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Revenue Committee  
February 25, 2016

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[LB1031 LB1051 LB1085 LB1095]

The Committee on Revenue met at 1:30 p.m. on Thursday, February 25, 2016, in Room 1524 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB1031, LB1051, LB1085, and LB1095. Senators present: Paul Schumacher, Vice Chairperson; Lydia Brasch; Al Davis; Burke Harr; Jim Scheer; Jim Smith; and Kate Sullivan. Senators absent: Mike Gloor.

SENATOR SCHUMACHER: Right now and it's past the bewitching hour and we will convene, the Revenue Committee for our last day of hearings on bills. Welcome to the Revenue hearing. This is a public hearing. I'm Paul Schumacher. I am Vice Chair of the committee sitting in for Mike Gloor who is from Grand Island and he is Chair of the committee. The committee will take up the bills in the orders posted. Our hearing today is your public part of the legislative process. This is your opportunity to express your position on the proposed legislation before the committee today. To better facilitate the proceeding today, I ask you to abide by the following procedures. Please turn off your cell phones or put them so that they can't be heard. Move to the reserved chairs when you're ready to testify. The order of testimony will be the introducing senator who has no constraints on his time. Proponents, then opponents, and then neutral, and then at the option of the introducer of the bill, there can be a closing. Testifiers are asked to sign in. Hand your sign-in sheet to the committee clerk when you come up to testify. Give your exhibits to the page. Spell your name for the record before you start your testimony. Please be concise. We request you limit your testimony to five minutes. If there are questions after the five-minute period, the committee members are free to ask you those questions and you'll have an opportunity to respond to them. If you will not be testifying at the microphone but want to go on record as having a position pro or con on the bill, or neutral, there are white sign-in sheets at each entrance where you may leave your name and any other pertinent information. Written materials may be distributed to the committee members as exhibits only while testimony is being offered. Please hand anything like that to the page for distribution to the committee and staff. We will need 11 copies. If you do not have copies, we'll see if we can get the page to make sufficient copies. If you have written testimony but do not have the 11 copies, please raise your hand now so the page can make copies for you. Okay. Let it be noted that we have somebody who would like some help with copies. Please try to speak directly into the microphone. The microphones are reasonably sensitive, some people think too sensitive, and they can even hear you think. But anyway, speak directly into the microphones. To my immediate right is committee counsel, Mary Jane Egr Edson; to the far right is the research analyst, Kay Bergquist; and to my left at the end of the table is the committee clerk, Krissa Delka. The committee members are with us today and they will introduce themselves beginning at your far left, which is my right.

SENATOR BRASCH: Okay. Usually he starts over here.

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SENATOR SCHUMACHER: You, you. (Laughter)

SENATOR BRASCH: I'm the unusual. (Laughter) I am Senator Lydia Brasch, L-y...oh, I don't spell my name. (Laughter) I'm from District 16. You've got me way off course here. I'm from District 16, Burt County, Cuming County and Washington County.

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

SENATOR SMITH: Jim Smith, District 14, Sarpy County.

SENATOR SCHEER: Jim Scheer, District 19, which is Madison and a little bit of Stanton County, and because it is our last hearing, I do want to take the opportunity to start with that I'd like to thank both M.J. and all, Kay and Krissa, as well as the pages, Brenda and Alex, especially the staff been outstanding to work with. You provide us with all the information we need, when we need it, before we need it, and it's very thorough and we wouldn't look near as intelligent without you. So, I really do appreciate your help and the pages for making sure that all of the needs of everyone that are attending the hearings are met. So, it's been a really great hearing time and I just wanted on behalf, I'm sure, of everyone here, thank you for all the hard work you've done.

SENATOR SCHUMACHER: Thank you, Senator Scheer. I guess it's your position that we look intelligent?

SENATOR SCHEER: Well, we try. (Laughter)

SENATOR SCHUMACHER: Our pages today are Brenda from Wakefield, Nebraska, and Alex from Aurora, Nebraska. We'll take up the bills today in the following order. We'll do LB1031 first, LB1051 second, and then LB1085, and finally we'll wrap up with LB1095. So with that, Senator Hansen, you're on LB1031 today. Welcome to the Revenue Committee.

SENATOR HANSEN: (Exhibit 1) Thank you, Senator Schumacher. Senator Schumacher and members of the Revenue Committee, my name is Matt Hansen. For the record, M-a-t-t H-a-n-s-e-n, and I represent Legislative District 26 in northeast Lincoln. I'm here today to introduce LB1031. This bill addresses the levy authority of Railroad Transportation Safety Districts, or RTSDs. First, a little background of the history of RTSDs and why this issue is important to me and my district. RTSDs are a special political subdivision that may be jointly formed by a city and county to address railroad issues in their joint jurisdiction. The board must be made up of six

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members, three city council members and three county commissioners. The 1971 enabling statutes for RTSDs stated that it was the policy of the state to reduce the number of fatalities and injuries caused by collisions between motor vehicles and railroad trains, to eliminate as far as possible unnecessary conflicts between railroad transportation and highway transportation, to improve the movement of both rail and highway traffic by eliminating grade crossings, and to assist in the relocation of railroad facilities that bisect central portions of municipalities. This enabling statute also gave RTSDs the power to address those areas. This is an important issue to my district because currently northeast Lincoln has some of the highest exposure rail crossings in the state. I passed out an excerpt of a recent RTSD study highlighting some of these intersections. For example, the Adams Street and Cornhusker Highway crossing currently has nearly 11,000 cars per day passing through and 48 trains per day. You will note in the handout, this exposure rating of 523,200 is only...is over ten times the minimum threshold for consideration of grade separation, i.e. construction of an underpass or an overpass. The crossing at 33rd and Cornhusker is similarly large. These issues are what piqued my interest in RTSDs. State statutes in the 1990s were amended to grant county boards sole control over a number of political subdivisions including RTSDs. So currently, the RTSD board of directors must submit a budget request to the county board. The county board then decides whether or not to set a levy for that amount. This process which gives the county extra authority over the RTSD is simply a process I could not envision as an efficient design. LB1031 would allow for the RTSD board of directors to set their own levy, just as many other political subdivisions are able to do today. In either instance the levy would be limited to a maximum of 2.6 cents or \$100 upon taxable value of all taxable property. LB1031 would further exempt the RTSD levy from the current county maximum levy. I will note that after discussions with the city of Lincoln and Lancaster County, I've come to the understanding that there will be some opposition testimony here today. I'm thankful for the efforts and discussion that I've had with both city and county officials, and to those officials who have made commitments to make the rail crossings along Cornhusker Highway a priority. Being as this is not a priority bill this year, and I do not have another vehicle for it that I plan, I would simply ask the Revenue Committee to not take any action on this bill at this time. And thank you all for your time and opportunity to use this hearing as a springboard for future discussions on the design and implementations of Railroad Transportation Safety Districts. With that, I'd be happy to take any questions. [LB1031]

SENATOR SCHUMACHER: Thank you, Senator Hansen. Any questions? Senator Brasch. [LB1031]

SENATOR BRASCH: Thank you, acting Chairman Schumacher. [LB1031]

MARY JANE EGR EDSON: Vice Chair. [LB1031]

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SENATOR BRASCH: Vice Chair. Thank you for your testimony. I do have questions but for the gentleman who says he cannot hear, this is for the transcriber. We'll try to just speak up so you can hear us today. All right. And thank you. How many are of the...RTSDs are there that you're looking at addressing here...RTSDs are there? [LB1031]

SENATOR HANSEN: To my knowledge, Lancaster County and the city of Lincoln, their joint RTSD is the primary one in the state. I believe Madison County may have one as well, but I do not think there are many. [LB1031]

SENATOR BRASCH: And because of this legislation, you want to address not just their structure, or is it their finances, or...? [LB1031]

SENATOR HANSEN: It's primarily the financing. So currently they're made up of, except for the one in Lincoln, it's made up of three city councilmen and three county commissioners and they are jointly together the board of the Rail and Transportation Safety District and have authority over a lot of its functions and its budget. However, that budget has to go through a second round of approval by the entire county board. So that kind of splits it from being a joint political subdivision between being the city and the county, and essentially giving the county extra veto power over the RTSD. [LB1031]

SENATOR BRASCH: And what I'm wondering is, if they're being now, like for the purposes of funding or financing or funds, and they're appointed from those boards, should they be elected specifically for this and not appointed to that post as it stands now? Do you see what I'm saying? [LB1031]

SENATOR HANSEN: I do see what you're saying. I agree we could look at kind of wholesale changes to the structure of RTSDs. I do think they're unique in the sense of all of the members are elected, at least at one stage they're all elected to a city council or a county board and which from those members select their own. [LB1031]

SENATOR BRASCH: But they're not elected for that purpose. [LB1031]

SENATOR HANSEN: Not solely, no, they serve as both. The county commissioner or city councilmember as well as RTSD member. [LB1031]

SENATOR BRASCH: All right. Thank you. I have no other question. [LB1031]

SENATOR HANSEN: Thank you. [LB1031]

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SENATOR SCHUMACHER: Thank you, Senator Brasch. Senator Scheer. [LB1031]

SENATOR SCHEER: Thank you, Senator Schumacher. Senator Hansen, I know we're not willing to do anything but one of the end results though, wouldn't that be as we would be increasing property tax by 2.6 in the levies because if it's currently under the county now and it's not separated, so essentially we would be...and I'm guessing in Lincoln anyhow, you would need the full authority to fund whatever you're trying to do so the net result would be an increase of 2.6 in the levies. Is that a fair assessment? [LB1031]

SENATOR HANSEN: That would be a fair assessment. They certainly don't have to levy their maximum amount, but they could. [LB1031]

SENATOR SCHEER: Well, I mean it looks like they've got a definite meaning. I'm not trying... [LB1031]

SENATOR HANSEN: Right. [LB1031]

SENATOR SCHEER: And do you know, and if you don't that's okay too, they have a maximum of 2.6. How much is the county allowing them to utilize if it's incorporated in their budget? Now do you know about what they're getting to use that budget authority? [LB1031]

SENATOR HANSEN: So in the past this has been...this is one of the issues that piqued my attention. I want to say they've been using about 1.3 in the past for RTSDs, but they are planning on scaling it up in the future to get closer to the full 2.6. [LB1031]

SENATOR SCHEER: So, in the near past, it's been literally half of what they statutorily would have the ability to go up to. [LB1031]

SENATOR HANSEN: That's my understanding. I don't know. We have a representative from the county who might answer that better than I will. [LB1031]

SENATOR SCHEER: Fair enough. Thank you. [LB1031]

SENATOR HANSEN: Thank you. [LB1031]

SENATOR SCHUMACHER: Any other questions for Senator Hansen? Seeing none, Senator Hansen, will you be here to close, or are you...? [LB1031]

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SENATOR HANSEN: I will stay, yes. [LB1031]

SENATOR SCHUMACHER: Okay. Thank you. We are now proceeding to proponents for LB1031. Welcome to Revenue. [LB1031]

THOMAS SHAFER: (Exhibits 2 and 3) Thank you. Good afternoon, Vice Chairman Schumacher and members of the Revenue Committee. My name is Thomas Shafer, S-h-a-f-e-r, and I am the interim director of Public Works and Utilities Department for the city of Lincoln. I'm here today to testify in favor of LB1031 on behalf of the city of Lincoln and the League of Municipalities. I would like to thank Senator Hansen for bringing this issue to the committee, and we support his efforts for further discussion. The city of Lincoln is very fortunate to enjoy good working relationship with our county officials. We have entered into a number of interlocal agreements and created several joint city-county departments in an effort to find efficiencies and save the taxpayer's dollars. Our local Railroad Transportation Safety District, or RTSD, is another partnership that has proven effective over the past 40-plus years of its existence. Three city council members and three county board members serve on the RTSD board. The purpose of the RTSD is to improve driver safety near railroads by eliminating railroad crossings; constructing railroad bridges, overpasses, underpasses; and installing crossing protection, including quiet zones, lights and crossing arms. With the fact sheet that the page has distributed to you has some facts about the Lincoln/Lancaster County RTSD. And at the bottom of the first page, you will see the significant impact of all the RTSD projects have had in reducing fatalities, injuries, and property damage collisions over the years. As Senator Hansen explained in his opening, current law requires the county board to set the RTSD levy, which is limited by state law to no more than 2.6 cents per one hundred dollars of taxable valuation. The RTSD's levy is then subject to the county's maximum levy limitations. LB1031 would provide that the RTSD board, rather than the county board, sets that levy and it would remove the RTSD's levy from the county's maximum levy limitations. By way of background, the RTSDs were originally created with an equal partnership between the city and county, with equal representation on the RTSD board, and a separate levy voted on by the RTSD board. These RTSD statutes were later amended to grant county boards sole control over the RTSD levy. We respectfully submit that this was contrary to the equal partnership intent to do so. To legislative grant control over the RTSD levy to just one of its two partners effectively means that that one partner controls the RTSD budget. This also effectively means that members of the county board who are not RTSD members are empowered to vote on the RTSD budget. The same cannot be said for those city council members who do not serve on the RTSD board. Here in the city of Lincoln, we anticipate that the RTSD will be our key funding partner in the South Beltway. At this point, we estimate our local match for the South Beltway will be approximately \$40 million. Of that amount, the RTSD has indicated its commitment to fund approximately \$13 million in the rail-related projects, basically that the Beltway has to cross two different railroad lines, and those dollars will likely fund the bridges that cross those lines. Our local RTSD is also in the early planning

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stages of a major crossing project in north Lincoln to rebuild the intersections and crossings near the 33rd and Adams, what some refer to as the North Interchange project. The project's goal is to improve safety along that rail corridor by eliminating and reducing conflict between trains and other forms of transportation, reducing traveler delay and congestion. The study will be completed later this year, and we anticipate that the design work would start shortly after. I mentioned earlier that the our RTSD has pledged its commitment to assisting with the local match required for the South Beltway. It has set aside dollars in its last two budgets for this project, and has included future allocations to the project over the next four years. Lancaster County Board has also indicated its support. For legal reasons, however, I understand that the board does not believe it can enter into a long-term commitment to fund the RTSD at the level needed for the South Beltway and the North Interchange projects. LB1031 would ensure that the RTSD Board made up of an equal number of officials from both the city and the county, makes that final decision regarding the appropriate levies. With that, I want to emphasize how fortunate we are to enjoy a good working relationship with Lancaster County, and over the years, we have concluded a number of important projects both across the city and county listed on the back of your handout. We will continue to work with the county board to budget for and fund important safety projects, including those in the North Beltway...or North Interchange and South Beltway. With that I would like to thank Senator Hansen for his work on this issue, and be happy to try to answer any questions that you may have. [LB1031]

SENATOR SCHUMACHER: Any questions for Mr. Shafer? Senator Scheer. [LB1031]

SENATOR SCHEER: Thank you. So really the problem is just long-term commitment. I mean, you folks evidently are getting along on the board as far as the direction and so forth. It really just comes back to the funding proposal for the Beltway having the long-term commitment, I suppose, if you wanted to bond or whatever to make sure that you have the revenues to take care of whatever bonding commitment you would make on those. Is that a fair assessment? [LB1031]

THOMAS SHAFER: Yes, fair assessment that the board has worked very well together in that and we'd like to make sure when both of these projects that take a long time, that the commitment will be there for funding those. [LB1031]

SENATOR SCHEER: Right, I mean, someone has alluded that one gets to vote on and one doesn't, but I mean, in actuality the board is working fine, it's just the funding mechanism that because it's within their budget, their total budget of forty, they can't dedicate that portion of their budget authority to the rail commission. [LB1031]

THOMAS SHAFER: They'd vote to change that or not fund what the budget has been recommended to them, yes. [LB1031]

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SENATOR SCHEER: Okay. Thank you. [LB1031]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Any further questions for Mr. Shafer? Seeing none, thank you for your testimony. The record should reflect that Senator Davis has now joined us today. And we are proceeding further on LB1031. Any further proponents? Seeing none, opponents to LB1031? Welcome to the Revenue Committee. [LB1031]

KERRY EAGAN: (Exhibit 4) Thank you, Senator. Good afternoon, Senator Schumacher and members of the Revenue Committee. My name is Kerry Eagan, that's spelled K-e-r-r-y E-a-g-a-n. I am the Chief Administrative Officer for the Lancaster County Board of Commissioners. I'm here on behalf of the Lancaster County Board to testify in opposition to LB1031. As a preliminary matter, I would echo that the Lancaster County Board strongly supports the purpose and goals of the Lincoln-Lancaster County Railroad Transportation Safety District. The public policy underlying the RTSD is sound, improving public safety by eliminating conflicts between railroad transportation and highway transportation. Many noteworthy projects have already been completed in Lancaster County, including the Harris Overpass on O Street, the Hickman Overpass, the recently completed bridge at Southwest 40th and O Street. The County Board also remains committed to future projects, such as improving the crossing near Lincoln...in Lincoln near 33rd and Cornhusker that Senator Hansen referred to, and the South Bypass. However, the County Board also believes that the interests of our property taxpayers must be kept in mind as we pursue these important projects. Presently, the maximum RTSD levy of 2.6 cents is included in the 15 cent levy on political subdivisions under Section 77-3443. This allows the County Board to balance and prioritize the needs of various political entities covered under the statute, while at the same time limiting the burden on our property taxpayers. LB1031 proposes that RTSD's should no longer be covered under 77-3443. This would, in essence, create a new political entity with independent levying authority, which could result in an additional overall levy increase of 2.6 cents. Given the current property valuation in Lancaster County, a 2.6 cent levy increase would equal an additional tax burden of \$5.93 million on our property taxpayers. For this reason, Lancaster County Board voted 4 to 1 to oppose LB1031. I should note that it was former Senator Bill Avery that cast the vote dissenting on that vote. I would also like to note that under the existing law the budget for the RTSD, Section 74-1306 is passed by the RTSD itself which is three county board members and three city council members. Once that budget is established, the statute provides the board of directors of the RTSD shall transmit such budget to the county board. The county board shall levy a tax sufficient to produce the amount of funds requested but not to exceed 2.6 cents. What this means is that the decision on the levy takes place at the RTSD board level, not at the county board level. If the RTSD board of directors says that we need the full 2.6 cents, the county board shall levy that. What the LB1031 does is just say that the levy is decided by the same three-three vote. So it really doesn't change the dynamics of deciding the scope of the budget and it really doesn't change the authority of the county board ultimately. Well, what it does as I pointed out in my testimony, is it takes this 2.6 cents out of the

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overall 15 cents which is the various political subdivisions that the county board can look at and lend some of its levy and help control property taxes, which was the idea behind that statute back in the 1990s is to try to reign in all these multiple independent levy authorities. So with that, I'll close and be happy to answer any questions. [LB1031]

SENATOR SCHUMACHER: Thank you, Mr. Eagan. Senator Scheer. [LB1031]

SENATOR SCHEER: Yeah, thank you, Senator. I'm assuming you're the one that I was supposed to ask. On a county level how much of the 2.6 is currently being leveled on behalf of the railroad? [LB1031]

KERRY EAGAN: I think, Senator Hansen addresses it. Is it 1.3 percent, Senator? I'm not sure. It's less than the 2.6. It might be one penny less. I think it's 1.6 cents. The hope is to build it back up to the 2.6 cents because as I've stated earlier, the county board is committed to these projects that have been identified, especially the Cornhusker Highway project and the South Beltway. And the board is very committed to those. We do have the legal opinion that says we can't pledge a section...a portion of our levy, but even if we did, the RTSD Board itself might not pledge that...or come up with that budget under existing law. So, it's really... [LB1031]

SENATOR SCHEER: Okay. Thank you. [LB1031]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Senator Davis. [LB1031]

SENATOR DAVIS: Thank you, Senator Schumacher. Can you tell us a little bit about Senator Avery's comments when he cast the only negative vote? [LB1031]

KERRY EAGAN: Well, like the other board members, Senator Avery is a very strong supporter of the RTSD and he has dissented in the past on the reducing the 2.6 cent levy. I think...he was on the RTSD board himself. He was opposed to that vote. So it's probably just a statement of how much he does support the mission of the RTSD. [LB1031]

SENATOR DAVIS: And so when the RTSD levy was lowered, that was to get it within that 15 cent cap, is that right? [LB1031]

KERRY EAGAN: Well, the budget that came to the county board was the lower limit because that's where it's established the three city council votes and the three county board votes. So I'm sure with that dynamic, there's going to be some compromise with three county board members

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against it, then it's going to be a tie. You compromise and they came up with the lower amount, I'm sure. [LB1031]

SENATOR DAVIS: Thank you. [LB1031]

SENATOR SCHUMACHER: Thank you, Senator Davis. Any other questions for Mr. Eagan? Seeing none, thank you for your testimony. [LB1031]

KERRY EAGAN: Thank you, Senator. [LB1031]

SENATOR SCHUMACHER: Proceeding on with opponents to LB1031. Welcome to the Revenue Committee. [LB1031]

TIM HRUZA: (Exhibit 5) Vice Chairman Schumacher and members of the Revenue Committee, my name is Tim Hruza. That's T-i-m H-r-u-z-a. I'm legal counsel for the Lincoln Independent Business Association. The Lincoln Independent Business Association on behalf of its more than 1,300 business members in the Lincoln, Nebraska area, offers its opposition to LB1031. At a time when taxpayers and this Legislature are working hard to lower property taxes, LB1031 increases the amount of taxes that could possibly be levied. As it now sits, the taxes levied for a Railroad Transportation Safety District are included in the total amount of tax the county board can levy. Although LB1031 would maintain the same 2.6 cent maximum levy for an RTSD, the proposal takes that tax outside of the total levy cap of the county or any other political subdivision. The structure of LB1031 then, it would increase the total tax levy amount property tax owners might be asked to pay. To better understand this concern, a hypothetical might be helpful. Assume for a moment that under the current structure, all taxing authorities combined, a city, a county, a school district, an NRD, community college, or any other property taxing entity, combined have an aggregate levy authority under their combined statutory caps of \$2. In other words, assuming every taxing authority levied at its maximum, a taxpayer would pay \$2 per \$100 of valuation on their property. Right now, that aggregate maximum would include any RTSD levy by the county. If LB1031 is approved, the total aggregate maximum would increase to 2.026 cents. Extending this authority to the RTSD Board and taking it outside the current caps then, leaves taxpayers facing increased overall property taxes from a new taxing authority. We believe this increase in total potential tax liability exposes taxpayers to an unnecessary increase in their overall tax burden and for these reasons, we ask you to vote no on LB1031. I'd be happy to answer any questions you might have about RTSDs. [LB1031]

SENATOR SCHUMACHER: Thank you. Any questions? Senator Scheer. [LB1031]

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SENATOR SCHEER: Back to your hypothetical, would you still oppose it if the legislation simply said that...I mean, we'll assume that hypothetically that the counties provide the 1.3 so that the county couldn't go up more than the 1.3 that they would currently be using. So it wouldn't be a total of the 2.6, but they'd be utilizing whatever the county was so you aren't sort of doubling up, so to speak. [LB1031]

TIM HRUZA: I think I understand your question and we had some conversations about this internally as to whether or not, you know, the real question is whether the authority for the tax should be with the board. And I think I would agree with Mr. Eagan's point that under the statute, the budget is set by the RTSD and then submitted to the county for approval. It's just...it's a line item on your property tax already. If you look at your tax statement, it will say Railroad Transportation Safety District, but the levy is included in the cap and I think that's our biggest concern with it right now is that overall tax burden...I guess, the potential tax liability, I should say, because, you know, maybe hypothetically the county and the city would lower their rates to include that, but the overall tax burden threat would extend, as currently drafted. We're certainly not necessarily opposed to the idea of giving the Railroad Transportation Safety District some authority. I understand where Senator Hansen is coming from with some of that stuff. We're big supporters of the projects that have been earmarked for these funds, too, so the South Beltway is a great way to use some of these dollars, so the concern would just be the fact that it takes out of these caps. [LB1031]

SENATOR SCHEER: Okay. Thank you, Senator Schumacher. [LB1031]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Senator Davis. [LB1031]

SENATOR DAVIS: Thank you, Senator Schumacher. So in light of the fact that you support the projects, but recognizing the property tax bulk, would you be amenable at all to a...we'll call it a sunset period where the tax would be put in place for a few years until the funds are available to get these projects completed? [LB1031]

TIM HRUZA: You mean in terms of if it were taken outside of the cap and then put back into the cap afterwards? I'm not sure what...I mean...I understand that that would maybe would solve the concern, but if that resulted in a property tax increase, that would be no real different than the situation we have now. I mean, I think that...and I may be speaking out of turn here, too, Kerry would know better, but I think that you could...that the county is under its max, I believe. They could extend. If the Railroad Transportation Safety District Board wanted to do that and the county wanted to do it, you could raise property taxes now to do that. The county board has committed to increasing. They've all made public statements that they want to do it. They've had the opinion from the County Attorney that says that they can't commit future county boards to

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levy new taxes, obviously. The same situation that you guys deal with regularly as well. So I think that there's a commitment to do it. The problem is that we just don't have...they can't put it on paper and there are some funding concerns that for these projects where I think they would just like the money a little bit...a little bit faster and a little bit more consistently. But I think that everything that we understand from what we've heard from our county officials is that there's a commitment to get these projects done. We support how that money is being spent. We think that the current system, it's been working as far as we can tell. The money is going where it should be going and we think that it's going to continue to do that in the future. So I don't know if a sunset provision, from our opinion, and again we haven't considered such a thing, but I'm not sure if it would be necessary to address the issue that we're talking about, but I want to consider it a little bit further if that were to move forward. [LB1031]

SENATOR DAVIS: Okay. Thank you. [LB1031]

SENATOR SCHUMACHER: Thank you, Senator Davis. Any other questions? Seeing none. Thank you for your testimony today. [LB1031]

TIM HRUZA: Thank you. [LB1031]

SENATOR SCHUMACHER: Further opponents to LB1031? Seeing none. Is anyone in the neutral position? Seeing none. Senator Hansen, would you like to close? [LB1031]

SENATOR HANSEN: I'll be happy to waive. [LB1031]

SENATOR SCHUMACHER: And we have a waiving. Okay. That will close the hearing on LB1031. We'll move on now to LB1051. Senator Harr, welcome to your committee. [LB1031]

SENATOR HARR: (Exhibit 1) Thank you, Vice Chair Schumacher. Members of the Revenue Committee, my name is Burke Harr, H-a-r-r. I am here on LB1051, which redefines a qualified business under the Nebraska Advantage Act. This bill was brought to me by the Omaha Chamber of Commerce. It somewhat fits within what the overall theme of this year seems to be, but not quite. This is a situation where we had a business who believed they qualified for the Nebraska Advantage Act, that they had hired the right type of employees. As we all know, the Department of Revenue is the enforcement side and they are to say that any policy should be broadly construed to apply across the board, but if there's an exception, it needs to be narrowly construed. And what happened is, there was a business that realized that, oh, they don't qualify because the type of job they have isn't a qualified type of job under the Nebraska Advantage Act, so what we are doing is clarifying...not so much clarifying as creating a definition within the

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Nebraska Advantage that would hopefully address what was thought already to apply. So I have an amendment attached as well. There's language in there. The fiscal note came in a little high. One of the reasons the fiscal note came in high was because there was a broad interpretation of what a data analyst is, so we decided to create a new tighter definition. That being said, we are no...not exactly wed to that language and the Department is willing to work with us to come up with a better definition possibly to address the situation here if we decide to go forward with the bill of how to address certain circumstance. What happens is there's a business in Omaha that has a federal contractor. It's a large business. They employ nurses to sort through Medicare data to seek out fraud. And the question is...their mission is to innovate solutions for governments next problems. The Department decided that the current definition of the Nebraska Advantage Act doesn't fit. So what we're trying to do is create a new definition realizing that we hopefully will be redoing Nebraska Advantage here very quickly, but we would like to help this business this year if we can. Hopefully, that explains it. If you have need for further details, I'm available. There will be some coming after me as well, but I'm more than happy to entertain any questions. [LB1051]

SENATOR SCHUMACHER: Thank you, Senator Harr. Senator Davis. [LB1051]

SENATOR DAVIS: So you say this bill is somewhat similar to other bills that have come before this committee in the effect that they're approaching the committee for changes in the legislation because they don't like what the Department of Revenue has stated, right? [LB1051]

SENATOR HARR: That is correct. And on like other...and we're the policymakers, and on like other bills, you can't appeal. So I know Senator Schumacher has had a concern saying, hey, why don't we wait until this works its way through the courts. Denial of a benefit can't be appealed to anybody, so the appeal is to you and to us on the Revenue Committee. [LB1051]

SENATOR DAVIS: Thank you. [LB1051]

SENATOR SCHUMACHER: Senator Sullivan. [LB1051]

SENATOR SULLIVAN: Thank you, Senator Schumacher. Thank you, Senator Harr. In your quest for a definition, are you including not only data analysis, but data processing because I don't...are either one of them defined adequately? [LB1051]

SENATOR HARR: Well, that's what the...so data processing, that was a great question. It's not defined. We keep it rather vague and then the Department comes through with rules and regs and narrows it and in this case, eliminated the person who thought they were included, so we include

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data analysis. Well, amazingly, also we had a broad interpretation of what a data analyst is. It could be anyone who reads any spreadsheet. And so we said, well, and that's what leads to a high fiscal note, so to narrow that definition to the situation we're trying to alleviate, in the amendment there is a definition of data analyst. And you should have a copy of it. [LB1051]

MARY JANE EGR EDSON: We're getting copies. [LB1051]

SENATOR HARR: I apologize. I did not have copies. I will get them to you. That will explain it. [LB1051]

MARY JANE EGR EDSON: Now we're getting them ready. [LB1051]

SENATOR HARR: Okay. I apologize. So yes, the answer is, no, we don't have a definition, but the amendment addresses that and I'll get you a copy of that. I'll let you read it and you can ask me questions on. I won't waive close. [LB1051]

SENATOR SULLIVAN: Thank you. [LB1051]

SENATOR SCHUMACHER: Senator Scheer. [LB1051]

SENATOR SCHEER: Thank you, Senator Schumacher. Senator Harr, so what is the intent with the bill? I know what the bill is trying to do, but your intent or you're wanting it to move yet this year and if so, how are you anticipating doing that? [LB1051]

SENATOR HARR: Bus, magic bus. [LB1051]

SENATOR SCHEER: Okay. [LB1051]

SENATOR HARR: Maybe, if we can, I'd like to do that. I think it's also good for discussion. But the hope is to get through this year. As I stated, we're going to be hopefully redoing Nebraska Advantage this summer and this is something to be aware of as we go forward as well. [LB1051]

SENATOR SCHEER: Okay. Thank you. Thank you, Senator Schumacher. [LB1051]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Senator Smith. [LB1051]

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SENATOR SMITH: Thank you, Senator Schumacher. Senator Harr, for those people that are watching us on NETV or in the audience here, can you explain magic bus? (Laughter) [LB1051]

SENATOR HARR: Yes, I can. So we are working on an omnibus. The Department, or excuse me, the Revenue Committee is working on a priority bill that a lot of the bills will address the issues I've talked about. Somewhat of an omnibus bill that will become a committee priority that we will then pass on the floor and that's what that is. I would like to get that as part of that omnibus bill. [LB1051]

SENATOR SMITH: Thank you. [LB1051]

SENATOR SCHUMACHER: Thank you, Senator Smith. Seeing no other questions. [LB1051]

SENATOR HARR: Thank you. [LB1051]

SENATOR SCHUMACHER: I assume you're going to stick around to close. [LB1051]

SENATOR HARR: I will stick around, yes. [LB1051]

SENATOR SCHUMACHER: We will now move on to proponents for LB1051. Good afternoon. Welcome to the Revenue Committee. [LB1051]

TED GRENNAN: Thank you. My name is Ted Grennan, that's T-e-d G-r-e-n-n-a-n, and I'm the chief financial officer for Strategic Health Solutions in Omaha, the company that he spoke of. And I want to talk to you just a little bit today and I do want to thank you, Senator Schumacher, for allowing me to speak to the committee...the rest of the committee members, to Senator Harr for sponsoring the change that we're hoping to achieve here. What I want to do is give you a little bit of background about the company, what it is we do, who we hire, why we think we have good jobs, and for your consideration, and to go from there. To begin with, the company that I work for started in 2005 around a kitchen table and the owner's name is Peg Stessman. She's a nurse by training, but went through the insurance industry and what we do is, we are a federal contractor. We work primarily for the Department of Health and Human Services at the federal level, the Department of Justice, and inside the Department of Health and Human Services we work primarily with the centers for Medicare and Medicaid services, the agency that controls Medicare and Medicaid, and the office of Inspector General. And what we do broadly is to help them in whatever it is they need to do and I'll kind of go through that a little bit. In the ten years that we've been in existence, as I said, we started with just a handful of people around Peg Stessman's kitchen table, myself included. We've grown to 300 employees. This year we should

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see revenues in the range of sixty to seventy-five million, depending on what kind of contracts we win. We've been in the Inc.5000 fastest growing companies the last three years and this year Peg Stessman was named one of the 50 impact women in the country, of women entrepreneurs by Inc. magazine. Our annual payroll across the company is about \$24 million. Now of the 300 employees, we have 200 approximately are here in Nebraska. We draw from Omaha and surrounding communities all around the Omaha area. Our annual payroll right now in Nebraska is about \$15 million. So our average salary for our employees here in Nebraska is about \$75,000. So the types of jobs that we are generating are very good paying jobs. We have a broad mix. I'll get into that in just a minute, but what the key thing I want you to understand is, we're bringing those dollars, those federal dollars into the state of Nebraska where they are spent here on payroll, rent, supplies, other vendors, and things like that. So we do generate a lot of economic activity from that. We have other offices in Columbia, Maryland, where we have about 15 employees. We have an office in Nashville, Tennessee, where we have about a dozen currently, but we are growing. Our average growth rate over the ten years is around 60 percent a year. We continue to look for new employees all the time. We have probably...we're looking right now for at least 75 nurses. If we could find them, we'd put them right here, so. And we have other positions. There's probably at least 100 positions we're trying to fill right now. As I mentioned, we work primarily for the centers for Medicare and Medicaid services and the Department of Justice. We do what's called medical review. It's basically, in layman's terms, we do a second review. When Medicare claims are paid, they're usually paid by what's called a Medicare administrative contractor. Those are the big insurance carriers around the country. They pay them on behalf of the government. What happens is, they pay them...they're supposed to review those claims to see if they meet the regulations and oftentimes they don't. So we have a contract. One of our contracts is to basically perform a second review and through that, we will determine if we agree with the decision that the Medicare administrative contractor came up with or not. This particular contract is our largest contract and in the three years that we've had it, we have found over...and identified over 300 million of overpayments. And now it's up to the federal government to go reclaim those payments, but that's not what we do. We don't process claims, but we use a staff of nurses, doctors, pharmacists, medical record specialists. We have a lot of statisticians, data analysts, all kinds of other IT people. We have graphic artists, writers, editors, and all of the support people for the headquarters which are...obviously, I'm one of those. So, we help CMS on whatever it is they may need. We have at least a dozen different contracts where we do education and training. We do the medical review. We do a lot of regulatory stuff to look at, such things as the Part D prescription drug benefit that was started in 2006. Well, those are offered and run by insurance carriers on behalf of CMS. What we do is just a small contract, but we look at all their formularies of all those Part D plans to make sure they're in compliance with the regulations. So, we hire people like pharmacists but we use a lot...all of our contracts involve data analyst. We have access to CMS's all the Medicare claims and so we use a lot of our data people to review and pour through that universe of claims information and what we do is we...one of the things we do is look for patterns, look for things like that that indicate there could

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be some problems or overpayments. There's things like overpayments, there's fraud, there's all kinds of things and that's what we help do is identify that, point it out to the government and help them reclaim it. We don't do the reclaiming, per se. That's up to the federal government to do but we're there to help them out. [LB1051]

SENATOR SCHUMACHER: I see that your time is up. [LB1051]

TED GRENNAN: Okay. [LB1051]

SENATOR SCHUMACHER: Perhaps someone would like to ask Mr. Grennan a question so that he can finish some of his thoughts. Senator Brasch. [LB1051]

SENATOR BRASCH: Thank you, Vice Chair Schumacher, and welcome. When you are...initially I thought data just meant information coming through some type of a computer program, but it sounds like you are speaking of employees who are trained to look for mistakes and inconsistencies. Is that what you're...? [LB1051]

TED GRENNAN: That's part of it. That's part of it. [LB1051]

SENATOR BRASCH: Is it like for transaction fee mistakes, or is it for...? [LB1051]

TED GRENNAN: No, no, no. We do a variety of contracts. Sometimes we get paid by each...the type of labor category that we have and it's a time and materials for every hour that they work, they get paid. Most of our work is on a firm fixed price where we've agreed to a price with the government. On some of these it depends on if it's reviews, we'll charge the federal government's next price for that. Others where it's a cost-plus type arrangement. When I say data analysis, and almost all of our employees who work on these contracts, in one way or another, work with data. It's either information from claims, or it's information from the federal government and we try to help them out in terms of, they need all the help they can get sometimes in terms of their own regulations. And so we have policy experts, but a lot of our employees, as I said, deal with data and it's not just reviewing claims, per se, but there's... [LB1051]

SENATOR BRASCH: And it's their examination of a specific...all right. Okay. [LB1051]

TED GRENNAN: Yes, so they do, they review different types of information. It could be pharmacy information from these Part D plans, it could be all these claims that have been filed or paid by Medicare and taking another look at it, it could be helping the Department of Justice looking at things and giving our expert opinion on things like that, but the lion's share of what we

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do is somebody is...it's a combination of our data when you get down to real data and analyst type people, the statisticians, the people that were trained very strictly as a data analyst, but they work with clinical people because they're dealing with medical information, or with policy people who are reading the federal regulations that come out and try to interpret them and making sure that what the intent of the regulations is being upheld and that the other contractors are doing what they're supposed to do. [LB1051]

SENATOR BRASCH: So your product is more quality control or validation. [LB1051]

TED GRENNAN: A lot, yes. It has that aspect to it. We're trying to help the government do a better job of maintaining those dollars that are earmarked for Medicare and Medicaid. As I said, we... [LB1051]

SENATOR BRASCH: Is your company unique to the nation, or to other...? [LB1051]

TED GRENNAN: No, it's unique to Nebraska, though. [LB1051]

SENATOR BRASCH: To Nebraska. [LB1051]

TED GRENNAN: We have...most of our competitors, I would say, are on the East Coast, around the Washington-Baltimore area. CMS's headquarters is in Baltimore. [LB1051]

SENATOR BRASCH: And do they have a tax advantage not being located in Nebraska or...? [LB1051]

TED GRENNAN: Well, we have...again, we can hire similar people in those other areas whether it's in the Baltimore area. There's a lot of IT type people and the type of work we do there. And we are...I'm sure we surprise a lot of people when they find out that we're out here in Nebraska doing this and beating them. And our advantage is for Nebraska, obviously our labor costs are lower than they would be around the Washington-Baltimore area. The work ethic is always better, I believe, that's been...we have shown that many, many times and we know that from our other offices too. And our overhead is lower also. It's compared to just the cost of living and overhead and everything else. So that gives us a competitive advantage and that's how we've been able to grow our business is to keep our rates lower, if you will, for what we charge the federal government and that has allowed us to grow, and we continue. So we've done quality work. We are graded all the time. We're audited by the federal government. Again, we try to help them out and they give us more work if we do a good job. [LB1051]

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SENATOR BRASCH: And you want to become written into the Nebraska Tax Advantage plan for the number of jobs you create or the number of hours? [LB1051]

TED GRENNAN: Correct. And let me just, if I could, just to give...I don't want to run too long here, but we have talked to the Department of Revenue on a couple of occasions and presented, you know, our case. We didn't submit it actually like a case, but basically proposed, here's what we do and here's why we do it. And in talking to the Department of Revenue a couple of times, they really came back with what we thought was...and I understand, a fairly narrow definition and we can appreciate that. What we're just asking for is to with what we do is it possible to expand that to include the data analysis type work because we would like to see...we have choices to make here whether we want to continue to add jobs in Nebraska or potentially put them in Tennessee or in Maryland or other locations. And again, we always prefer Omaha and the Nebraska area because of the factors I mentioned, the costs are less, the work ethic is always high. The quality of product we do is right up there. So we continue to win new contracts. We win awards and that's, we think, has a lot to do with it because of where we're located. [LB1051]

SENATOR BRASCH: And data isn't necessarily technology. This is services with a specific background, a nurse, medical background to be able to review and again... [LB1051]

TED GRENNAN: Yes, it's both the...you have to have not only the...again, it's people working together, the real technical IT... [LB1051]

SENATOR BRASCH: It's human intelligence, though, rather than machine intelligence. [LB1051]

TED GRENNAN: Oh, yes, absolutely, because you can't automate what we do, I don't think. [LB1051]

SENATOR BRASCH: Okay. I believe I'm clear, so thank you. No other question. [LB1051]

TED GRENNAN: Okay. All right. [LB1051]

SENATOR SCHUMACHER: Thank you, Senator Brasch. Senator Scheer. [LB1051]

SENATOR SCHEER: Thank you, Senator Schumacher. Sort of got red-lighted there, so... [LB1051]

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TED GRENNAN: Sorry, I got going. [LB1051]

SENATOR SCHEER: Fair enough. Is there anything that you did not have time to put in your testimony that you would still like to? [LB1051]

TED GRENNAN: Yes, I would. One other thing. We did meet with the Department of Revenue at our offices in January and we walked through exactly kind of here's what we do, show them what we do. Had a very good meeting with them. Very cordial and everything else like that, but they basically said again that the position that they took were dictated by the statute, that it was a narrower definition than what we had hoped. So that's what they suggested too and we have always offered that we would be glad to come down to Lincoln, and so here's my chance today to do that for years. But they suggested that we go to the committee and see if we could get a change in the Nebraska Advantage Act. [LB1051]

SENATOR SCHEER: Thank you. Thank you, Senator Schumacher. [LB1051]

SENATOR SCHUMACHER: Thank you. I have one question. In the proposed new definition of data analysis, it says that it means the process of extracting, compiling, and modeling. So if you have an employee that just does extracting, do you have such an employee, or does all of your employees do all three things? [LB1051]

TED GRENNAN: No, no, we don't do all three things. Sometimes they do, sometimes they don't. We extract information out of information that comes to us either from...directly from CMS or the Department of Justice. Sometimes it's we've requested information from providers who actually did the service where they're providing us information, but then we're looking at that comparing it to either what the regulations say or we can also...when we say extracting and then modeling, let me give you an example, I guess the best way to, on some of this where we've identified a lot of this. When we make sample of 100 records from a provider and we go through and look at and we notice that they are doing this incorrectly and they're billing and getting reimbursed by Medicare way beyond what they should be, and so let's say their error rate is half of everything they've done is incorrect in our opinion. Well, what we do, and that's at CMS's request, is we can extrapolate that if that particular provider billed CMS \$10 million and if the error rate is statistically correct, with a high level of confidence that if it's 50 percent, then 50 percent of it was overpaid. And they do use that all the time and that's when to your point of, do we also model, that is some of the modeling that we do. So, but not every employee does modeling so it takes a lot of different people to pull this together. [LB1051]

SENATOR SCHUMACHER: So then would it be better in this definition instead of saying extracting, compiling, and modeling, to say, or modeling? [LB1051]

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TED GRENNAN: Or modeling would probably be a little better, yes. [LB1051]

SENATOR SCHUMACHER: Senator Brasch. [LB1051]

SENATOR BRASCH: Thank you, Vice Chair Schumacher. I think I'm getting really close perhaps. [LB1051]

TED GRENNAN: Okay. [LB1051]

SENATOR BRASCH: From what you describe, would they be very similar to auditors reviewing information and seeing if it's...and auditor....? [LB1051]

TED GRENNAN: There's aspects of that, but not every job that we have would fall into that category, but again some... [LB1051]

SENATOR BRASCH: Because auditors are not part of the Tax Advantage and so... [LB1051]

TED GRENNAN: No, and we have some people actually go out to providers but they will go on site across the country, but that's a very small part of what we do, just a handful of people that might do that. We usually when we're doing that, it's usually for the Department of Justice or the Office of Inspector General for the DHHS. But again, most of our people are taking...it's a combination...example of a nurse working with the data analyst or statistician. Again, the two of them doing what they do best and they come together to pull this information out of this massive amount of information we get from CMS and then also looking at medical records per se from a provider and putting it together. We come to a conclusion of, was the claim paid correctly or not, and if it wasn't, what do we think should have been paid and then we present that back to CMS. And when I mentioned that we've identified over three hundred million, it's that type of work that we've done that's identified that for the federal government. [LB1051]

SENATOR BRASCH: Is it also, and I'm trying to think of what it...is it EM, the marketing that works with the pharmacist, the...there's the entity between the pharmacist... [LB1051]

TED GRENNAN: Oh, the prescription planned managership? [LB1051]

SENATOR BRASCH: Yeah. [LB1051]

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TED GRENNAN: We review their information because a lot of the Part D plans use those types of entities to set their formulary. So what we do...one of our contracts, it's not a big one, but it's very technical. We take all of their information that's in their formulary and as an example, last year on that particular contract, we reviewed over 2.6 million records of all of these pharmacy plans across the country in the Part D plans to review them and see if they're in compliance with the regulations because they're required... [LB1051]

SENATOR BRASCH: But you do work with that group, correct? [LB1051]

TED GRENNAN: Yes. [LB1051]

SENATOR BRASCH: All right. And so you... [LB1051]

TED GRENNAN: We may be reviewing their information that they were sent to us or we can request it from them. [LB1051]

SENATOR BRASCH: Very good. No other questions. Thank you. [LB1051]

SENATOR SCHUMACHER: Thank you, Senator Brasch. Any further questions for Mr. Grennan? Seeing none, thank you for your testimony. [LB1051]

TED GRENNAN: Okay. Thank you for your time. [LB1051]

SENATOR SCHUMACHER: We are proceeding with proponents on LB1051. Hi. Welcome to Revenue Committee. [LB1051]

PAULA HAZLEWOOD: Hi. Good afternoon. Thank you so much. My name is Paula Hazlewood. That's P-a-u-l-a H-a-z-l-e-w-o-o-d. I am the senior director for business assistance retention expansion at the Greater Omaha Chamber of Commerce, but I'm also here today representing not only the Omaha Chamber but the Lincoln and State Chambers as well. So thank you, Senator Schumacher for allowing me to testify and thank you, Senator Harr for sponsoring the bill. I have been an economic developer for the past 15 years so I have experienced numerous things with our state incentives starting with LB775 which was in place when I started my career, and then transitioning into the Nebraska Advantage Act in 2006. And so what I focus on at the Omaha Chamber is primarily with our existing business, so growing our existing business base. And the issue, the ongoing eligibility issue with Nebraska Advantage has become a deterrent, quite frankly. I'm out there meeting with businesses each and every day. This year our organizational loan will meet in person with 500 businesses. And so, you know, I'm out there.

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I'm talking to the businesses and there's an interpretation factor and a gray area sometimes that I think happens when the company applies for Nebraska Advantage and then it gets to revenue or then it gets to the audit phase. And something is lost, kind of, in the interim. And so, you know, obviously as an economic development person, we're out there trying to grow Nebraska. That's what Nebraska Advantage was implemented for. It becomes increasingly difficult to convince companies to even look at Nebraska Advantage. So that's the first thing that I wanted to talk about. For every...I've had the pleasure of working with Strategic Health Solutions for the past two years and I definitely want to say that this isn't an issue that just popped up overnight. We've been down this road with them for two years, working with Revenue on a very respectable basis trying to get them to understand exactly what it is that Strategic Health does. And so, the final meeting that we had with them in January, Ted explained it very well. It was a great meeting. We had, you know, their acting director of the agency at the table and some people from their legal team and they, quite honestly by admission, stated that, you know, it largely is interpretation and so they did recommend that we come to the Legislature and put a technical amendment in to try to see if we could get this great company moving forward with their expansion plans in Nebraska. And so, you know, for a company, and for every strategic health solutions, there's five, ten or 15, 20 other companies out there that might be experiencing these same type of issues which is deterring their growth. It's either on the front end with eligibility or it's on the back end with the auditing phase. And so, we certainly want to rectify, you know, those issues and continue to grow Nebraska because again, that is what Nebraska Advantage was implemented for. So, specific to Strategic Health though, to me there should never be a question about companies that are hiring professional individuals with starting wages at \$70,000 to \$80,000 a year. After all, isn't that the type of jobs that we want in Nebraska? And in order for us to retain our talent here and to grow the population, we have to have viable positions. And so, you know, for me, I guess, as an ED person, I'm very passionate about the state of Nebraska in growing our tax base, the economy and the population. You know, it would be very beneficial if we could get this technical amendment passed, not only for strategic health but for whatever other company is out there that potentially might be experiencing some of the same issues. Two other things I want to point out. You know, what we do for a living is, again, try to grow the state. And for every economic development organization in Nebraska, there's five, 10, 20, a 100 in every other state and they're trying to recruit the strategic health solutions of the world into their communities as well. I'm biased. I'm probably a little selfish, but I want those jobs in Nebraska and I want our economy to continue to grow. And so, I will just point that out and, you know, I know that all of you sitting here and all of the people that are behind me that I can't see, you know, I would hate for Nebraska to lose the type of jobs that we're talking about, the tax base, and the capital investment basically because something is simply lost in translation. So, I'd be happy to answer any questions you might have. [LB1051]

SENATOR SCHUMACHER: Senator Brasch. [LB1051]

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SENATOR BRASCH: Thank you, Vice Chair Schumacher. And hello, Paula, it's nice to see you. [LB1051]

PAULA HAZLEWOOD: Hi, Lydia, it's nice to see you as well. [LB1051]

SENATOR BRASCH: And I think you're one of Senator Harr's constituents maybe. (Laugh) That's a joke between us, though. But, no, it is good. Do you think that Nebraska...and is it just this area, but I think I understand what you're saying is that we've created a niche for some industries to grow, but not the professional. [LB1051]

PAULA HAZLEWOOD: Well, I think that...I mean, there are several industries that are eligible Nebraska Advantage users, but there are still gray areas that fall. I mean, largely our economy is going a lot of tech-base companies and the statute as it sits today just doesn't account for that. And so when it was initially written, I mean, you know, we were working with a lot of manufacturing companies, transportation logistics, which are great, we want them too. You want to definitely continue to attract those, but, you know, a few technical amendments here and there is, you know, until you stated that potentially Nebraska Advantage would be revised next year and I commend you for that and I hope that you do do that, but until then, we have to continue to try to grow the state and as it sits today, we can't do it. [LB1051]

SENATOR BRASCH: Do we know and would you have, when we do look at the Tax Advantage to go beyond manufacturing, are there criteria that is attractive to not just this company in the medical field but others that we would have basis to build on, or...? [LB1051]

PAULA HAZLEWOOD: Well, I've always been a fan of the performance-based incentive. I think that companies definitely should have to perform to receive any type of tax base incentive. But I do think that...I would say the complexity of the current program is probably a deterrent as well. It's very complex for companies to navigate and some companies have people that that's all they do is navigate state incentives. And...but the majority of the companies that we're working with, they don't have, you know, the financial resources to have a full-time staff person that's all they do. And, you know, with Strategic Health, Ted did a great job again explaining. I mean, they were born at a kitchen table. A Nebraska based company that has grown into 200 employees in Omaha with average wages of \$70,000 to \$80,000 a year. So, I mean, we should never have to question whether those jobs should be incentivized in the state of Nebraska. Those are the jobs we need here to continue to grow our population and keep the talent that's coming out of our universities and college systems. [LB1051]

SENATOR BRASCH: And perhaps bring them to our more rural areas as well. [LB1051]

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PAULA HAZLEWOOD: Yes, Senator, I would agree with that. [LB1051]

SENATOR BRASCH: Very good. I have no other questions. Thank you. [LB1051]

PAULA HAZLEWOOD: Thank you. [LB1051]

SENATOR SCHUMACHER: Any other questions? Just one. Does Strategic Health, do they qualify under Advantage Act now? [LB1051]

PAULA HAZLEWOOD: They actually would qualify under the headquarter component but only the jobs specific to headquarter task would be included, so they're administrative. So the jobs that we're talking about that would fall under the data processing realm would not currently fit...they would not be eligible for those jobs. And I believe Ted said they were looking at hiring additional 100 people at their Omaha location, only because that wording is missing, that data analysis wording is missing. [LB1051]

SENATOR SCHUMACHER: Okay, now from a practical point of view, let's say that they were to hire ten of these data analyst people at \$75,000 a year, roughly, okay, so those ten people \$75,000...well, it looks about \$7.5 million in payroll. By having those ten jobs classified as Nebraska Advantage qualified, as we would do here, how much per year then does the company save in taxes or get in benefits? [LB1051]

PAULA HAZLEWOOD: I cannot tell you that. I would have to do the math. We have calculators and we have numbers that we plug in based on cost of living increases and things. So, I mean, you're asking the wrong person about the math question, let's just say that. (Laugh) [LB1051]

SENATOR SCHUMACHER: Okay. Is it a tenth of the payroll, or...? [LB1051]

PAULA HAZLEWOOD: Yeah, I would say, I usually estimate about 10 percent when we are dealing calculations and again we, you know, we have the calculator, we plug the numbers in, and so...probably. [LB1051]

SENATOR SCHUMACHER: Thank you. Any other questions? Thank you for your testimony. [LB1051]

PAULA HAZLEWOOD: Thank you very much. [LB1051]

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SENATOR SCHUMACHER: (Exhibit 2) Any further proponents for LB1051? Seeing none. We should note that Deb Cottier, Nebraska Economic Developer's Association has submitted a letter in support. And now we move on to opponents. Folks opposing LB1051. Seeing none. Folks in the neutral position. Seeing none. Senator Harr. [LB1051]

SENATOR HARR: Thank you, Senator Schumacher and members of the Revenue Committee. You know, we can work with the Department and hopefully with legal counsel to come up with a definition that is narrowly...it's narrow in scope that can address the issue presented here today. But you have had a chance to review the amendment and I said I wouldn't waive, so if anyone has any questions, I'd be more than happy to entertain. [LB1051]

SENATOR SCHUMACHER: Senator Sullivan. [LB1051]

SENATOR SULLIVAN: Thank you, Senator Schumacher. Thank you, Senator Harr. Well, I see where the amendment defines analysis, but I still see no definition for data processing. [LB1051]

SENATOR HARR: Yep. No, and there isn't...and you'll also see that of all of the words in there...let me open up to it. And it doesn't define insurance, financial services either. And so, I guess financial services is defined. But that is how we have drafted this and I think as we go forward and update the Nebraska Advantage, that's one of the things we can look at, is how do we define our words because it's become blatantly apparent that we need to do a better job as a body defining some words so that we don't run into situations that we've talked about this year. [LB1051]

SENATOR SCHUMACHER: Senator Scheer. [LB1051]

SENATOR SCHEER: Senator Harr, as we've heard time and time again, words matter, but what's starting to bother me about the Revenue Department is, I mean, we have words and they are sometimes broad specifically so, so that more businesses, perhaps, could qualify, but those words don't matter because somebody else produces rules and regulations that we had nothing to do with and put their own interpretation on what we meant, and they don't bother to contact either the Legislature or even look at the legislative intent when they do so. And we continue to do one of these about every other day is because of an interpretation. How do we solve that problem? [LB1051]

SENATOR HARR: Great question and I'm going to defend the Executive branch for a second because I do believe they're doing their job to narrowly construe the definition because they are the stewards--the word I couldn't remember last week--of our tax dollars to make sure it's not

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overly broad. And so I think the way to alleviate that problem is for us as policymakers to have a more specific definition. And maybe we need to do a better job of reviewing the rules and regs. [LB1051]

SENATOR SCHEER: Well, and I don't disagree with that, Senator, you know our words matter as well, but, you know, the theory where we're telling our high school students that your job you're going to have in five or seven years doesn't exist yet. [LB1051]

SENATOR HARR: Yeah. [LB1051]

SENATOR SCHEER: These jobs didn't exist five years ago. [LB1051]

SENATOR HARR: Yep. [LB1051]

SENATOR SCHEER: So try as we may, we're never going to have every term and definition and we shouldn't have to rewrite the law every time someone develops a new business model. And that's what the frustrating part is, we continue to have to rewrite law simply to allow business to expand in its normal course of events and because we now are in an age of literally new technology and types of business models that weren't conceived five years ago, ten years ago, 15 years go, and so if they didn't exist, then they don't...they're not necessarily covered in here? [LB1051]

SENATOR HARR: Yeah. [LB1051]

SENATOR SCHEER: I just find that very, very frustrating that we have to continue to do that. [LB1051]

SENATOR HARR: And I agree because government does not travel at the speed of business and so there is a disconnect. And hopefully that's one of the things when we work on this summer on Nebraska Advantage is to update or change it to figure out how to do that so we aren't constantly back here for the situation you described. That it can hopefully grow organically in a proper way. How that is, I have absolutely no idea today, but what you're talking about is exactly right. [LB1051]

SENATOR SCHEER: Thank you, Senator Schumacher. [LB1051]

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SENATOR SCHUMACHER: Thank you, Senator Scheer. Any further questions? Thank you, Senator Harr. [LB1051]

SENATOR HARR: Thank you. [LB1051]

SENATOR SCHUMACHER: And I think that closes the hearing on LB1051. We're now up to LB1085. Senator Davis. Welcome to your committee, Senator Davis. [LB1051]

SENATOR DAVIS: Thank you, Senator Schumacher. Good afternoon, members of the committee. I'm Senator Al Davis, A-l D-a-v-i-s, and I represent the 43rd Legislative District. I'm here today to introduce LB1085. LB1085 is a reintroduction of a bill from last year, LB423, by Senator Jeremy Nordquist, and includes the provisions of the Revenue Committee's amendment to that bill. In essence, the bill provides tax credits to renewable energy producers who operate in Nebraska counties with populations of less than 7,000 people. The rationale for the bill goes back to 2013 when I introduced LB1115 which directed the Nebraska Power Review Board to study Nebraska's transmission infrastructure and to identify future policy needs in the area. The study showed that there is tremendous potential for further expansion of renewable energy in Nebraska, especially wind energy. Current law allows for a tax credit of one-half...25 cents per kilowatt hour up to \$50,000 for a renewable energy producer. LB1085 simply provides a more robust credit for those producers. The credit can be figured in one of two ways. The first is a sliding scale tax credit starting at 1 cent per kilowatt hour for the first two years; .9 cents for the next two years, decreasing one-tenth of a cent every two years until the tax credit is .6 percent in the last two years. The second method is a one-time credit equal to 30 percent of the total cost of construction of the renewable generation facility, not to exceed \$2 million. The producer decides which of these methods it would prefer and then notifies the Department of Revenue of the decision. The credits are transferable, but transferability is limited to credits earned by facilities with nameplate capacities of 20 megawatts or less. I've limited the credit to projects developed in counties with populations under 7,000 people because I intend this as a rural economic development bill. Small rural counties need this type of business to develop and the jobs they will bring are much needed in these communities. Furthermore, the income to landowners as a result of these projects is substantial and that money gets injected right back into the rural economy and into the state coffers through income tax generated there. Perhaps just as importantly, these tax credits have an effect on property taxes in those counties. These projects pay real property tax on the foundation of the project and a nameplate capacity tax on everything from the ground up. And these taxes are paid long after the tax credits expire and these taxes are paid long after the tax credits cease to be applied after ten years. So the long-term economic implications outweigh the initial tax credit. LB1085 is a win-win proposal. By adopting a state production tax credit on renewable energy we become competitive in a market that surrounding states are catching on too fast. And at the same time we're providing economic development and property tax relief in rural communities which we're constantly trying to figure out how to do.

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This is one way to do that. With that, I hope you will advance LB1085 and I'll be glad to answer any questions. [LB1085]

SENATOR SCHUMACHER: Any questions for Senator Davis? Senator Scheer. [LB1085]

SENATOR SCHEER: Thank you, Senator Schumacher. Senator Davis, is this specific to the electricity that it's produced, is it for export, inside the state use, it makes no difference? [LB1085]

SENATOR DAVIS: So it makes no difference. Obviously, the idea that I think...present means everybody is...use it as an export tool because we'll have to meet...we'll have to meet the criteria. We'll have to have a request for proposal and we'll have to have the things that are required in order to market the energy. [LB1085]

SENATOR SCHEER: How do I respond to...to have come up. So I'll let you respond as well. The individual that says, you provide a tax credit for...credits for individuals to invest with the facilities in Nebraska, in this case, rural areas, which is great. But if the electricity is exported to Louisiana or Arkansas or some place and it helps reduce those states' utility costs, then it's just making those states more competitive with Nebraska business and industry at our own expense. So we're actually working against our own business and industry by providing. [LB1085]

SENATOR DAVIS: Well, a number of other states have tax credits in place already on energy development, so those are...you know, because we're in the Southwest Power Pool, things are significantly different than they were ten years ago in terms of how energy is marketed. We have utilities in the state of Nebraska that are buying coal energy from someone in, I think, Tennessee, because it's cheaper. So to me when you move into a market situation, that really should benefit everyone. So, I guess I'm not quite...I'm not sure how we're penalizing our own industry here by having a tax credit. [LB1085]

SENATOR SCHEER: Well, I'm sure their theory is, if you put the facility up and I...you get one million in tax credits and so you're able to sell your electricity maybe a half million dollars less...at a less cost, and it goes on the grid so ABC Manufacturing in Little Rock is now buying the product from whoever the utility is down there, but because the cost has been subsidized essentially by Nebraska taxpayers, the cost of their raw input of that electricity is less a half million dollars so it makes...because of their inputs, it makes them more competitive, or at least as competitive with perhaps business competing in the same industry for whatever product they might make. [LB1085]

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SENATOR DAVIS: And I guess the answer I'd give you and it's kind of two points to that, but the first one would be if other states are doing the same thing, those industries are buying a product already. They're buying a discounted product. So if Nebraska...if Nebraska is going to have higher energy cost, I don't know how we resolve that problem, you know, unless we have a reform of the structure of public power and how we do that. I would hope, the public power would be looking to buy Nebraska product too because I think that way we all gain. If there's a tax credit in place, we are able to sell the product in our own state and it's cheaper, doesn't that benefit any community that uses it? [LB1085]

SENATOR SCHEER: Well, and that's why I was asking if it was specific for export or internal use or both because I get...you know, that's pretty easy if it's all internally used. It's just the problem when we start exporting via the power grid that I think that becomes a problem. [LB1085]

SENATOR DAVIS: You know and since we're working within the Southwest Power Pool and the wholesale spot markets that are in existence today, I mean, energy...the sale of energy is just radically different than it used to be and I know our utilities are going to have to be competitive. I think this will help them to be that. [LB1085]

SENATOR SCHEER: Okay. Thanks, Senator Davis. Thanks, Senator Schumacher. [LB1085]

SENATOR SCHUMACHER: Thank you, Senator. Senator Smith. [LB1085]

SENATOR SMITH: Yes, thank you, Senator Schumacher and Senator Davis. You know, I know what you're trying to do with the bill and I know you're trying to make Nebraska more competitive when it comes to production of renewal energy. And I think you touched on it maybe through your exchange with Senator Scheer, but the disadvantage that we're at...the advantage that we're at, is that we're a public power state and we should have benefits of being a public power state with lower energy cost. The disadvantage when it comes to the renewables, is that the subsidies in these other states are federal subsidies and we don't have the luxury of those federal subsidies because we're public power. And so, therefore, if we do a subsidy, it's going to be directly on the back of the Nebraska taxpayer as opposed to other states that are getting the energy renewable tax credits. Those are federal tax credits. So, that's a little bit of a difference. I think you touched on that because you did address that. It's the model that we have with public power in our state. But then the other one, too, is that we are not at a shortage of generation in our state and to provide tax incentives for generation for renewable energy to compete with other types of generation are available in our state, seems to me to be a duplication and an unnecessary duplication of that energy, and then on top of that...on top of that, providing the tax credits. Can you comment to that, and what you think about that, and how...? [LB1085]

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SENATOR DAVIS: Well, first of all, I think that all of us need to recognize that there's a window of opportunity and it's out here for the use in the development of renewable energy in the state of Nebraska. And we can incentivize that and move that forward which I think would be a good thing because I think that is probably the future in many respects of where the energy markets are going to go. We're going to have to still have...rely on fossil fuels, but that is basically the thrust of what we use today. And I made reference to this earlier, but we have a number of utilities that are looking at different opportunities and different approaches. Valentine is just an example, has...is going to go off the grid that they're on now. They're going somewhere else but they're also...they put up a wind turbine of their own. The Cherry County Wind Association put one up there, so the disintegration of the structure has already taken place, Senator Smith, because there are opportunities out there to buy energy elsewhere. And I don't think we can solve the generation problems unless...I think the one valuable thing that we have in Nebraska that NPPD has is a great plan at Sutherland that's able to generate the cheapest energy possible from a coal plant. So, in the Southwest Power Pool that one runs a lot of times when others don't. But the nation looks to be moving to something else. We have the potential. We're at, I think, fourth or third in terms of our potential. We're way down the list in terms of what we've done. If we can develop this, and especially in rural counties, it will be a tremendous tool for new jobs. It provides tax relief and income. So I think it's a win-win all the way around. You know, we heard earlier about why we need to become competitive in terms of data processing, I think we need to be competitive in terms of renewable energy too. [LB1085]

SENATOR SMITH: Thank you. [LB1085]

SENATOR SCHUMACHER: Any other questions for Senator Davis? Seeing none. [LB1085]

SENATOR DAVIS: Thank you. [LB1085]

SENATOR SCHUMACHER: I suppose you'll be sticking around too? [LB1085]

SENATOR DAVIS: I will be, unless, I've got another bill to introduce, though. [LB1085]

SENATOR SCHUMACHER: We're now looking for proponents for LB1085. Welcome to the Revenue Committee. [LB1085]

KEVIN CONNOT: (Exhibit 1) Good afternoon, Vice Chair Schumacher and members of the Revenue Committee. My name is Kevin Connot, K-e-v-i-n C-o-n-n-o-t. I live and work at Allen, Nebraska, and I'm involved in two small businesses. One, I'm a consultant to small businesses and Indian tribes in relation to energy and renewable energy types of entities. I also have a small

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manufacturing company in Allen, Nebraska, and we just installed a small solar system, so while I'm a proponent and a supporter of all forms of renewable energy, I want to talk to you today mainly about the solar project and how it appears to us. Like I said, it's a small project just coming online now and as it relates to property tax, our commercial building in a small communities decreased in assessed valuation over the past years in a small...we're finding this little small renewable energy project will actually increase our property tax and our assessed valuation by about 50 percent with the addition of that rooftop unit. So, while an incentive has a cost, it also gives a little bit back in the form of property tax relief. I would also like to visit a little bit about a larger solar project in Nebraska. We have a net metering threshold of 25 kW, 25 kilowatts. The way it looks for a solar installation is the price of solar on the installed cost has drastically decreased in the last several years. So the price of a 25 kW system for a rural business or ag producer is about \$75,000. So that is going to generate in property tax about \$1,300 a year in the first year. A 25 kW system solar will generate about 40,000 kilowatt hours a year and if we attach a value of roughly 10 cents a kilowatt hour is \$4,000 a year. So just doing the math in terms of a payback, without any incentives, you're talking about 18 or 19 years. So with federal and state incentives, we can drastically reduce that payback time to something a little more acceptable. There are also a number of surrounding states also have similar state income tax incentives as well, so. With that, I would be glad to answer any questions. [LB1085]

SENATOR SCHUMACHER: Any questions for Kevin? One question on that...you said the first year, I think was about \$1,700 in property or \$1,300. [LB1085]

KEVIN CONNOT: Thirteen hundred. [LB1085]

SENATOR SCHUMACHER: Thirteen hundred dollars. Over how many year property is that, a five-year property, seven-year property? [LB1085]

KEVIN CONNOT: I think it's seven-year property. [LB1085]

SENATOR SCHUMACHER: Okay, so while that's the first year, the second year would be substantially less, the third year less, and finally at the end of seven years, it's not generating any money. [LB1085]

KEVIN CONNOT: Right. [LB1085]

SENATOR SCHUMACHER: Any other questions? Thank you for your testimony. Next proponent for LB1085. Welcome to the Revenue Committee. [LB1085]

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JOHN HANSEN: Mr. Vice Chairman and members of the committee, for the record, my name is John Hansen, J-o-h-n, Hansen, H-a-n-s-e-n. I'm the president of Nebraska Farmers Union and also their lobbyist. We are in support of this idea. We're in support of this concept. We have supported LB423. We've supported renewable energy. We've supported the development of the private and public partnership which now exists in our state through the use of C-Bed and the subsequent legislation so that public power can get the benefit of federal production tax credits which are now in place in wind. And also there's a separate system in place of incentives for solar so that those private sector folks can use those credits and build projects, take the risk of finding the capital, put together the project, and then public power can buy it from them at the reduced rate. And so, it is...amounts to a very effective private/public partnership pass-through that saves ratepayers in Nebraska and is a great way to create new economic development benefits. The totals that we put together along with the energy office and others, we've got so far just in wind in Nebraska, we've got over \$3 billion worth of new capital investment in rural communities. We've got over a 130 jobs. We've got a lot of new farmer income and we're putting economic development out in the country where we need help the most. If you believe in the idea of you ought to fix the roof that leaks the worst first, then rural Nebraska gets their roof fixed first because we are depopulating. We need new sources of capital investment. We need new sources of tax base. We need to diversify your tax base. So, there is a tremendous amount of shared economic development interest. So when you look at both ethanol and renewable fuels and you look at wind, and we think we're just on the cusp of really kind of breaking open with solar, these are the newest, fastest growing kinds of additional new tax base in rural Nebraska. And, you know, part of property tax relief is growing and diversifying the tax base. And so this is a...not the total answer, but it is a useful answer. We appreciate the fact that Senator Davis has brought this bill forward. It is a concept that now as you look at the federal incentives, this is a great opportunity for our state to try to put ourselves on a more equal footing for these kinds of projects, especially as we look at what some of our neighbors are doing. And if you have been reading the papers, and I suspect it is not a secret to know, that our organization was not the least bit happy when we found that one of our own public power utilities bought 100 megawatts of wind in Kansas and 100 megawatts of wind in Oklahoma and it really comes down to the fact that they had incentives in place that we did not. And yet, we have the third best wind resources in the country. And so all of that property tax relief, all of that additional income for farmers and ranchers helped those rural communities in those states but it didn't do anything for us. And so, we're disappointed in that and so that was sort of the wake-up call where we said, okay, we're going to have to try to be, you know, looking at what our neighbors are doing and we need to be more competitive because that is not our idea of how the system ought to work when you're sitting on as good or better wind resources than they have. So with that, I would end my testimony and answer any questions if you have any. [LB1085]

SENATOR SCHUMACHER: Any questions for John? Senator Scheer. [LB1085]

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SENATOR SCHEER: Thank you, Senator Schumacher. Devil's advocate, John, I mean, Kansas or Oklahoma is willing to sell us their electricity for 20 percent less than we can sell it to ourselves, why wouldn't we want to take advantage of the lower cost? [LB1085]

JOHN HANSEN: Well, because it's not just the cost issue, but it's not 20 percent, but it gets to be... [LB1085]

SENATOR SCHEER: Well, what...what... [LB1085]

JOHN HANSEN: Yeah, just for argument's sake, but it's the whole rest of the package. And so you're not just looking at the price of the kilowatt, you're also looking at all of the rest of the benefits, of the economic development benefits of the jobs, of the additional farm income, of the additional tax base, of all of the tax revenues, of all of those things, of the ability to be able to help create jobs in rural communities and keep rural kids in rural communities. And there's...you know, we've talked about this a bit before but there gets to be a critical mass issue in a lot of economic development stuff we do where you really have to have so many people and so much stuff in order to make certain things work. And so, that's why this is a nice part of the picture in our view. And, you know, our view of Lincoln in this case is quite frankly, that Lincoln is a kind of barn-fed cat. It's not a mouser. It's a barn-fed cat, and so it enjoys the milk that is developed and produced and goes downstream into Lincoln's economy. So we have all of these tax revenues in Lincoln. We have all those...all of those Nebraska statewide generated revenues that pay for the cost of government, the cost of state government, the University of Nebraska, etcetera, and so in our view we were feeling like in a good neighbor policy that we've been a good neighbor and we send our tax dollars down to Lincoln, they get the benefit of that, but if they're going to help rural communities, that we ought to help Nebraska rural communities first. [LB1085]

SENATOR SCHEER: Fair enough. Thank you. Thank you, Senator Schumacher. [LB1085]

SENATOR SCHUMACHER: Any other questions for Mr. Hansen? Seeing none, thank you for your testimony. [LB1085]

JOHN HANSEN: Thank you. [LB1085]

SENATOR SCHUMACHER: (Exhibits 2 and 3) Still moving on proponents, LB1085. Is there anyone else? The record should reflect David Levy of Baird Holm and Richard Lombardi of The Wind Coalition have submitted letters in support as proponents of LB1085. And we're moving on to opponents on LB1085. Seeing none. Folks in the neutral position on LB1085. Seeing none. Senator Davis, you're up. [LB1085]

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SENATOR DAVIS: Thank you, Senator Schumacher. It's great to have great staff with the ability to Google things, so, and we did that while we were recessed there. There are nine states that have a tax credit of some kind or another, similar to what this is proposing. The names of those are Arizona, Colorado, Florida, Iowa, Maryland, New Mexico, North Dakota, and Oklahoma. So this would not make us an outlier in any way, and it would put us in line with a lot of our neighboring states on the Great Plains. With that, I would urge the body to pass the bill. [LB1085]

SENATOR SCHUMACHER: Any questions for the discussion? Thank you, Senator Davis. And that will close the hearing on LB1085. We've saved the best for last. Senator Kintner, open. [LB1085]

SENATOR KINTNER: I'm always last in every committee. I don't know what that says. [LB1095]

SENATOR SCHUMACHER: We'll open the hearing now on LB1095. Senator Kintner, welcome to Revenue again. [LB1095]

SENATOR KINTNER: (Exhibits 1-4) Well, thank you, Mr. Vice Chairman and members of the Revenue Committee, I'm Senator Bill Kintner, B-i-l-l K-i-n-t-n-e-r. I represent Legislative District 2 and I'm here to introduce LB1095. LB1095 would extend the current Nebraska requirement for public employees and contractors who use the federal immigration verification system, E-Verify, which is used to confirm the citizenship or immigration status of employees for work eligibility, to also require every employer making payments subject to withholding to use the federal E-Verify system to confirm such legal status of new employees beginning January 1, 2017. The bill accomplishes this by requiring every employer subject to paying withholding to register with the Tax Commissioner, to receive employee identification number. If the employer is required to obtain an employer identification number, they will also be required to use the federal E-Verify system for new employees. LB1095 seeks to protect jobs and wages for the citizens of Nebraska and lawful aliens present in our country. Since 1986, employers have been required by federal law to verify the identity and employment authorization of each new employee using enlisted documents that meets the verification standard of the U.S. Citizenship and Immigration Service. To comply with this law, all new employees must provide documents on the authorized list and fill out the first section of the Form I-9. The employer must verify the documents presented by the new employee and attest that's the best of his knowledge, the documents are genuine. Employers then required to keep the completed Form I-9 as a record and proof of compliance in case of an audit by the federal government. In 2009 when LB403 went into effect and Nebraska joined the other states that required all or certain employers to electronically confirm employment, authorization of new employees with the federal government

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using the E-Verify system. My research has found 22 states that have some form of E-Verify requirement. Eleven of the 22 states, including Nebraska, only require public employers and contractors to confirm employment authorization electronically using E-Verify. While nine states require all employers to use E-Verify, there remain two states only require public contractors, not employers. As mentioned earlier, LB1095 would move Nebraska from a state only requiring public employers and contractors use E-Verify to a state requiring all employers to confirm the legal status of new employees. To use E-Verify system, each employer would have to enroll his company in the program with the U.S. Citizenship and Immigration Service. They can do this on their own or they can do it through an E-Verify employer agent who is certified to do all the administrative work for the client's business. In addition, there's a memorandum of understanding that's required to be signed to ensure the system is used correctly and fairly by all parties. I'm going to...first here, I'm going to give you...goes through the employer's responsibility. This is off the government's Web site, federal government's Web site, so it's the employer's responsibilities. The second one I'm going to give you is a handout showing the latest statistics from U.S. CIS. If you look at the second one, the one with the pie charts on it, it shows you that .96 percent of the people who were run through nationally in the E-Verify were found to be not authorized to work. So less than 1 percent are found not authorized to work. Obviously, it's higher in some parts of the country, lower in other parts, but across the country, that's what it is. And then if you look on the little pie chart to the right, it shows you how that was resolved. So 62 percent were uncontested mismatches, .01 percent were found not to be authorized, and 0.33 percent were still unresolved cases. Moreover, my office was able to find E-Verify employer agents with a quick search on line and one of them has a very...a very good frequently asked questions. I'm going to hand that out to you, just frequently asked questions by E-Verify. It's a very good one. And you can look at that at your leisure. I'm not going way through it, but if you have a lot of questions about it, there's a lot of the answers. Finally, one more. The last one is a handout from our own DHHS that shows of all the people that we ran through E-Verify, and all the different types of people who run through it, it shows you the results of what happened. And that's coming to you right now. On the front, it says 400,000 applications received, 14,411 safe checks conducted, and 1,560 that were rejected. And that's from the Department of Health and Human Services. So if you get food stamps in our state, we run you through your E-Verify also. If you'll go back to page 3, this kind of a chart, the public benefit annual report, and it shows you two key numbers: Unemployment insurance, 59,000 people applied for it, 138 were denied based upon citizenship, and Contractor Registration Act, 17,000, and 72 were rejected. Go back two more pages and you'll see this one right here, 3,000 people applied for affordable housing projects, 11 were rejected. And I'm not going to go through it. You can go through the rest of it, and you can see all kind of different benefits and contractors and you can look at...oh, one, I kind of like back here. Go back to three from the back, Nebraska Advantage, Nebraska Advantage Act. We rejected eight applications for it because they didn't pass E-Verify. I kind of thought that was interesting. I would not have expected that. That's from January, 2015, to December 31 of 2015. But anyway you have this, just kind of see how it's being used currently in our state. As I

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said earlier, Nebraska currently requires public employers and contractors to use E-Verify. Everything I've handed out is some of the results confirming employment authorization. Nebraska's public sector, I believe, these current statistics revealed our current law has been effective and it will remain the federal law. In conclusion, what I do is, I believe E-Verify system has made improvements in the last three years and it would be a valuable tool for all employees to confirm that their employees meet the federal government's standards for legal employment in the United States. From my view, I believe these protect jobs and wages for all citizens in Nebraska and lawful aliens present in our country. Two final things I want to say. I introduced this bill last year. It went to Business and Labor. It was favorably received. Nobody testified against it. We had one problem. We couldn't figure how to enforce it. We just, you know, they gave it back to us, said figure out how to enforce it, bring it back to us. In the meantime, Senator Smith looked at it and to his credit, he came up with a way to get our Department of Revenue to enforce it, something I could say my office wasn't able to do, but Senator Smith's office was able to do it. He brought it to me and we put it in this bill. I'm only sitting here today because Senator Smith and his office and his staff figured a way to use our Department of Revenue to make this work. So, Senator Smith, thank you very much. He did something that we weren't able to do. The final thing is, I want to stress that every employer has I-9. You fill it out, you keep it on file. All E-Verify does is it takes the information from the I-9 that you've already filled out, that you're already required to keep on file and then you enter it into the E-Verify system. E-Verify system uses that information that you already have, that we've already been collecting since 1986, and they use it to check the immigration status. If you'll go to the fiscal note, there's a \$200,000 fiscal note and that is the...that's the cost to do this. They need 3.5 employees to go through all these returns, make sure that it's actually being done correctly and enforce it. And I actually sat down with Director Fulton on that, Tony Fulton, and he said that's just a cost whenever you're regulating something. There's a tremendous cost to regulate our speed limits and to regulate our traffic laws. Anything we do like this, there's just a cost and there's no way of getting around it. That's a cost of government doing what it ought to do. In this case, we want to protect the jobs of Nebraskans. And I think we're all better off for that. With that, if there's any questions, I'd be happy to try to answer them. [LB1095]

SENATOR SCHUMACHER: Thank you, Senator Kintner. Senator Scheer. [LB1095]

SENATOR SCHEER: Thank you, Senator Schumacher. Maybe I'm missing something, but if the system is already somewhat working, and it's less than 1 percent of the 1 percent, there's half of the 1 percent that would be in violation and I'm not sure how much closer to zero you can get. [LB1095]

SENATOR KINTNER: Yeah, that...you mean, nationally. [LB1095]

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SENATOR SCHEER: Well, I'm assuming Nebraska that the... [LB1095]

SENATOR KINTNER: Well, that's national. There's some areas that are much, much higher. In some areas it's much, much lower and that's what it is. One thing when I came up with this is, I've had several trade unions come to me and say, we think this is a real problem and we see it every day what's going on out there, and they're undercutting our wages and they're taking our jobs and we're being replaced, we believe, by people that--they have no way of knowing---we believe they we're being replaced by people that do not have a legal status to be here. This would protect our jobs. [LB1095]

SENATOR SCHEER: Well, in fairness, though, the type of help that you're talking about, I suspect, are the day laborers. They're not going to show up on any employment records to begin with. [LB1095]

SENATOR KINTNER: Right. [LB1095]

SENATOR SCHEER: They're getting paid the fifty or hundred bucks a day, they're jumping in the back of the pickup, they're going to go do whatever they're doing, and they're going to drop them back off at the same place and they're never going to hit any of the statistics, nor are they ever going to show up unless a patrolman picks them up for some traffic violation or whatever and they would check identification. I suspect, what you're talking about never hits what you're doing. [LB1095]

SENATOR KINTNER: As I understand, those people are used quite a bit more. I've had friends in Texas they've employed them. Families, please clear out the brush in my back yard, please roof my own house instead of me doing it. Contractors, generally, aren't using day labor if they're using people that can't read plans and do work. Day laborers are doing very small, small projects, raking some brush. I don't know what we all think they do. I think the ones that contractors are using are not one and done. They're long-term people and they would fall into the systems. [LB1095]

SENATOR SCHEER: Well, fair enough, but if we're anywhere close to the national average, you know, it's less than one-half of a percent. [LB1095]

SENATOR KINTNER: Could be. We'll find out. We don't know until we do. We really don't know. You know what, I mean I have no problem employing it after five years, jeez, we've only caught five people, okay. Dismantle the system, we don't need it. I suspect we do need it. [LB1095]

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SENATOR SCHEER: Thanks, Senator Kintner. Thanks, Senator Schumacher. [LB1095]

SENATOR SCHUMACHER: Thank you, Senator Scheer. Senator Smith. [LB1095]

SENATOR SMITH: Yes, thank you, Senator Schumacher. Senator Kintner, I'm going to make a couple of comments. I'm going to end up with a question for you about your interaction with the Tax Commissioner, but I think what you're demonstrating with this bill is that a recognition that there is a concern out there about the presence of workers in our country that are here illegally. And we hear that on the national news, of course, and the national politics. So that's...I believe it to be real, a real or perceived, that is a perception that's out there. And so, you know, so much talk...there's so much talk out there as to how do you address and how you enforce it. We have a system today in our country that works called E-Verify. It's not a difficult process. As a small business owner, we use that process. Again, it's not difficult, but whenever I had looked at that in the past as to how do we enforce it, you know, it appeared to become a burden on business and we don't want to create a greater drag on small businesses through heavy-handedness on penalties, and audits, and growing government in order to provide that level of oversight. So, what this bill appears to do is to provide a fairly low-cost self-policing approach tying it to the EIN, Employer Identification Number, and just saying, this is a practice we want employers for our state to use. Is it going to address all of the problems? Absolutely not, but it seems to be kind of a low-hanging fruit that we have a system out there today, why don't we have consistency in using that system without heavily penalizing our businesses. So with that said, you said you visited with Commissioner Fulton on this approach. Any particular feedback from the Tax Commissioner as to whether they thought that this would be acceptable in their jurisdiction, I guess? [LB1095]

SENATOR KINTNER: We talked about exceptions. Let's say you hire an employee, you're a small business and your office manager who does the paperwork goes on vacation for two weeks and you're late in getting in. So we talked about things like that. And I said, well, you guys would have to use your best judgment. You know, we're not here to hammer people, we just want them to comply. So they said, well, if the guy turns in three weeks late, we just say thank you, and we'll run it through. So I think the things we talked more about was how do we enforce it and I think I agreed with them that we just want them to comply. When I hear to hammer, beat up anyone if they're a little late, even lost they run them through it, their thing was always remember is, current employees are exempt. It's only new hires from this point. We're not going back and looking at who is there. It's only starting at that point on January 1, 2017. They, you know, they thought it's very doable, we have the capacity to do this, we need to map out our place. What's doable, we can do it, we understand and we're not here to hammer people and we run through that understanding I felt good about that. [LB1095]

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SENATOR SMITH: And the maximum penalty that a company could incur is a \$50 fee. [LB1095]

SENATOR KINTNER: For each one, yes. [LB1095]

SENATOR SMITH: For each one. Okay. Thank you. [LB1095]

SENATOR SCHUMACHER: Any other questions? I have a couple. The employer identification number that it talks about, you're having to apply for it here. Is that different from the employer identification number that employers normally have in Nebraska? [LB1095]

SENATOR KINTNER: Yes, it'll be a new statement for our state. [LB1095]

SENATOR SCHUMACHER: So we already have an employer identification number that all employers have. Why are we...why would we be doing two? [LB1095]

SENATOR KINTNER: Well, this will be for our state. This is not the federal one. This will be for our state and we have to have some mechanism that we can enforce it. So we have to have an employee number. [LB1095]

SENATOR SCHUMACHER: We already have an employer identification number for employers in this state. When people do state withholding, they have to have a number and so we already have numbers. [LB1095]

SENATOR KINTNER: Oh, excuse me, I'm sorry, we are using the same one, yes. [LB1095]

SENATOR SCHUMACHER: Because the way it's written here, there's a second one. Now even Obamacare has got exceptions for small business. Is there any exception for small business? [LB1095]

SENATOR KINTNER: No. [LB1095]

SENATOR SCHUMACHER: So a guy who certainly can't afford a lawyer and this is even though Senator Smith says is simple, Senator Smith's business isn't necessarily a tiny business. Why wouldn't we exempt some folks that are less than five employees or something from having to go through this paperwork, just to sway the formation of those businesses? [LB1095]

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SENATOR KINTNER: Well, there is...there are companies that they just pay, they do it for you. You just pay them a fee, a small fee like \$15, \$20, \$19, something like that, you pay them a fee, they run everything, they take your I-9 for you, they run it through, you don't have to do anything. That way you have your own HR department. [LB1095]

SENATOR SCHUMACHER: You still got to call them, you still got to get your paperwork together for them, you still got to turn it over, and one out of...whatever thing that Senator Scheer figured out, teeny, tiny percentage of the times you'll trip a wire. I mean, this doesn't sound like running government like a business. [LB1095]

SENATOR KINTNER: Senator Schumacher, you have to have that paperwork already done and on file. You just make a copy of it and hand it to the contractor you've hired. There's special companies that do nothing but handle E-Verify for small companies of 10, 12 employees. You can do it yourself, or you can have them do it. [LB1095]

SENATOR SCHUMACHER: Where I come from 10 or 12 employees is a pretty big employer. [LB1095]

SENATOR KINTNER: Yeah. [LB1095]

SENATOR SCHUMACHER: Most of them are two or three employees. [LB1095]

SENATOR KINTNER: Okay. If you don't want to deal with this, you just take your I-9, write a little check, hand it to that company, they handle it all for you. [LB1095]

SENATOR SCHUMACHER: I see. And what about the area in Nebraska where people are just scrambling for employers, or employees. They can't find people to work. Where...probably fair even though it may not be legal to say, a lot of the people are factories are there not because of putting somebody out of work, but because the factory cannot find help. What...a few years ago at, I think it was a packing plant in Grand Island, they went in and tried to do a big raid and they caught a bunch of people. And lo and behold, it put the packing plant into a tizzy. They failed. They just didn't have the resources to do what they needed to do the next day when they opened. That's...a lot of Nebraska can't find help. [LB1095]

SENATOR KINTNER: Are you suggesting that we turn a blind eye to illegal activity? Are you suggesting that we not enforce our laws? [LB1095]

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SENATOR SCHUMACHER: Senator, we're dealing with a teeny, tiny percentage of error here. I mean, that would be like bringing the National Guard out to try and catch speeders. [LB1095]

SENATOR KINTNER: Then if it's a teeny, tiny percent, then they have nothing to worry about. They're in the teeny, tiny percent, then why would they worry unless they're doing something illegal? Either we respect our laws or we don't and I just think we respect our laws and trust that people do the right thing. And I think the vast, vast majority of employers want to do the right thing. If they find someone who is not right, they'd be happy not to hire them. They want to do the right thing, at least most employers I know. [LB1095]

SENATOR SCHUMACHER: Any other questions for Senator Kintner? Seeing none. Are you going to stick around to close? [LB1095]

SENATOR KINTNER: Yeah, I'll stick around, sure. [LB1095]

SENATOR SCHUMACHER: And did the committee counsel tell you that since you're the last bill of the year, and this is the third time I think in a row, did she inform you of your responsibilities? [LB1095]

SENATOR KINTNER: No, I didn't hear. [LB1095]

MARY JANE EGR EDSON: You're supposed to bring treats. [LB1095]

SENATOR KINTNER: You know what, I ate them earlier, sorry. (Laughter) [LB1095]

SENATOR SCHUMACHER: Proponents for LB1095. Welcome to the Revenue Committee. [LB1095]

DOUG KAGAN: (Exhibit 5) Good afternoon, Senator and Senators. My name is Doug Kagan, D-o-u-g K-a-g-a-n, and I represent Nebraska Taxpayers for Freedom. We support LB1095 for many reasons and I do want to say that we regard this job...or this bill as pro-jobs and not anti-immigrant. Recognizing that congressional legislation eventually will make use of E-Verify mandatory in all states, many employers already use this system voluntarily to become accustomed to its provisions. As more states enact legislation to require its use, companies are using E-Verify to demonstrate positive corporate citizenship. The glitches in the system when first promulgated have disappeared. Error rates in 2012 stood at .26 percent, according to the immigration service, with improvements in speed and processing. Additional improvement has appeared with increased digital imaging which will stop the ID theft problem in the hiring

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process and in the community itself. A 2013 immigration service survey revealed that 86 percent of the users seemed satisfied; 88 percent satisfied with E-Verify accuracy. At the federal level, the biggest advantage is reducing company exposure to violations, fines, and workplace raids that disrupt company operations. If an employer in good faith hires someone not authorized to work here, but successfully verifies the individual through E-Verify, the employer will not face liability. Department of Homeland Security maintains that E-Verify is the best means to verify eligibility of new employees because it eliminates Social Security mismatch letters and improves wage and tax reporting accuracy. At the Nebraska level, E-Verify would offer immunity relating to state income tax liability. If a company hires someone not eligible to work here and deducts expenses associated with him when calculating state income taxes, but uses E-Verify, the company would not face liability. The Nebraska Department of Labor encourages E-Verify use. Employers cannot face discrimination lawsuits because a government computer completes the checking. E-Verify would permit the employer to invest in training a new person quickly without risk that he would become found illegally working and deported, thus wasting resources invested in training. A needed protection cushion, the bill would shield contractors from liability if not aware of a contractor hiring illegals. It would ensure that all Nebraska businesses operate on the same playing field, targeting those that purposely hire illegals and pay substandard wages with no benefits. Not passing this bill only supports underhanded employers who hire illegals and do not pay the taxes or pay into unemployment and worker compensation funds, giving them unfair advantage. And less likely that illegal aliens will try to obtain employment but later arrested and deported, leading to family disruption, kids pulled from schools, and draining of law enforcement and immigration court financial resources. Finally, we support this bill because requiring all Nebraska employers to register for an ID number will protect Nebraska jobs and protect taxpayers from the fiscal ills of illegal immigration and incarceration, welfare, health care, and education costs which stem from the illegal aliens working for substandard wages and their families end up on the welfare system. Thank you. [LB1095]

SENATOR SCHUMACHER: Any questions for Mr. Kagan? Seeing none, thank you for your testimony today, Doug. Any other proponents for LB1095? [LB1095]

SUSAN GUMM: (Exhibit 6) Good afternoon, Senator Schumacher and Revenue Committee members. [LB1095]

SENATOR SCHUMACHER: Welcome to Revenue. [LB1095]

SUSAN GUMM: Thank you. My name is Susan Gumm, S-u-s-a-n G-u-m-m. I support LB1095 because jobs are the biggest magnet for illegal immigration to the United States and Nebraska. I encourage Nebraska lawmakers to support this legislation to protect the jobs and wages of Nebraskans. Our immigration laws were originally enacted to protect the jobs of American

workers against aliens who would provide unfair competition for jobs. Federal law requires all employers to verify the identify and employment eligibility of all persons hired to work in the United States and it has been against the law to knowingly hire illegal aliens since the 1986 Immigration Reform and Control Act. Illegal immigration has a disproportional impact on poor Americans because a large percentage of illegal aliens are low-skilled workers, they are more likely to compete with and undercut wages of low-skilled native workers. E-Verify protects jobs for the underemployed and unemployed Americans who need and deserve them. E-Verify is a commonsense measure states can take to protect their workers. E-verify use at the state level is good public policy and provides a fast, easy and effective way for any employer to verify that all new hires are authorized to work in the United States as required by law. Half a million companies now participate in E-Verify according to the U.S Citizenship and Immigration Services. Expanding this successful program to all employers in Nebraska would send a clear message to illegal aliens that jobs in Nebraska rightfully belong to U.S. citizens and legal immigrants. Using E-Verify is no more of an inconvenience to an employer than conducting drug testing, running credit checks, verifying education records, confirming past employment histories, checking the police records of new hires, and garnishing wages for taxes or child support. Illegal immigration related document fraud and identity theft is committed primarily for the purposes of employment. States with the most illegal immigration also have high levels of job-related identity theft. When illegal aliens use Social Security numbers or other documents belonging to American citizens and legal residents, the damage can be substantial. It can cost victims thousands of dollars to undo the damage and recover their names and lives. E-Verify builds goodwill by demonstrating to the community that the employer is actively working to protect them from individuals committing document fraud and identity theft. Illegally employed aliens send billions of dollars annually back to their home countries rather than spending it in the United States and helping stimulate the American economy. While employers hire cheap illegal labor, and taxpayers subsidize it, the illegal workers instead of contributing to our economy by spending and investing their wages in the local community, transfer a large portion of their wages back to their homelands in the form of remittances. Illegal immigration to our state not only negatively impacts jobs and wages, but also negatively affects our hospitals, schools, prisons, and public safety. Illegal immigration is also an enormous fiscal burden and in 2010 the cost of illegal immigration in Nebraska was \$252 million. As a Nebraska taxpayer, I am against my tax dollars being spent to subsidize cheap labor for dishonest businesses. Taxpayers subsidize numerous illegal immigration costs in addition to the federal unfunded mandates for education and healthcare. The bulk of costs for illegal immigration are born at the local and state level. Mandatory use of E-Verify ensures that all Nebraska businesses operate on a level playing field. Since participation is currently voluntary, an employer who wants to obey the law will sign up to use the program, but an employer who wants to hire illegal aliens, or does not care if he hires illegal aliens, will not sign up. E-Verify can be highly effective in reducing the employment of illegal aliens. We must eliminate the jobs magnet by requiring all employers use E-Verify. Mandatory E-Verify will protect jobs for Nebraskans and prevent the downward spiral of wages

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that result from illegal aliens willing to work for substandard labors. Law-abiding, civic-minded American businesses should be willing to utilize E-Verify to ensure all new hires are eligible to work in the United States. Poll after poll shows that voters think American workers should come first. Federal and state immigration policies should reflect what is best for our citizens. [LB1095]

SENATOR SCHUMACHER: Thank you, Susan. Any questions? Senator Scheer. [LB1095]

SENATOR SCHEER: Thank you, Senator Schumacher. Just out of curiosity because it's not a number I've seen before, where did your number of the \$252 million of costs in... [LB1095]

SUSAN GUMM: Yeah, Senator Scheer, that is...I have brought it with me. It was done by the Federal Immigration...Federal American Immigration Reform and that is net cost to Nebraska. And this was done in 2010. I don't remember, I believe we probably had instate tuition at that time, but we have gone back and forth on the free prenatal care, so I'm not sure if that's in these costs. [LB1095]

SENATOR SCHEER: Is that a government entity or a state...? [LB1095]

SUSAN GUMM: It's one of our immigration organizations in the country. [LB1095]

SENATOR SCHEER: It's a private organization. [LB1095]

SUSAN GUMM: Yes, yes, it is. And as I was saying, the actual cost that they came up with in 2010 were \$262 million and they took off estimated tax revenue that illegal aliens would contribute, so still the cost to the taxpayers was \$252 million. [LB1095]

SENATOR SCHEER: Thank you. [LB1095]

SUSAN GUMM: You're welcome. [LB1095]

SENATOR SCHUMACHER: Any other questions for Susan? Thank you for your testimony. [LB1095]

SUSAN GUMM: Thank you. [LB1095]

SENATOR SCHUMACHER: Further proponents for LB1095. [LB1095]

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LARRY STORER: (Exhibits 7-10) Good afternoon, ladies and gentlemen. [LB1095]

SENATOR SCHUMACHER: Welcome to the Revenue Committee. [LB1095]

LARRY STORER: I guess I'm getting a little more used to this, but I'd like to start off with trying to make it real simple. Are any of you acquainted with an old joke... [LB1095]

SENATOR SCHUMACHER: Could you put your name and spelling and all that? [LB1095]

LARRY STORER: Oh, I'm sorry. The name is Larry Storer, S-t-o-r-e-r, Omaha, Nebraska. An old cartoon about young children. I heard somebody saying something about a runny nose and the picture up above his head there in italics was a nose running down the street. I'd like you to think simply about my upcoming comments because very simply, I feel and I think it's apparent nationwide that people like myself, yourself, these good people, the good immigrants, the great legal citizens that we have and those that would like to come here are being told very simple innuendos, that we are the haters because we don't want too many illegal immigrants, too many refugees, particularly people that cannot be vetted. It's been admitted by a federal government that we cannot check, we cannot E-Verify immigrants and refugees that are told to us by the United Nations and by the state department and by the refugee agencies that they're coming. That's all we know. We don't know who, how many, we don't know where. They do not tell you, they do not tell the governor. And if...very simply, if you read the Declaration of Independence, you can transpose names and terms in there and that's the situation we have today. Your state is now being told, without being asked, but being told. Now, what happens when what we see going on in Europe, now if you want to deny that it's going on, then deny it to the people that print it, and the people that say it on television. There it is happening and it will happen here because there will be too many people to be able to handle it. Who are you going to take the money away from to handle the other people? Citizens, from me, from you, from them, from our children. What happens with the Health and Human Services budget? That's going to go awry isn't it and my grandson won't get services, but they will. When are you going to raise taxes to pay for the incoming influx and the Medicaid, which I'll get to in a minute, but I'd like to read something first. It makes it a little more clear. It seems to me that with the rapidity of events regarding illegals and the secret influx of refugees, that our neighbor, our Nebraska Legislature and our Governor should extend this session in order to deal with these issues as priority because they affect the Revenue Department, the revenue that is coming in now, and what is in the budget now. Seeing that the primaries and the general elections, selection of delegates are all upon us on our backs right now, these need to be talked about, debated openly before the elections because we won't have another chance for four years, and gentlemen, ladies, that will be too late. It's got to be stopped now. The local state and federal representatives, are they doing anything about it? It doesn't appear to be. What did we revolt against England for? Nobody talks about things such

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as defacto amnesty, which is what's happening. If we don't talk about it, if we don't do something about it, they become defacto. Lawyers use that term all the time. Lawyers also use terms like, I have no standing. Well, I do have. I'm a taxpayer. My children and my grandchildren are taxpayers. So are you, and that's the revenue that you're talking about. Oftentimes, we citizens, my grandsons, some other people in the state of Nebraska are denied services. Who are you going to deny when you have too many people here? I'm not anti-immigrant. I'm for legal immigrants, but I'm also for our citizens, our veterans, our Health and Human Service people, our foster kids, that are not getting all the services they need. Us first, that's what your sworn duty is. And that's what the President of the United States is sworn to do and the Congress and they're not doing it. They want to rip under the rug. So what's going to happen with veterans' children and Family Services, Medicaid, Medicare, foster care, homeless shelters because of the demands of all those. Okay. I'm not anti-immigrant, but I am against all those things. E-Verify, yes. We supposedly do have employer identification numbers and unfortunately a lot of the illegals are using those and getting money from our tax coffers illegally and not putting it back into the state coffers. The federal government isn't protecting me, the federal government isn't protecting you or them or my grandkids or my kid. They're simply not enforcing the laws that they're sworn to enforce. The feds don't, so who does that fall on? It falls on the state and the state governor and you. Yes, we might have to bring out the National Guard. We might have to bring out a militia. Whose fault will that be? Do you make us mad enough that eventually we do bring out our own militias? That's up to you people. [LB1095]

SENATOR SCHUMACHER: We've got a red light there. [LB1095]

LARRY STORER: Okay. It's up to you people to pass this on to the federal government. There's all the documentation for your research to find out what I'm saying is pretty much what everybody across the United States is saying. Thank you. [LB1095]

SENATOR SCHUMACHER: Does anyone have any questions for Larry? Thank you for your testimony. [LB1095]

LARRY STORER: Pardon my voice. [LB1095]

SENATOR SCHUMACHER: Any further proponents for LB1095? Proponents? Welcome to the Revenue Committee. [LB1095]

RON SEDLACEK: Thank you, Chairman Schumacher and members of the Revenue Committee. For the record, my name is Ron Sedlacek, R-o-n S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce and Industry. Our labor relations counsel reviewed LB1095. Senator Kintner had mentioned last year he had introduced legislation which we took a neutral

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position on and we would normally do so with LB1095, but for the several issues that our counsel did identify in the bill. We have no problem with mandatory E-Verify if it would be done correctly. We do have a problem with the mechanics of this legislation. [LB1095]

SENATOR SCHUMACHER: Are you testifying in opposition? [LB1095]

RON SEDLACEK: In opposition. I'm sorry. I thought you called for opponents. [LB1095]

SENATOR SCHUMACHER: I maybe didn't enunciate loud enough or clear enough. I take it there were no other proponents, just so we don't get mixed up here. Okay. We're now in opposition. Thank you. [LB1095]

RON SEDLACEK: Thank you. And the mechanics of the legislation are our concern, not the E-Verify portion. We identified exactly what you did, Senator Schumacher, at least the appearance of the language is that you would be required to obtain an additional employer identification number. At least that's the implication that was mentioned to us. We don't believe that would necessarily be the right approach and should be clarified. Secondly, when you deal with sole proprietorships, generally speaking, the use of the Social Security number is the employer identification number. This does not make contingent for the use of the same number for tax payment purposes, that's something that also should be looked at. We have concerns about the fact that the registration must be renewed annually. We don't really see why there needs to be an annual requirement, an annual review. Once you've been assigned a number, you've registered and signed unless there's been a change in circumstances that would be substantial, then perhaps that would retrigger some sort of registration amendment or renewal. It says that it's unlawful for an employer to withhold. That subject to withhold to maintain an office of transact business within the state without the registration. We understand where this is coming from and how it's reflective of the other section. However, it does not jive with subsection (c) which says that it applies only to employers subject to withholding under the state and physically performing services within the state, whatever that means. I'm not sure what that phrase "and physically performing services within the state" means. In other words, if you, say, you hired a sales person and they were to go and travel nationally or internationally, are they by the mere fact going from the car to the airplane performing services for the company in the state or not and it just becomes a compliance issue that should also be addressed. Also in that same subsection in line 24, it says that there shall be filed a signed sworn statement stating you're in compliance. That's fine to verify compliance, but there's no opportunity to say when that statement is to be signed and how do you continually verify compliance. Is it a one-shot affair, is it done once a year, is it...it just is not explained there. So again, what it amounts to are more mechanical concerns. We understand where Senator Kintner is coming from in that regard, in regard to enforcement issues. And that's fine, we understand that, but the mechanism used under this bill, we do have some problems

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with. There is no safe harbor provision, although I know the Senator had mentioned that maybe we can work it out, but that might be with this Tax Commissioner and not the next. And so, we'd like to...if there is going to be any safe harbor for inadvertent errors, late filings and so forth, that something be delineated within the regulation itself so we know...so everyone knows where they stand. And there's no vagueness or particular deals cut between one and another. So, those are some of the reasons that we have decided to enter our testimony at this time. Be happy to answer any questions. [LB1095]

SENATOR SCHUMACHER: Any questions for Ron? Seeing none. Thank you for your testimony. [LB1095]

RON SEDLACEK: Thank you. [LB1095]

SENATOR SCHUMACHER: Further opponents to testify on LB1095? Seeing none. We're down to neutral testimony on LB1095. Seeing none. Senator Kintner. [LB1095]

SENATOR KINTNER: (Exhibit 11) We did find the treats. Evidently my staff hid them from me so I wouldn't eat them all, so I'll start them here and you can pass them around. I thought I had finished them off. I had no idea there were still a few treats in there. [LB1095]

SENATOR SCHUMACHER: Now that would not be a bribe, would it? (Laughter) [LB1095]

SENATOR KINTNER: No. Now my legislative assistant made me promise I wouldn't come up here and say that Chambers was full of crap, so I'm not allowed to say that. But first thing I want to say is, this is not an antirefugee bill. If you're a refugee, you have legal status, you go through the system, you're fine, you're good to go. We hope you're working, hope you're making a new life, and we hope you enjoy living in our state. It's not even anti-illegal immigrants. You're still going to be able to live here until the federal government says you can't. You just aren't going to be able...if you get run through a system, you're probably not going to be able to work. So it's not even anti-illegal immigration. Those are federal issues. This only deals with using this great federal program they gave us, that they designed that's been working very well in applying it in our state. A couple of things. One, there's been...as they've surveyed people using E-Verify, 87 percent approval rate. I mean, 87 percent of people use this say, we like it, it's no problem, we approve of it. The other thing I would say is that when you're looking at that 1 percent that got caught, remember only 22 states are using E-Verify to some extent. Some of the states don't have an enforcement mechanism because they were right where I was last year trying to figure out how to enforce it. So people are just signing off saying, yeah, we're using it. So I'm not even sure it's being used across the board and that means there's 28 states that aren't using it. And so I guess if I'm trying to get a job illegally, I'm going to go to the 28 states. So, no, this is not across

50 states. It's across 22 states and not all the 22 states have an enforcement mechanism to make sure the people are using it. When you say it's only 1 percent, well, if you lose your job to someone who doesn't have legal status here, that might be important to you. Maybe this 1 percent doesn't seem like it's important. I don't think the 1 percent is a good number across the board for the reason I just gave. But if you're the guy that doesn't get the job, or your firm loses out because another company is using illegal aliens, then maybe it is a big deal. It's a very big deal. The reason this is reviewed annually is we got to make sure companies are using it, so we got to make sure that you're using it year after year. You can't just say, yeah, we signed off on it in 2010, and here we are in 2016, we have no idea if you're still using it. We have no idea if the same management is in place in the company. That's why every year you have to sign off that you're using it. So, some of the details that Ron brought up are minutiae details I am happy to leave to the Department of Revenue in how they want to set it up. I'm not going to dictate right down the very period how the enforcement agency is going to deal with it. I think in my talks yesterday, they were comfortable with it. They didn't see anything in it that they had great questions with and I'm quite confident that they can put out a system of rules and regulations or a list of rules and regulations. They'll be easy to use that everybody can understand and that they can adjust as needed. Did we make those copies over there? Did you hand them out? Okay. So you're giving...we just copied a page of one of these contractors that does E-Verify for you. It's got kind of a cost. Now we found four different ones. They've got four different price structures, so if you're a real small company there's one that's better for you. If you're a bigger company that's running 100 a month through, there's a different company that's got a pricing structure for you. But that's just one example of how it's priced out so you can get an idea. So you can truly just hire one of these companies. Give them your I-9 form and you're good to go. You don't have to have an HR department to make this thing work. With that, I would encourage you to look at this and vote it out. Thank you. [LB1095]

SENATOR SCHUMACHER: Any questions? I just have one. Did you bring these for the folks in the audience too? [LB1095]

SENATOR KINTNER: I think those are the ones I ate. Sorry. There's always winners and losers. (Laughter) [LB1095]

SENATOR SCHUMACHER: Senator Brasch. [LB1095]

SENATOR BRASCH: Just real quick because it is a short session and everything. Can an employer do this voluntarily? [LB1095]

SENATOR KINTNER: Yes. [LB1095]

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SENATOR BRASCH: I mean, they can pick up this page today and do it without this law being passed. [LB1095]

SENATOR KINTNER: Yep, and there are some that do that, absolutely. [LB1095]

SENATOR BRASCH: Okay. No other questions. Thank you. [LB1095]

SENATOR SCHUMACHER: (Exhibits 12-16) Not seeing any. Thank you, Senator Kintner for bringing us this bill. The record should reflect communications from proponents: Mary Forester in Omaha and Jim Nipper of the Nebraska Taxpayers for Freedom. Opponents: Robert Andersen of the Nebraska Cooperative Council; Omald Zabih of the Nebraska Appleseed; and Amy Miller of the American Civil Liberties Union of Nebraska. If there's nothing else, that concludes this hearing and today's session of the Revenue Committee. [LB1095]