[LB812 LB951 LB1048]

The Committee on Revenue met at 1:30 p.m. on Wednesday, February 10, 2016, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB951, LB1048, and LB812. Senators present: Mike Gloor, Chairperson; Paul Schumacher, Vice Chairperson; Lydia Brasch; Al Davis; Burke Harr; Jim Scheer; Jim Smith; and Kate Sullivan. Senators absent: None.

SENATOR GLOOR: Good afternoon. I'm Mike Gloor. I'm Chair of the Revenue Committee, District 35. If you're not here for the Revenue Committee, take a second, regroup, and head over to the right place, but this is the Revenue Committee. We'll take the bills in the order presented on the agenda that's posted right outside the door. We have a couple of general rules to facilitate today's meeting. May go through those quickly. First of all, if you have a cell phone, please either turn it off or put it on mute so we don't have that interruption to deal with. If you're going to provide testimony, we would ask as you get close to providing that testimony, you move to the front so that we're not spending a lot of time with people going to and fro. The order of testimony is this. The senator who has introduced the bill opens and then we go to proponents, then opponents, and then those in a neutral capacity, and finally we let that introducing senator close if he or she decides that’s what they choose to do. We have a five minute limit for testimony. There's a light panel up here that you may not be able to see from where you're at, but when you start, it will be green. It will stay green for the first four minutes, then it will flip to yellow, which tells you you've got a minute to go, and when it hits red, we know all of you will be finished, otherwise I will move you in that direction very quickly. Please be concise if you would. Speak into the microphone so that we can get all of the testimony. When you do sit down, and this is important, we need a couple of things. One is there are sign-in sheets in the back. We need you to fill out a sign-in sheet for us and hand it to Krissa, the clerk that's on my left. We also need you when you sit down to give us your name and spell your name, again so we get that correct for the record. We need, if you have any written information, we need 11 copies and you can get the pages' attention, they'll distribute those 11 copies for you. If you've just realized you don't have 11 copies, get the attention of one of our pages so that they can get those 11 copies for you before we start. To my right is committee counsel, Mary Jane Egr Edson. At the far end is our research analyst, Kay Bergquist, and Krissa Delka is the clerk on my far left. Our pages today are Jordan from Oakland and Brenda from Wakefield. And I'll ask the senators themselves to introduce themselves. Senator Davis.

SENATOR DAVIS: Al Davis from District 43, north central and western Nebraska.

SENATOR HARR: Burke Harr, Legislative District 8, parts of Douglas County.

SENATOR BRASCH: Lydia Brasch, District 16, Burt County, Cuming County, and Washington County.

SENATOR SULLIVAN: Kate Sullivan of Cedar Rapids representing District 41, a nine-county area in central Nebraska.

SENATOR SCHEER: Jim Scheer, District 19, which is Madison and a little portion of Stanton County in northeast Nebraska.

SENATOR GLOOR: And some of you have been at this long enough to know that senators have other responsibilities and other bill introductions like Senator Davis, who has one right across the hall he needs to present. The same is true with Senator Smith and Senator Schumacher, so there is some coming and going. If it's your bill, don't take it personally. It's the nature of what we have to do and even I will need to leave for a while about midafternoon and turn the gavel over to Senator Schumacher who is the Vice Chair. And with that, Senator Harr, welcome. We'll start with LB951.

SENATOR HARR: Thank you, Chairman Gloor and members of the Revenue Committee. As I just stated, my name is Burke Harr, H-a-r-r. I am from Legislative District 8 located in midtown Omaha. I am here on LB951 which adopts the affordable housing tax credit. As many of you will recall, last year and the year before, we did low-income housing tax credit bill and it dealt with how we value those homes...those developments. Well, we decided that these were good. Nebraska gets about $4.2 million a year from the federal government for low-income housing tax credit. That's mainly for the...excuse me, that's for the 9 percent fund. There are two funds, the 9 percent fund and the 4 percent fund. But the 9 percent fund, we get about $4.2 million, we get about six hundred...no, we get a million dollars for every 650,000 people. And so we get about $4.2 million. We have a need in this state for affordable housing. There's no ifs, ands, or buts about it. I've said it and I'm going to say it on the next bill. As I surveyed how do we develop Nebraska outside of a reliance on property taxes, we have to find ways to diversify our economy and we have a lack of affordable housing in this state. With the grants we receive from the federal government, we build about 100 to 150 units a year for low-income housing. That's not enough to keep up with demand. I wish it were, but it's not. And so these houses are available at, you know, these are for some of our poorer citizens at 30 percent of the average medium income. And what this bill does is provide matching for those tax credits so that we can incentivize more tax credit so that the money works. You know the way these deals work is you got to have...you got to have money upfront. If you have that money upfront, then the deal is run. If there isn't money upfront, they may not run. So what this does is provide incentives for more affordable housing in the great state of Nebraska. With that, there are people coming after me who can answer some questions, but I would be more than willing to talk and answer any questions you may have about the policy of low-income housing tax credits. [LB951]

SENATOR GLOOR: And Senator Harr, we're talking about a fiscal note here that really doesn't hit us until 2017, 2018, is that right? [LB951]

SENATOR HARR: That is correct just because of the process. There is an application process and it takes time for it to work through the system. [LB951]

SENATOR GLOOR: Okay. Other questions? Senator Sullivan. [LB951]

SENATOR SULLIVAN: Thank you, Senator Gloor and thank you, Senator Harr. So does this just pretty much replicate the federal program? [LB951]

SENATOR HARR: Yes and no. So the way the program works is about half of the money goes to Douglas, Sarpy, Lancaster, and South Sioux, and the rest goes to the greater Nebraska, the other half. The way our policy works, or the way the money closed today, we have what are 4 percent low-income housing tax credits and 9 percent low-income housing tax credits. The 9 percent, you get more money from the federal government and that can only go to individuals who have 30 percent of the AMI. And we put a LURA, if you recall that's that land use restriction, which prohibits rent from going so high. Well, to get the money to flow because you have to have equity upfront, really the only ones that work today are 9 percents. Four percent are at 60 percent AMI and, but you get less subsidy from the government and it is hard to get those to work. So the hope is that this would incentivize 4 percent funds and those funds are largely unlimited. We have never come close to using those...the state allotment that we have with the 4 percent, but it could be used for 4 or 9 percent. And I can't remember...there's a project maybe going on in north Omaha right now. Before that it was about mid to late '90s since we've done a 4 percent fund. And so this would incentivize those 4 percent projects as well, which I think we could use more of in the state. And the nice thing about that is you get more bang for the buck. You can build more units with the same amount of money. [LB951]

SENATOR SULLIVAN: Thank you. [LB951]

SENATOR HARR: Thank you. [LB951]

SENATOR GLOOR: Yes, Senator Brasch. [LB951]

SENATOR BRASCH: Thank you, Chairman Gloor and thank you, Senator Harr for introducing this. And perhaps you can answer this or someone that follows. When working with individuals during the June tornadoes that went through Pilger and the Wisner area, the USDA was there and at another housing meeting in northeast Nebraska, specifically I think it was at the Center for Rural Affairs where I had met this person, but they said the USDA has money for housing, not just the tornado, but they have no income or no down payment...or no down payment, low-income to moderate-income and they had a lot of flexibility. How does this compare or fill a gap between USDA, or have you looked into that at all? [LB951]

SENATOR HARR: I am not familiar with the USDA. I know that you can do low-income housing tax credits in conjunction with other subsidies. I know you cannot do those in conjunction with new market tax credits. But there are some that you are allowed to and some that you are not. The specifics, I don't know the specifics of that program so I couldn't without a name know if that can or can't be used. And there are people coming after me who are infinitely more knowledgeable on this subject and just more knowledgeable in general who could probably answer that. [LB951]

SENATOR BRASCH: Very good. And that's what I was hoping by asking the question now that perhaps that's addressed. [LB951]

SENATOR HARR: Great. Thank you. [LB951]

SENATOR BRASCH: Thank you. [LB951]

SENATOR GLOOR: All right. Seeing no further questions, Senator Harr thank you and I'm pretty sure you're sticking around to close or at least sticking around. [LB951]

SENATOR HARR: I will be here, yes. [LB951]

SENATOR GLOOR: We will now move to proponents for this bill. Good afternoon. [LB951]

JOHN WIECHMANN: (Exhibit 1) Good afternoon. Members of the Revenue Committee, my name is John Wiechmann, J-o-h-n W-i-e-c-h-m-a-n-n. I'm the president and CEO of Midwest Housing Equity Group, so that means I'm just the overhead. We are a nonprofit corporation that was founded in 1993 to provide financing for the development and sustainability of affordable housing. Since that time we have invested over $400 million in the state of Nebraska and we've helped finance over 4,000 units of safe, decent, and quality affordable housing. I'm here today to testify in support of LB951 introduced by Senator Harr. I believe that LB951 provides much needed resources for housing development across our entire state and I want to thank Senator Harr for introducing the important piece of legislation. If I may, I'd like to first frame the issue. Nebraska needs more housing. Every study, every interview, every person I talk to you, every town hall I go to, all I hear is how they need, every community needs more housing. No one has every said we have too much housing. We also hear that a lot of these communities need more workers. We need to get housing so that they can get the workers. We need to make the communities more attractive to our job seekers. And there’s a variety of components I think go into that effort. But the housing piece is paramount. I mean, good jobs is important, good schools is important, good civic activity is important, but no one is going to move to your town if you can't offer safe, decent, and affordable homes for them. We hear that time and again from Chambers of Commerce and employers. So how do we fix it? How do we fix the problem? How do we create more housing? How do we make the communities more viable? I think we provide a resource that levers an existing program and continues to require private sector involvement. This isn't a government handout. You have to have private sector investment for this resource to work. LB951 does that. An exchange for an investment in housing, a Nebraska taxpayer will receive a credit against its state income tax liability. In my view, that's a win-win-win scenario. The communities get more housing, tax revenues increase because you're going to have more sales tax for building more properties. You're going to have more income tax because you're going to have people moving in those communities to fill those jobs, and you're going to get more property taxes from Greenfield Development that's going to result from the creation of this additional housing. In the meantime, your job creators can hire and fill those jobs, the employees that they so desperately need. So, you probably want to...should ask, and rightfully so, what does this housing look like? What are we actually going to build if you see fit to approve this resource. So you have a handout...at least I think you do, that lists some examples in each of your districts of some of the housing we've built with the federal credit. This is quality stuff. It's good stuff. It's not too nice, it's not mansions, but it's good quality housing. A place that everyone who lives there can be proud of and can really be proud to call it their home, even if it is a rental. We'd like to do even more of that. We'd like to build more of that exact kind of housing in all of the communities across the state. Without the bill, without this additional resource, I think many of the ideas that people have to build more housing are going to be just that. They're just going to be ideas and they're going to sit on a shelf. You have the power to make them a reality. So last, let me just say, we're not reinventing the wheel here. This program is going to mirror the successful federal tax credit program that the state, the Nebraska Investment Finance Authority already administers. Sixteen other states have similar state tax credit programs. Those around us would include Missouri, Colorado, and Oklahoma. That's all...I'll wrap it up. I'll be brief. I thank you guys, all or ladies and gentlemen for your consideration of my testimony and I'm happy to answer any questions that you have. [LB951]

SENATOR GLOOR: Thank you, Mr. Wiechmann. Questions? Senator Sullivan and Senator Scheer. [LB951]

SENATOR SULLIVAN: Thank you, Senator Gloor. Thank you, Mr. Wiechmann. You mentioned that Midwest Housing Equity Group is a nonprofit. Can you tell me a little bit more about how you operate and how you interact with either individuals or communities to get projects like these started? [LB951]

JOHN WIECHMANN: Absolutely. So you'll hear from some developers here in a little bit, so we are not a developer. What we do is we arrange financing. We put together equity. So what Midwest Housing does, we go out and we talk to banks, insurance companies, other corporate socially responsible corporate investors. They invest, what we raise capital from and they invest the money with us and they fund in a limited partnership every year and then we take that capital, that fund, and it depends on the year, but any given year we'll raise $150 million to $190 million of capital for these types of developments. And then we will go and work with a developer partner. Again some of them are here that you'll hear from and if they received an award or an allocation of federal tax credits from the state, then we partner up with them and we form another...we form a limited partnership that's going to own the development and the developer is the general partner and our fund is the limited partner. And in exchange for the...so I've got to be in the ownership chain and my investors have to be in that ownership chain to get the credits. You have to be an owner. The exchange for my equity or my investors equity, more accurately, we will put the equity into the limited partnership to finance the cost of construction. And in exchange for that equity, the tax credits will then flow for a period of about ten years, will flow out back up to our investors. There’s not much in the way of cash out of these deals. I mean, they are rent restricted. If there's a whole bunch of cash, you probably start to wonder if the rents were set too high. So that's how you at the federal level, you incent the private sector to invest in this. They get their return, if you will, through the tax benefits, the tax credits, then losses like depreciation and interest deductions. So, for lack of a better word, I'm a nonprofit middleman, but I mean, that's certainly not how we view ourselves. We view ourselves as very...most corporations are focused on what they do and we'll just say, making widgets. But they want to make a difference in their communities. We provide that avenue for them. We provide the 15 years of asset management. We do the underwriting of the projects with our developer partners. You know, it's equity instead of debt, but it's like a bank. We're the credit committee. We're the front door or we're the gatekeeper to make sure that the money goes into quality projects. And then once it's in there, we protect them for the next 15 years of the investment cycle. [LB951]

SENATOR SULLIVAN: Thank you. [LB951]

SENATOR GLOOR: Senator Scheer. [LB951]

SENATOR SCHEER: You're the middleman, but you put things together. So the bank, the insurance company, whoever is going to get the credits, if they invest $100,000 or a $1 million, whatever it might be, what is...more explicitly, how do these returns, how are they equated? What amount do they get in tax credits, in appreciation, how does this work? [LB951]

JOHN WIECHMANN: Sure. I mean, we target a yield every year so the fund we are out raising for right now, it's a 5 percent return, a 5 percent IRR. So, I guess, if you...simply if you give me $100,000, we'd give you $105,000 of tax credits and tax losses. The losses you've got to divide by roughly 35 percent because a loss, of course, isn't the same as a credit. A credit is a dollar for dollar benefit. A loss only has about a third of the value of a dollar because it reduces your income, not your tax bill. You know what I mean? Does that make sense? Sorry, I get into the weeds sometimes, but I think...was that your question? So if you give me $100,000, I'm going to give you $105,000 of tax benefits. [LB951]

SENATOR SCHEER: But I still own my equity in it at some point in time. [LB951]

JOHN WIECHMANN: Yes, yeah, you are...I mean you are a partner in the deal, that's right. But again, there's not going to be any cash, I mean, not meaningful cash. These are rent restricted. [LB951]

SENATOR SCHEER: They're rent restricted. How long are they rent restricted for? [LB951]

JOHN WIECHMANN: Under federal law, 30 years. And in a lot of cases with the...I'm lucky to see...none of Nebraska investor financiers are here, but anyway, most of the properties in Nebraska are probably more like 45 years. So we leave after 15. Once our tax credit stream is...once our tax benefit stream has run its course, we exit the deal. And then it reverts back to the developer or it depends if it's a housing authority or a for-profit developer, but it will revert back to them after the end of the 15-year period. And then they've got another 15 to 30 years of additional affordability on top of that. [LB951]

SENATOR SCHEER: Okay. Thanks, Senator Gloor. [LB951]

SENATOR GLOOR: Senator Brasch. [LB951]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you also for your testimony. For a little clarification, Mr., is it Wiechmann? [LB951]

JOHN WIECHMANN: It is, Wiechmann, yeah. [LB951]

SENATOR BRASCH: This is for basically nonhome ownership, correct? Your unit single dwelling or however it's for builders to rent? [LB951]

JOHN WIECHMANN: This is going to...it's going to be rental for at least 15 years. There is a unique subset of the program in Nebraska. It's called the Crown Program, but it's essentially rent to own. We're at the end of 15 years. The resident who has lived there can purchase the home. Now, in a multifamily like three-story, garden walk in the apartment, that's not happening. But you noticed in the pictures there, some of those are townhomes. [LB951]

SENATOR BRASCH: Yes. [LB951]

JOHN WIECHMANN: And some of those are single family homes. And in a program like that, and this you coordinate with your...with the state agency on this. But you'll take $25 or $50 of the resident's rent every month and you escrow it for him. So when you get to the end of the 15 years, now you've got a down payment on that house that also then gets sold that they...can be sold at a reduced price. [LB951]

SENATOR BRASCH: And is that an option for the developer to make that offer or is that always part of the contract? [LB951]

JOHN WIECHMANN: So that will depend on each year developers apply to our state agency to get an award...hoping to get an award of these credits. And if you would elect...the developer would elect to do that, and if they make that election, that's binding on them that will actually show up in the land use restriction agreement that gets filed against the property, but it's not mandatory. You could...a developer could say, you know what, I'm not going to give them that option and then you're just in a typical program at that point, just 30 years, at least 30 years of just affordable rental. [LB951]

SENATOR BRASCH: Very good. That did answer that question. The next one is I asked earlier about USDA housing. Are you familiar with that? [LB951]

JOHN WIECHMANN: We...I should say, I am a little bit familiar with it. We can twin a tax credits with certain RD or USDA RD programs, 515 would be one that comes up quite a bit. Now to the extent that the RD folks were talking to you about home ownership, no, we wouldn't be twinned up with any of that. This would be... [LB951]

SENATOR BRASCH: Primarily for rental purposes. [LB951]

JOHN WIECHMANN: That's right, but the USDA Rural Development does have some rental programs, particularly in the 515 program that we can and have twinned up with before where that would provide a below interest loan. Either event which 538 would also work which is a loan guaranteed program, but they, in that sense, in that case, the Rural Development provides essentially below market financing, below market debt to the project. And then in some cases can also provide a rental subsidy for residents that are extremely low-income. You know, below 30 percent of AMI who really couldn't pay the rent, wouldn't have a home without it. So you can, yes, you can and we have twinned up on occasion, partnered up with USDA. [LB951]

SENATOR BRASCH: So that is an optional program that would complement this. [LB951]

JOHN WIECHMANN: Absolutely, it can and it has. [LB951]

SENATOR BRASCH: Okay. [LB951]

JOHN WIECHMANN: And one thing I would just say and I'm sorry, I know you probably had another question. I apologize. But the one question I would maybe ask is, well, is this just going to make these deals fat and like your developers are going to get a big return, the developer and the investors are. The state both in the statute and under federal law, the state we've imposed on Nebraska Investment Finance Authority and they already had it under federal law anyway, but we really reiterated it in here, is obligated to provide no more subsidy than is necessary to make the deal financially feasible. So this isn't just going to layer more subsidy on top of the existing subsidy. Under the language of the statute and again, already required under federal law, the finance authority is only going to award enough credits to make sure the deal is financeable. Well, what does that mean? Well, you're going to look at the rents you can charge and the rents that you've committed to and that's going to help you build essentially your cash flow proforma, and then you're going to see how much debt the deal can support, and then you're going to back into then that equity number that you need. So if your deal is $5 million and you're analysis says that you can do, you know, 30 percent of that can be financed with debt, then you know you need 70 percent of that to be equity. So about $3.5 million of that would be equity, so then NIFA will back into the amount of credits they need to award to make sure that the project can raise the three and a half in equity. So you essentially lower the amount of federal credit that a deal would need on a standalone basis. You'll give it a little bit of federal and a little bit of state, and that will free up additional federal resources to get more projects built. And I tell you conservatively, I think this is going to result in at least a 25 percent increase. And this is something you can measure. Let's talk again in two years. I mean, you're going to know either build more or didn't build more. There's not going to be a lot of guessing about it. [LB951]

SENATOR BRASCH: Thank you, Mr. Wiechmann. You did answer my question. Thank you. Thank you, Chairman. [LB951]

JOHN WIECHMANN: Okay. I used to be a lawyer. I talk too much, I apologize. I'm into my recovery. [LB951]

SENATOR GLOOR: Senator Scheer. [LB951]

SENATOR SCHEER: Thank you, Senator Gloor. Question, and I'm looking for a response, it's not really a yes or no answer, but the dollars don't start flowing out until next biennium, that's four or four and a half million dollars. If we look at what we're looking at as far as available funds for the Legislature this year, it's $10 million. Is this program worth half of this Legislature's investment in the next biennium? [LB951]

JOHN WIECHMANN: I would tell you unequivocally, yes. This is going to give you so much bang for the buck because it's beyond...and I know we don't do dynamic scoring here, but before the credits even vest in 2018, construction is going to start in 2017, so you're already... [LB951]

SENATOR SCHEER: Well, let me put it this way. Do you think the other 48 senators would agree that this specific program is worth half of the total available liquidity that the Legislature can put into? Any other social problems, educational costs, everything. I mean, literally, you're taking half of what would be available. [LB951]

JOHN WIECHMANN: So I would tell you, well, I mean, yes. I would certainly...I don't want to speak for the other senators. [LB951]

SENATOR SCHEER: You might be a little bit vest. I understand. You have a problem keeping your answers somewhat distinct, so I'll take it as your answer rather than run the rest of the time. [LB951]

JOHN WIECHMANN: No, that's okay. And I would just say, too, real quick that education, nutrition, jobs, it all always comes back to housing. If you care about any of this stuff, you have to care about housing first because people who don't know where they're going to home and sleep at night, they're not even going to worry about the other stuff. They're not going to be able to worry about the other stuff. To me it all starts with housing. You got to give people a warm, safe, affordable place to sleep at night. [LB951]

SENATOR SCHEER: Well, that may be, but we still have to provide a good education and all the other things to people... [LB951]

JOHN WIECHMANN: Absolutely. [LB951]

SENATOR SCHEER: ...that are already housed and living in those areas as well. So it's sort of a chicken and egg. [LB951]

SENATOR GLOOR: Other questions? Thank you for your testimony. [LB951]

JOHN WIECHMANN: Thank you. I appreciate it. [LB951]

SENATOR GLOOR: We'll continue with proponents. [LB951]

CHRIS HITE: Hello, members of the committee. Thank you. My name is Chris Hite, H-i-t-e and I'm from Sugar Creek Capital and we invest in these state tax credits. I came up from Georgia early this morning so I'm very, very sleepy, but I will get through this and try not to make you sleepy as I talk. I'm going to touch on something real quick. I thought what I would do was let John speak and then kind of, maybe, understand where some concerns were and try and address some of the more technical issues because we have a lot of experience in vesting in these state tax credits. To answer your question, Senator Scheer, I doubt that many of those legislators would agree that taking half of liquidity for any one cause is a good idea right now. But I believe you give this about three or four years and I believe everyone will say, this was a heck of a good bet, and I'll tell you why. This program is going to be administered by NIFA. They set out a request for proposals all across the state. Developers, housing authorities, nonprofits respond to that and say this is the best project we can come up with. It may be homeless veterans, it may be single moms, it may be folks going into kind of a special needs sort of environment thing, mentally ill or something of that nature. Those...a lot of those will reduce cost on Medicaid. Anyhow, those folks will...the developers will respond to that proposal and then NIFA will say, these are the housing needs that we have in the state of Nebraska and we want to address these projects with these tax credits. So they will award those tax credits. That would probably happen sometime in 2017 by the time this all gets going. They will start construction in 2017, finish construction in 2018. Got a lot of jobs and, of course, materials. Then they will be leased up during 2018. Assuming a building was fully leased in 2018, then a tax credit is issued. So you've got to build it, then you got to lease it up to 100 percent occupancy for that building for those tax credits to be turned on. Now if I give you a 2017...or 2018 tax credit, you can't use that in 2018 because you don't file your return until 2019. So you really don't have any real short-term impact but the long-term impact, you've got deals that year after year of new construction, you've got a lot of new housing. And I think you probably...and I don't have it quantified, I can't do that, Medicaid savings for elderly folks and special needs folks as well, and probably some social services savings. To try and address some other things what we've seen in some other states. Colorado put a program in a couple of years ago and they put it in large part because of the floods. They had mud slides, floods. I don't know if you remember the Boulder area and they decided to use a lot of their tax credit awards in that front range, kind of north of the Denver area, Larimer and Weld Counties, Boulder County, and they decided that they couldn't address it through CDBG or RD or all of the other federal programs because those are mostly targeted at home ownership. There's very little targeted at rural housing that's a rental program now. The 515 program that John referenced is still alive, but they're just keeping the old deals going. There's no more new construction money for 515. If you want to build housing in the United States for renters, the tax credit program is about all you've got in rural areas. So, that's...that was used very well there. And then also down in Missouri, the Joplin tornado came through, and the governor took into the special allocation of the tax credits for that area, and did six apartment projects in Joplin and that was critical because a lot of those folks are making $12,000, $18,000 a year. They just...even if you give them no down payment, and even if they could afford the mortgage, they can't keep up a house. You know, these are renters. They need apartments, they need someone else mowing the lawn and that sort of stuff. Lastly, John described himself as a middleman. I think my friend might have told a small fib to this esteemed committee when he said that. We don't consider ourselves middlemen. We put our money in upfront. They build the deals. Millions of dollars go in upfront, construction happens, lease stuff happens. If either one of those things doesn't happen the way it's supposed to, we put more money in, us, our companies. And if the projects do well, great, we get tax credits over a period of time. If the projects fail anytime in that first 15 years, the federal credits are going to be recaptured. You'll see in this bill, that means your state credits are going to be recaptured too. So there's a lot of skin in the game here for the investors. We're not developers. The developers use our money. The tax credits are required. The people that get the tax credits are required to be owners of these projects. These are not transferable tax credits. So, I think I've addressed a lot of the...maybe the questions I heard. I'm happy to address any more. [LB951]

SENATOR GLOOR: Questions? Senator Brasch. [LB951]

SENATOR BRASCH: Thank you, Chairman Gloor. And thank you, Mr. Hite, and welcome to Nebraska. [LB951]

CHRIS HITE: Thanks. [LB951]

SENATOR BRASCH: My question, because it's like you were reading my mind, I'm thinking, what skin do you have in this to fly all the way from Alabama? Is this...are you a private company? [LB951]

CHRIS HITE: Yes. [LB951]

SENATOR BRASCH: You are private and so you hope that perhaps this will make you invest in rental housing in Nebraska. [LB951]

CHRIS HITE: That is our company's model. We are a for-profit company. I believe we're very socially responsible and we've created some pretty neat programs with...where there have already been existing state credits to create special needs housing and such, but... [LB951]

SENATOR BRASCH: Do you currently have projects or are these also yours and a... [LB951]

CHRIS HITE: No, ma'am. I am not invested in Nebraska. I'm not invested in MEG. I'm not...John Wiechmann is a darn fine lawyer and that's how I know him. He used to be with a little firm up here called Kutak. So that's how I know Mr. Wiechmann and I consider him a friend. But, yes... [LB951]

SENATOR BRASCH: I heard that, that he's your friend. (Laughter) [LB951]

CHRIS HITE: Yes, I have an interest. If this bill passes, I do hope to invest. [LB951]

SENATOR BRASCH: And what states are you invested in at this time? [LB951]

CHRIS HITE: Our largest state is Georgia. Our second largest is probably Colorado this year, then Missouri, then Oklahoma. I mean, we've got some kind of one off deals in other states, but those are probably the four largest investment pools we have. [LB951]

SENATOR BRASCH: And they offer the credit you are seeking, tax credit. [LB951]

CHRIS HITE: They do, they do. And we also operate and own multifamily housing. We don't develop it, but we have a management company that manages it. [LB951]

SENATOR BRASCH: Okay. Well, again, welcome and thank you for your testimony. [LB951]

CHRIS HITE: Thank you. [LB951]

SENATOR GLOOR: Seeing no other questions, thank you, Mr. Hite. [LB951]

CHRIS HITE: Thank you. [LB951]

WARD F. HOPPE: My name is Ward, W-a-r-d F. Hoppe, H-o-p-p-e. I'm a lawyer. I've got a little office in town and I represent the Nebraska Realtors Association. I'm also a builder of a construction company called Hoppe Homes. I build affordable housing. I build the type of housing we're discussing today. And that's practically all I build. I do some commercial for myself, but that's primarily it. I'm a member of the steering committee of the National Association of Home Builders for the low-income housing tax credit. So I have some experience with many others that build affordable housing, low-income housing tax credit housing across the country. I'm here in support of this bill on behalf of the realtors and on behalf of the eastern Nebraska, the Lincoln, Omaha home builders coalition, all of which support this. Why do they support it? Because it will increase the amount of affordable housing, housing targeted to tenants that have 60 percent median income and below across the state. We can't build that kind of housing and we can't put it on the street at rents that are affordable to people that are 60 percent median income and below without bringing equity into these projects from the outside. That equity, we create partnerships to build these units. We sell the tax credits to partners, and if this is passed, we sell the federal tax credits and the state tax credits out to partners that then bring us the money to pay for all of the construction we put in place. Construction has to be paid for 100 percent. And so if we don't have equity to put in the project, we've got to have debt. You can't have much debt if you have to have tenants that are 60 percent median income and below because they don't have the money to pay rent that will cover debt. So, simply, what our sale of tax credits does is allow us to have the equity pay for the projects and keep rents affordable to people 60 percent median income and below. And in that process, what the state credit will allow us to do is expand the benefit and do many more projects. When you sell federal tax credits alone, you're left with a gap between the cost of the project and the equity that you bring in from sale of the tax credits. That gap has to either come from debt, or it has to come from what we call soft money which is grants. The amount of dollars that are available for grants to bring into these projects is very, very limited. The lack of that soft money has been the biggest limiting factor in producing low-income housing tax credit properties across Nebraska for the last, I'd say, eight or ten years. This program that's being proposed basically fills the gaps on the projects so that we don't have to fight and compete for CDBG money, or home money that's distributed by the feds across the state. So, what it is, this is an enabling process. It allows us to expand the product across the state of housing for those that are really disadvantaged in that regard and that's people 60 percent median income and below. And incidentally, I do build the known projects in Grand Island, Nebraska, Senator Gloor. And I'd certainly answer any questions. [LB951]

SENATOR GLOOR: Thank you, Fred. And so let me ask you with your years of experience in home building and development, how severe do you think the current housing shortage is, and I'm talking about specifically rentals that would be for people with more challenged incomes compared to some of the times in the past where we've hit this same sort of a challenge? [LB951]

WARD F. HOPPE: The rental housing markets are pretty strong in Omaha and in Lincoln. Greater Nebraska, it's extremely challenged. It's difficult to get housing into the communities at the price of the cost of construction for the rents that we can charge. When you go work your balance sheets to figure out your projects and how to get them in place, it perpetually comes up with pushing the market rents, not only...I'm not talking just affordable. The market rents are challenged because you're competing against obsolete stock, housing stock. And so, without some external push to get in communities, it just isn't happening much. And not only in the low-income field, but in the market rated field poll. Does that answer your question? [LB951]

SENATOR GLOOR: So just...it just pushes the whole market... [LB951]

WARD F. HOPPE: What this does is it pushes availability. When we build low-income housing in a community, it pushes availability for all housing in that community. [LB951]

SENATOR GLOOR: Questions? Seeing none, thank you for your testimony. [LB951]

WARD F. HOPPE: You bet. Thank you, sir. [LB951]

SENATOR GLOOR: Cliff. [LB951]

CLIFFORD MESNER: Chairman Gloor and members of the committee, my name is Cliff Mesner, C-l-i-f-f M-e-s-n-e-r. I'm an attorney and real estate developer from Central City, Nebraska. I got involved in real estate development when I was serving as the city attorney and economic development director for the city of Central City. We had a work force housing shortage and they asked us to develop a project in Central City. We ended up developing a couple of projects, one of which was a low-income housing tax credit project and other communities have asked us to come and help them. At this point, we've done more than 60 projects across Nebraska and Kansas. One of the things that's a little bit different about us is that we see ourselves as really representing communities. So if I can give you an example because I think it might clarify some things. Sixteen years ago we built a low-income housing tax credit project in Central City. That was funded with help of Midwest Housing Equity Group, which is John Wiechmann's group. For the last fifteen years, they have received the tax credits and the depreciation generated by that project, but they haven't received any of the cash that flows off that project. The Central City housing authority has received a management fee every year to manage the project. Any access cash was handed to them as an incentive management fee, and last year under the agreement that we had with Meg, the housing authority was able to buy that housing project for $100. So they bought a 16-unit, all brick apartment complex with attached single car garages for $100, and along with that came the reserves that had been put away during the project life and there was approximately $86,000 in the checking account. So a very good deal for the community and that's what we're after is trying to represent those communities and get that housing back to them. As we travel the state right now, we find just an almost desperate need for housing in every community that we go to. There's a strong need for work force housing. Most of the projects that we develop are actually low-income housing tax credit projects and most of those are senior projects because we have found that the senior projects actually allow us to most directly address the work force housing issues. We have a lot of seniors in the state who are trapped in their homes because they have no place else to go. And by providing housing for them that they are willing to move into, they sell that three bedroom home to a work force family and that house is more affordable than anything we can build new. And typically, 60 to 70 percent of the people who move into our housing projects sell a three bedroom home in order to move in. I think the key things about this legislation are two things. One is that right now whenever we do a tax credit project, we have a gap and that gap is filled with home funds or HP funds or Nebraska Affordable Housing Trust Funds. Sometimes as a last resort, we'd even have to use TIF or local community funds. This will fill that gap for us and allow those other programs, funds, to be used in other places where that's less restricted housing than you might have with a low encompassing tax credit project. There are a lot of efforts going on around the state right now to try and build housing, but far and away, far and away, the most successful program is the low-income housing tax credit project. Everything else pales by comparison. The biggest advantage of this program, this legislation, is that it piggybacks on that already successful program. It does not require a new program design. It does not require a new agency to monitor the program. NIFA is able to fully integrate the state housing credits into their existing programs without any serious agency cost. I think this is a good use of funds because it's very well-leveraged because it piggybacks on those other programs and I hope the committee will see fit to advance the legislation. I'll be happy to answer any questions I can answer. [LB951]

SENATOR GLOOR: Are there any questions for Mr. Mesner? Senator Sullivan. [LB951]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you, Mr. Mesner. So if this were to come to pass, can the same entity get both the federal and the state credit? [LB951]

CLIFFORD MESNER: Yes, yes, the advantage would ultimately go to that nonprofit that is going to be a housing authority or a CHDO or a lot of times we work with local development corporation. The investors get their cut out of the middle. And as John said, they were trying to take a five...get a 5 percent return this year. As developers, we frankly go to whoever will pay us the highest price. That's General and Midwest Housing Equity Group because they're the ones that have developed the Nebraska program and they spent a lot of time and effort here and they put that together. But frankly, if they don't bring the top dollar to the table, then we end up going to whoever brings the most money to our local communities. [LB951]

SENATOR SULLIVAN: Thank you. [LB951]

SENATOR GLOOR: Other questions? Seeing none, thank you. [LB951]

CLIFFORD MESNER: Thank you. [LB951]

SENATOR GLOOR: Rick. [LB951]

RICK RUZICKA: Chairman Gloor, members of the committee, my name is Rick Ruzicka, R-i-c-k R-u-z-i-c-k-a. I wear a number of hats. I'm here representing Nebraska NAHRO. I'm the executive director of the Hall County Housing Authority. I'm also the acting executive director of the Hastings Housing Authority and the Ansley Housing Authority, so I run a lot of housing authorities. I'm actually kind of the end user of this particular bill that you're looking at. And I'm not an attorney like everybody else I think was up here. (Laugh) I think the main purpose for me to be up here is to explain to you the need that I see being in multiple communities and running housing authorities. Our waiting lists are quite extensive in Grand Island. If you want a three or for bedroom home through our housing agency, you have to wait a year and a half. If you want to get on our voucher program, you have to wait for two years. This type of development will help our community house those folks that really have nowhere else to go otherwise. There's been a disinvestment from the federal perspective from housing for about 20 years and I think the state of Nebraska is finally feeling that and seeing that. The low-income housing tax credit is about the only game left in town and the state. I think with this bill, is wisely trying to make those dollars go as far as possible because we have a lot of ground to make up. HUD does not build housing anymore. They don't even maintain what they have which is my job and it's hard to do because we don't get enough money to take care of the folks that we currently have. So we haven’t built anything with HUD dollars for 20 years. And so that's catching up to the state of Nebraska and I think that's why we have all these housing issues. And this is about the only avenue that you have left to continue to build. And the state adding to that is going to make those dollars go further, allow the state to build more affordable housing, which it sorely, sorely needs, and I really support this bill. Any questions? [LB951]

SENATOR GLOOR: Senator Schumacher. [LB951]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony. Fundamentally, what is wrong with our economy that the jobs that it creates, the wages that it pays are such that in order to have homes built, the government has got to get in the middle of it? I mean, this is an attempt to plug a leak in an otherwise bigger bucket of problems. Why do we need to intervene? Why isn't the normal mechanism such that the money is there to pay the mortgages, to make the down payments? What's wrong...what's the cause of the problem that we're trying to fix here? [LB951]

RICK RUZICKA: You know, I think that's a much larger question for somebody other than me to answer, but what I can tell you is the typical person that we will assist is somebody that is living on just Social Security, or somebody that's disabled and only able to work part time. Oftentimes, it's maybe single parents from a divorce that the best job that they're going to find doesn't support their family of four. And so, until we can do something about some of our lower wages that we provide in our economy, you're going to need us. And, you know, if we could do what the Seattle firm does and pay everybody...what was it, you know, $70,000 in the company a year, then you wouldn’t need us anymore, but until, you know, our supermarkets do that, until our fast food restaurants do that, you know, people just don't make enough to be able to afford a place to live, and it's a basic need. I mean, that's something I always tell people, food, shelter, clothing. If you don't have shelter, you don't think of anything else. Your kids can't get a good education. You can't find a job because where...you know, you don't have a place to shower and clean clothes to put on. Your health is going to suffer. Everything revolves around housing. I know somebody eloquently said that earlier. [LB951]

SENATOR SCHUMACHER: Is the need for this type of program more acute in the rural areas or in the urban areas? [LB951]

RICK RUZICKA: You know, that's a really good question. I think from my perspective, I know Hastings and Grand Island needs it. From talking with other housing authorities, it seems to be everywhere in the state. So, I'm not an expert in western Nebraska, but from the folks that I talk to, the whole state of Nebraska needs housing and you’re not going to be able to bring in employers until they know that they can have a work force that has a place to live. You know, again, everything revolves around housing. Economic development, education, the whole ball of wax. And so this really is a good investment. [LB951]

SENATOR SCHUMACHER: Thank you. [LB951]

RICK RUZICKA: Yeah. [LB951]

SENATOR GLOOR: Seeing no other questions, thank you, Mr. Ruzicka. [LB951]

RICK RUZICKA: Thank you. [LB951]

SENATOR GLOOR: Other proponents. [LB951]

RON SEDLACEK: Good afternoon, Chairman Gloor and members of the Revenue Committee. For the record, my name is Ron Sedlacek, that's R-o-n S-e-d-l-a-c-e-k. I'm here today on behalf of the Nebraska Chamber of Commerce and Industry. I've also been asked to testify and to enter on behalf of the Nebraska Bankers Association. Mr. Hallstrom asked that he also be listed on the record and has signed in as such. The State Chamber has been concerned about and...on behalf of the Nebraska business community about availability of housing. It's not just the affordable as mentioned in previous testimony but available, particularly in rural Nebraska. And this bill really hits close to home on this issue. We've been having a number of meetings, some as presentations at our economic forums as to the availability of housing and looking at different models across the state. I'd like to see something like this as mentioned before in testimony. It's kind of a catch 22 for those communities that don't have the availability of the housing. You can't recruit workers without adequate housing and adversely then the community can't build...is not going to build housing unless they have people who buy the houses or to live in those...live in the units built. But just want to be on the record in favor of the concept of this legislation. And be happy to answer any questions. [LB951]

SENATOR GLOOR: Any questions for Mr. Sedlacek? Seeing none, thank you for your testimony. [LB951]

RON SEDLACEK: Thank you. [LB951]

SENATOR GLOOR: (Exhibits 2-4) We do have a letter from Mr. Hallstrom, I think that was distributed, and while I'm at it, next proponent can come up. I'll read a couple of other letters into the record. Again, proponents: Mike McMeekin from Omaha by Design and Julia Tse with Voices for Children in Nebraska. Good afternoon. [LB951]

NANCY STRIEBEL: (Exhibit 5) Hello. How are you? I'm Nancy Striebel, N-a-n-c-y S-t-r-i-e-b-e-l. I'm from North Platte, Nebraska. I run Lincoln County Community Development Corporation. We're a 501(c)(3) nonprofit housing organization. I'm also a director on the Nebraska Housing Developers Association. And I'm speaking in favor of this particular LB951 for both organizations. A couple of things I wanted to bring up. In North Platte our population is over 24,000. We don't qualify for USDA rural development programs. We see this...so we're too big for rural development and we're little for HUD entitlement programs just by virtue of our population. In our area, North Platte, Lincoln County, we see programs that are run through NIFA and programs that are run through the Nebraska Housing Developers, Economic

Development Corporation...I'm sorry, the Nebraska Department of Economic Development is really helpful as far as financing affordable housing for us. We've got 92 units of tax credit housing. There's been ten projects in our area. You got love it, but our housing studies says we need 500 units of rental housing and that doesn't include elderly. And that's stifling. Between 2010 and 2015, our building department has approved 84 building permits for rental projects and none of them included any kind of a large apartment complex. Adding to that, we happen to be in the home for the UP world's largest diesel facility. They just closed down the Denver operation. We have 200 families that are going to be heading to North Platte looking for housing and we're a little scared. So one of the things that we see is this is another vehicle that we can use as far as bringing rental housing into our community. That's all I have to say. [LB951]

SENATOR SCHUMACHER: Any questions for Nancy? Senator Scheer. [LB951]

SENATOR SCHEER: One of the previous testifiers talked about being at 60 percent of...what would that be in dollars and cents? [LB951]

NANCY STRIEBEL: Oh, I'm not...I can tell you, at 80 percent a household of four is $53,000. Okay. So 60 percent would be much less than that. We're talking in the $40,000 range for Lincoln County. Okay. [LB951]

SENATOR SCHEER: Okay. Thank you. [LB951]

NANCY STRIEBEL: I also can tell you for a single family household, it's like in the forty. It's like lower than that yet. And when the gentleman was talking about seeing a lot of people from...were on SSI, on disability, they're going to be talking in terms of $12,000 and less as far as income is concerned. [LB951]

SENATOR SCHEER: Okay. Thank you. [LB951]

NANCY STRIEBEL: You're welcome. [LB951]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. Welcome to the Revenue Committee. [LB951]

LARA HUSKEY: Thank you. Good afternoon. I'm Lara Huskey, L-a-r-a H-u-s-k-e-y. I'm here today as a member of the Nebraska Economic Developers Association. The Economic Developers Association is a group of members that are a statewide professionals working every day to grow Nebraska's economy. The Nebraska Economic Developers Association supports

LB951, creation of the Affordable Housing Tax Credit Act. Nebraska communities are faced with an alarming work force shortage that is holding back our business growth. Our communities offer an unparalleled quality of life, but must be able to offer housing choices for people across the income spectrum to attract new residents in a talented work force. The creation of the Affordable Housing Tax Credit Act will promote additional housing construction and along with other efforts will give our communities the ability to offer a variety of housing options to retain and attract workers and grow our businesses. Nebraska Economic Developers Association urges you to carefully consider and to pass LB951. Does anybody have any questions for me? [LB951]

SENATOR SCHUMACHER: Any questions for Lara? I just have a follow-up question along the lines of the earlier question I asked. [LB951]

LARA HUSKEY: Sure. [LB951]

SENATOR SCHUMACHER: We just heard from North Platte. North Platte's one of Nebraska's bigger towns well-established on the Interstate, big employer. You're telling us that we need these government intervention in order for there to be adequate housing so that there's jobs that are filled. What is wrong with our fundamental economy that we have to have government get in the middle of it, that we don't have sufficient wages paid so that the bankers feel comfortable making the mortgages, developers feel comfortable that they're not going to get stuck with a bunch of property that doesn't cash flow? From your perspective, what's wrong with the system that we have to be in the middle of providing housing when we are full employment and when wages should be going up because of the demand for workers? What...where did we go wrong that we have to have things like this to promote people to build houses? [LB951]

LARA HUSKEY: I don't know that we went wrong. I just think our economy has been going through changes. With the globalization, businesses have to make their choices. Housing developers, our businesses, too, making choices on whether they're going to have development happen. And communities are looking at housing as part of their overall infrastructure. They need to be able to offer in their communities in order to build a tract that worked for us. So I think it's all part of the growing pains as the economy changes. [LB951]

SENATOR SCHUMACHER: Some people get the benefits of these programs by reduced cost housing and the neighbor across the street working the same job, gets a tax bill that...that pays for this. Is that an equitable way to build a housing system where some people pay and some people receive? [LB951]

LARA HUSKEY: I think that's a question for somebody beyond me. [LB951]

SENATOR SCHUMACHER: Okay. Thank you. Any other questions? Senator Brasch. [LB951]

SENATOR BRASCH: Thank you, Chairman...Vice substitute. (Laughter) You get it. Thank you for your testimony here. My question is, when an opportunity for...and we're talking about selling housing and apartments and big lots, correct? A company of two, three hundred comes in and is there not many developers, is there no competition, is it not aggressive to get that business to build an apartment complex without a credit of some sort? [LB951]

LARA HUSKEY: Well, first are you talking about the size of the projects that are out there? I mean there's varying sizes from ten, 12 units up to 24, 48 units in the tax credit market that are out there in communities and smaller... [LB951]

SENATOR BRASCH: How many typically bid for one project? [LB951]

LARA HUSKEY: So, typically a developer will work closely with the community and they will submit the proposal to NIFA for the allocation on the project. In their own community... [LB951]

SENATOR BRASCH: Is there only one? [LB951]

LARA HUSKEY: There's probably three or four good options for communities. All have a different model, different type of housing that they're going to build. And as much as we can bring that interest in building and developing housing into helping people that are a lower income, because it's obviously higher risk because there's some more limited market as to who you can rent to. And on that side of it, so, yes, the incentives are important to bring those to the table. [LB951]

SENATOR BRASCH: And is there any competition there between... [LB951]

LARA HUSKEY: Competition amongst developers? Yes. [LB951]

SENATOR BRASCH: There is. Okay. I have no other question. Thank you. [LB951]

SENATOR SCHUMACHER: Any other questions? Thank you. And, Senator Brasch, there's no substitute for vice. [LB951]

SENATOR BRASCH: Okay. (Laughter) [LB951]

SENATOR SCHUMACHER: Next proponent. Seeing none, we move on to opposition to LB951. Seeing none, neutral testimony for LB951. [LB951]

TIM KENNY: Mr. Chair, members of the committee, my name is Timothy Kenny, T-i-m-o-t-h-y K-e-n-n-y. I'm the executive director of the Nebraska Investment Finance Authority. It's been my honor for the last 20-some-odd years to administer the federal low-income housing tax credit program on your behalf. I wanted to...I have no prepared testimony. I wanted to make sure that you knew I was available for any questions you might have. One question that did come up in the testimony, which is a very good question, is what is the condition of housing in my community, state, or region. NIFA has published for the last 14 years a very comprehensive study of both housing, economic and demographic aspects of all the counties, of the 31 largest cities, the nine regions in the state, as a whole, that's available on our Web site. I know you didn't read it last year when we sent it to you with the Web site link, but I'll send it again to you this year. Our latest issue has just been released and it's a very comprehensive look at the intersection of those elements collated by geography as opposed by income types. So it's a very helpful tool to help you answer the question of what is the housing condition in my town and community and what does it look like. So with that, I'm available for questions, but just to let you know who has been a very powerful tool in the state of Nebraska and we're happy to administer it on your behalf. [LB951]

SENATOR SCHUMACHER: And Senator Brasch. [LB951]

SENATOR BRASCH: Thank you, Senator Schumacher, and thank you, Mr. Kenny. The question that remains in my mind as I find it very valuable to have developers willing to build rental properties and homes, single dwellings, but I also find it very valuable to be able to have home ownership. And while working, and we are familiar with NIFA because in my district we had the flooding along the Missouri River, need for housing, emergency housing, because of the tornadoes, etcetera, but I did get...I had a conversation with a gentleman from USDA. His exact words were, we have a lot of money for housing and maybe it's gone now. Money goes fast, who knows. (Laugh) But, so what's the difference here? I mean, he was aggressively working with people to replace lost housing, moderate income, low income. Did not have to even worry about a down payment. There were some grants. Are you familiar with USDA? Is there a short way to tell me the difference here? [LB951]

TIM KENNY: So when we talk to communities, we begin not to scare people off but to help to define the problem or define the problem that you're trying to solve. In our metrics there are about 144 different housing solutions to the community depending on the type of housing and the status of the occupants and they range from homeless all the way to multibillionaires or millionaires....maybe a billionaire. We don't obviously serve the high end, but we work at NIFA in the bottom half of the income strata and with respect to rental housing, we work in the bottom half of the bottom half of the income strata. So the short answer to your question is, every case, every individual, every family is a different circumstance. The general rule is, the more subsidy, or the degree of subsidy that's brought to a resource, the more restrictive it is. So for example, if you get into a housing tax credit program for the bottom half of the bottom half of the income strata, there's significant restrictions on income levels and cost and things like that. When you get to a regular mortgage loan like NIFA has done, almost a hundred thousand mortgage loans in the state of Nebraska, there's some modest restrictions. Some of the USDA programs work in the 60 to 80 percent range, but they also have an overlay of geographic restrictions that can work in some areas and not in others. Senator Schumacher asked the question earlier about why have we had housing programs. We've literally had a housing program of some type or another in the United States for over a hundred years. In fact, I think that first one which was a USDA program is still active. It was a rural housing program. So the challenge is, there's always an imbalance between supply and opportunity. And then more recently in the last...oh, in the last 25 years, we've seen a difference in the...well, maybe in the last 15 years, we've seen a significant difference in the cost of production versus the income levels. Income levels and you can see this in our document that we prepared for you, income levels have been growing gradually but cost of production have been growing higher. And then since 2008, we have a compounded problem. We've really taken a lot of the productive population, the labor force out of the equation, so the labor force that does remain from an economic standpoint goes to the highest opportunity cost with the highest opportunity. And the low-income population is not the highest cost opportunity. So there's a triple, maybe a quadruple layer of conditions that preclude or create the imbalance between housing supply and housing demand. That's what our job is to do. And that's why every state has a housing finance agency like ours and that is to help mitigate those differences, to mitigate those impacts so the difference is between supply and demand of housing. [LB951]

SENATOR BRASCH: So to just recap, there are...did I hear 144 various ways that you may fit into to finance a home? [LB951]

TIM KENNY: That's...when we talk about defining the problem, we walk in with the knowledge that there are probably 144 different ways, 12 different kinds of housing, and 12 different basic places where people are in the relationship. So, there's not necessarily 144 different solutions, but there are 144 different conditions that you're trying to solve. [LB951]

SENATOR BRASCH: Very good. And those conditions also include rental properties as well as home ownership. [LB951]

TIM KENNY: All the way from beginning entry level workers in a community, people that are households that are trying to form, all the way up to senior care. We had a...I looked at applications today and we had an application for senior care with various types of assistance for the poor elderly. And so, we are blessed in this state to have a great number of communities where people are generally concerned about their housing and a lot of energetic people both for profits and nonprofit who work at it every day. [LB951]

SENATOR BRASCH: And the USDA, and I am aware of this, but they are targeted more into the rural areas, correct? [LB951]

TIM KENNY: The USDA has several programs. I would probably say maybe ten different programs and virtually all of those programs are targeted towards small communities with populations of 25,000 or less. There are some certain exceptions. We have had over the years, exceptions for communities that have grown beyond that, but they have both rental and ownership programs. And then one final note, not to make it more confusing, there are different kinds of subsidies from different kinds of agencies. HUD basically tries to...the Department of Housing and Urban Development, which are the programs administered by your Department of Economic Development, try to deal with occupancy cost. The cost associated with occupancy and to a certain degree, construction costs. The programs that the NIFA operates on your behalf come principally from the Department of Treasury and those programs try to deal with construction cost and the cost of financing. The USDA has a blend of both and many times their programs are focused on reducing interest cost. [LB951]

SENATOR BRASCH: I see. [LB951]

TIM KENNY: So, we've over the last hundred years created a dandy array of programs and it's our job at night and the Department of Economic Development to work on your behalf to try and get the right program to the right person in the right community. [LB951]

SENATOR BRASCH: You've answered several of my questions. Thank you. [LB951]

SENATOR SCHUMACHER: One little follow up. I think that you said over the last 15 years we've taken a lot of the productive...I didn't quite catch it. Was it people out of the equation? [LB951]

TIM KENNY: Since 2008, and I sit on a number of national committees since...well, just as an illustration I heard a program the other day that says the security guards, many of the security guards on construction sites right now are not to protect the materials, but to keep recruiters off the site to keep people from stealing the employees on the site who are working. What happened in 2008 when we had a big housing crisis, and this happened back in the early '90s too, in 1994, '95, '96, was we basically shut off production of new housing for about four years. And so everybody who is...there's about 16 trades involved in the production of housing. If they're not working on housing, they go off and work on oil rigs, they work on construction, they might even leave the state. In addition to that, because this housing delay has been so protracted, we also took that group of people who were in the training positions and in the entry level positions, and they went off and did something else because we had a halting in housing production, both multifamily and single family from about 2008 until about the end of 2011. So we did a double whammy. We took the current people out and then we put a blockage in the production group who were in training to do that. So now as housing comes back on line, we have markets in places where people want to do housing, but actually getting the labor for us to produce it is very, very hard, particularly in the nonmetropolitan areas. [LB951]

SENATOR SCHUMACHER: So basically what you meant by that is that the folks who swing the hammers went on to some other segment of the economy. [LB951]

TIM KENNY: Right. Right. So there's a training opportunity there as well. [LB951]

SENATOR SCHUMACHER: But now, are we talk...when you talk housing, single family residential or apartment buildings? [LB951]

TIM KENNY: Because I work at the NIFA, we think about them all and all of the communities across the state and so the production capacity and then the producing of housing, you use the same trades. You use the same 15 or 16 trades whether it be multifamily or single family. Those trades, because they're mobile, have a tendency to gravitate to the strongest market that pays the highest prices and has the longest jobs that have the greatest opportunity. So you'll see the trades move to the urban areas, sometimes even move out of our state to other urban areas. But, for example, as you know, that's a highly mobile group and sometimes the differences between states are even significant and they can cross state lines. Basically all you need is a cell phone and a pickup truck and you're in business. [LB951]

SENATOR SCHUMACHER: Thank you. Any other questions? Thank you very much for your testimony. [LB951]

TIM KENNY: Thank you. [LB951]

SENATOR SCHUMACHER: Any other neutral testimony on LB951? Senator Harr, welcome to close. [LB951]

SENATOR HARR: Thank you, Mr. Vice Chair. Mr. Kenny answered a lot of the questions that were asked but, you know, I was taking copious notes. And first I want to clarify as far as the median income, that's by county, not state, so that the median income of Greeley, Nebraska, is going to be different than Douglas County, Nebraska. It was asked why should we subsidize housing? And the answer is, we already do across the board whether it's Fannie and Freddie on the high end, or if it's all the way down to these low-income housing tax credits. The federal government is already controlling 95 percent of the mortgages in the housing out there. It's just a matter of degree. And I don't think it's a bad thing. You know, to answer Senator Scheer's question, why should we allocate money now for it. And, you know, what we hear is...and I'm sure Senator Sullivan hears this all the time in education, is that in order to educate a child, they have to have a stable home life. We have to make sure, we got to get ahead of that curb. If that kid is living in poverty, it's already difficult. If they're living paycheck to paycheck, day to day, they don't have...they're in survival mode. They aren't thinking long term and they aren't looking at how they can make themselves better. They don't understand delayed gratification. And so, we need housing is the first step. It's the basic step, food, water, shelter. And the houses we live in today are, and I'll say it, they're nicer than they were 50 years ago and I think that's a great thing. We have more wealth in this country and I think we should...I think it's incumbent upon us to make sure that the poorest among us do have good housing and a place to live so that you don't have where, you know, houses that literally had tar walls or tar paper wall like my dad did growing up. I think it's great that we have running water that you don't have to run out to an outhouse. But there's a cost to that and it's going to take some money from the government and that's what this is about. So I think it's a great thing. Senator Brasch, you asked about, are these competitive? The answer is yes, they're very competitive. There's a point system that's scored on these and while the federal program only requires a 15-year LURA, you'd better have 45 or you're not even going to...they're not...Mr. Kenny is not even going to sniff at you...your proposal. And there's another requirement on there that I can't think of right now, but there are requirements above me on the federal program already because they are so competitive in Nebraska. And so if you want to get it, you're going to have to provide more. So, yeah, it is very competitive. To answer Senator Schumacher's question about why don't we pay more? Well, part of it is this tax structure we just developed and if you pay attention, my next bill, LB1048, I will help address that issue for you. And with that, I would close and take any questions you may have. [LB951]

SENATOR SCHUMACHER: Any questions for Senator Harr? Thank you, Senator Harr. Do we have anything that needs to be put in the record? Already done. Good. That will close the hearing on LB951. Senator Harr, you're still in the hot seat and we will open the hearing on LB1048. [LB951]

SENATOR HARR: (Exhibit 1) Thank you. Senator Schumacher, members of the Revenue Committee, my name is Burke Harr, H-a-r-r. I represent Legislative District 8 located in the city of Omaha, specifically Dundee, Benson neighborhoods with a little of Keystone. I'm going to wax philosophical for a second and then I'm going to get into the details of this bill that I have, LB1048. So...and Senator Smith will probably roll his eyes when I start on this diatribe because I spoke about it yesterday in your committee. Last summer, I sent out a letter to small-town newspapers saying how can we grow our economy because I think we all agree that, if we could, we'd like to see our property taxes lowered. And we're in a situation right now where in greater Nebraska, as Senator Schumacher says, it used to be four families to a section, now it's four sections to a family. So we have fewer people supporting our schools. And we have fewer farmers which means we have fewer secondary jobs. And by secondary jobs--farming is a primary--the secondary jobs are the bakers, the barbers, the bankers, the candlestick makers. And so we have to find a way to create more primary jobs. And we look to see, well, what have we done in Nebraska where population is growing? And what we've found is we have taken those products that we produce on the land and we've found a way to use that and develop it here in Nebraska. So we have ethanol which has created some jobs. We have meat packing. It's no longer just in south Omaha; it's across the state. And so my question was, as I sent these letters around, was how do we grow Nebraska and try to retain some of the population there? I often joke that the only people that remain in Nebraska when they get a college degree, you have to be one of three things. You either have to have a profession--teachers, lawyers, doctors, accountants; you have to go work for mom and dad's company; or you're in the service industry, you're waiting tables, you're bartending, and you're eventually going to get a job in sales. There aren't a lot of other jobs out there and we have to find new entry-level jobs so we can retain some of these individuals that we have spent hundreds of thousands of dollars educating through our public schools, K-12 education and also through our universities and colleges, state-run. So what I want to do is see what we can do. And housing was an issue, and I tried to address that in the last bill. But you know what, even if you want to stay in Nebraska, if you want to stay, there aren't jobs. There just...they aren't there unless you fit one of those three criterias. So how do we diversify our economy? How do we get more people so that you don't...it's the other cliche is first generation leaves the farm, moves to the city whether that's Omaha or Lincoln. And then the next generation moves to...leaves Omaha and Lincoln and goes to a bigger city. Now sometimes you bypass the Omaha or Lincoln, sometimes you don't. But we have to find a way to maybe reverse that trend and get people to move back to the smaller towns to stay in those smaller towns and maybe to grow from outside the state. We are at lowest, second lowest unemployment in the country and that's a great thing. But what's amazing is our sales tax numbers are stagnant to declining and we don't have new people moving to the state. A matter of fact, we have an outward migration of young people. So what can we do to encourage those people? With this low unemployment you would think we would have people moving left and right, we would be like Seattle that was mentioned earlier, that we would have wages rising so that we could afford the houses that Senator Schumacher worries about. And there's something fundamentally wrong with our economy that that's not happening. And so what I did was, you know, to try to talk to people over the summer to see what can we do to incentivize to grow greater Nebraska, to encourage people to move here and to stay here. And that’s really what this bill I have does, LB1048. It's looking at...and look, I'm not so naive to think this will solve the problem. We have a complex economy. And if anyone even pretends like they can comprehend it, I wouldn't believe a word they said. But what we can do is try to find ways to stimulate our growth and stimulate our economy and find ways to encourage and incentivize public-private partnerships. And that's what I want to see our tax system do. You know, Senator Schumacher, you talked about you didn't want to see a situation where one guy in one house has subsidized housing, the other person doesn't because they have the same job. I would agree with you. And we have to be careful when we do provide tax incentives because what we're doing is shifting the tax burden, right? So we have to make sure if we're going to shift that tax burden that that tax break that we give is a good investment and that we have a strong return on investment. And I think that's what this bill does. And with that, I will go into my written script. So, as we all know, Nebraska is only as strong as our agricultural and manufacturing sector. Nebraska has not kept pace with the national growth increase in manufacturing sector and population trends. I believe increased accessibility to capital can lead to growth in this sector of employment in Nebraska. Our state economy thrives on the agricultural economy and in the growth of businesses...our state economy thrives on the agricultural economy and growth in those businesses will allow our smaller communities to grow. Our small businesses will grow and underemployment will diminish. Nebraska's small business experience obstacles in receiving the growth capital they need to grow. A snapshot of the trends reveal the state has barely kept up with the national manufacturing trend since 2010 and fallen behind in the most recent U.S. Department of Labor report. Nebraska nonfarm payroll and manufacturing employment declined steadily through the 2000s. Nebraska has not recovered and reached the number of manufacturing jobs we had prior to the recession in 2008. Thanks, Obama. Farm earnings are driving nonmetro income growth. Since 2000, Nebraska's investment per product worker has been below the plains and national average. LB1048 would provide much-needed capital to small businesses to allow growth and expansion. Nebraska Agriculture and Manufacturing Jobs Act enables small businesses to create private-sector jobs and expand in rural areas by providing the access to nontraditional forms of capital. The growth funds would have the...would then be matched on a 1 to 1 basis from private capital, which gets to some of your concerns we can talk about, Senator Schumacher. These dollars would all be invested in Nebraska small businesses. LB1048 is patterned off two federal programs: one through the U.S. Department of Agriculture which licenses rural business investment companies, RBICs; and one through the Small Business Administration, the SBA, which licenses small business investment companies. There are nearly 400 companies allowed to participate in both federal programs combined and it is the Nebraska Agriculture and Manufacturing Jobs Act intent to attract those federal dollars to Nebraska by creating a state fund. The federal funds can be invested everywhere in the country where capital is needed, and the business meet federal program criteria. With a state fund, Nebraska would attract those additional federal dollars to Nebraska's small businesses. These companies qualified to manage the funds at the federal level are thoroughly vetted in the great amount of...with a great amount of experience to provide the necessary experience to invest in Nebraska companies. A priority for all of us on the Revenue Committee is fiscal notes. What will the program cost and what will we see on our return on investment, our ROI? Two University of Nebraska, at Kearney, professors provided an economic analysis of LB1048 if it were enacted. In the very worst scenario, the state would see a net gain of $1.52 for every $1 of tax credit. In summary, LB1048 would allow our rural and state economies to benefit from needed additional growth and diversity. Since 2006, only 4 percent of all capital risk and 7 percent of all deals have been in rural areas in Nebraska. This legislation will attract venture and risk capital to invest in nonmetropolitan areas of the state. The fund smartly married public funding with private funding. The fund will bring third-party matching capital to invest in Nebraska's small businesses and will require real skin in the game for investors who are required to contribute at least 10 percent of their own capital to the funds. This program ties incentives to results and imposes penalties for failures to meet the program goals and safeguards for the state and our taxpayers. This programs focuses on growing the small businesses and jobs in manufacturing and agricultural industries and communities which we know still need our support. There is an amendment I have which is AM2035. The amendment addresses two concerns. Thank you, Jordan. The first concern is designed to incentivize the small business concerns receiving investments under the program to engage in work force training for their company. If a small business concern receives a grant from the Nebraska Worker Training Board, the small business fund is required to match the grant up to thirty thousand (dollars). The second concern is a technical amendment to clarify that the credit may properly offset insurance premium tax without incurring an additional tax. I will also say I have spoken with Mr. Hallstrom. There is an additional amendment that we sent upstairs to deal with the bankers' concerns to make sure that banks can be involved. Unfortunately, we do not have that back yet. But when we do and we Exec on this, I will have it ready by then. So again, it gets back to the fact that what we're seeing is in the next ten years, 70 percent of the jobs we're going to create require an associate's degree or less. Now that's not bad. But we've got to make sure that they're on the high end, associate's degree jobs so that we can get high-paying jobs back into Nebraska. Those are manufacturing jobs. What we don't need are more fast food jobs. So we have to find ways to incentivize private investment in this state. That’s what this does. We need to unlock some of the capital that's locked up that Senator Schumacher talks about quite a bit and find ways for our people in greater Nebraska to invest that doesn't require just buying more farmland because then what happens? Not only do we have a less diverse economy, we also drive up the price of that farmland and that causes higher property taxes. And of course what happens then? Higher property taxes mean more and more people are kicked out of state aid. And so while it's great for us on the state level because we kick people out of state aid, we see what is happening in the state in that there has been a shift where our rural economies and our farmers are creating...carrying a larger burden of our public education, which again, I don't think we want. And that's what we had the fortune of sitting through last week on LB958, and again, Senator Sullivan had the added pleasure yesterday of sitting through on LB959. So we have to find ways to diversify our economy. And that's what we're trying to do. With that, I would entertain any questions knowing that there are individuals after me, again, who are, as always, more knowledgeable and wiser than I am. [LB1048]

SENATOR SCHUMACHER: Senator Brasch. [LB1048]

SENATOR BRASCH: Thank you, Senator Schumacher. And from the length of your introduction, almost the length of Senator Groene's the other evening...(laughter). I think there's no one more knowledgeable. [LB1048]

SENATOR HARR: I don't think it was that long, was it? [LB1048]

SENATOR BRASCH: I would be surprised if I'm not knowledgeable. [LB1048]

SENATOR HARR: But not Mello-esque. He's longer. [LB1048]

SENATOR BRASCH: Okay, very good. Now I want to thank you for sending the letters of query out to the rural areas; that's very interesting and commendable. I do know you have grandparents in rural areas. [LB1048]

SENATOR HARR: Yeah, and family and cousins and secondaries. [LB1048]

SENATOR BRASCH: And family and yeah. So you're not without any knowledge base on this. However, I would invite you to visit with high school seniors because if you ask them will building onto main street bring you back home, typically not. Unless you are an athlete, they long for entertainment of a "Y" of some sort that...one gave me a presentation called: how to change a ghost town into a growth town. And a lot of it did focus. And I thank you for mentioning our local butcher, baker, and candlestick maker... [LB1048]

SENATOR HARR: Yeah. [LB1048]

SENATOR BRASCH: ...because our candlestick maker in Tekamah has added on to their business. It's booming with everyone driving in from Omaha. [LB1048]

SENATOR HARR: Yeah. [LB1048]

SENATOR BRASCH: And so I worry more about youth programs. Yes, we need to keep the businesses open, but it's...and the businesses we have compete with the larger malls. So, your thoughts? [LB1048]

SENATOR HARR: And thank you for that. I will tell you...and I am embarrassed I can't remember, again, his name. He's from East Campus from the University of Nebraska on rural development--great guy. Anyway, what they did is they started a program because they talk to the kids and they say, do you want to stay here, because I always say the big towns are great. Look, I wanted to live in Chicago. I lived in San Francisco. I lived, you know, in London. They're great until you're...I used to say until you're 30, and what I really discovered was it's great until you have kids and really once those kids are in school. And then you want to move back. And you got to find those jobs and that's the hard part. But that's a side line. What I will tell you is that I spoke with this professor and what he found was that talking to a lot of those kids, they want to stay in their towns. They really do--it may not be exciting--but they can't because there aren't jobs there, unless again, you fit in one of those three criteria that I talked about. So, you know, it sounds sexy to say, hey, I'm going to move to the big city. But if you really break it down and say, hey, don't you want to be near your family? You enjoyed growing up here, do you want your kids to have the same experience you had? Nine times out of ten they're going to say yes. But then they turn around and say but--and there's always a but--there aren't any jobs here. And so we have to find ways to provide those jobs. We can't all own keno parlors, so we got to find other jobs. And that's what we're looking to do is to provide those jobs that, again...so that those who do want to stay because there are some who want to stay that just can't. [LB1048]

SENATOR BRASCH: I appreciate your further explanation of your findings. And thank you for bringing yesterday's bill up on Telecommunications and also today on Revenue. Thank you. [LB1048]

SENATOR HARR: Thank you. Oh, yeah, you had to sit through my lecture yesterday too. I apologize. [LB1048]

SENATOR GLOOR: Senator Schumacher. [LB1048]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Senator Harr, you brought up the farmer with the wad of cash burning a hole in his pocket having to decide whether or not he's going to invest in running up the price of farmland. How is he, or is he, able to invest in this program and have the state bear, what is it, 70 percent of his risk? [LB1048]

SENATOR HARR: Yeah, and... [LB1048]

SENATOR SCHUMACHER: How is it...is there shares that are going to be available to the public? [LB1048]

SENATOR HARR: The specifics of the program, I will let those come after because I have a 10,000 foot knowledge and I'm working to get better at it. But these people are in it every day and they...I don't want to create a bad record. [LB1048]

SENATOR SCHUMACHER: Okay. [LB1048]

SENATOR HARR: So I want to make sure the record is clear. [LB1048]

SENATOR SCHUMACHER: Thank you. [LB1048]

SENATOR GLOOR: Seeing no further questions, thank you for your opening. [LB1048]

SENATOR HARR: Thank you. [LB1048]

SENATOR GLOOR: From what I heard, it was brilliant. [LB1048]

SENATOR HARR: I thought so. [LB1048]

SENATOR GLOOR: Thank you, Senator Harr. We'll now move to proponents of LB1048. Good afternoon. [LB1048]

STEPHEN BENNETT: Good afternoon, Mr. Chairman, members. Thank you for having me. My name is Stephen Bennett, S-t-e-p-h-e-n B-e-n-n-e-t-t. I am a managing director with Stonehenge Growth Capital, a small business investment firm that would likely apply if LB1048 is enacted to participate in the program as a fund manager. As I said, we're a small business investor. We were formed in 1999 as a spinoff from Bank One. Since that time, we've invested in over 200 small businesses around the country, the vast majority of which were in low-income or rural areas. Each day, we're out looking for what we characterize as high-growth, high-potential small businesses that are unable to obtain bank financing today or need capital above and beyond what the bank would provide them. When we provide them capital, they can then grow and accelerate their growth, and then also bring and create high-paying, technical jobs across a wide variety of industries. These are the kinds of jobs that Senator Harr was talking about, bringing those to rural communities to the ag industry, to manufacturing companies here in the state of Nebraska. This is always the type of capital that is the hardest for any small business to get. It's not what the bank provides. This is a junior level of debt or an equity investment. There are very few of these firms providing this kind of capital to small business, and there's almost none of them in rural America. It's what makes it so hard for rural businesses to get this kind of capital. We're out looking for those every day and when we find them, we provide not just the capital, but also partner with those businesses to help them grow, working with the entrepreneur, working with the CEO, becoming their long-term advisor, serving on their board of directors to help them with the issues that they face every day in building their business. These investments, as I said, can take the form of debt or equity and engage private fund managers. So, as some of you might have a concern, this is not the government picking winners or losers. These are private managers that have been approved by the U.S. Small Business Administration as an SBIC or have been approved by the USDA to have an RBIC license, a rural investment fund license. So we're piggybacking the program off of already a very rigorous approval process at the federal level where, as Senator Harr, 300-400 firms have already been approved and can participate in this program bringing capital from outside the program to bear in Nebraska businesses. Additionally, the program is structured where 10 percent of the fund has to come as an equity investment from the fund manager, and half or more than half of the capital has to come from private investors who are not receiving tax credits from the state of Nebraska. So there's a lot of skin in the game in these funds for fund managers. So truly the fund managers incentivize simply to look for the best investment opportunities and help grow that Nebraska small business as best as possible. Once the fund is raised, the fund manager will invest that fund over three years. The fund manager must invest 100 percent over three years. If they don't, they don't receive the tax credits. And they must keep that investment out for a period of five years. This ensures that the Nebraska company, that small business, is going to have the long-term benefit of that capital. It's one of the real positives of the program is it ensures that company is able to take that capital and grow over the long term. It has to stay out over five years. I can tell you we've got portfolio companies we've been investors in for 14, 15, 16 years--personally, my longest is 12 years right now--where we've been long-term partners in these businesses with the business owners or the entrepreneurs. It's a real help for those companies to have long-term, patient capital, and that's what this program provides. Many of you may be familiar with the New Markets Program both at a federal level and here in the state of Nebraska. And there are some differences in the approaches here between New Markets and what this act would provide. The New Markets Program provides an incentive that provides low-cost financing to that company, oftentimes an out-of-state company that may want to build a factory in the state of Nebraska, or a plant. This provides long-term, patient equity or debt capital to Nebraska small businesses. So this is an opportunity for the state to really focus on Nebraska companies and small businesses in providing that capital to them. The Wall Street Journal last month ran a piece that suggested or didn't suggest it, that had a study that 93 percent of communities have not returned to their prerecession levels economically; 93 percent in this country haven't gotten back to where they were in 2007. Rural America is hit the hardest. I'd suggest manufacturing and agriculture firms suffer the same way today. A program like this is just one step but would provide capital to those small businesses to help them grow in those areas. With that, I'd be happy to take any of your questions. [LB1048]

SENATOR GLOOR: Thank you, Mr. Bennett. Are there questions? Senator Schumacher. [LB1048]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony. [LB1048]

STEPHEN BENNETT: Yes. [LB1048]

SENATOR SCHUMACHER: What's the base of your company's operations? Where are you from? [LB1048]

STEPHEN BENNETT: I'm in Dallas, Texas. [LB1048]

SENATOR SCHUMACHER: Dallas, Texas. Okay. And I'll start with the first question that I asked Senator Harr. [LB1048]

STEPHEN BENNETT: Yes. [LB1048]

SENATOR SCHUMACHER: And that is we have a problem here because farmers made some really good money and they inflated the price of land. And as Senator Harr pointed out, they make a decision whether or not they're going to invest in inflating the price of land or maintaining that high price, or in something else. How does the farmer who's got a lot of money saved up because he had $8 corn and he wants to invest in this, how does he do it? [LB1048]

STEPHEN BENNETT: Well, there's an incentive from the state that will provide approximately half the capital into a fund. As fund managers, we have to put in... [LB1048]

SENATOR SCHUMACHER: And that capital will come from where? [LB1048]

STEPHEN BENNETT: It's from financial institutions. It can come from banks...mostly financial institutions, I should say, Senator. [LB1048]

SENATOR SCHUMACHER: Okay. [LB1048]

STEPHEN BENNETT: I think we'll have a provision for companies to invest as well in that to get the tax credit. But it has to be an entity that can use that tax credit, so an income tax credit. [LB1048]

SENATOR SCHUMACHER: Okay, somebody that's making money would have to pay taxes. [LB1048]

STEPHEN BENNETT: A premium tax credit for insurance companies or the banks with their taxes. [LB1048]

SENATOR SCHUMACHER: Or personal income taxes too? Is that covered? [LB1048]

STEPHEN BENNETT: It's a good question. I'm not certain on the personal income tax side, if a person can or not. [LB1048]

SENATOR SCHUMACHER: So is this just for insurance companies then? [LB1048]

STEPHEN BENNETT: It is not. Financial...so banks can participate in it. Companies can participate in it. [LB1048]

SENATOR SCHUMACHER: But not individuals. [LB1048]

STEPHEN BENNETT: What...as investors, we have to raise half of the capital outside of that as well. So the financial institution that's providing half the capital will have a rate of return that they'll get from the tax credit and other cash principal and cash interest payments. But then there's a whole another half of the capital that we've got to raise as well to bring privately to the table for investment. So the state is really getting... [LB1048]

SENATOR SCHUMACHER: And that other half... [LB1048]

STEPHEN BENNETT: ...a double bang for the buck. [LB1048]

SENATOR SCHUMACHER: The other half, does that get the benefit of these credits? [LB1048]

STEPHEN BENNETT: Does not, does not. [LB1048]

SENATOR SCHUMACHER: Does not. And where does that money come from? Who are the other...where does that chain of money come from? [LB1048]

STEPHEN BENNETT: We'll raise that from investors. It could be private individuals, could be companies. [LB1048]

SENATOR SCHUMACHER: Do you issue stock? [LB1048]

STEPHEN BENNETT: Interest in the fund, yes. [LB1048]

SENATOR SCHUMACHER: So you issue securities in this fund. [LB1048]

STEPHEN BENNETT: That's correct. [LB1048]

SENATOR SCHUMACHER: Are those registered securities? [LB1048]

STEPHEN BENNETT: They would be. [LB1048]

SENATOR SCHUMACHER: Okay. So they're purchasable over the counter or...? [LB1048]

STEPHEN BENNETT: No, it's not publicly traded. It's not publicly traded... [LB1048]

SENATOR SCHUMACHER: Okay. So I'm still trying to... [LB1048]

STEPHEN BENNETT: ...but there's a regulatory file. [LB1048]

SENATOR SCHUMACHER: ...get back to Senator Harr's part. The farmer that really shouldn't be driving up the price of land anymore, wad of cash in his pocket, how can he invest...how does he get the benefit of this? [LB1048]

STEPHEN BENNETT: Well, the potential to invest in the fund, they may also have businesses that are eligible for the investment for the fund. [LB1048]

SENATOR SCHUMACHER: But he want to get in on the top end where they get the 70 percent risk taken over by the government. He wants to get in on that ground floor that you're talking about. [LB1048]

STEPHEN BENNETT: Well, they would be potential lenders into the fund then. But that would be the case. [LB1048]

SENATOR SCHUMACHER: You're going to give these guys notes? [LB1048]

STEPHEN BENNETT: Yes. [LB1048]

SENATOR SCHUMACHER: So a farmer that...you're open for business. The farmer comes to you and you will sell him a note. [LB1048]

STEPHEN BENNETT: Yes, for a portion of the fund would be raised with debt, and a portion of the fund would be raised with equity. All of our money would go in as equity. [LB1048]

SENATOR SCHUMACHER: And that note's risk will be offset by this 70 percent of the investment being covered by a tax credit. [LB1048]

STEPHEN BENNETT: That would be a portion of the return would be tax credits, a portion. [LB1048]

SENATOR SCHUMACHER: If we're going to spend $70 million on this program, why don't we just invest directly through some grant program in small businesses? [LB1048]

STEPHEN BENNETT: And that approach has been tried in other states in the country. What typically happens, Senator, is the small business needs something above and beyond just the capital. They need somebody as an adviser to help them in building their business. So we've had this in other states where the state has picked companies that are fine companies. But without the additional help and advisers that surround that business, when they need more capital, when they're making important decisions on the growth of the business, things go awry. And so people that can help them in the growth of that business that are experienced investors with a track record in growing small businesses, surrounding them with those folks really is a big part of the equation for success too. [LB1048]

SENATOR SCHUMACHER: And our local bankers aren't capable of investing in our small businesses? [LB1048]

STEPHEN BENNETT: The bankers are typically providing simply a senior debt financing that usually is meeting a formula from cash flow and from collateral and aren't as experienced in the day-to-day operations of those businesses, you know, the kinds of things like helping them to build a sales force, how do you compensate a sales force, how do you make a decision what markets to go into and what products to develop--those kinds of strategic decisions. [LB1048]

SENATOR SCHUMACHER: Is my impression correct that what we're doing here with these tax credits, which essentially are for money if you owe taxes, is the state is taking on 70 percent of the risk and the company is getting 100 percent of the equity? [LB1048]

STEPHEN BENNETT: The state will provide a tax credit for 70 percent, which the present value of that will provide about half the capital in it. Half the capital is going to come from the fund managers raising it as well. So the state is putting up half; the fund manager is putting up half. What our history shows--and I'll let the economist do the economic analysis and provide that for you--is the state is going to get a multiple of return on what it's put up. And we've invested in over 200 companies over the last 17 years showing that. [LB1048]

SENATOR SCHUMACHER: And does this deal qualify for like Nebraska Advantage Act credits and also free money...that's the wrong word when you're talking about the federal government...money from the federal government through some development program from the feds? [LB1048]

STEPHEN BENNETT: We don't. [LB1048]

SENATOR SCHUMACHER: You don't. So these things will not be applying for Nebraska Advantage Act, these businesses. [LB1048]

STEPHEN BENNETT: I don't know what other program a business might be able to. The fund isn't eligible for anything else. I don't know if there's another program that Nebraska has that that company might be able to apply for. [LB1048]

SENATOR SCHUMACHER: I'm just wondering if there's a way you could finance all this off the government and end up owning it. How does that work? [LB1048]

STEPHEN BENNETT: I think what you'll see is good small businesses in a state like Nebraska that aren't able to access capital today. I was looking at the statistics yesterday. You know, Nebraska in 2014, this is the last numbers that are available, Nebraska got $31 million of risk capital, its companies did. California got $28 billion, $28.9 billion. I don't believe personally there's 1,000 times better companies in California than there are in Nebraska. It's an underserved market. It's an inefficient market. Capital is located in places like California and Boston and investors invest close to home. And so they're missing good opportunities in places like Nebraska where there are small businesses that, with some capital, can grow rapidly. And I think that's what you'd find. And I think you have a portion of that experience in your state New Markets Program here where there has been real job creation as a result of an incentive that's been put in place. [LB1048]

SENATOR SCHUMACHER: Thank you. [LB1048]

STEPHEN BENNETT: You're welcome. [LB1048]

SENATOR GLOOR: Senator Brasch. [LB1048]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you for your testimony. I'm just very curious on is there a dollar benchmark that you would consider a small business, how much capital they would have before it would be of interest to you or one of your investors? [LB1048]

STEPHEN BENNETT: Yeah. [LB1048]

SENATOR BRASCH: Is there a minimum? [LB1048]

STEPHEN BENNETT: We tend to look at it, Senator, on a revenue basis. And we get interested when a company is doing at least $1 million in revenue. Now we've done complete start-ups before and it's not to suggest that there aren't those that do merit capital and that we do invest in. [LB1048]

SENATOR BRASCH: So a small rural business that has a least $1 million minimum... [LB1048]

STEPHEN BENNETT: In revenue, in revenue. [LB1048]

SENATOR BRASCH: ...in revenue. [LB1048]

STEPHEN BENNETT: That's when we start getting interested and start tracking them, ones that we think are particularly compelling. [LB1048]

SENATOR BRASCH: Very good. I have no other questions. Thank you. [LB1048]

SENATOR GLOOR: Senator Schumacher. [LB1048]

SENATOR SCHUMACHER: Net or gross revenue? [LB1048]

STEPHEN BENNETT: It would...you know, it's a good point. Most of them we don't have a differentiation between the two. There's not something that separates it. But we'd look at it on a net basis if there was. [LB1048]

SENATOR SCHUMACHER: So, profit basically. [LB1048]

STEPHEN BENNETT: No, but before the cost, just the revenue, not net profit. [LB1048]

SENATOR SCHUMACHER: So, gross intake then. [LB1048]

STEPHEN BENNETT: Top line, yes. Yes. [LB1048]

SENATOR SCHUMACHER: Before or after the cost of goods sold? [LB1048]

STEPHEN BENNETT: Before. [LB1048]

SENATOR SCHUMACHER: Before. So the top line, they have to bring in $1 million a year. [LB1048]

STEPHEN BENNETT: Correct. That's when we'd start tracking the ones that we think are pretty interesting. [LB1048]

SENATOR SCHUMACHER: And the bill calls small business up to $15 million in net revenue. [LB1048]

STEPHEN BENNETT: In net income, yes, up to that size... [LB1048]

SENATOR SCHUMACHER: And 250 employees. [LB1048]

STEPHEN BENNETT: It can go up to that size, correct. [LB1048]

SENATOR SCHUMACHER: Okay. Thank you. [LB1048]

SENATOR GLOOR: Seeing no further questions, thank you, Mr. Bennett. [LB1048]

STEPHEN BENNETT: Thank you, Mr. Chairman. [LB1048]

SENATOR GLOOR: Any time. [LB1048]

JOHN McCOY: Good afternoon, Chairman Gloor and Senators and members of the Revenue Committee. My name is John McCoy, J-o-h-n M-c-C-o-y. I'm the president and CEO of Orthman Manufacturing in Lexington. I'm here to testify in support of LB1048 as the face of the market, not as a complete understanding of the mechanics of the bill. And again, there will be others that will be more astute in those comments. We are primarily an agricultural-based manufacturer servicing the major row crop areas of the country and as well as 12 countries around the globe, so any place you're growing corn, cotton, soybeans certainly. Today we also support the sugarcane market, tomato market out on the west coast, anything that's, again, grown in a row, we have participated in supplying product to. Our current economics are we employ about 180 people with an average wage of about $50,000 plus and expect that to continue to grow as we venture out into the world markets as well. Recently, we were recipients of a state New Markets Tax Credit and the federal New Markets Tax Credit Program, which we deployed in the single largest investment in our company's 50-year history in building a new plant in Lexington. We'll deploy that here in 2016. It will be 115,000 square foot state-of-the-art manufacturing facility at the project cost of about $11 million. With that, we intend to add another hundred jobs, provided this ag economy helps us support that which is a bit challenging today. But that is our commitment to the investment. I'm sitting here a bit as a poster child for your work here in the State Legislature. I have been successful in taking advantage of the Nebraska Advantage Act, certainly the state level of this New Markets Tax Credit Program as well as InternNE. We certainly employ a great deal of interns in our company through the summer and have been successful in recruiting them and keeping them in Lexington upon their graduation. Capital in rural Nebraska is a challenge. There's no question about that. I'm standing here letting you know that we don't and have not banked in our local community for the last 25 years I have been involved with the business. Our needs are significant. Our needs are complicated. They're sophisticated. And now with our reach into the globe, they are significantly more sophisticated than ever before. And so because of that, we've always felt that we've had to go elsewhere to get our financing in order to be successful and be understood at a banker's level. Not to say poorly of our local lenders because they are very sophisticated, they certainly are knowledgeable about the ag industry and what they...their marketplace. But certainly our needs have far surpassed their capability and capacity. I see LB1048 as a tool, as you have had the development of the New Markets Tax Credit Program as well as InternNE to encourage and deliver investment into the rural parts. And what attracts me to it is it hits my sweet spot, right. It hits rural, it hits agriculture, and it hits manufacturing. And so again, I think we would be a bit of the face of your potential action here and the market that would be subsequent beneficiaries of such action. That's really all I had to say today. And I'd be certainly open to other questions that you may have about our company and how we think about agriculture today. [LB1048]

SENATOR GLOOR: Thank you, Mr. McCoy. It's always nice to have a poster child come back and say, remember all that work you were doing on this particular initiative? It worked for me. So it's nice to hear that. [LB1048]

JOHN McCOY: Good. [LB1048]

SENATOR GLOOR: Are there questions? Senator Schumacher. [LB1048]

SENATOR SCHUMACHER: I don't want to tie up too much time, but I'm kind of interested in the mechanics. The state is apparently throwing into this basket $70 million in tax credits, essentially cash. And these folks go out and they raise the rest of it to the halfway point and they go sell interest to somebody big with money like insurance companies. So they get a pot of money. Then they come out and look for places to invest locally. And lets say that place is your place. And they can invest either by loaning you money or buying a piece of your business. Are you willing to sell them a piece of your business? [LB1048]

JOHN McCOY: For the right deal, I would be. And so we think about our business differently than maybe the Orthman family had in the past. So I've been with the company for 25 years, started with the business shortly out of college in 1990, and was successful in buying the company from the Orthman family in 2000, my wife and I did. There was a succession plan issue. There was not another generation coming up, although I have another generation coming up. I am the--we heard this before--I am the first generation off the farm. My kids don't know the farm very well. And so now they are...have begun to scatter into Kansas City and Denver and across the country. So I think about our ownership of the business differently than maybe the family had before me. So I think about the ownership in terms of how will you be successful on the long term. Would it be more successful for the employees and for the existing stockholders to bring on a partner to defer some of that risk and provide the capital necessary to expand into other markets? And that's how I would view it. And so for the right deal, certainly we'd be entertaining of a capital partner and certainly of a debt partner. [LB1048]

SENATOR SCHUMACHER: And the money for the sale of that stock, that would go to your existing shareholders or come into your corporation? [LB1048]

JOHN McCOY: No, again, I'm not speaking specifically about the mechanics, but I would think about raising capital in terms of not paying out stockholders but to develop strategies that would make us successful around the globe, which would be either development of products, development of markets around the globe that would help us create jobs here in Nebraska. [LB1048]

SENATOR SCHUMACHER: So the end result is this investor that may be from Florida, Texas, wherever, that qualifies under this program, is going to end up owning a piece of your business. And that's...you're going to then take that money and then reinvest it. [LB1048]

JOHN McCOY: Yes. [LB1048]

SENATOR SCHUMACHER: Any option to buy them back? [LB1048]

JOHN McCOY: Again, that's the art of the deal, I imagine. I don't know the mechanics of how the money would be able to be paid back. [LB1048]

SENATOR SCHUMACHER: Would you rather just have a check for part of that $70 million? [LB1048]

JOHN McCOY: (Laugh) Well, again, those mechanics I'll leave to the professionals of how that gets delivered to me. [LB1048]

SENATOR SCHUMACHER: Okay. Thank you. [LB1048]

SENATOR GLOOR: Seeing no further questions, thank you for your testimony. [LB1048]

JOHN McCOY: Thank you for your time. [LB1048]

ALLAN JENKINS: I'm just seeing if that's hot. Good afternoon. My name is Allan Jenkins, A-l-l-a-n J-e-n-k-i-n-s. I'm an economics professor at the University of Nebraska at Kearney. I am not speaking on behalf of the university. I am speaking in favor of LB1048 on the basis of an economic analysis that my colleague Ron Konecny and I did. Ron is teaching in Ireland this semester, so he can't be with us today. So I will try to explain what we did and how we were thinking. As we think about impact analysis, we always think about three foundational questions. Does the incentive...does it induce the desired activity? What's its overall economic impact? And what's its fiscal impact? And as we looked at the language of LB1048 and we approached the analysis using a piece of software called IMPLAN, widely used, more than 500 universities and agencies use it. It's been around for at least 40 years now. So what we were able to do with an

IMPLAN model then is you can track the behavior of a change to one sector of the economy. As we were trying to answer our questions then, the language of the bill actually answers the first question in the affirmative. Again, does this act induce the desired activity? Well, it has to because the location has to be in Nebraska. It has to either be in a rural area or using ag products, or once again, providing a service that agriculture needs. So once again, the language of the bill provides that. And plus, there's a very real protection for the state that if the investment doesn't take place then there is no tax credit. So we would say that the language of the bill means that, in fact, the incentive will induce the desired activity of increased manufacturing activity in rural areas or supporting agriculture. In terms of the economic impact, and once again, this comes back to some of the earlier statements that were made, the economic impact is somewhat dependent upon the amount of leveraging that takes place from this funding. So for example, a 50-50 split between private funds and the growth fund are going to create a different amount of activity than if there's, you know, 75 percent private funding and 25 percent growth funding. So we did three different models to look at that starting with 50-50 private growth fund funding and then we also looked at 60-40 and 75-25. And we used that then to look at the economic impact. And once again, just because we're mostly, again, interested in manufacturing, we did our analysis in two steps. There's a construction phase of one year and then we looked at a nine-year operational phase and then sort of tallied that up then to look at the overall impact. So, even with the most conservative, from the state's perspective, the most conservative is that 50-50 split, even there there's a positive benefit on employment and economic activity. The ten-year benefit in state revenues exceeds the ten-year costs. And the state gets a benefit here as well because of that two-year lag time. So you know, in the first two years of the program, all of the tax benefits are being accrued to the state and local governments. So that's tremendous advantage. So once again, on the basis of our analysis, we say that the answer to the second question, yes, LB1048 will have a positive economic impact on the state of Nebraska. The third question, what's the incentive's fiscal impact. I'm sure you guys are interested in that one. Once again, it's going to be influenced by the amount of leveraging that takes place. In the 50-50 split in years 4, 5, and 6, there will be a slight revenue shortfall for the state. But the overall impact, we think, of both state and local taxes even in those years is positive. Over the ten-year period, even the 50-50 split gives us about a $35 million increase in state taxes. And that's net; that's not gross. So that's the...once again, taking that $70 million tax credit out. And of course, as the percentage of private funds increases, those numbers become more favorable for the state. So we would say then that the increase in economic activity will more than offset the $70 million cost. And we also did a little exercise where we looked at some of the multipliers that are related to individual industries. Of course, we find that those industries that use the most local products are going to be the ones that are going to be the most beneficial as far as the overall fiscal impact on the state. So you know, if we're using a lot of locally produced products, we're going to get a lot of multiplier effects. If we're using this money to, you know, import German-made machines that are coming through Kansas City, well, it won't be as much of an effect. And with that, I'll entertain any questions. [LB1048]

SENATOR GLOOR: Any questions for Mr. Jenkins? Senator Schumacher. [LB1048]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you for your testimony today. Have you modeled what would happen if we just gave the $70 million right direct to our people? [LB1048]

ALLAN JENKINS: Here's the advantage of this approach and it's why the New Markets Tax Credit is so important. There's two huge advantages for doing it this way. Any time if you want to directly give money from the state to a facility, what happens if that facility fails? What's the political blowback on that, right? So once again, this is not government picking winners and losers. This is the investment community, with skin in the game, making investments. So there's actually a political protection there because, once again, if you're giving money directly to a company, what happens if they fail? And then why did you give money to that company and not some other company if it's the state's money? So the other...even the bigger thing though is the $70 million will only come into play as it's leveraged against other private funds. So you get more than $70 million of activity for the $70 million to come into play. You're going to get at least $200 million. [LB1048]

SENATOR SCHUMACHER: But if you gave a local business $10 million, they went out using a private offering and raised the money that way, you'd have the same leverage. [LB1048]

ALLAN JENKINS: Well, then explain why historically rural areas are underserved by financial markets because it must not work that way. Historically rural areas are underserved by financial markets so there must be some institutional barriers that, in fact, exist. [LB1048]

SENATOR SCHUMACHER: So how much is it going to cost us then to hire these service units that we must not have in Nebraska to come in and make these investments? What's our cost to this because obviously if we don't have the skills here locally to do it, we don't have the...we're focusing on agricultural and manufacturing instead of financial and services and professional sector, by this bill, so how much are we paying for this expertise we're bringing in? [LB1048]

ALLAN JENKINS: I can't answer that. [LB1048]

SENATOR SCHUMACHER: Have you subtracted that out of your analysis? [LB1048]

ALLAN JENKINS: Well, once again, if somebody borrows money from a Nebraska bank, the money didn't...the professional service fees weren't all kept in Nebraska because there's all sorts of bond underwriting and other kinds of fees that are spent out of state. So it's not as if we have a situation right now where all financial transactions are confined to Nebraska. Money jumps out of this state in financial markets. So I'm not sure I understand how that's an objection. Do we have...will somebody have to pay for some expertise? Probably. Exactly what that percentage is or how that formula is going to work, I wasn't asked to look at that. I was just asked to look at the impacts of that increase in economic activity. [LB1048]

SENATOR SCHUMACHER: And you were hired to look at these specific things? [LB1048]

ALLAN JENKINS: This was a contract report. [LB1048]

SENATOR SCHUMACHER: This wasn't done with your university hat on. [LB1048]

ALLAN JENKINS: No, that's correct. And I said we're not speaking for the university. [LB1048]

SENATOR SCHUMACHER: Thank you. [LB1048]

SENATOR GLOOR: Seeing no further questions, thank you. [LB1048]

ALLAN JENKINS: Can I just...I'd love to answer your earlier question about housing. Can I? Can I? [LB1048]

SENATOR GLOOR: (Inaudible.) [LB1048]

ALLAN JENKINS: Can I be a professor for one second? [LB1048]

SENATOR SCHUMACHER: (Inaudible.) [LB1048]

ALLAN JENKINS: It's because people are more mobile than houses. So you have two communities that are roughly similar in size. And one of those communities loses a major employer so people start to leave that place so housing prices go down. Well, where do they move to? They move to a place that's growing, which means housing prices are going up in that growing area. So overall, housing prices aren't changing. It's just that in the place where housing prices are going down there's no reason to move there. So the difference...it's in that localized nature of the market and people are more mobile than houses are. [LB1048]

SENATOR SCHUMACHER: And because our population is among small fragmented communities rather than a large one where the mobility is... [LB1048]

ALLAN JENKINS: Right. Housing prices aren't going up in Loup City, right? They're going down in Loup City. But why are they going down? Because people are moving closer to the interstate. So people are mobile. [LB1048]

SENATOR SCHUMACHER: So that's all part of a structural problem and a trend. [LB1048]

ALLAN JENKINS: I agree. [LB1048]

SENATOR SCHUMACHER: No matter how much money we throw at it we're going to have a hard time reversing. [LB1048]

ALLAN JENKINS: Right. Once again, it's...people have been moving from the farm to the city since about the twelfth century. So that seems to be a trend. [LB1048]

SENATOR SCHUMACHER: Good trend. Thank you. [LB1048]

ALLAN JENKINS: Thank you. [LB1048]

SENATOR GLOOR: Thank you. Next proponent. [LB1048]

JAY HOWLAND: Chairman Gloor, members of the committee, thank you for the opportunity to speak. I'm Jay Howland, J-a-y H-o-w-l-a-n-d. I'm the controller at Marshall Engines. It is a manufacturer located in Kearney. It started in a residential garage in the early 1980s. And today it employs 95 people and sells engines in four continents. We specialize in manufacturing spark-ignited engines. Our engines are used for ag and industrial applications such as irrigation, oil and natural gas fields, and power generation. We also build replacement automotive and marine engines. And our largest brand is BluePrint Engines. BluePrint Engines are high performance automotive engines and our customers install these in show cars, street cars, street rods. The crate engines that we build compete directly with crate engines from General Motors and Ford Racing. I'm very proud that the company that started in a garage in Kearney, Nebraska, competes directly with General Motors. Consumers compare our products to General Motors and frequently choose us. Being a player in this industry requires resources. Precision machining equipment with price tags over $250,000 are common. Significant engineering resources are needed to design and source raw materials, durability tests, and in some cases, EPA certify. I apologize for the chest pounding, but I feel like it's necessary to explain where we are today and show you how we got there. State and federal programs and Nebraska Department of Economic Development have played key roles in securing capital needed for us to expand and compete in this market. Specifically, we are almost finished with 150,000 square foot manufacturing facility in Kearney. This facility will help us sell to markets we haven't been in before and give us space to expand our manufacturing. It will be home to the only EPA emissions certification lab in the state of Nebraska. This certification lab will be used to design, test, and certify engines that run on clean fuels such as natural gas and propane. The expansion directly created...will directly create 30-40 jobs in the next three years and indirectly create more by using local businesses such as Chief Construction to build the facility. A combination of traditional and nontraditional financing including state tax credit and financing programs have made it possible for us to get affordable rates to do this expansion. As we went through the financing process, it became very obvious that states with tax credit programs were much more likely to attract investors with the ability to pair the state money with federal programs to do these projects. Without a state program, other states are more attractive for investors to pair the federal and state programs. We're thankful Nebraska is one of the states that sees the value in this tax credit program. In closing, I'd like to thank you for recognizing the need in rural Nebraska for capital to help high-cost industries compete nationally and internationally. We believe this program would provide that opportunity to Nebraska's small businesses. Be happy to take any questions. [LB1048]

SENATOR GLOOR: Thank you. And don't worry about the chest pounding. Too often people come in here and say the world will come to an end if we don't approve something. So it's nice to hear somebody who's doing well and would like to do even better. [LB1048]

JAY HOWLAND: I'd like to say we're an example of a business that has used the tools you've created to make it work. [LB1048]

SENATOR GLOOR: Good. Senator Schumacher. [LB1048]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony. Just curious, in your efforts to develop your finances and put money into your business, presumably it's a good, profitable business? Okay. So you've got a good, profitable business, started with local entrepreneurs in a good town, access to the interstate and all. Some of the money going into the school there, a great senator from that area. (Laughter) And is there some...and the communities around it, lots and lots of money, lots of cash. We saw that when they drove land prices through the roof. Is there some reason that you didn't just do what businesses usually do or can do--they probably usually don't do if there's enough government programs--and that is go to the capital market with a Regulation D offering, register your securities, and go sell stock in your company to some of the local folks around there who have excess cash and would be dying to get more than 0 percent interest on their CDs? [LB1048]

JAY HOWLAND: Senator Schumacher, as a voter and a taxpayer, I really appreciate the questions you've asked today. I'm impressed with them. To answer that question specifically, Marshall Engines is a privately held corporation so that option is not attractive to the owner. [LB1048]

SENATOR SCHUMACHER: Okay, but even with this, you may be asked to sell equity in your business to these investors from Texas. [LB1048]

JAY HOWLAND: So the program that we participated in obviously was not this bill; it was the New Markets Tax Credit Program. And in that situation it was debt that we were taking on and not equity investments. [LB1048]

SENATOR SCHUMACHER: And the local financial community, the local banks, even the bigger banks in Omaha were not available to make loans to you? [LB1048]

JAY HOWLAND: If you don't mind me naming names, we do bank with First National of Omaha who has a branch in Kearney. And our local banker and in connection with his office in Omaha, they were involved with the process, they are loaning us money as well. [LB1048]

SENATOR SCHUMACHER: And did you consider selling bonds to the local investors besides...? So they're not equity, you're not giving up a part of your business. [LB1048]

JAY HOWLAND: I guess I...that was not considered. That's probably all I...as far as my knowledge goes. [LB1048]

SENATOR SCHUMACHER: What I'm kind of trying to get at, in probably a very poor way, is that there are business vehicles for capitalizing things that we, for some reason, don't know or understand or use in Nebraska. And as a result, we have to come and say, gee, state government, put some tax resources into it. And I'm trying to figure out why that is. Where our educational system, our business finance system, our bankers, our whoevers have dropped the ball. [LB1048]

JAY HOWLAND: Again, I really appreciate your line of questioning and I'm thankful that you ask those questions. Probably none of...many of them are more than I'm able to answer. The things that were attractive to us about the program we participated in was the very competitive interest rate and some time where we were making interest-only payments and not paying principal and interest. And those are the things that were attractive to us about it. And I really can't emphasize enough how valuable it is to leverage the state funds with the federal funds. And it seemed when we were going through this process we were already two steps ahead of other people competing for those federal funds because we were in a state that had state funds that they could leverage. [LB1048]

SENATOR SCHUMACHER: Thank you. [LB1048]

SENATOR GLOOR: Other questions? Seeing none, thank you, Mr. Howland. [LB1048]

JAY HOWLAND: Thank you. Thank you. [LB1048]

SENATOR GLOOR: Good afternoon. [LB1048]

RYAN DRESSLER: (Exhibit 2) Good afternoon. Chairman Gloor, Vice Chair Schumacher, and members of the committee, my name is Ryan Dressler; that's spelled R-y-a-n D-r-e-s-s-l-e-r. I'm here today to speak in support of LB1048 with a company called Advantage Capital Partners. We are a small business investor and lender around the country. And over the last 22 years, we've raised $2 billion and invested in 660 businesses in 22 different states. So we're partners with many state programs like the one that's proposed here in front of you where we partner with states to identify some type of policy initiative or objective and bring private capital to those areas within that state. Specifically, with our background, we are investors in Nebraska currently under the New Markets Programs. And one nice fact about the New Markets Program I wanted to put in is that in the first ten years of the New Markets Program at the federal level, only $46 million was invested in the state of Nebraska. In the first year after the New Markets bill was passed $56 million was invested. So there was a significant change that that program had on bringing capital to the state. So another thing that's important about Advantage and this program and really where this comes from is the USDA's Rural Business Investment Program, which is where this idea came from. And this was an effort by the USDA to create a program where a fund manager could come in and get investment from farm credit banks and raise a fund to invest in rural agribusiness around the country. So Advantage Capital was the first company licensed through this program, and we raised $154 million fund a little over a year and half ago that we're now investing around the country with about $100 million remaining to invest. So listening to some of the questions earlier today, I've got two things that I want to hit one. And the first is that...the first question that I think we all deal with is, one, do we want to get involved in this type of program? And I think as Senator Schumacher has brought up a couple times, should the government play a role in this and why is it necessary? So from the point of should we get involved, if you look at the statistics, and I think earlier it was brought up if you just compare rural to urban and it's about 35 percent of the population lives in what the USDA would call a rural area in Nebraska. Only 4 percent of the private capital since 2006 has gone to those areas. So you do the math, it's very disparate in the difference of how much capital is going there. And it's because, as was mentioned earlier, investment is a local thing. You need to know, understand people in areas before you make an investment. So if the government doesn't get involved, that's not just going to happen. We've seen it in other places and across the country and it's not going to happen in and of itself. If the government decides then that they do want to play a role to help these communities and bring this much-needed gap financing to the small businesses there, we then need to decide how to do it, and there's a couple ways. And Senator Schumacher brought it up a couple times, one way would be, of the $70 million number, to provide that in the form of grants or other types of direct investment from the state to the companies. The other way to do it is to use that through a tax credit incentive to incentivize other private investors to bring capital and then raise a fund and make investment themselves. And when comparing those two options, what we have found in states is on the first option, with the state being a direct investor, you have two big issues. The first issue is that you're not getting private leverage. So $70 million put in by the state is $70 million invested and it's going to be a little bit less than that because of the administrative cost and the cost to hire and to make those decisions to actually put that money out. The other limiting factor is that the type of decisions that are made with that money are different. So if I were to hand you a dollar and I said you don't need to give it back to me, do whatever you want with it, or if I said I'm going to give you a dollar at very reasonable rates that you can't find anywhere else but you're going to have to pay it back at some point, the decisions that businesses make are different. And more so than that, there's a mentorship part of this where we are partners with all of the companies that we invest in. And that is something that you wouldn't get in the same way if the state was making a direct investment. And so that’s why we advocate for a setup where private companies who do this for a living can come in to underwrite, understand an area and a business and make an investment. So, Senator Schumacher, the one other part that I wanted to hit on as well is with the local farmers and the abundance of cash with certain individuals. It's a really tough thing to invest in business and it's because people are involved in business. If I were to offer you a bunch of silver coins to invest in, you can go online and figure out what those were worth and decide how to invest in that. But if I've got a business with a management team and a market and you need to decide whether or not that's a good investment to make, it's going to be very challenging to do that for an individual. And that's why it's too complex oftentimes for a small business to actively seek out individual investors to provide bonds or other things. It takes too much time away from what they need to do, which is running their business. And that's where we can come in to provide whether equity or debt, whatever the company prefers so that we can get them moving on their way, growing jobs, and growing their companies. So I'll end with that. Thank you for the opportunity to speak today and I'd love to answer any questions. [LB1048]

SENATOR GLOOR: Questions for Mr. Dressler? I don't see any. Thank you very much. [LB1048]

RYAN DRESSLER: Great. [LB1048]

SENATOR GLOOR: Are there any more proponents? Anyone who wishes to speak in opposition to LB1048? Anyone who would like to speak in a neutral capacity? Seeing none, Senator Harr, you're recognized to close. [LB1048]

SENATOR HARR: Thank you, and I'll be brief. Senator Schumacher, I want to thank you for your questions. It'll help make this bill better. You know, you asked why not $70 million directly to the businesses? Solyndra. Thanks, Obama. No one wants the problem there. And this is a way of creating a filter so that we don't have that situation. Obviously equity is an expensive way to finance and I think people would like to avoid that. And this provides a way of both. But you know, there's some companies that can't do it any other way besides equity. And this gives them the ability to do that. Obviously banks and government don't want to have equity in businesses. So it provides additional ways of financing, which is good. I would ask for your support on this bill and would entertain any questions you may have. [LB1048]

SENATOR GLOOR: Questions? I don't see any. Thank you, Senator Harr. [LB1048]

SENATOR HARR: Thank you. Appreciate it. [LB1048]

SENATOR GLOOR: (Exhibits 2-6) And I will read into the record some proponents letters: Terina Trotter from Trotter, Inc.; David Ostdiek from Chief Industries; Robert Hallstrom, Nebraska Bankers; Bruce Rieker, Nebraska Farm Bureau; and I think we got one last one from Barry Kennedy with the State Chamber. And with that, that ends the hearing on LB1048 and we now recognize a fellow committee member, Senator Smith. This is Revenue Committee day. [LB1048]

SENATOR SMITH: (Exhibits 1 and 2) Good afternoon, Senator Gloor and members of the Revenue Committee. For the record, my name is Jim Smith, J-i-m S-m-i-t-h, and I represent the 14th Legislative District in Sarpy County. I am here today to introduce LB812. This is a very simple bill. However, it is a bill that could have a significant impact on businesses all across the state, rural and urban, big and small. And many times before I've said, we need favorable tax policies for all businesses in Nebraska of all types and of all sizes. LB812 is one such policy change that would exempt custom software and custom software training from sales and use taxes. For purposes of the bill, custom software is defined as computer software created for and prepared to the special order of the purchaser. It is not off the shelf software that you and I may be most familiar with. Currently, Nebraska does not differentiate between custom software and canned or prewritten software. Yet for many businesses, it's necessary to utilize a custom software program to meet specific operational needs. The only exception today in our state is if the custom software is developed by an employee for their employer. But regardless of whether the custom software is the product of an outside company or is the product of somebody operating as an employee of the business where the permanent or temporary taxing customized software is simply not good for business and is not good tax policy. It is essentially taxing a business input. If you look at the map that I handed out to you, you will see the majority of states agree that taxing custom software is not good policy. Nebraska is one of only seven states with a tax on customized software and as far as the comparison in our region, South Dakota is the only other state that taxes this business input. However, keep in mind that South Dakota also has no individual or corporate income tax. Our tax policy leaves us at a great disadvantage when compared to all other states. In fact, in an effort to lure new companies to this state, we recognized this in the Nebraska Advantage Act. Software related to the control and operation of manufactured machinery is qualified for a direct refund under the act. And at the very least, customized software is subject to a credit refund. I have also passed out a list of Nebraska businesses which consider the tax on customized software detrimental and bad for business. This list is in no way inclusive of all the businesses in the state that would benefit from the exemption, but it gives us a snapshot of how important our tax policy is with respect to attracting new businesses and keeping existing businesses. And that listing of businesses is from the western part of the state to the eastern part of the state, but most of those businesses are what we consider to be larger businesses. This exemption would benefit some of our smaller businesses as well that are focused on software development. Remember what happened at ConAgra, one thousand jobs lost. Another 300 jobs moved to Chicago. That's a significant loss to our state. Now I'm not saying had this bill passed last year, it would have prevented in some way what happened. I don't think it would have, but when you have shareholders demanding a better return, you have to look at everything. You have...you look at gaining efficiencies and cutting costs. You look at whether a state's overall tax policy is business friendly and then look at the map again, and I would suggest when compared to other states, Nebraska's tax on custom software is simply not probusiness. If you look at the list of businesses again, how many employees does this list represent to our state. I'm not sure, but I do know that Cabela's has at least 2,000 employees in the Sidney area. First Data alone employs upwards of 5,000 Nebraskans. What happens when it's decided one of these companies can function better and make more money in a state that treats businesses, business inputs fairly. That treats them the same as those of competing businesses in at least 43 other states, not in a state that imposes a tax. Following me in testimony...following me will be testimony from a number of different businesses, large companies, small companies, local start-ups and those that design custom software, all with the same message that eliminating this tax, would have a significant, positive input...impact on their operations, but also it would let them know that we as a state value their business. Whether we're talking about luring new companies, supporting small homegrown businesses, or retaining irreplaceable Nebraska business icons, it's about smart and fair tax policy. I do encourage you to strongly consider this and advance LB812 and we always want to address the elephant in the room and that's the fiscal note on this bill. It is sizable. I think there may be some following me that may have some input on that. I do think we need to get some clarification from the Department of Revenue as to how they calculated that. But also, I think that this is not focused...the way that the bill is written it's not focused strictly on business. It may be looking at all types of custom software. So I think there's lots of ways in which we can mitigate the size of this fiscal note. Thank you for your time. [LB812]

SENATOR GLOOR: Thank you, Senator Smith. Questions? Senator Scheer. [LB812]

SENATOR SCHEER: Thank you, Senator Gloor. Senator Smith, I'm just trying to clarify because, I mean, the number was huge. I was trying to figure out exactly what would be covered in this. I mean, it talks about the sales or use. I mean, somebody that has a program that is developed by ABC in Los Angeles, you know. We'll use banks. I mean, I know there are some banks that utilize software from some type of vendor and they probably pay, you know, one hundred and a thousand a bucks a month or whatever for a support fee, use fee, whatever you want to call it. Would that...which is probably taxed. Now, would that be nontaxable under this bill? [LB812]

SENATOR SMITH: My understanding is that custom software is taxed at the point of transfer. So if we have a corporation in Nebraska and they have a consultant develop custom software for them in another state and that software is transferred into Nebraska be it by a CD, electronic delivery, Internet download, whatever that is, into Nebraska, it's at that point that it's taxed. But let's say that Nebraska company has servers located in another state, then that point of transfer to those servers in that other state, it follows the taxing policy of that state, not of Nebraska. And so Nebraska users could be using that software that resides in another state and not receiving taxes. And so that brings into question whether the tax policy is properly followed even in this state? So are we receiving the dollars currently that is included in that fiscal note. [LB812]

SENATOR SCHEER: I don't think... [LB812]

SENATOR SMITH: And that fiscal note is assuming we do. [LB812]

SENATOR SCHEER: So...yes, that would no longer be taxable. I mean, I use the banks as an example because I think that program, I believe it is developed in Nebraska. And so, you know, it's downloaded or changed either by disc, whatever the type of improvement, updates, whatever you want to call it, and usually you're charged X amount a month, either as a service fee or support fee, are those monthly fees then tax exempt under this? [LB812]

SENATOR SMITH: Again, I'm going to have someone follow me to explain that maybe a little bit better than I can, but if that software is developed for the explicit use of that business in

Nebraska and it resides on servers in Nebraska, then this would exempt that tax that should currently be paid. [LB812]

SENATOR SCHEER: Well, and maybe that's the difference. Maybe it would not necessarily be...it wasn't...we'll say it's not developed for Southside Bank exclusively, but it's been sold to Southside Bank and Northside Bank and Norfolk Bank and Papillion Bank and they all use that software, it's customized software for an industry. [LB812]

SENATOR SMITH: In my interpretation of this, and I'm going to look over at the counsel, but I...my sense is that if it's developed for an industry, it is not custom specific to that business and, therefore, it is not exempt from this. It is not exempt as what we're describing here. It is developed for an industry so it becomes, if you would, off the shelf for users in that industry. That's not what we're talking about here. We're talking about custom specific for a company. [LB812]

SENATOR SCHEER: Okay. Thank you. [LB812]

SENATOR GLOOR: Senator Schumacher. [LB812]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Thank you, Senator Smith. Your last comment, I think, conforms better to the language of the bill because the bill seems to say custom software means computer software created for and prepared to the special order of the purchaser. So if you've got somebody who runs a laser cutting thing and he needs to have his computer that runs a laser cutter do some particular function that's unique to his business and he hires a programmer to sit down and code the instructions to make the computer do that, that's his special order. It's not a laser cutting package you buy off of IBM or someplace. [LB812]

SENATOR SMITH: Indeed. Indeed. [LB812]

SENATOR SCHUMACHER: Okay. [LB812]

SENATOR SMITH: Now if he uses his own employee to design that, it's not subject to a tax to begin with, but if he hires someone outside to do that, that's what we're talking about. [LB812]

SENATOR SCHUMACHER: That's correct. So his costs go up 7 percent more because he's not big enough to have his own computer programmer on staff. [LB812]

SENATOR SMITH: Indeed. Right. [LB812]

SENATOR SCHUMACHER: Thank you. [LB812]

SENATOR GLOOR: Seeing no further questions, thank you, Senator Smith. [LB812]

SENATOR SMITH: Thank you. [LB812]

SENATOR GLOOR: (Exhibit 3) And we'll move on with proponents. We do have a letter of support from Robert Hallstrom of the Nebraska Bankers Association. Good afternoon. [LB812]

MAILANI VENEY: Aloha. This is a very big chair. My name is Mailani Veney. Thank you for having me. This is the first time I'm testifying so I apologize if I get any of the protocol incorrect. I will spell my name. It is M-a-i-l-a-n-i V-e-n-e-y. I am representing my company, DealAnyDay based here in the Haymarket, as well as the Lincoln Chamber Commerce in support of this bill. So first of all, I normally like to have interaction and I understand that I'm just going to be speaking so when I look around, most people in here have a phone, so how often do people check their Smartphones. On average 150 times a day according to Google. My company DealAnyDay is eight months old. We're down in the Haymarket, one floor above Hudl. We're in the Nebraska Global building two floors down below FUSE Coworking. And what we have done is we've contracted to have an app built for our company to connect businesses with people, consumers, throughout the country. So we're in 16 cities now. We have a team of 20, so we've grown very rapidly and technology is imperative for us to continue growing. So every day before I got into this industry, I would read about new apps and had no idea how complex it is. They are considered custom software and they're very expensive. If you can get an app built under $40,000, it's not a very good one. So $60,000 to $100,000 is what it would cost for a company to contract to have that work done in Nebraska. The burden for a start-up company like mine, 7 percent or in that range, is enormous. You're talking about start-ups that when I look at buying a new E-mail address for my employees, it cost $5 a month, that's a big decision. So you tack on to that the great expense and the burden of the sales tax, it becomes a very unfriendly tax for custom...for companies looking to start-up in Nebraska. I'm passionate about this for a couple of reasons. One, I moved here. I'm from Hawaii. I moved here 20 years ago, received my MBA here. In 2006, I started another company and won the Nebraska business plan competition. That company has since folded. We had some major hurdles and there were things that were very unfavorable for start-ups ten years ago. Fast forward, ten years, I'm really happy to say that the environment is more friendly. You see a burgeoning technology scene. I don't know how many of you are familiar with the Angelou report which was commissioned by the city of Lincoln and the Angelou report identified four different industries that have the greatest potential for Lincoln and I think you can extrapolate that as well to greater Nebraska in which we can be competitive. And one of those four is information technology. So if we all are in agreement that we want our economy to grow, and as the mom of an LPS student, I have another son at University of Nebraska, I definitely want our economy to grow. As a citizen of this state, I want our economy to grow. As an employer, I want to have our economy grow to support my company and everything else around. So if we're all on board with that, let's make it as appealing as possible and lower those barriers to doing business in Nebraska. So I'm a former professor at the university as well, so I did a little bit of research and some things we did not score very highly in. So when Forbes ranked the most friendly states for starting a business, we were not anywhere near the top. Three of the states in the top ten consistently are three of our neighbors, so Colorado, Wyoming, and Missouri. So of those three, how do we compete? We're very similar with our talent base and some of the availability of technology, resources, Google, fiber, etcetera, now that we have Allo coming to town. So what are the things that differentiate? There are a number of variables, but one of them is taxes as well. So the business tax climate, you're going to hear from some other people that are from much larger companies than mine. That, of course, is important, so knowing and understanding that, I think that that's my cue that I need to wrap up here. If there's any way that I can influence and...not influence, but try and explain what our situation is and how you can make it easier for us to gain new businesses and attract the right kind of employees, that's what I'm trying to do here. So technology sector gains promote new company creation and let us be competitive with our surrounding states. So that's the reason that I'm in support of this. I'm happy to answer any questions you may have. [LB812]

SENATOR GLOOR: Thank you. Further questions? Senator Harr. [LB812]

SENATOR HARR: Thank you, Mr. Chairman. Well, let me first start out by saying I think Forbes hates Nebraska because we always do poorly in theirs. Fortunately, the Tax Foundation has...as has one of the best places to start a new business. So I just want to get that plug in there first of all. Second of all, I would say, I guess I'm kind of a Haole here. What is...is the problem here that you don't like our definition of custom software or that we collect a tax on custom software? [LB812]

MAILANI VENEY: So the fact...so, you know, I used to work in manufacturing as well. For me, not having that talent in house, it becomes an input. It's a business input. So I'm taxed twice on it. I'm taxed once when I pay for the software development company to turn over the code for the app that they've written and then I'm taxed again at the corporate level. So the definition, I think, is something it sounds like there's a little bit of discussion that needs to be had. For me, custom software is something that is written specifically for my company. That is every app. You cannot buy an app off the shelf. So what I'm trying to explain is what's happening with my company, you can replicate it. There's a lot of small companies, and large companies, that are trying to do this very same thing and that's all custom software development. That's just one example of the type of custom software growth that we're seeing. [LB812]

SENATOR HARR: Okay. So, is it a fact that we collect on custom, is the issue, I guess? [LB812]

MAILANI VENEY: Correct. Correct. [LB812]

SENATOR HARR: Okay. Thank you. [LB812]

SENATOR GLOOR: Senator Brasch. [LB812]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you, Ms. Veney. Is that correct? I'm just very curious when you had mentioned the expense of having an app built. [LB812]

MAILANI VENEY: Correct. [LB812]

SENATOR BRASCH: Is it because you need to look far away, you know, are there many app builders available? Is it the lack of those in the industry that will build app or is it a...? [LB812]

MAILANI VENEY: That's a great question. So you can have apps built in other countries. It costs significantly less. The quality is pretty suspect and a lot of times people don't own the code, the interworkings of it. To have an app built locally, and I say locally within about a five-state region, there are a number of companies that can do that and so I actually, when I was doing my due diligence and trying to vet out suppliers for building our app, I did look at businesses in Missouri and in Iowa. So it's not that dearth. It's expensive because it's a long process. It takes, you know, six weeks to eight weeks to be done well. In addition, the type of talent that can write apps, that can do that kind of software development, is very specialized. It's a tough, tough...I mean, people get paid a lot of money if you look on all the lists of some of the top jobs. Those are some of the top jobs right now. And it's going to continue as demand increases for that. So, yes, you can find it locally. Yes, you can find it regionally. You can find it at different price points. For, I guess, I'm trying to drive home the point that we're going mobile, mobile is taking...is a huge shift in our worldwide economy, so we're going to see more of this. And I already hear about this from other entrepreneurs that are in the same boat. [LB812]

SENATOR BRASCH: Okay. [LB812]

MAILANI VENEY: Does that answer your question? [LB812]

SENATOR BRASCH: It does because I was just trying to equate it to, at one point it was hard to find Web designers, and now Web designers are somewhat abundant. Now, I'm curious on app builders, if that's in the same, you know... [LB812]

MAILANI VENEY: Yeah. [LB812]

SENATOR BRASCH: ...when we're talking about taxation, are they all. And not for you to answer but for us to consider, you know, is that all treated equally, and... [LB812]

MAILANI VENEY: No, it requires a higher level of skill and education. So we're very fortunate that we have a Raikes school and we have a really strong computer science program at all of the University of Nebraska campuses. Those people command high pay. So for example, I interviewed a young man who is a sophomore, not in the Raikes school, to intern at my company and he was asking for $25 an hour to start. So, they command a lot of money. They have some distinct skills. It's expensive, and to be done well, there's a reason for that. So I think just putting in the perspective of the economics of what I'm facing as a business owner, that's a lot of money. I could do other things with that money and grow my company. [LB812]

SENATOR BRASCH: I appreciate the explanation. Thank you. [LB812]

MAILANI VENEY: Yeah, thanks for the question. [LB812]

SENATOR GLOOR: Other questions? Seeing none, thank you, Ms. Veney. [LB812]

MAILANI VENEY: Okay. Aloha. Thanks. [LB812]

JIM RICHARDS: (Exhibit 4) Good afternoon, Chairman Gloor and members of the Revenue Committee. Thank you for giving me an opportunity to speak today. This is my first time speaking in this arrangement. I get an appreciation for what you guys do probably day after day when the session is in place. I'm Jim Richards, J-i-m R-i-c-h-a-r-d-s. I'm the founder and president of Capstone Consulting. We work for her. Okay. So just in a nutshell, that's what we do. We're the companies that come help and build software. We're Nebraska S corporation based in Omaha near 108th and L Street. If you remember the Z92 building, we're near that building, that old building. We are a Christian-based IT services and solutions firm that has been delivering custom solutions, business solutions and IT staffing to Omaha and greater Nebraska market for the past 17 years. Our customer commitment is to deliver IT services and solutions with the utmost integrity every step of the way. Capstone is 72 strong, of which 54 are residents of Nebraska. Forty-five percent of our revenue is from the greater Omaha area; 25 percent from the rest of Nebraska, and then 30 percent nationally. I'm here today in support of Senator Smith's bill, LB812, drafted to exempt custom software from Nebraska sales tax. Also to convey why LB812 has the full support our team, other IT companies, and companies that are seeking to expand their technology advantage in the Nebraska marketplace and help Nebraska IT professionals statewide. As you're probably aware, and already heard, the IT industry is both a mature and highly competitive marketplace. Capstone, like other companies, competes locally, nationally, and internationally, and I could share the impact of Nebraska sales tax is substantial to us. Today, any Nebraska or national company's IT department can build software, using internal resources, as was mentioned, and with no sales tax applied to that. This creates an incentive for companies to develop software either in-house or using resources from other states, if not internationally. However, IT software requirements can often ebb and flow substantially as companies experience changing market dynamics creating the need to smooth these spikes with an augment of external IT resources. We have seen this trend communicated in the news with large, high profile companies, but the same trend happens with smaller companies as was just mentioned. When the needs not there, layoffs happen. To fill this need, Capstone and other IT consulting firms hire well-paid employees, provide them with steady, secure Nebraska employment and continually update their skills through consulting engagements locally and nationwide. The incremental 7 percent tax burden on companies like Capstone means we continually struggle to be price competitive, limiting the number of engagements, and ultimately reducing the tax base of higher wage IT professionals who have no choice but to look for employment outside of Nebraska. To make it real, I'm going to give you an example, if I may. Let me walk you through a simple example of how the current law impacts competitive engagements while also limiting the Nebraska tax base. So the ACME Company builds drones. Their business is growing dramatically and needs an upgrade to their customer and sales database making it better accessible to their national sales force. With offices in Denver and Omaha, the company leadership decides not to bring on full-time employees given the project should be completed in six months. Instead, they ask an external Denver and Omaha consulting firm to bid on this upgrade. Both firms respond with a bid that is based on similar technology, delivery of resources of similar skills and have a previous engagement history with ACME. The resulting financials are pretty easy. The Denver bid is a $1 million and the Omaha bid is $1,070,000. The only difference is the 7 percent sales tax and an additional $70,000 price difference. All things being equal, ACME would choose Denver to implement this upgrade. Magnifying the impact, this project provides jobs for ten software developers for six months. The annual salary range of these types of roles is $90,000 to $130,000 a year. While this example is intended to reflect an easy mathematical difference, multiply the project by a factor of five or ten for larger, longer engagements and the example clearly shows how the project certainly would not be awarded in Omaha, at great expense and impact to Nebraska. The Capstone team supports this bill and strongly recommends that LB812 be implemented as soon as possible to eliminate the unfair burden on our team's competitive ability. Thank you for your time and I'll take any questions. [LB812]

SENATOR GLOOR: Thank you, Mr. Richards. Question for you. I'm the owner of the ACME company and I bring in somebody else to help me design a sales database. I buy it from them, and say goodbye, except five years later I want to upgrade it. I bring them back again to provide that upgrade. Is the 7 percent applicable with that same company that I brought back in to upgrade the software...? [LB812]

JIM RICHARDS: Yeah, so the legal counsel probably can answer this better. I'll answer with my understanding. It depends on the size of change that you made to that sales database. I think that if it's minimal, if it's like less than a couple of percent, then I don't think it is. If it's large, then it would be available to that sales tax burden again. [LB812]

SENATOR GLOOR: And who makes the determination on that? [LB812]

JIM RICHARDS: I believe the company looks...I believe it's 15 percent, is that the right number? You don't know? I believe the number is 15 percent and this might be a federal thing. It's based on what the company and that contractor would look at, but I'm not a legal person so that's my experience. [LB812]

SENATOR GLOOR: Okay. All right. Questions? Senator Schumacher. [LB812]

SENATOR SCHUMACHER: Thank you, Senator Gloor. Let's just say you have a situation where you have a need for some custom built software. As I understand it now, somebody would go to you and say I'd like to have this thing done and you look at it and you say, well, this is one programmer for 90 days. [LB812]

JIM RICHARDS: Right. [LB812]

SENATOR SCHUMACHER: Okay. And then it comes down and you've got to set a code on a USB or some type of medium and when they transfer that to you, or to the purchaser, that's when the tax attaches. [LB812]

JIM RICHARDS: Right. So that 90 days of that custom software development, most likely that would be on your system anyway. We probably wouldn't do it off-side. It would be on your system, upgrading your system right there. [LB812]

SENATOR SCHUMACHER: Okay. Now if I wanted to beat the system, which is always a good thing to do, couldn't you just rent me your programmer for 90 days, kind of like Merry Maids, you just rent me? [LB812]

JIM RICHARDS: I don't know about that. It's still custom software development so I think it would still be taxed, but that would be my understanding. [LB812]

SENATOR SCHUMACHER: But he's now my employee, he's my... [LB812]

JIM RICHARDS: He's your employee? [LB812]

SENATOR SCHUMACHER: Well, I'm renting him just like I... [LB812]

JIM RICHARS: If he's a contractor through us, right... [LB812]

SENATOR SCHUMACHER: I'm not contracting with you for the chip or whatever program. [LB812]

JIM RICHARDS: Right. [LB812]

SENATOR SCHUMACHER: I am saying, you got somebody that's going to do this work, he's sharp, he knows what to do, can I rent...can you provide him to me like, well like Merry Maids? [LB812]

JIM RICHARDS: The job programmer, right. So a programmer comes in. [LB812]

SENATOR SCHUMACHER: Yeah, I want to rent your programmer, same amount of money, but I'm just renting your programmer and he's coming to my place... [LB812]

JIM RICHARDS: I'm going to let you ask somebody. I believe that's a taxable event, but I'm not going to answer that. I don't know for sure. [LB812]

SENATOR SCHUMACHER: Okay. It would be an easy way around the problem if that will work. [LB812]

JIM RICHARDS: Yeah. [LB812]

SENATOR SCHUMACHER: Okay. Thank you. [LB812]

JIM RICHARDS: We don't have that happen. [LB812]

SENATOR SCHUMACHER: Thank you. [LB812]

SENATOR GLOOR: Senator Harr. [LB812]

SENATOR HARR: Thank you and I appreciate your testimony. I just...I need to criticize it a little bit. [LB812]

JIM RICHARDS: Sure. [LB812]

SENATOR HARR: I think it's overly simplistic to say if you have a million dollars in Denver and a million dollars in Nebraska... [LB812]

JIM RICHARDS: Yeah. [LB812]

SENATOR HARR: ...in that. What is the income, corporate income tax rate in Colorado? [LB812]

JIM RICHARDS: I do not know. [LB812]

SENATOR HARR: Okay. But probably different than Nebraska? [LB812]

JIM RICHARDS: I don't know. [LB812]

SENATOR HARR: Okay. What is the utility rate in Colorado versus Nebraska? [LB812]

JIM RICHARDS: I do not know. [LB812]

SENATOR HARR: Okay. Maybe different? [LB812]

JIM RICHARDS: I'm saying the cost would be the same based on all those factors baked in. [LB812]

SENATOR HARR: Okay. Do you really believe they'd be exactly the same, the only difference would be the sales tax? [LB812]

JIM RICHARDS: No, I'm not. [LB812]

SENATOR HARR: Because that kind of goes with your credibility with me if you save face that they are. [LB812]

JIM RICHARDS: No, I'm saying if everything was equal, that would be the difference, yes. How often do we bid...may I keep going or...? [LB812]

SENATOR HARR: But you would agree with me that costs are different in Denver than in Nebraska. [LB812]

JIM RICHARDS: Yes. [LB812]

SENATOR HARR: Okay. And this is just one of those components. [LB812]

JIM RICHARDS: This is one of those components, yes. [LB812]

SENATOR HARR: Okay. Thank you. [LB812]

SENATOR GLOOR: Other questions? Seeing none, thank you for your testimony. Continuing with proponents. [LB812]

JAKE McELROY: (Exhibit 5) Good afternoon, Senator Gloor and members of the Revenue Committee. This is also my first time here as well, so bear with me here. My name is Jake McElroy, spelled J-a-k-e M-c-E-l-r-o-y. I am the chief operating officer and co-founder of Agilx. We're a custom software firm headquartered here in Lincoln, Nebraska, actually just out at the technology development center out by the Interstate. We currently employ nine full-time employees and have had steady growth over the last five years in business. At Agilx we develop custom software for established companies and start-ups around the United States. We specialize in Web-based applications and mobile applications for iOS and Android devices. The reality of developing custom software today is that we no longer have to worry about purchasing and maintaining physical hardware and installing software that we receive on a disc from our vendor. That's an old school thought. Today it's all about just pushing code over the Internet to a server that's remote and then sending a link to a customer to access it. That server can be in Texas. That server could be in India. That server could be at anywhere in the world, but that's just the reality of how it works. As a custom software development firm, our product isn't an application that we're billing to, our product is the development hour. Your purchasing a development hour from us. We use the development hour as a baseline to cover an array of technical services we perform for our clients. The development hour might include the production of custom code, it could include software support, it could include a project plan or a simple meeting. The end result or deliverable from a development hour includes publishing lines of code to a server hosted in another state. The client we built software for then gains access to that custom application via an Internet connection at their office and we provide on-going support of the application on a time and materials basis with a rate set in accordance with our standard development hour. I believe making custom software tax exempt will lower the barrier to entry for creating new innovative products and companies in the tech sector. If we want to attract this kind of industry to the state, then we should pass LB812. I support LB812 introduced by Senator Smith because I believe if custom software becomes tax exempt, the demand for custom software will naturally increase. That increase in demand means we can attract and retain more development companies like Agilx and we can continue to create high paying technical jobs to support growing demand, which I believe is in the best interest for the state of Nebraska. I appreciate your time today and I'm open to any questions. [LB812]

SENATOR GLOOR: Thank you, Mr. McElroy. Are there questions? Senator Brasch. [LB812]

SENATOR BRASCH: Thank you, Chairman Gloor, and thank you for your testimony, Mr. McElroy. I'm just very curious. You had mentioned that your firm was headquartered somewhere here in Lincoln. Where did you say? [LB812]

JAKE McELROY: Yeah, in the technology development center out by the Interstate across from Cabela's and Verizon. [LB812]

SENATOR BRASCH: And that's what...did you start as a private business or were you an incubator business or...? [LB812]

JAKE McELROY: Yes, so we started out when it was an incubator. It was on...the technology development center is owned by the university foundation. They had vested interest in that about two years ago. We started out when it was an incubator and then it turned to just multitenant space, so. [LB812]

SENATOR BRASCH: Very good. [LB812]

JAKE McELROY: We've currently outgrown the space and are moving into the Haymarket, the whole third floor above The Mill, so. [LB812]

SENATOR BRASCH: Excellent. That's what I kind of had in the back of my mind is you started out as an incubator and now you grew. The other is the services that you have, do you believe your competitive with outsource opportunities, say, can you do something that's done in--just hypothetically--India, here in Lincoln for the same price? [LB812]

JAKE McELROY: India is a little bit different. I'd say that we compete...definitely compete with the coasts, so we have a lower cost of living here in Nebraska. There's a model actually used by a company called Xpanxion. That's out at Kearney, Nebraska. It's called domestic rural outsourcing which basically has the thought of, we can hire developers here in Lincoln for say, $75,000 to $80,000 versus San Francisco, maybe at $150,000 to $170,000, but we can build software for these East and West Coast companies at a lower cost because our labor rate is a lot cheaper. So I would say, we compete on that basis. Now when you outsource things to India, like the testimony earlier, it's...if you ever outsource an app to India, it's not a good idea. It's just not a good idea. [LB812]

SENATOR BRASCH: No, I have not. I was just curious. Legislation stays here. (Laughter) [LB812]

JAKE McELROY: Sure. [LB812]

SENATOR BRASCH: But the...so the tax benefit would greatly help you in the sense that you are competing with some foreign developers, say. Is that... [LB812]

JAKE McELROY: Yeah, I think so. I think so. I think even for our...just for our direct client, it's a lot easier to chew on a quote, without that additional 7 percent. It lowers the barrier to entry for them to say, yeah, we could buy something off the shelf and pay tax on that or we could develop a custom, pay if we go custom, we don't have to pay that 7 percent. Let's go custom. That allows me to get more business. I can hire more high tech jobs, grow the company, and then so on and so forth, so. [LB812]

SENATOR BRASCH: Very good. I have no other questions. Thank you. [LB812]

SENATOR GLOOR: Senator Schumacher. [LB812]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony. Just a quick question. Does your company do C++ programming that runs on a Microsoft triple NX platform? [LB812]

JAKE McELROY: We do not. We're primarily a .NET shop, so we do everything C#, but we have programmers with experience in C++, so. We could potentially figure it out if you have a problem that you need solved. (Laughter) [LB812]

SENATOR SCHUMACHER: Thank you. [LB812]

SENATOR GLOOR: Seeing no further questions, you did a good job for your first go-around and you may even pick up a client, who knows. (Laughter) Thank you for your testimony. [LB812]

JAKE McELROY: Appreciate it. Thank you. [LB812]

BRIAN ZIMMER: (Exhibit 6) I guess I'll continue the tradition here of being...this is my first time testifying as well, so. Chairman, members of the committee, good afternoon. I'm Brian Zimmer, B-r-i-a-n Z-i-m-m-e-r, and I'm here today representing Nebraska Global Investment Company in support of LB812. Nebraska Global, which is located here in Lincoln, was created by three local entrepreneurs with the mission to help bootstrap and establish a software technology ecosystem here in Lincoln and in greater Nebraska. Our organization has a bit of unique perspective because we're both a $38 million software venture capital fund and a custom software product development company, all rolled into one. In my current role, I'm heavily involved in both functions and, you know, from our experience, LB812 will provide both a material benefit to established businesses and start-up technology businesses, so I urge you to please to give it strong consideration. It will also remove a friction point that will ultimately help us attract and retain talent here within the state. From a custom software development perspective, this bill will encourage software development to stay within the state of Nebraska. You know, it's incredibly easy for software development to cross both state and international borders, and according to current law, you know, when a business requests a quote from both a Nebraska-based business and one of our competitors out of state, you know, there will be a difference and that difference will be that sales tax surcharge that we present on the proposal. Sure, there will be some differences in the rates but, you know, that will be kind of a known quantity that is a difference between the two of them. And thus, you know, we're automatically at a disadvantage in an industry that's very competitive and also it's a price-sensitive market when people are making decisions. From an investor perspective, you know, we think this bill will really help make the start-up companies more successful, like, you know, Mailani, who we're working with and you heard earlier today. You know, when a start-up company is proving both that market and technical feasibility of their venture, they're challenged with those limited resources, both, you know, financial as well as personnel and expertise that they have in that company because they have a small company to start with. So partnering is essential to accessing some of that key expertise and helping that start-up grow faster. You know, as LB812 allows a start-up to take their limited funds 5 percent to 7 percent farther, you know we believe that it will encourage them to partner and that partnering may even make the difference for that start-up company's ultimate success if they're able to cross just a couple more milestones or get some key expertise as they're proving out their business model. Enacting this bill will also magnify the success of the Nebraska Prototype Fund by allowing those matching funds to go farther for any start-up that's utilizing them when they partner with other companies. And, you know, ultimately, as the number of innovative technology companies increase, Nebraska's ability to attract and retain young technical talent will also naturally increase, so we believe this will help benefit that as well. Although passing this bill will result in a reduction of sales tax revenue, I urge this committee to please consider this bill as a strategic investment in an important growth sector here in Nebraska's economy. For our contract product development shop, you know, we didn't start out doing that, but we did it over time. In the last two years we've grown that division from three people to about sixteen people and we're continuing to grow pretty rapidly as we work with these different companies making custom software for them. LB812 will help level the playing field and keep custom software development within our state, and ultimately we believe it will help the start-ups succeed and that will ultimately create more jobs. Many of those jobs we believe will have, you know, higher level entry salaries, you know, above $60,000, above $80,000 depending on the nature of the business, and ultimately in the long run, you know, we believe it will import more taxable revenue into the state of Nebraska. So thank you all for your time and consideration. I'm happy to answer any questions you have. [LB812]

SENATOR GLOOR: Questions for Mr. Zimmer. Senator Harr. [LB812]

SENATOR HARR: Thank you. You seem very bright and articulate and I just...it's your first time, I want to let you know the joke about Revenue Committee is no, what's the answer or what's the question. And so I guess my question to you is this has a big fiscal note. [LB812]

BRIAN ZIMMER: Yep. [LB812]

SENATOR HARR: And we're already in a hole a large sum and I've heard a lot of start-up companies and, you know, they sound great, but to a certain degree, you know, we had an incubator which comes from state subsidies. We have, you know, you started from nine to sixteen...or three to sixteen, you've grown and I appreciate that. But then the question becomes, how do we use our assets to...do we forgo education, K-12 education, university? Do we forgo our roads? How do we fill this hole that we have already and then dig it a little deeper for a tax cut like this? What would be the reason that this should take priority over the other issues that are knocking on the door saying we need more money? [LB812]

BRIAN ZIMMER: Yeah, certainly. I guess I'm not, you know, as well-versed as, you know, all of you would be on all the different issues that you're weighing, so some of that's going to have to be up to your discretion and your judgment. But, you know, the perspective I would have is that, you know, as we build this custom software for companies, you know, the companies that we're working with, these aren't companies that experience linear growth. They're companies that can experience more exponential growth, so it's our hope that as you are able to generate more of those companies that that will increase employment and create a more substantial benefit in the long run. So I'm sure the other causes are very valuable, but, you know, that's my perspective on why I would view this as a priority. [LB812]

SENATOR HARR: You lived up to what I thought. Thank you very much. I appreciate it. [LB812]

SENATOR GLOOR: Senator Sullivan. [LB812]

SENATOR SULLIVAN: Thank you, Senator Gloor, and thank you for your testimony. You may have mentioned this. Are you a native Nebraskan? [LB812]

BRIAN ZIMMER: Yeah, I'm from a small town by Columbus, called Bellwood, and so then came to Lincoln here for college and then stayed. [LB812]

SENATOR SULLIVAN: Thank you. [LB812]

SENATOR GLOOR: It is a small town. (Laughter) Seeing no further questions, thank you, Mr. Zimmer. [LB812]

BRIAN ZIMMER: Yep, thank you. [LB812]

SENATOR GLOOR: You did well too. You can come back. [LB812]

BRIAN ZIMMER: (Exhibit 7) Also I do have one other letter of support from another company in town who wasn't able to be here today. [LB812]

ROBERTA CHRISTENSEN: (Exhibit 8) Well, you're going on your fifth or sixth newbie of the day with respect to this bill. I've never been here before. Well, my job is to come here and talk from the customer perspective. You've heard from a number of vendors so my job here is to come and talk from the other side. My name is Roberta Christensen, R-o-b-e-r-t-a C-h-r-i-s-t-e-n-s-e-n. I am an attorney. I'm a shareholder in the law firm of Koley Jessen P.C. in Omaha. I started my career in Deloitte's Omaha office, and I have 25 years of experience dealing with state tax issues. I currently head up our state and local practice at Koley Jessen. And so, I'm here today to testify individually and on behalf of my client, Cabela's, Inc., to testify in support of Senator Smith's bill, LB812. And I'd like to start out by explaining Cabela's and my respective interest in this bill. Cabela's has the need to outsource software development projects on a regular basis and I have over the course of my career conducted educational seminars aimed at explaining the taxation of custom software. I've counseled clients and vendors on the issue, and I've represented vendors before the Nebraska Department of Revenue who have been caught unawares by this tax. I'm not here because my clients would prefer not to pay sales tax on software. In fact, as you will note, this bill would not change the existing Nebraska statutes which tax the sale or licensing of prewritten software and the providing of related services for prewritten software. Rather, we maintain that this bill will provide much needed clarity to taxpayers. So custom software has had a very interesting history of taxation in Nebraska. My research reflects that it was first exempted from tax in 1983 and then made taxable again in 1985. Now over the course of the intervening 30 years, Nebraska's taxation of software may not have changed, but the manner in which custom software is created, provided, and paid for, certainly has. You've already heard this from other vendors, but I'll reiterate it. Today's vendor is commonly paid on a time and materials basis simply to code, often with direct access to the customer's software, and with the added services in some instances of preproject planning and postproject testing and training. It is small wonder that many Nebraska-based vendors and clients have mistakenly believed that the development and delivery of custom software is a nontaxable service rather than a taxable deliverable. And this confusion has not been lessened by the fact that Nebraska is one of only a handful of states in this country that subjects custom software to sales tax. These states exempting custom software likely do so based upon my research, either upon a policy of limited taxation of services, which in my view Nebraska shares that policy, or of encouraging the growth of technology-related business. It is clear to me that the time is now to update Nebraska law and to join nearly all the other states in exempting custom software from tax. Now over the years, the services that I've performed for my clients have included counseling them because they have a desire to comply with the law. This, frankly, has not been easy, and I'd like to give you some examples of that. First, the Department has, and I believe appropriately, stated that when software is provided as a service, in other words, made available for access by a customer over the Internet to a customer over the Internet, it is not subject to sales tax. This is referred to as software-as-a-service or a SAAS model. Accordingly, a customer can avoid the taxation of custom software by simply structuring the transaction as an online service hosted by the vendor. This creates an unlevel playing field for those customers who either have proprietary software on their own systems, and can't go to a SAAS type model, or those who simply don't want their software and data hosted outside of their company in the cloud. And I will say that in this regard, I was frankly surprised by the size of the fiscal note on this bill and I was wondering if an underlying assumption was that all custom software is currently provided in a nonSAAS model. Editorially, I would also add that with respect to the fiscal bill, I personally think that there's a reason why there are so many...the majority of other states don't have custom software. I believe that they perceive a net economic benefit to...overall to having the software being exempt from tax and opposed to taxable. And I can see I'm running out of time. Cut me off at anytime that you need to. I'd like to give you another example, though. Secondly, 14 years ago the Department issued a revenue ruling designed to allow customers and vendors to implement an agreement containing certain safe harbor provisions that would render the custom software nontaxable. This would at first blush seem to make the need for LB812 unnecessary. However, that requires a risk...a degree of risk tolerance which is often unacceptable to the customer and doesn't reflect the reality of the situation. Specifically, the vendor's personnel must be deemed to be temporary employees of the customer and under the customer's control. Many customers do not desire this for reasons of liability, possible wage claims, and possible benefit claims. Secondly, another safe harbor provision of this is that neither the consultant nor the temporary employee can have any liability of the software for the failure of the software to perform. That obviously is an issue if you're going to be paying hundreds of thousands of dollars for a piece of custom software, but contractually you're not able to go back against the vendor for that. And in addition, the outside parameters of what is taxable and not taxable continue to be unclear. For example, as I stated before, many custom development projects include a precoding phase for information gathering and project planning. Not a keystroke is made during that time period, yet the regulations make it clear that software planning and design services are subject to tax. For a lot of vendors and customers it is unclear where the demarcation is between what's taxable and what is not taxable and they have to guess until there's an audit, at which point they have clarity as to whether or not the service is taxable. I believe, and Cabela's believes, that the passage of LB812 would eliminate the unlevel playing field, encourage more taxpayers to seek the benefits of custom developed software, and avoid the guesswork currently inherent in the billing of, and payment for, such software. On behalf of Cabela's and myself, I urge your favorable consideration of this bill, and I would be glad to answer any questions at this time. [LB812]

SENATOR GLOOR: Thank you very much for your testimony. Questions for Ms. Christensen? Senator Schumacher. [LB812]

SENATOR SCHUMACHER: Thank you, Senator Gloor, and thank you for your testimony, Roberta. So to my question that I asked before, on a rented program, taxable? [LB812]

ROBERTA CHRISTENSEN: I've been itching to answer that question. (Laughter) I'm so glad you asked me. So here's the way it works. The tax occurs when there's an outside consultant that is a vendor from the outside that is providing the software to somebody on the inside. In order for the transaction that you're describing to be exempt from tax, you couldn't pay the outside consultant. Basically the outside consultant would have to fire the employee, you would have to hire the employee and bring them into your company as a full-time employee, have them do the work, fire them, and let the vendor rehire them. You cannot pay the vendor. [LB812]

SENATOR SCHUMACHER: So, a Merry Maids kind of thing wouldn't work. [LB812]

ROBERTA CHRISTENSEN: No, no. [LB812]

SENATOR SCHUMACHER: And that's the result of something in statute or a revenue ruling? [LB812]

ROBERTA CHRISTENSEN: Well, it's the statute and the...it's the statute and it's the regulation, the way that the regulations are set up. [LB812]

SENATOR SCHUMACHER: Yeah, but they've got to have a basis in statute. [LB812]

ROBERTA CHRISTENSEN: Right, right. So, and the beauty of the bill, which I think it's beautifully written, it's simple, it's very, very clear, is that it clears up a lot of confusion that I think lies in the current statute and regulatory structure. [LB812]

SENATOR SCHUMACHER: But, you know the big sticker here is the sticker shock on the $40 million a year, which is huge. And to the extent that $40 million can be theoretically reduced because there's a way to beat the system, that $40 million, or at least some of it, goes away. So to the extent that this rent to programmer is not found in statute but it's fairly arbitrary in regulations, maybe the $40 million figure isn't right. [LB812]

ROBERTA CHRISTENSEN: You know, I wasn't privy to the calculation of the tax impact and I don't know what assumptions went into it. Again, as I stated in my testimony, Senator Schumacher, I was very surprised that it was that large. Taxpayers have the ability to structure using the safe harbor, this revenue ruling that I described. They can also structure it as a software service, they can do the end run that I just described where, you know, you have this firing and rehiring of the programmer. And again, it's my belief that the only reason that...that the reason that so many other states have looked at this and said, we should not tax custom software is because they've made the decision that there's more to be gained than to be lost. So, I can't speak to the tax impact dollar amount, but it's my belief that it's high. [LB812]

SENATOR SCHUMACHER: If you back it out at 7 percent it's about $570 million in software purchases this winter. [LB812]

ROBERTA CHRISTENSEN: That's a pretty staggering number. I haven't ran the math on it, but that's a staggering number. [LB812]

SENATOR SCHUMACHER: That seems like a tremendous amount of customized software. [LB812]

ROBERTA CHRISTENSEN: It really does. [LB812]

SENATOR SCHUMACHER: Thank you. [LB812]

SENATOR GLOOR: And doesn't it also speak to a tremendous amount of noncompliance being...I look at the number and I'm thinking, I don't think this is representative of growth industry so much as the level of noncompliance and an assumption that there will be compliance where that actually happens or not, would mean we're doing far more audits and as a result of that, there ends up being more compliance. [LB812]

ROBERTA CHRISTENSEN: I'd like to tell you a story about that if I could, Senator Gloor. [LB812]

SENATOR GLOOR: Certainly. Yeah, consider my comment a question. [LB812]

ROBERTA CHRISTENSEN: Good, I'd like to. So my...the genesis of my work in this area was somewhere between 15 and 20 years ago when I was asked by an IT vendor that would be comparable to Capstone to come to educational seminars with them because what they were finding is they were very much interested in complying with the law and they were charging the 7 percent and their...many of their competitors were not. And so they were losing business continually to other vendors who were not complying with the law and it was very dismaying to them and when customers would challenge them and say, you know I went out and I got five bids and you're the only one that's charging sales tax on this, what gives? You know, we'd say, we think this is what the law says. We'll show you the statute and...but there is a way around it. We can do this safe harbor. All you have to do is agree that our employees are your temporary employees and we have no liability to you if the software doesn't work. And the customer said, well, I'm not interested in that deal either. And I have knowledge of IT vendors who have been subject to audits by the Department of Revenue and simply folded because they were not collecting and they couldn't pay the assessment. So, this strikes me as something that needs correcting which is why I feel so passionate about it and why I'm here to talk about it. And incidentally, Senator Gloor, I can answer the question that you had earlier. The improvement after five year question, I think that was yours. Anytime custom...anytime there are improvements to custom software, modifications, upgrades, updates, anything of that nature, if it's pure help desk support, I don't believe that's taxable but anytime...but the minute somebody starts writing code, I don't think there's a 15 percent exemption, at least I'm not aware of it. The minute somebody starts writing some code, that's subject to tax, so. [LB812]

SENATOR GLOOR: Okay. Other questions? Seeing none, thank you. Very helpful testimony. [LB812]

ROBERTA CHRISTENSEN: Great. Thank you. [LB812]

JOSEPH YOUNG: Good afternoon. This is my first time, at least today in front of the committee. (Laughter) [LB812]

SENATOR GLOOR: This is when it should be wired. (Laughter) [LB812]

JOSEPH YOUNG: (Exhibit 9) Chairman Gloor and members of the Revenue Committee, my name is Joseph Young. For the record, that's J-o-s-e-p-h Y-o-u-n-g, and I'm the executive vice president of the Nebraska Chamber of Commerce and Industry here to testify in support of the bill for on behalf of the Chamber and the Greater Omaha Chamber of Commerce. And we'd like to thank Senator Smith for introducing it, obviously. I think a lot of the technicalities obviously have been well-laid out and well-understood and a lot of the good competitiveness reasons why this bill, we believe, is a great public policy. So technicalities aside, and if I can just make my last point, this really is about competitiveness. As the economy continues to change and evolve over the next five, ten, twenty-five years, businesses are going to more and more often find themselves in situations where customized software is going to be part of their day-to-day operations, whether it's large or whether it's small. So, we obviously understand the implications of a large fiscal note and we'd be happy to work with the committee to try to mitigate that or change it in some way to try to bring that, the cost of the bill down. But, unfortunately in this case, inaction is just going to kind of make the problem worse as we move down the line here. So, that's why we thought this bill was a good bill to run this year. We knew there was going to be a cost to it. We didn't know what it was going to be. We would argue that it's a little high. I think the fiscal note is something like 2.5 percent of the total sales tax intake to the state which seems a little excessive, but I wasn't costing the bill. So that's why we're advocating for this bill this year and like I said, we'd like to work with the committee this session to try to see if we can't work something out. And with that, I would take any questions. [LB812]

SENATOR GLOOR: Any questions? Thank you. [LB812]

JOSEPH YOUNG: Thank you. [LB812]

SENATOR GLOOR: Any other proponents? Anyone in opposition? Anyone in a neutral capacity? Senator Smith. [LB812]

SENATOR SMITH: Senator Brasch will appreciate the humor in this, but Senator Harr was in front of our Transportation Committee yesterday and I think he had a similar bill that did not have any opposition. He returned to the mike...it's a bit of a controversial bill. He returned to the mike, he said, it looks like the consent calendar to me. (Laughter) So I wasted that because he's not here to remark and he probably hears me talking about him so he's probably running down the hall to get back in here. But before he gets back in here, I'll go ahead and take another shot at him. You know, I really appreciate Senator Harr bringing up the Tax Foundation and it seems like he likes to live by the, you know, the Tax Foundation of what they say, but back in 2014, they were...there was an article in the Tax Foundation and they were making a very strong argument that any tax on software used by business is simply not good tax policy. They went on to say that most would agree that a sales should apply to all final sales, but not to a business purchase. So each product is taxed once and then only once. So I think that's what we're trying to accomplish with this. I think Mr. Young from the Chamber said it well. We would like to work with committee to try to find some way to mitigate the sizable fiscal note. Understand maybe better as to what's driving that fiscal note to the size that it is. But this change will help us to modernize our state tax policy. It helps to lower business barriers, it helps to make us more competitive, and it treats this item as a business input which is proper tax policy. And I believe that this, again, is a part of a larger policy...which should be a larger policy to help all Nebraska businesses improve and to grow. If we can diversify our economy, that helps all of Nebraska. To grow our economy helps all of Nebraska and if we can do anything to lessen the burden on heavily taxed industries, that's good. So with that, I'll close and thank you for your time. Thank you for your interest. [LB812]

SENATOR GLOOR: Any final questions of Senator Smith? Thank you, Senator Smith. [LB812]

SENATOR SMITH: Thank you. [LB812]

SENATOR GLOOR: And that will end the hearing on LB812. We are going to take a short break and then we're going to reconvene in Executive Session. [LB812]