game. They can benefit from the company's success through better retirement security, and they participate in the decisions. We have employees that are engaged in our annual strategy, where we make long-term strategy and benefit decisions not short-term, Wall Street types of decisionmaking. A capital gains exclusion benefit arose out of LB775 in 1987 based upon the principles and purpose of LB775, and we felt and we thought all along that HDR...that our employee owners would qualify under this exclusion. We've since had at least two, that we know of, former employees get audited by the Department of Revenue, whereby their election for capital gain exclusion was denied. When we found this out we sought counsel and clarification, and we feel this is one way to just get this on the books and get the clarification that the Department of Revenue needs with respect to ESOP S corporations because, as Mr. Weaver said, it wasn't something that they could consider and foresee in 1987. HDR feels that its shareholders are like all shareholders in that they share common characteristics of the ownership. They vote on the directors. They vote on acquisitions of other companies. We would vote on a sale of the company if that were to happen. The shares have a market value and have a right to proportionate dividends if paid. We reap the benefits of the good times and we have a risk of loss in the bad times, just like any other shareholder. It's important to note that former employees, when they sell their stock, still pay tax on the portion of the sale proceeds that is not considered capital gain because that has built up over time and not been taxed but allocated to employees' cost basis. It's also important to note that HDR doesn't benefit from the provisions in LB573. It's the former...our former employees that have served HDR. We feel the intent of LB775 is that former employees of ESOP S corps should be exempt from being taxed on the capital gain portion of their stock proceeds like other C and S corporation shareholders. And the way to fix this is to put ESOP S corporation owners on par with the other stockholders with respect to the tax burden. We're just asking to add one sentence to the code, and it's a small clarification that does a lot to fulfill the intent of LB775. I also wanted to just add some information on some questions that were asked of Mr. Weaver. HDR is a board member of the ESOP Association of America, and they have statistics which we can provide to you. But their statistics show that ESOPs are twice as successful as other companies, and the types of companies that are predominantly in the ESOP world are manufacturing companies and professional services companies. A number of our competitors that we compete with every day for the same work are ESOPs. It definitely works in the architecture and engineering world where we have very analytical people that understand the economics and understand the softer side of being an owner and what that means and the motivation behind that. That's all. Thank you, senators. [LB573]

SENATOR HADLEY: Questions for Mr. Hartnett? Senator Pirsch. [LB573]

SENATOR PIRSCH: I'll just ask you the same question. Do you think that your ESOP structure leads...has led to your success, your growth as a company? [LB573]

CHAD HARTNETT: I definitely think so. We talk about it all the time because it's something that is building up for our retirement, and we are constantly bombarded with education and news stories that say we're not ready...you know, most people aren't ready for retirement. Well, this is a retirement vehicle. It's...and it builds up. And when companies do twice as well as other companies, that...your retirement plan builds up even quicker. And so we feel that it's really fueled the success, especially, you know, when you're talking about a company that's...it's really...its assets are its employees. We don't own a lot of real assets. Our assets are employees. [LB573]

SENATOR PIRSCH: Do you feel more anchored to stay in Nebraska and...as a result of having your corporate headquarters there, do you feel? [LB573]

CHAD HARTNETT: You know, I think that, you know, it's been in Omaha since 1917. I believe...I, you know, mentioned that the French were looking to move the headquarters to Dallas, which would have been a good thing with respect to taxes. But the CEO at the time felt that Nebraska was the right place to have a headquarters. He is not...was not from Nebraska but enjoys and appreciates Nebraskans and their work ethic. I think that, with respect to, you know, movement of companies, really what comes into play is moving employees. We have engineers and management that, with today's technological advances, a lot of us can do our work from home, from a beach in Miami, a, you know...or a beach in Texas or...and so forth. And so what we have is a much more mobile work force. I think that, as time goes by, you could see, you know, the workplace environment being different and that a company wouldn't necessarily be tied in one place with respect to all levels of management, um-hum. [LB573]

SENATOR HADLEY: Any other questions? Thank you, Mr. Hartnett. [LB573]

CHAD HARTNETT: Thank you. [LB573]

SENATOR HADLEY: Appreciate it. Further proponents. [LB573]

KEVIN O'MALLEY: Good afternoon, Senator Hadley and Revenue Committee members. My name is Kevin O'Malley, and I'm the CFO or, I guess...K-e-v-i-n O-'-M-a-l-l-e-y. I'm the CFO at a company called Travel and Transport, which is headquartered in Omaha. We were founded in 1946, and we've been headquartered in Omaha the entire time our company is...has been around. We have 1,050 employees; 278 of those employees are here in Nebraska. We do business in 42 states. We're the fifth-largest travel agency in the United States. We weren't when I joined the company back in 1994, but we've grown a lot over the years. Our primary focus is corporate travel, but we also do groups, meetings. We have a loyalty division, so if you have a credit card where you accumulate points, you might be calling Travel and Transport but think you're talking to the bank. And then we have a leisure division as well. We've been an ESOP since 1991. We've been 100 percent employee owned since 2002, and we made the S election, similar to Chad Hartnett in 2002 in HDR. We're in a fun but challenging industry. It's a consolidating industry. If you go back in time, there were about 47,000 travel agencies about eight years ago. Today there's less than 15,000.

And so our ESOP has been a big part of our...who we are and, I think, our survival. We have 658 employee owners, shareholders of our company. That number will change in September when I tell you we have 1,050 employees. We bought a company last year that has about 300 employees, and about 250 of those employees will become shareholders in September of this year. So they have a one-year wait before they can become part of the ESOP. So then we'll have over 900 of our 1,050 employees who will be shareholders. The culture of our company, in a lot of ways, is shaped by the ESOP. People care about each other. They take care of each other. They have a vested interest in doing a great job for our customers, and it's something we talk to the customers about all the time. Every time you speak to somebody at Travel and Transport, you're talking to an owner, and so they have a very vested interest in making sure that we do the right things for you at all times. We have 130 people in management. The average tenure of that group is over 15 years. So people don't tend to leave when they come to T and T, and again that speaks a lot to the culture and to the ownership culture. And there's really a tremendous pride in ownership among the employees. So we do a lot to promote the ESOP, to promote the ownership, to promote the fact to our employees that we're all owners, we own the company. We have an annual shareholder meeting. We invite all the employees. We have over 100 employees that attend. Again, being spread out in 42 states, it makes it a little difficult. But most of the people in our office, or at least half, will come to the shareholder meeting. We have a "guess-the-share" contest every year, guess the share price, and he or she who is closest gets ten times whatever the share price is that year as the prize. But we try and make it fun. People get annual statements showing their shares owned. So every year I get a statement, just like every other employee owner or shareholder, that says, here's how many shares you have in the ESOP. And so it's very alive. It's something that people pay a lot of attention to. We share our financials quarterly with the employees. They are the owners, and so we want to make sure they understand what's going on with the business. And I think, you know, as I think through, you know, what is employee ownership, I...a good example of it, 2008, 2009, when the economy went south, we were in a position...one of the first things that gets cut by corporations when the economy is not going well is travel. And corporations, which is 95 percent of our business, cut their travel budgets so much that we would have been in a position that, had we not been able to make changes, we would have been out of business. And so we, as the employee owners, made a decision that all of the employees, from our CEO to the mailroom person, all took pay cuts. And we did that at the end of 2008, we did it for all of 2009, and we started bringing the pay cuts back in 2010. But again, I think it speaks to the mentality and the fact that we think and act like owners. You know, I would say that, compared to our competitors in our industry...Chad Hartnett spoke to the architecture/engineering. In the travel industry there's probably five or ten large ESOPs, again, a service-oriented company. We're the largest in the United States from a travel perspective in the ESOP community. But it's really helped us through the good times and the bad. So, in conclusion, we are definitely a proponent of LB573 and believe in what's being said and what's being proposed. You know, as far as the trust goes, 99 percent of our employees don't even have an idea that there is a trust. They don't even understand that. It's a part of an ESOP. It's more mechanical than it is anything else. Certainly I, as a CFO, understand that the trust is there. They know that we have a trustee who represents their interest to make sure that all the things that...and decisions that are being made are being done in the right way. But they, as the owners, make the decisions. They guide the company. They make what happens happen. So, you know, at the end of the day they are the owners. They believe they're the owners. They're the shareholders. They're the ones that make it go. Thank you. [LB573]

SENATOR HADLEY: Mr. O'Malley, I just...you said you have employees in 42 states. [LB573]

KEVIN O'MALLEY: Right. [LB573]

SENATOR HADLEY: Is that...am I correct in assuming then we have a situation where depending on where the owner-employee is located could make a difference in the taxation of the capital gains when they leave/retire from the company? Would that be a fair statement? [LB573]

KEVIN O'MALLEY: Yeah, it's...yeah, that's a fair statement. I mean, it would vary, state by state, depending on what the state law is. Federal is going to be federal. But at the state level, yes, absolutely. [LB573]

SENATOR HADLEY: Absolutely. So you could have two employees, one in a state that has an election where they don't treat it...and Nebraska that does, and they would be treated differently. [LB573]

KEVIN O'MALLEY: That's right. [LB573]

SENATOR HADLEY: Okay. Senator Schumacher. [LB573]

SENATOR SCHUMACHER: Thank you, Senator Hadley. Thank you for your testimony today. I want to make sure that I've got the picture right. We start out with what basically would have been a C corporation. [LB573]

KEVIN O'MALLEY: Um-hum. [LB573]

SENATOR SCHUMACHER: Okay. And somebody put some capital in it and somebody got some stock back. That's step one. Step two, the company takes on some employees. And of course you have to pay them a wage. Otherwise, they wouldn't work for them. So they get paid a wage but you need to sweeten the pot a little bit, and to sweeten the pot a little bit you set up this ESOP thing in which the employees...in which you, the corporation, puts a certain amount of stock in each year. [LB573]

KEVIN O'MALLEY: Um-hum. [LB573]

SENATOR SCHUMACHER: Okay, now you've got the employees, and they eat out of that stock bowl in accordance to their shares in this trust. [LB573]

KEVIN O'MALLEY: Yeah. [LB573]

SENATOR SCHUMACHER: How do they...how are the shares in the trust...how do you get a share of the trust by your...is it a percentage of your income or whatever? [LB573]

KEVIN O'MALLEY: Yeah, it's...so in our case, you...we were founded in 1946. You had owners that raised capital and formed the business. It grew. In '91 we had some of our owners wanting to...they were getting to the age where they wanted to get out and retire, and none of them had worked at our company. And they looked at what had happened from an employee perspective and how they'd grown the company and how they'd grown the value on their behalf. And they said, you know, we really want to figure out a way where the employees could be the owners. Rather than sell it to another travel agency or another individual or a fund or whatever, let's figure out a way to get this to the employees because they're the ones that make it happen. I mean, they're our greatest asset. And so you have to have 30 percent of the shares sold into an ESOP originally to make it happen, and that's what happened in our case. Two individuals from the outside that owned 30 percent sold in, and so now we had shares in the ESOP. [LB573]

SENATOR SCHUMACHER: So you had 30 percent of the original company in this trust ESOP. [LB573]

KEVIN O'MALLEY: That's right, that's right. [LB573]

SENATOR SCHUMACHER: Okay. [LB573]

KEVIN O'MALLEY: And so that...the...in our case, we had a pension that did qualify. And so 98 percent of the people that had money in the pension chose to put it in, too, to help fund the original buy, and then we took out a bank loan for the rest. And so the ESOP had the money to buy the outside shares, the shares went in, and then those shares got allocated to the employees every year. And they don't pay a dime for them, so it's something that's given to the employees as part of working for the company. And the shares are allocated every year based on the debt paydown, so...at least in our case. So in our case, if we had a ten-year amortization on the loan and one-tenth of the proceeds were paid back to the bank each year, one-tenth of the shares were, therefore, allocated. They're allocated out to the members of the ESOP based on your comp to total compensation. And there's a cap on the compensation, so I don't know the exact number. I think it's around $230,000 to $250,000 where it's capped to make sure that it doesn't get disproportionate. In our case, we have 1,050 employees. We have eight officers. Those eight officers own less than 8 percent of the total company. So the stock is pretty well diversified because of how it gets allocated. [LB573]

SENATOR SCHUMACHER: So in the first corporation, how does it get money from the first corporation down to the ESOP? [LB573]

KEVIN O'MALLEY: Well, the... [LB573]

SENATOR SCHUMACHER: From the corporation, on that 30 percent, does it pay a dividend? [LB573]

KEVIN O'MALLEY: Yeah, it does. It...typically, there's either distributions, which would be dividends, or contributions. In our case, we do a combination of both. So if you do a distribution or a dividend, then that's allocated just like any shareholder would get, your proportionate shares to total shares. If you own 1 percent of the stock, you do 1 percent of the dividend of the distribution. The contribution that goes to the ESOP to put money into it so it can pay back the loan is allocated, your comp to total compensation. So we do...our company, in our case, does exactly 50-50. We do 50 percent distribution, 50 percent contribution, because we want to make sure that in a distribution scenario we're not just taking care of the long-term employee because they would have more shares and they would get a disproportionate amount, whereas a contribution says to the new employee who may not have a whole lot of shares, you're still going to get your proportionate share of your comp to total comp. So for us it's been a fair way to do it. [LB573]

SENATOR SCHUMACHER: The contribution is cash and the distribution is also cash. [LB573]

KEVIN O'MALLEY: They're both cash, and you're funding it because the ESOP has no cash. And so the ESOP turns around then and uses that cash to buy out departing members and to pay its debt. [LB573]

SENATOR SCHUMACHER: And that transfer from the first corporation into the ESOP, is that taxable to anybody, or is it deductible by the first corporation or the original corporation? [LB573]

KEVIN O'MALLEY: You know, not at the corporate level, so it's individuals that are selling their shares to the ESOP and putting them in trust. So in our case, with the 30 percent, we have the two individuals on...that were outside of our company who sold their shares. They had the ability to ,1042 or 1031 in your example, to kind of do it...treat it as a like-kind exchange, roll the proceeds into a like-kind investment, another stock, and defer the gain until they sold that asset. But from a corporate perspective it didn't do anything. It didn't trigger anything from a tax perspective. [LB573]

SENATOR SCHUMACHER: Okay, thank you. [LB573]

SENATOR HADLEY: Seeing no other questions, thank you, Mr. O'Malley. Any further proponents? [LB573]

DAVID KNUTSON: Good afternoon, Senators. My name is David, D-a-v-i-d, Knutson, K-n-u-t-s-o-n. I am the chief financial officer for Farmers National Company, and I'm here to represent Farmers National in supporting this bill, LB573. We are an ESOP-owned company. Our business is to manage farms and ranches and to broker farms and ranches. We have 255 employees; 125 of those are located here in the state of Nebraska. Ninety are located in Omaha at our home office. The other 35 are spread out throughout the communities in the state of Nebraska. The other 100 employees that we have are property managers that are spread out through various parts of the states, other states in which there is agriculture. Our company was formed to be an ESOP in 2000. Farmers National Company has been in Omaha since 1929. In February of 2000 it was owned by Metropolitan Life Insurance Company. We were informed at that time that Metropolitan wanted to sell the company and that they gave the employees the opportunity to purchase the company. The problem was we were all very excited about that, except that we were all working for a wage and we had no money. We did scrounge up some capital. We did negotiate with Metropolitan on what was a fair price for the company. We finally found some friendly bankers. And after we did a two-step transaction...the first transaction was some of the individual management members came up with some money. The bank leveraged the company up to 95 percent of the purchase price on day one of closing. And the step two was to formulate the ESOP to raise capital. And what we did was we blended an ESOP trust with a 401K plan that we had. And then, at that point in time, we went out and did a subscription. And what that means is we did it voluntarily. We went to all the employees and said, you have the opportunity to transfer funds from your 401K plan into the ESOP to purchase shares of stock, and this will be on a voluntary basis, and there were certain parameters set up. When that transaction took place, we traveled all over the country, meeting with our employees. The enthusiasm was so great that we were raising about twice the amount of capital that we needed to satisfy the banks. We then moved forward into...up to...through 2005, when we were able to pay off the bank, and we expanded the growth of our company. Now what happens is, if you look back at 2000, we had 170 employees at that point in time. Now we have 255 employees. We feel that we've done a substantial growth. That growth has occurred primarily because of the fact that we've been able to retain any corporate earnings within the corporation to be used to fund that growth and to pay off the finances, as opposed to before when we sent all of our money, earnings, into New York to pay off Snoopy. So it's been a very good vehicle for us. It's provided a retirement program that has enhanced wealth for our particular employee group that is beyond means. I will tell you also that it has been said before that our employees don't look at this as not being a part of their investment and motivation in the company because one other thing that we do at Farmers National Company is we open a window every year for what we call a stock exchange. And what that means is that any employees that leave, then their stock has to be relinquished within the plan. The first thing we do then is give the opportunity of those shares to be purchased by other active participants that are then in that plan and that are active employees. Those employees voluntarily elect to transfer funds from their 401K plan balances and accounts into the ESOP to purchase those shares. Or we also give them the opportunity that if they fill their position in the ESOP and Farmers National Company is too large, they can sell their shares. And then we do a balancing act at the end of the day. Hopefully, the best thing is that those people that have left have recycled those shares to other participants, and it's still current employees of Farmers National Company. Sometimes it doesn't come out that way. Sometimes the situation is that the company needs to repurchase any shares that the employees haven't bought. But at the last exchange, just to kind of give you an idea of the enthusiasm, we had 190 participants purchase shares of stock that were...came up available from terminated employees. So that, in itself, is kind of our report card that demonstrates the value of this particular vehicle. It provided us a structure in order to purchase the company, it provides us a structure to build wealth, and it's distributed evenly throughout all of our employee base. The highest allocated account at the ESOP trust level is held at 7 percent. So it's broad ownership allocation, and it's given a lot of people here, not only the state of Nebraska employees but those in other states, the opportunity to have something that they never dreamed of. So with that, I would appreciate your support and any questions. [LB573]

SENATOR HADLEY: Questions for Mr. Knutson? Yes. [LB573]

SENATOR SCHUMACHER: Thank you, Senator Hadley. In all that series of rather complex transactions, the bottom line on that dollar earned by the company, when it gets down and distributed to the employee who is leaving or retiring, at the end of the process,... [LB573]

DAVID KNUTSON: Yes. [LB573]

SENATOR SCHUMACHER: ...has tax been paid on it at least once? [LB573]

DAVID KNUTSON: It is in the process of being deferred. [LB573]

SENATOR SCHUMACHER: So the employee who takes that finally leaves the company and takes his proceeds with him, bought out in one of those transaction, whatever, somewhere, from that dollar that was earned at the corporate level through the chain of transactions to the little bag that he's walking away down to Miami with, has tax..has he paid...has tax on that dollar been paid at least once? [LB573]

DAVID KNUTSON: No. [LB573]

SENATOR SCHUMACHER: No. [LB573]

DAVID KNUTSON: And let me explain that. When we were formed in 2000, we were formed...this is Subchapter S, okay? [LB573]

SENATOR SCHUMACHER: Okay. [LB573]

DAVID KNUTSON: And the ESOP trust is 100 percent owner of the Subchapter S. The earnings or the revenues, the nets, pass through to the ESOP, and the ESOP trust is tax exempt because it's in a retirement plan. And so the employee pays the tax at the point in time that the stock is distributed, or there's a distribution made to the employee in the form of cash. [LB573]

SENATOR SCHUMACHER: So we have income that gets from the source, through the system, to an employee in cash in the end, on which we have not taxed it once. [LB573]

DAVID KNUTSON: Okay, we have not, but I'd have to probably defer to our legal counsel. But we do have it...on various states we do pay corporate tax on a state level. [LB573]

SENATOR SCHUMACHER: Well, I mean, you know, we've been hearing testimony all week long about, you know, how much retirement benefits should be taxed and how we've got to be equitable among this thing. And it just struck me that this is a mechanism where somebody...that dollar of earnings is bypassing tax, and we're asking other folks to pay tax on their retirement income. [LB573]

DAVID KNUTSON: Okay, I would have to defer this to our legal counsel,... [LB573]

SENATOR SCHUMACHER: Okay. [LB573]

DAVID KNUTSON: ...which is Mr. Weaver. [LB573]

SENATOR SCHUMACHER: Okay, thank you. [LB573]

SENATOR HADLEY: Any other questions? Thank you, Mr. Knutson. [LB573]

DAVID KNUTSON: You're welcome. [LB573]

SENATOR HADLEY: Any further proponents? [LB573]

JOSEPH YOUNG: Mr. Chairman, members of the committee, my name is Joseph Young, last name spelled Y-o-u-n-g, and I'm testifying today on behalf of both the Greater Omaha Chamber and Nebraska Chamber of Commerce and Industry. We really...both the organizations wanted to get on the record as proponents in support of the bill. In addition to this being kind of a clarification, we also think it's good policy. And I'll open it up for questions. [LB573]

SENATOR HADLEY: Okay. Any other questions? [LB573]

JOSEPH YOUNG: Thank you. [LB573]

SENATOR HADLEY: Thank you, Mr. Young. Any further proponents? [LB573]

WALT RADCLIFFE: Senator Hadley and members of the committee, my name is Walter Radcliffe, and I'm registered lobbyist for Lieben, Whitted, Mr. Weaver's law firm. And since he can't testify again, I'm going to try to be a parrot who probably can't answer any questions. But I did want to get a response to Senator Schumacher on the tax issue. And in visiting with Mr. Weaver he says, yes, it is taxed, the employee pays the tax when it is distributed to them. He will be...Mr. Weaver is here and obviously can answer some more questions. But I did want to at least get that on the record that, yes, there is a taxable transaction. [LB573]

SENATOR HADLEY: Okay. [LB573]

SENATOR SCHUMACHER: That's...okay, thank you. [LB573]

WALT RADCLIFFE: Okay? [LB573]

SENATOR HADLEY: Thank you, Mr... [LB573]

WALT RADCLIFFE: Thank you. [LB573]

SENATOR HADLEY: Further proponents? Opponents? Neutral? Senator Harr, do you wish to close? [LB573]

SENATOR HARR: Yes. Chairman Hadley, members of the Revenue Committee, thank you for this thoughtful conversation regarding ESOPs. First of all, I do think this is a place and time issue. I understand your concern, Senator Schumacher, but this is no different than how we treat an LLC. We are giving the same treatment that we give S corps and LLCs and C corps under LB775. It's just we're extending it onto ESOPs. So if we have a problem...as I understand it, if we have a problem with this concept, then we have a problem with it all the way back. And then we're going to be redoing LB775. As I understand it...I'll seek some clarification on this. But this was kind of one of the deals we made when we passed LB775. So thank you very much and, like I said, I'll follow up on this. Thanks. [LB573]

SENATOR HADLEY: Okay, thank you, Senator Harr. [LB573]

SENATOR HARR: Questions? No. Good. [LB573]

SENATOR HADLEY: Okay, that will close the hearings on LB573. Senator Pirsch, LB327. [LB573]

SENATOR PIRSCH: Thank you, Chairman Hadley and members of the Revenue Committee. I'm, for the record, State Senator Pete Pirsch, last name P-i-r-s-c-h. I represent the Legislative 4th District and I am the sponsor of LB327. We have been discussing for quite a while in a number of different bills the individual income tax in Nebraska and its effect on Nebraskans and economic development and rankings and things of that sort. That seems to be kind of the main piece that we've been wrestling with. And recently we've discussed the Governor's proposals, especially under LB405. And so I want to clarify the effect of my bill, LB327, because it is altogether a different type of animal. This bill is not about reconfiguring the tax structure in a tax neutral way. LB327 would bring about individual income tax relief to the tune of about $200 million per year for Nebraskans across all income levels. There has been certain proposals more narrow in scope tax relief bills presented to our committee thus far that would affect the individual income tax. I think it's important to discuss the relative advantages of LB327's broad application to all Nebraskans. Yes, retired individuals would benefit under LB327 as would military individuals. They, too, would benefit under this proposal; but so, too, would everyone else in the state, including the lowest earners in the state. So I think that on the whole this would be seen as the most fairest and across-the-board equitable approach. All tax brackets are to be taxed less in an equal percentage under LB327. It, I believe, is the one proposal that everyone can get behind if it brings about the broadest amount of good for all Nebraskans and everyone benefits. So LB327 would, in summing up and closing here, bring about substantial and meaningful...it would constitute a substantial and meaningful response by this committee and the Legislature as a whole in addressing the issue of too high of levels of individual income taxes in Nebraska. And I would take any questions that anybody has at this point in time. [LB327]

SENATOR HADLEY: Senator Schumacher. [LB327]

SENATOR SCHUMACHER: Thank you, Senator Hadley. I guess this is the difference between percentages and real money. [LB327]

SENATOR PIRSCH: Yes. [LB327]

SENATOR SCHUMACHER: There's two things operating here: the folks in the top bracket drop by .64 percent; the next top bracket, .51 percent; the next bracket about half as much as the first one, .31 percent; and then .2 percent for the low bracket. You also adjust the brackets I think as to where the brackets kick in and kick out, don't you? [LB327]

SENATOR PIRSCH: I believe that's right. Bracket...maybe I should go over that. Yeah, bracket one would drop from the lowest bracket, 2.46 percent to 2.2 percent; bracket two from 3.51 percent to 3.2; bracket three from 5.01 percent to 4.5 percent; bracket four from 6.84 percent to 6.2. And so these were...the numbers Bill Lock helped me conceptualize the number. [LB327]

SENATOR SCHUMACHER: And so in real money the top bracket gets a drop in rates and from relatively low level of that top bracket up to millions of dollars a year. That bracket, just like the other proposals, in real money saves that group of people a lot of money. [LB327]

SENATOR PIRSCH: There is a differentiation between percentage and real dollars. And, of course, that represents more meaning. You know, if you're Warren Buffett, $100 doesn't mean anything to you. If you're... [LB327]

SENATOR SCHUMACHER: Okay, so, right. [LB327]

SENATOR PIRSCH: ...earning $8,000 a year, that means... [LB327]

SENATOR SCHUMACHER: But now that same $100 that you're saving Warren Buffett has got to be paid by somebody who it might mean some money to. How do we then...we save these folks, particularly the more wealthy ones, a nice chunk of that $209 million deficit. How do we pick up that...who pays for that? [LB327]

SENATOR PIRSCH: Okay. So this is not a... [LB327]

SENATOR SCHUMACHER: Come up with $209 million. [LB327]

SENATOR PIRSCH: This isn't a tax shift. Is your question asking me how... [LB327]

SENATOR SCHUMACHER: It's a tax cut. [LB327]

SENATOR PIRSCH: Right. It's tax relief, pure and simple and so it would have...so you're saying... [LB327]

SENATOR SCHUMACHER: Okay. And when we have tax relief... [LB327]

SENATOR PIRSCH: Right. [LB327]

SENATOR SCHUMACHER: ...does Santa pay for the bill? [LB327]

SENATOR PIRSCH: No, no. And again, conceptually these are people across all bracket levels who are keeping more of their own money and not paying it into the state to begin with. So I kind of conceptually look at it differently insofar... [LB327]

SENATOR SCHUMACHER: And when the State Treasurer has to write the check and sees negative $209,556,000 in the checkbook, what stops the check from bouncing? [LB327]

SENATOR PIRSCH: Well, you know, with respect to this, this would be the tax rate so it would never, I don't believe, get into the Treasurer for him to write. These are just people who would be taxed at...able to keep their own money at a lower rate, I mean without sending in to begin with. But with respect to you're saying there's the difference between dollars and, look, that conceptual ideas of tax fairness... [LB327]

SENATOR SCHUMACHER: That and the fact that in the end we've got $209 million less in our checkbook so we either got to stop writing checks at some point or we got to find another place to suck in some money so that we aren't bouncing those checks. I don't know if the State Treasurer can go to jail for bouncing a check or not, but there's a problem there. [LB327]

SENATOR PIRSCH: Yeah. Well, and that's a different thing. But I'm saying in effect, I mean we're quibbling over I think semantics or whatnot, but I mean in actual practice what we're saying is keep more of your own money. The money never hits the Treasurer. And I understand that we had devised some plans for other people...for the people's money that we would have to take into consideration as we planned a two-year biennium. But what I'm suggesting is that that is why the figure is where it is, that we can work with that amount. That that is, I'm saying significant, but it is not unachievable. It is something that would fit within the strictures I think of what our current projections are going to be. I don't think that it's unrealistic. But, you know, that's the purpose of this committee, too, is to look within the context, work with Appropriations Committee, and check with all senators and within ourselves to see how much properly should the state be sending, spending that is, in terms of new spending, that is, this biennium. And, you know, I'm perfectly willing to work with this committee to whatever level that we feel comfortable in sending something to the floor that it would fit within a package. So... [LB327]

SENATOR SCHUMACHER: Thank you, Senator Pirsch. Thank you, Chair. [LB327]

SENATOR HADLEY: Thank you. Any other questions? Seeing none, thank you, Senator Pirsch. Proponents. [LB327]

RON SEDLACEK: Good afternoon, Chairman Hadley and members of the Revenue Committee. For the record, my name is Ron Sedlacek, that's spelled S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce and also been authorized to enter testimony in behalf of the Lincoln Chamber of Commerce. And I recall the Lincoln Chamber has asked the committee clerk to distribute a letter to the committee and hopefully you have that. I did not have a copy of that particular letter, but it is in support of the concepts of this legislation. The State Chamber Board of Directors met yesterday and discussed tax policy to some length because we have so many proposals here before us in the Legislature. You've heard testimony as a committee about tax modernization or tax reform or tax relief. Everyone has different concepts sometimes of the same bill and what it might contain. What we'd like to do as the State Chamber and the Lincoln Chamber is to offer continued discussion and input and to work as a stakeholder, but not just us but with other stakeholders as well, in looking at the overall tax proposals that are before this committee. We offer our assistance and expertise where we can be helpful or beneficial to you all. We feel that this particular piece of legislation, LB327, is a part of that overall discussion. We're not particularly necessarily wedded to the brackets and how the rates may be formulated in precision to what is in this particular draft, but the concept of some income tax bracket adjustment would be part of the program. We have also supporting Senator Pirsch and Senator Burke Harr's bill that would provide for the corporate income tax to be parallel with the individual income tax single filer so that there is equity between pass-through entities with C corporations. The committee will be hearing that bill in a couple of weeks. Senator Schumacher has a bill dealing with alternative minimum tax repeal, feel that is also something to put on the table in this regard. And Senator Krist has offered a bill, LB457, dealing with the carry forward rules for the net operating loss; carry forward so that we would be similar, well, identical to what the federal law provides in that regard. And then there's also as a possibility Senator Schumacher's LB81 dealing with corporate dividends. So there's a number of moving parts of the package. Now I must say...I have to say at this point in answer to any anticipated question is to, okay, you add all that up. What is the fiscal impact and how do you address that? That's an obvious question. I would at least offer the suggestion to take these particular concepts, and including the Governor's...I did not want to fail to mention the Governor's proposals as well, but in the context of all is to take those concepts together, take a look at what the fiscal impact is, and to take a look at exemptions. But there are more than just sales and use tax that I'm talking about. There's other parts of our tax code, including income tax, that can be looked at. Certainly as you know from our testimony previous on the table, we're not terribly interested in looking at exemptions that would tax inputs for agriculture and business or agribusiness. You've heard from many other industry groups or sectors of the economy that made their case as well. But there are particular end user or ultimate consumer sales that seem to have escaped taxation. Might mention that there is the concept that is being looked at in a number of states called Main Street Fairness. And that's the change the nexus rules in regard to fairness for our retailers, our main street retailers in Nebraska and to take a look at potential of what can be captured in regard to Internet sales. There's a lot of things that can be done. And in addition, there is a revenue Forecasting Board meeting that will be coming up during this session as well to take a look at that in context as to what is being deposited in that big checking account that Senator Schumacher mentioned. So with that, we're supportive of the concept. We would ask the committee to please include all stakeholders involved in the discussion, and we'd certainly like to be part of that. [LB327]

SENATOR HADLEY: Senator Sullivan. [LB327]

SENATOR SULLIVAN: Thank you, Senator Hadley. It just occurs to me based on some of the work that the State Chamber has been doing with the best great ideas and whatever...you're doing some visioning for our state. So what would the Chamber's suggestion be in as we approach this whole project of tax reform, where do we start? Do we start to look at individual moving parts of the tax code, tax relief, tax burden, whatever? Or do we...is it driven by the kind of state that we want to have and the vision that we have? Where would you suggest is the best place to start? [LB327]

RON SEDLACEK: Well, that's an interesting question and I'm not going to represent the Lincoln Chamber in this regard but try to speak solely on behalf of what I know is evolving within the State Chamber and some of the discussions. The 100 Ideas that you talked about is part of another project called Forging Nebraska's Future so it's separate. Just...and I know Mr. Cederberg explained the process in that regard. [LB327]

SENATOR SULLIVAN: Except it is part of a visioning process, isn't it? [LB327]

RON SEDLACEK: It is part of a visioning process, but those 100 Ideas are essentially what's being suggested outside...within and outside of membership. It's not policy whatsoever, and we want to make sure everyone understands that those ideas are not State Chamber policies. This is what's been offered and we're publishing those ideas that have been offered or the ones that consistently have been offered where...to try to integrate it into about 100. So from that point of view, it does give direction as to what are people thinking. What are people thinking about the state and growing the state in the future? In regard to tax policy, I think everyone expects to have consistency and fairness and transparency and more simplicity, at least in the discussions I've seen, I've heard. There is certainly from a business point of view a matter of equity between the way you do business and what form you do business so that there's not one segment of business that has a punitive rate or treatment, that it should be consistent. We've heard...I know I've heard and I know this committee has heard about how tax policy and social policy might or might not be intertwined. And certainly there is that innate feeling that in some cases it certainly does affect, you know, behavior. We certainly know it affects particular behaviors in regard to the business sector. Is there an economic environment which is conducive to growth or that would encourage growth? So all...those...without being too philosophical here, there is a lot of moving parts as you said. And what we have to do is find what is best for Nebraska, and that's going to involve all of us. [LB327]

SENATOR HADLEY: Any further questions? You know, I just have one quick thought and I think it's a pretty brilliant idea after listening to everything I've heard all week. I'm going to handle the tax cuts part of this whole thing, giving people money back and cutting their property taxes, sales taxes, and income taxes. Senator Schumacher is going to find out where we get the money to give all that money back. So we're going to work in a partnership, and as soon as he comes up with the ideas of where the money comes from, I'll be happy to be the Santa Claus that gives it back to people. [LB327]

SENATOR SCHUMACHER: We'll roadblock at the bridge to Iowa. [LB327]

RON SEDLACEK: Interesting. And the Revenue Committee does have two vehicles and those are the shell bills, so to speak, dealing with sales tax and income tax that might be the vehicle that this committee would perhaps want to advance. [LB327]

SENATOR HADLEY: Thank you, Mr. Sedlacek. Thank you. Any further proponents? Opponents? Neutral? Senator Pirsch, you want to close? [LB327]

SENATOR PIRSCH: I will very briefly. [LB327]

SENATOR HADLEY: Senator Pirsch, you see my clock is still there on the desk there. That's a pretty nice one. [LB327]

SENATOR PIRSCH: Hmm, well, it's not quite midnight yet so I think we have some time, just kidding. I'll be quick. And thank you for your questions. Yeah, I mean there's a certain concern obviously of putting together a budget and being able to finance it. But there are...to the extent that this is...first of all, I should point out this is a flexible concept. Don't get too hung up on the particular brackets as, Chairman, you talked about you're a little concerned about the fact that the current structure as we now get to that top bracket, I think at $27,000, which you felt may be pretty quick to get to that top bracket, these would be other states, and so that certainly is an issue that can be incorporate, you know, addressing that into this. I'd be happy to address that with this group and work on that with respect to not just the brackets but the total overall amount and making it work with a budget. Budget reflects priorities and I understand there is, you know, this amount that is there is kind of the holding spot at $200 million is significant. I think we bring about significant. Whether a lesser amount would bring about significant rate and what that may be, I'd be happy to talk with the committee. But on the whole, this is an amount that is very achievable. It fits in even with other committees' plans and I think for extending out additional expenditures this year. And so to that end, I just want to say that I am quite flexible of looking at this with them, so thank you. [LB327]

SENATOR HADLEY: Thank you, Senator Pirsch. With that, I will bring a long week to a close. The hearings for the week are over. Have a good weekend. See you next week. [LB327]